# NDT Doubles Disclosure

# 1NC

**1NC---T**

Topicality---

**Interpretation---in order to win, the AFF must defend the desirability of the implementation of a topical plan.**

**The USfg is made up of three branches in Washington D.C.**

**Dictionary of Government and Politics ’98** (Ed. P.H. Collin, p. 292)

United States of America (USA) [ju:’naitid ‘steits av e’merike] noun independent country, a federation of states (originally thirteen, now fifty in North America; the United States Code = book containing all the permanent laws of the USA, arranged in sections according to subject and revised from time to time COMMENT: the federal government (based in Washington D.C.) is formed of a legislature (the Congress) with two chambers (the Senate and House of Representatives), an executive (the President) and a judiciary (the Supreme Court). Each of the fifty states making up the USA has its own legislature and executive (the Governor) as well as its own legal system and constitution

**“Expand” requires a change in law**

**Hatter 90** – United States District Court, California Central

Terry J. Hatter, Jr., In re Eastport Assoc., 114 B.R. 686, United States District Court for the Central District of California, March 1990, LexisNexis

Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was **intended only as a clarification** of existing law. Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would **expand** the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "**expand**" indicates a **change in the law**, **rather than a restatement of existing law**. In light of the Counsel's comment, Eastport's argument is **unpersuasive**.

**Scope of the antitrust laws refers to the activities where the laws apply**

**HLR 8** – Harvard Law Review

Harvard Law Review, "A Most Private Remedy: Foreign Party Suits and The U.S. Antitrust Laws," 114 Harv. L. Rev. 2122, 2-26-2008, accessed via Nexis Uni

B. The International Scope of the Antitrust Laws

The sweeping rhetoric that has captured the goals of U.S. antitrust law can be viewed as filling the vacuum left by the spare language of the laws themselves. 28 The first and most basic antitrust statute, the Sherman Act, is remarkably general in its proscriptions, 29 leading some to characterize the Act as "little more than a legislative command that the judiciary develop a common law of antitrust." 30 Although later statutes have addressed particular business activities, 31 these enactments have not so much lent precision to the restrictions as they have highlighted the **far-reaching** and **intrusive scope of** American **antitrust law.**

The reach of the antitrust laws is reflected by the **broad range of possible activities to which the laws apply.** The **Sherman Act**, by its own terms, **covers** "**trade or commerce** among the several States, or with foreign nations." 32 The Act is perhaps one of the most striking economic measures promulgated under Congress's Commerce Clause power "to regulate Commerce with foreign Nations, and among the several States." 33 Although deliberately tracking this constitutional language, the Sherman Act notably shifts the positional primacy from foreign to domestic commerce. 34 One might argue that this transposition reflects the paramount importance Congress assigned to domestic commerce, as contrasted with the Framers' ostensible concern with foreign dealings. Whether intended or not, the reversal may highlight a fundamental tension or uncertainty in determining the scope of the antitrust laws' intended jurisdiction.

**“Core antitrust laws” refers to the Sherman and 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.

**To “increase” is to make greater with respect to a baseline**

**Ortega 07** – Judge, Oregon Appeals Court, Oregon Supreme Court

Darleen Ortega, Papas v. Or. Liquor Control Comm'n, 213 Ore. App. 369, Court of Appeals of Oregon, June 2007, LexisNexis

We begin with whether OLCC's interpretation of the rule, as developed and applied in this case, is consistent with the rule's text. Certainly, OLCC's understanding that the rule applies to "competitions" is consistent with the rule's use of the term "contest." See Webster's Third New Int'l Dictionary 492 (unabridged ed 2002) (defining the noun "contest" as a "competition"). However, by its terms, the rule refers and applies to specific types of drinking contests: as pertinent here, ones that involve "increase[d] consumption \* \* \* in increased quantities" of alcoholic beverages. OLCC's interpretation and application in this case fail to account for that qualification or to yield any pertinent point of reference in that regard; that is, nothing in OLCC's interpretation or application of the rule here identifies the consumption or quantities **against which the required** "**increase**" **is to be**, or was, **measured**. See Webster's at 1145 (defining the transitive verb "**increase**" as "**to make greater** in some respect (as in bulk, quantity, extent, value, or amount) : **add to** : enhance" and defining the adjective "increased" as "made or become greater"). Thus, OLCC's proposed interpretation--that mere competition between participants constitutes conduct violating the rule--is inconsistent with the latter, qualifying aspects of the rule.

**“Prohibitions” are laws that forbid action**

**Sweet 03** – Judge, United States District Court, New York Southern

Robert W. Sweet, Am. Nat'l Fire Ins. Co. v. Mirasco, Inc., 249 F. Supp. 2d 303, United States District Court for the Southern District of New York, March 2003, LexisNexis

In any case, even if the word "embargo" does not stretch so far, there is no doubt that the restriction against the importation of all IBP goods constitutes a "prohibition" under Clause D. HN15 "**Prohibition**" is defined by **Black's Law Dictionary** to be "a **law or order** that **forbids a certain action**." Black's Law Dictionary 1228 (7th ed. 1999). The dictionary definition is similar: "a **declaration** or **injunction forbidding some action**." Webster's New International Dictionary, Unabridged 1978 (2d ed. 1944). The common understanding of the word "prohibition" has similar connotations, with one exception. As Mirasco points out, any governmental action -- including the rejection on which insurance coverage is based -- could potentially be deemed a prohibition under the definitions above as a declaration forbidding the entry of goods. Therefore, a **prohibition** must be **qualitatively different** from a **rejection**. That difference is that the **prohibition occurs prior to** the government's dealing with the **specific** cargo at issue and is of a **more sweeping nature** than the **simple administrative function** performed by customs officials determining whether or not goods should be permitted into the country. Decree # 6 is such a prohibition, in that it was a **law or declaration** -- **issued prior to**, **separate from and broader than** the Egyptian authorities' administrative determination of whether the M/V Spero cargo should be permitted entry -- that forbids the importation of IBP products.

**[1]---Burdens---the affirmative has failed to meet their burden to prove the resolution is true---that necessitates voting negative because there is no rational basis for voting aff---the neg should not be expected to uphold their burden of rejoinder sans a topical aff because neg ground is inherently reactionary and reliant upon the aff meeting their burden first. Winning the ballot is thus concomitant with the acceptance of the undergirding structure of resolutional debate to give coherence to the ballot**

**It’s an impact---debate is not monolithic, but we each have a reason for participating in this debate that is important to us---absent a structure that provides logical meaning to things like pairings, judges, speech times, and ballots, the activity ceases to exist which forecloses the ability for anybody to realize their own imbued value in it**

**[2]---Incentives---abdicating the resolution allows the aff to call shotgun on truth and monopolize the moral high ground, but our model guarantees negative teams can be prepared for and have substantive answers to any 1AC---that creates sustainable and prolonged engagement over the course of a year, which is a better internal link to solving their aff, but that can only happen via a predictable structure of debate.**

**We can use debate to integrate pro-competition legal advocacy within a broader method of movement lawyering. That lends radical force to any struggle for change.**

**Cummings, 20**—Robert Henigson Professor of Legal Ethics and Professor of Law, UCLA School of Law (Scott, “Movement Lawyering,” Indiana Journal of Global Legal Studies 27, no. 1 (2020): 87-130, dml)

In addition to broadening the scope of organizational relationships in which movement lawyers participate, integrated advocacy also reframes the work that movement lawyers do: moving from the **narrow lens** of **technical legal skill** (especially litigation) to the broader art of **persuasion**. Within this framework, advocacy is understood as the process of **telling compelling stories** to those in positions of decisionmaking power and the wider public.1 16 Such stories **exert pressure** and **build support** for political and cultural change. To do this, lawyers deploy different, but interrelated, modes of advocacy: **litigation**, **policy advocacy**, **organizing support**, **media work**, and **community education**. 7 Lawyers **add value** to movement campaigns by using their **problem-solving skills** to integrate these tactical modes, contributing to the construction of movement narratives that seek to shift understandings of the **structural underpinnings** of inequality and offer ways to address them.11 8

Two preliminary points are important. First, it is necessary to distinguish movement **goals**, **strategies**, and **tactics**. 1 9 Goals refer to **ultimate** movement **objectives**: for example, changing an unjust law, increasing access to services, enhancing conditions for workers within a particular industry, or changing cultural norms to promote diversity and inclusion. Strategies refer to overall plans for achieving a goal: conscious decisions made by movement actors in pursuit of an objective, encompassing a **plan of action** that generally **targets particular decision makers**, **identifies resources** and **pressure points**, and proceeds through **sequential steps** toward the predefined goal. 120 Although ideally deliberate and forward-looking, movement strategies in the real world are **never neat** or **precise**; instead, they are developed under conditions of **deep uncertainty** through a **contest of competing views** espoused by leaders with **different organizational** and **normative perspectives**. 12 1 Nonetheless, out of the **welter of intra-movement exchange**, strategies **develop** and **adapt**: sometimes through **structured planning** and other times through **more informal** processes of leadership **give-and-take**. In contrast, tactics are the **discrete means** that movement actors use to advance goals pursuant to strategies. A movement's tactical repertoire consists of activities such as public education and media relations, litigation and lobbying, and disruptive activities (for example, protests, marches, boycotts, and sit-ins). The crucial point is that, in the movement lawyering model, such tactics are deliberately coordinated by movement lawyers and other stakeholders, and executed according to an **overarching strategy** designed to **maximize their combined power** to advance the movement-defined goal. This leads to the second point, which notes that within movement campaigns, there are times when movement lawyers themselves directly implement a **diverse range** of tactics, while in other instances, lawyers coordinate **different tactical approaches** with **nonlawyer allies**.

This model of tactical integration has **deep roots** in the **Civil Rights period** and **before**. Contemporary examples of movement lawyering pick up on the theme of connecting litigation to base-building and organizing, but also move beyond that theme in ways that suggest a broader conception of how multi-faceted advocacy tactics might **fit together** and be **mutually reinforcing** in social movement campaigns. In contrast to earlier stories, new accounts of movement lawyering reveal a self-conscious, and often explicit, commitment to a social change methodology built upon sophisticated insights from social movement theory and practice. Through these accounts are contextualized analyses of legal advocacy embedded within broader social movement activism, they illuminate the interconnected use of tactics outside of court, as well as efforts to synchronize litigation with a comprehensive movement strategy. Overall, these stories underscore both the degree to which campaign objectives shape the range of tactics deployed and how, within a given campaign, movement lawyers attempt to deliberately think through tactical relationships in order to maximize their impact.

Recent examples of movement lawyering make a point of emphasizing the ways that lawyers mobilize law **outside** of courts, showing how **nonlitigation** modes of advocacy involve "real" lawyering that can prove valuable—and even **decisive**—in particular types of social movement campaigns. These stories do not present movement lawyers as operating outside of conventional legal roles, but rather portray their advocacy work as a movement-based application of the type of legal work that lawyers typically do for clients. From this perspective, nonlitigation advocacy is both affirmed as **essential** to specific campaigns and **linked** together in ways that reveal deliberate planning and execution.

The significance of nonlitigation tactics is perhaps most apparent in descriptions of social movement policy campaigns. Returning to the campaign to pass a Clean Truck Program at the ports of Los Angeles and Long Beach, a critical role played by the lawyers was shepherding that policy through the complex process of administrative review. Lawyers for both the environmental and labor coalition members each drafted legal opinions supporting the authority of cities to enact a law requiring trucking companies to hire employee drivers and purchase clean fuel trucks under the market participation exception to the federal preemption doctrine. 122 Those opinions were **essential** documents in policy negotiations with city officials: they provided **legal credibility** that gave officials **confidence** that if they spent **political capital** on passing the Clean Truck Program, there was a good chance it would be **upheld** in court. 123 The legal opinions were used as part of an overall campaign strategy in which environmental lawyers at the NRDC wielded the threat of litigation to bring city officials to the table, labor movement leaders used their political clout to push those officials to cut a deal, and grassroots coalition partners staged public actions (which included a 100-truck caravan to the port of Long Beach) and mobilized community members to make statements at critical public hearings. 124

In a related example, Jennifer Gordon describes a policy campaign by a coalition of labor and immigrant rights groups—led by the Workplace Project—to pass the **1997 New York Unpaid Wages Prohibition Act**, which dramatically increased civil and criminal penalties against employers who failed to pay their workers minimum wage and overtime. 12 5 Gordon's account of the campaign stresses the **strategic interrelation** among the campaign's research, lobbying, and media tactics. First, the Workplace Project's legal clinic, which represented individual workers in wage enforcement cases in the state's labor agency, compiled research on the labor agency's drastic underenforcement of valid worker claims and mistreatment of workers attempting to file cases. This **research** became the **basis for** worker affidavits used in sympathetic news reports, filed in public hearings, and presented to the state labor agency and law makers. 126 Second, the coalition drafted **legislative language** to address the problem of **underenforcement**, crafted **policy arguments** framed around the key idea of **preventing unfair competition** by employers "who undercut legitimate businesses by paying less than minimum wage,"1 27 and effectively **neutralized key** Republican **legislators** hostile to the bill, garnering support from business allies **unhappy about unfair competition** and buoyed by the **powerful voices** of immigrant workers who led the lobbying sessions. Finally, the coalition developed a strong outreach and media strategy, stressing the scope of the problem and the support of the business community, which resulted in positive coverage including a lead editorial in the New York Times. 12 8 Together, these tactics helped to gain passage of one of the nation's strongest pro-labor bills, benefitting a largely immigrant workforce, by legislators known for their anti-labor and anti-immigrant politics. 129

Even in policy campaigns such as these, in which affirmative litigation is not a centerpiece, movement lawyers nonetheless must **anticipate the grounds** on which opponents might **mount a** legal **challenge** to movement action and seek to **prospectively minimize** the risk of damage to the movement's policy goals or public position. In this sense, **affirmative** movement organizing and **policy** **advocacy** **always operates** in the shadow of **potential countermovement** legal **mobilization** to **limit** or **reverse** movement gains—and thus **requires** concurrent **defensive worst-case-scenario planning**. 130 This was a key feature in the ports campaign for a **Clean Truck Program**, where policy development and drafting occurred in the shadow of the trucking industry's threat to challenge the policy on preemption grounds. The fact that the industry challenge succeeded in striking down the critical employee conversion piece of the Los Angeles program, 13 1 despite careful legal planning to avoid that precise outcome, underscores both how important **prospective legal analysis** is to movement policy campaigns and how uncertain predictions about judicial behavior ultimately are in the face of doctrinal ambiguity.

Defensive litigation may also be **crucial** in campaigns that rely on **protest**. In addition to **defending protestors** charged with breaking the law, movement lawyers may be called upon to provide additional forms of **legal defense**. In the **anti-sweatshop campaign** discussed above, defensive litigation became a **central part** of the campaign's culminating case: used to protect coalition members engaged in organizing against prominent Los Angeles-based garment retailer, **Forever 21**, accused of contracting with manufacturers that systematically violated the labor rights of cut-and-sew workers. 132 In that campaign, Forever 21's law firm brought suit against activists who staged coordinated boycotts against the retailer's stores, charging the activists with "defamation, interference with prospective business advantage, unfair business practices, and nuisance." 133 In response, movement lawyers from APALC enlisted the ACLU, along with private attorneys from a pro bono law firm and the NLG, to file an anti-SLAPP (Strategic Litigation Against Public Participation) suit, arguing that Forever 21 was violating the protestors' free speech-and ultimately forced the retailer to withdraw its action. 134

When affirmative litigation is a key feature of a social movement campaign, tactical integration focuses on how to **link** that litigation to different modes of advocacy: either **surrounding** the litigation with other tactics to **strengthen its direct impact**, designing the litigation to **indirectly advance** advocacy in other domains, or **both**. In so doing, movement lawyers seek **both** to **affirm** the **significant power** that litigation has to **change institutional behavior** and potentially **influence public attitudes**, while also **responding** to some of its **limits**.1 3 5 Movement lawyers thus remain committed to impact litigation, and believe in the value of building favorable precedent, but seek to do so in ways that are responsive to critiques of litigation and sensitive to underwriting broader mobilization efforts.

Within the integrated advocacy framework, movement lawyers recognize that there are times when **claiming rights in court** is **essential** to **challenge structural injustice**: litigation may produce **concrete short-term benefits** that **improve** movement constituents' **material conditions**, **force tangible changes** in institutional behavior, or **directly expand the possibility** of political participation. On the front end of movement campaigns, integrated advocacy seeks to strengthen the potential for litigation to achieve these positive outcomes; on the back end, it directs attention to issues of enforcement and implementation.

At the outset of litigation, movement lawyers plan for how to **fold in** other modes of advocacy—especially organizing and media relations 1 36—to **exert coordinated pressure** on litigation targets as part of a broader "**mobilization template**." 137 The **anti-sweatshop campaign** offers an important case in point. There, movement lawyers from APALC, in **collaboration** with their **policy** and **organizing partners**, designed an impact-litigation campaign to "extend the joint employer theory developed in the Thai worker case more broadly within the industry-setting a precedent that would force other manufacturers and retailers to take seriously their responsibility to ensure labor standards were met."1 38 The cases were carefully selected against high-profile targets engaged in egregious (but not atypical) practices to maximize their strategic effect. Impact cases were "coordinated with a media campaign: the filing of each suit [was] timed with a press conference and media contacts [were] used to pressure defendants to agree to worker demands."1 39 This strategy also used protest tactics, like the Forever 21 boycott, to place additional pressure on garment companies and **succeeded** in winning a string of **high-profile settlements** for garment workers against major fashion companies, including Forever 21, City Girl, BCBG, and XOXO.140

A similar strategy was used by advocates at **NDLON** and the Mexican American Legal Defense and Education Fund (**MALDEF**), who developed a blueprint for challenging antisolicitation laws banning day laborers-most of whom were recently arrived immigrant menl 4 1-from seeking work in public spaces like street corners. 142 By the early 2000s, roughly forty cities in the greater Los Angeles area had passed such laws. 143 To challenge them, NDLON organized day laborers at key hiring sites into committees, on whose behalf MALDEF filed lawsuits arguing that the laws violated day laborers' First Amendment right to seek employment.144 When the lawsuits were filed, NDLON and MALDEF would "stage a public event, marching from the day labor site to city hall." 14 5 This was done to jointly advance the legal strategy (by pressuring city officials to negotiate) and the organizing strategy (by promoting worker participation). In the words of the main MALDEF lawyer in the campaign: "Working together we could accomplish the legal policy goal and NDLON could organize groups around California." 146 Using this model, the campaign succeeded in winning a dramatic legal victory in the Ninth Circuit Court of Appeals invalidating most of the day labor antisolicitation laws around the region.1 47 In addition to coordinating the litigation, organizing, and media efforts in specific legal challenges, movement lawyers supported the campaign by playing a **range** of other roles: **organizing students** to pose as day laborers and getting local news media to film their arrest, **coordinating favorable** news editorials and other media **coverage**, **negotiating** with construction retailers to set up day labor sites, **testifying** at city council hearings against proposed ordinances, **drafting legislation**, and **briefing public defenders** charged with representing day laborers prosecuted under the antisolicitation laws on the larger campaign stakes. 148

At the back end of impact litigation campaigns, integrated advocacy seeks solutions to enforcement problems. In the anti-sweatshop campaign, the failure of garment workers to recover against employers even after winning judgments-owing in part to corporate shell games in which employers would claim to go out of business and reorganize in another guise-gave rise to more systematic enforcement efforts. 149 These included the creation of a new organization in 2007, Wage Justice, solely dedicated to using "innovative legal theories and legal tools borrowed from commercial collections law" to collect "back wages and penalties owed to low-income workers."15 0 Building on this effort, labor and immigrant rights groups formed the Los Angeles Coalition Against Wage Theft,' 5 1 which produced groundbreaking reports documenting the extent of wage theft in Los Angeles and around the country, 152 and helped lobby for the creation of enforcement divisions in the City and County of Los Angeles to prosecute and enforce wage theft in the region. 153

As these campaigns reveal, litigation may be designed by movement lawyers to **reinforce other advocacy strategies** that are either operating in **parallel** to the litigation or **planned** for the future. Litigation, in this sense, is used for its "indirect" or "**radiating**" effects on other types of movement work. 154 Rather than enervate movements by individualizing conflicts, integrated advocacy seeks to use rights strategically and flexibly to build collective power at the grassroots level. Michael Grinthal's analysis of movement lawyering shows how litigation may serve as a "**scaffolding**" for local mobilization, describing a campaign by Christian right groups in which litigation was coordinated with local organizing to advance their goal of using public school space for religious purposes. 5 5 A recent account of lawyers in the **disability rights movement** similarly spotlights how they have combined lower court litigation with local mobilization to produce **wide-ranging settlements** affecting large groups of disabled people, thus advancing the movement's goal of promoting social integration while avoiding the barriers erected by narrow Supreme Court rulings that restrict the reach of the Americans with Disabilities Act. 156

Other portraits of movement lawyering illustrate the design of litigation campaigns to influence the policymaking process. Commentators have emphasized the potential of litigation to **force** decision makers to the policy-making table by **invalidating existing laws** and **imposing costs**, 157 and some of the new movement lawyering stories demonstrate this dynamic. In the lunch truck campaign recounted above, for example, the criminal case was selected by the movement organization in order to undermine the existing municipal ordinance, freeing Asociaci6n members to "have sufficient time for other organizational objectives, such as promoting a positive image of catering vendors, building their core leadership, and working with local stakeholders to draft truck-friendly laws."15 8 Successful litigation also raises the **public salience** of issues, reveals **significant enforcement gaps**, creates models for **possible statutory reform**, and gives advocates **credibility** with lawmakers that can push **long-stalled legislation** forward. In the anti-sweatshop campaign, advocates had repeatedly failed, since the 1970s, to pass a statewide joint employer law holding garment companies liable for the labor violations of contractors. 159 Yet, in the wake of the prominent Thai worker litigation, advocates were able to capitalize on the opportunity created by increased public attention to the issue (and state government leadership more receptive to change) to help push through a comprehensive new state law establishing that any company "engaged in garment manufacturing. . shall guarantee payment of the applicable minimum wage and overtime compensation, as required by law, that are due" from its contractors. 16 0

Sometimes, the interaction between litigation and policy advocacy runs in the opposite direction with policy advocacy structured to positively influence litigation. In the California campaign for marriage equality described above, movement lawyers coordinated with the movement's policy advocacy group, Equality California, to draft the state's domestic partnership law in ways that were deliberately designed to strengthen the planned equal protection litigation challenge to the state's same-sex marriage ban. 16 1 As drafted, the domestic partnership bill granted same-sex couples the "same rights, protections, and benefits" as opposite-sex spouses and contained extensive legislative findings documenting discrimination against same-sex couples and affirming their role as good parents and caregivers.1 62 This language was consciously inserted to set up a later equal protection challenge by creating, "through the legislative process[,] a body of findings and policy on same-sex couples [showing] how they are equal in every way ... [in order to] set up suspect class arguments." 163 When a frontal challenge to the same-sex marriage ban in California was successfully litigated five years later, the California Supreme Court specifically referred to the fact that same-sex couples, through domestic partnership, were already accorded the full benefits of marriage to support its holding that their exclusion from marriage could only be based on illegal animus.1 64 That decision was ultimately nullified by statewide initiative, Proposition 8, but it marked a turning point in the marriage equality movement by drawing intense national attention and reinforcing similar coordinated efforts to pass marriage and domestic partnership laws in roughly two dozen states 1 65 -collectively setting the stage for the sweeping Supreme Court victory to come in Obergefell v. Hodges, which banned prohibition of same-sex marriage nationwide.1 66

The marriage campaign also draws attention to a final dimension of integrated advocacy: the use of litigation and policy development in connection with media strategies in efforts to shape positive public opinion. Scholars have suggested that judicial decisionmaking and policy development tend to follow changes in public opinion, citing the movement for same-sex marriage as a case in point; on this view, premature legal change at large variance with public opinon can produce backlash.1 6 7 As seen in the national marriage movement, however, movement advocates sought to use the pro-movement narratives developed through litigation and the legitimacy conferred by judicial and legislative acceptance of movement policy positions, to shape public opinion in pro-movement directions. This approach suggests that movement advocacy to change law, at least when carefully planned and orchestrated with a thoughtful public relations campaign, can help to win hearts and minds as well. 168

3. Institutional

As the discussion of the relation between legal change and attitudinal change already suggests, the concept of integrated advocacy rests on a complex understanding of how law operates within different types of political and social institutions. Borrowing Susan Strum's terms, integrated advocacy can be said to operate within a **multi-level systems framework**, in which actors are simultaneously situated in **interconnected domains** of power and normative pluralism, within which law is **one tool** for influencing values and behavior.1 69 In deploying integrated advocacy strategies, lawyers seek to **connect** change processes together within **multiple domains** of people's **lived experiences**: some within **formal lawmaking institutions**, like courts and legislatures, and some **outside**, on the **streets** through protest or in **everyday interactions** at home and work. As with organizational and tactical integration, the key point about these institutional efforts, from a movement lawyering perspective, is that they are deliberately planned and linked.

Institutional integration draws attention to what Richard Abel calls the "**spatial configuration of power**"-the idea that "polities allocate power across various levels of the state hierarchy from apex to base" and that within different spatial units, there are opportunities for law to be produced and used as a **tool to constrain power**.1 70 What this means for movement lawyers is that planning and executing strategic campaigns requires thinking through the relationship between **distinct domains** of law making (for example, courts and legislatures at **different levels of government**), how they are influenced by **extra-legal sites** of norm generation (particularly social movement challenges at the grassroots level), how legal change interacts with the public's **preexisting views** (potentially shaping **pro-movement attitudes** or causing **backlash**), and how legal rights are **translated into legal consciousness** among movement constituents (equipping them to **mobilize law** in their **day-to-day encounters** with power holders). These struggles to leverage law and norms from one institutional site, to influence decision making or behavior in another, occur across multiple spatial directions-bottom-up, sideways, and top-down-that are mapped out here.

Recent social movement legal scholarship has been most attuned to **bottom-up** norm generation, legal change, and culture-shifting projects. Scholars in this literature have focused on how social movement mobilization from below may succeed in transforming legal doctrine. In these accounts, legal change occurs after social movements at the grassroots level assert a new interpretation of a social norm, convince the public of the legitimacy of that new interpretation through sustained social struggle, and ultimately persuade courts to validate the interpretation as constitutional law. 171 Central examples of this bottomup dynamic include: Guinier and Torres's account of the Montgomery Bus Boycott, in which the Montgomery Improvement Association's courageous mobilization succeeded in breaking the city's segregated bus system and making new law in the form of a decisive Supreme Court ruling; 1 72 Reva Siegel's analysis of how the debate over women's rights, framed by the clash between Equal Rights Amendment (ERA) movement activists and their opponents, profoundly shaped sex discrimination doctrine; 173 and William Eskridge's comprehensive treatment of how identity-based social movements, asserting a politics of recognition, "generate constitutional facts" and spark normative contests that create new doctrinal ideas, which sometimes get adopted by the Supreme Court.1 74 Although generally optimistic about the power of movements to reshape law, this new social movement scholarship also contains stories of failure. In Chris Schmidt's account of the student sit-ins of the 1960s, it is the Supreme Court's ultimate reluctance to legitimate civil disobedience by extending the reach of the Fourteenth Amendment to private property owners that prevented the sit-ins from dislodging the linchpin state action requirement. 175 The role of movement lawyering in these campaigns is not the focal point of analysis. The stories do, however, offer practical lessons: drawing attention to the critical importance of movements **naming injustice**, **framing normative solutions**, and **defending those solutions** in the face of recrimination and reprisal. Movement lawyers can play **crucial roles** in these normative exchanges by protecting the free speech rights of movement actors, **retelling** and **legitimizing** their stories in courts and other lawmaking bodies, and **gradually building precedent** that helps **influence public opinion** and **validate new legal principles** over time.

In addition to bottom-up efforts to translate norms into law, there are **sideways** strategies to **import** norms and legal ideas from one institutional arena to produce change in another. Human rights scholars have identified "**boomerang**" patterns, in which domestic activists enlist international human rights norms external to their legal system as leverage to **challenge abuses** by domestic power holders. 176 Movement lawyering can involve similar efforts to leverage external sources of legal legitimacy to **fortify movement campaigns**. After 9/11, the Center for Constitutional Rights and the ACLU used human rights in multiple fora to contest the detention of so-called enemy combatants at Guantanamo Bay and in secret CIA "black sites."1 77 The organizations petitioned the Inter-American Commission to determine the legal status of detainees under international law, filed amicus briefs raising international claims in the major Supreme Court cases asserting detainees' right to habeas corpus and challenging military commissions, and filed appearances before United Nations bodies challenging the validity of secret renditions.1 7 8

Within the domestic political system, movement lawyers make similar shifts from one lawmaking institution to another to advance their positions: asking local jurisdictions to fix problems created by the federal system, courts to correct problems made by legislatures, and vice versa. This type of continuous jurisdictional maneuvering has defined the ports campaign in Los Angeles. There, the labor movement's effort to devise a local strategy to require port trucking companies to convert their drivers to employees was motivated at the outset by the failure of federal labor law to protect those workers. Local policy makers, in turn, were motivated to pass a Clean Truck Program to avoid further litigation by environmental groups. When industry opponents challenged the program in court, labor activists and lawyers went to Congress to try to amend the federal law that the Ninth Circuit had held preempted the Clean Truck Program-in an attempt to carve out a specific exception to permit employee conversion. 179 When that failed, lawyers associated with the movement represented truck drivers in the state labor commission and court to challenge trucking companies for misclassifying drivers as independent contractors, using that litigation to pressure companies to convert their drivers and accept unionization. 8 0 As that litigation met limited success, movement leaders returned to the city to consider other legal strategies for blocking port entry for independent-contractor firms. 18 1 The ports struggle still continues with concurrent institutional efforts moving forward: misclassification litigation in court, union organizing in the workplace, and rulemaking and legislative efforts at the port and local government level. 182

Finally, movement lawyering focuses on **top-down** efforts to bring legal rights from the legal system to the ground level where they can be **understood** and **mobilized** by affected individuals to **access legal benefits**, **enforce legal protections**, and perhaps **galvanize further activism**. In this role, movement lawyers seek to translate "**law on the books**" into "**law in action**," raising the **legal consciousness** of movement constituents so that they can **fight for their own rights** and **help others** to do the same. Jennifer Gordon's analysis of the Workplace Project offers a classic account of this type of movement lawyering work. In it, she recounts how the use of "rights talk" about employment protection in the center's legal clinics "became a **springboard** that launched a vision of justice that went **far beyond** the law's provisions," spurring low-wage immigrant workers to organize collectively against employer abuse and governmental inaction. 183 Other scholars have similarly shown how strategies to promote rights consciousness have helped in some contexts to **enhance legal enforcement** in the workplace, 1I **spark grassroots organizing**,18 5 and **promote feelings of empowerment** among movement constituents. 186

In practice, these types of legal, policy, and culture-shifting projects are **dynamic** and **iterative**: they play out over **multiple cycles** in complex ways that can **never be fully** predicted or **mapped out**. Integrated advocacy **reframes** these dynamics in **affirmative** terms: presenting them as **empirical facts** to be **studied**, **understood**, **planned for**, and (when things **do not go as planned**) **revised**. In **contrast** to the **negative spiral story** of legal liberalism (in which legal mobilization in court **undercut** political mobilization on the ground), integrated advocacy envisions a pathway for embedding change at one level that creates **positive feedback loops** in others: grassroots activism by movement constituents **changes norms** and **practices**, those changes **shape policy reform**, that reform **further reinforces** norm change so that the reform itself is **implemented in daily life**, and that implementation then **strengthens the movement's base** in ways that produce new changes in a widening circle of democratic transformation. 187 The key is that movement lawyers may intervene at **different levels** to build and fortify these cycles. Their work is **affirmative**, **prospective**, and **ongoing**. In this regard, movement lawyers do not simply rely on virtuous cycles to emerge nor, once started, do lawyers presume that the cycles will endure. To the contrary, they presume that **any** struggle for political or economic redistribution is going to provoke **strong countermobilization** that will **persist over time**, with opponents seeking out the **most favorable** institutional **levels** upon which to **assert opposition**. Thus, rather than viewing their goal as advancing policy change that constitutes a decisive victory, movement lawyers appreciate that integrated advocacy is a **repeat-player process** in which success must be **defended** and **extended** over time. In this sense, the **opposition itself becomes integrated** into the movement lawyer's **frame of analysis**.

**1NC---C/A**

Counteradvocacy---

**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**

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

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

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

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

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

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

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

A. Confronting the Power of Capital

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

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

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

The failures of consumer welfare antitrust become even clearer when a broader set of economic and political interests are examined. **Higher consumer prices are one manifestation of business power but** only one and arguably **not the most important one. Concentration in labor and product markets contributes to lower wages**. 420 Just from a consumer angle, **dominant online platforms**, with their huge troves of user data and lack of effective competition, **pose serious threats to personal privacy**. 421 Companies that control infrastructure that support a range of activity, whether they are the electric grid or a search engine monopoly, have the power to shape large swaths of the economy over time. 422

**The economic power of large business can also translate into great political power**. 423 Empirical research found that **big business exercises disproportionate influence over the political system**. 424 John Browne, the former CEO of oil and gas giant BP, explained the nexus between economic power and political power. In an interview with The Wall Street Journal in 2003, he described how BP's size gives it political power:

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

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

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

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

**1NC---DA**

Innovation DA---

**Their Afrofuturist imagination of a world where markets that ask them to “pull themselves up by their bootstraps” no longer exist disrupts mergers---undermines dynamism and global innovative competitiveness**

**Thierer 21** – Adam Thierer is a senior research fellow with the Mercatus Center at George Mason University. Author of several books on antitrust law; former president of the Progress & Freedom Foundation, director of Telecommunications Studies at the Cato Institute, and a senior fellow at the Heritage Foundation.

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

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

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

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

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

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

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

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

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

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

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

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

GOP divided over bills targeting tech giants

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

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

**Tech innovation prevents nuclear conflict---US leadership is key**

**Kroenig and Gopalaswamy 18** – Associate Professor of Government and Foreign Service at Georgetown University and Deputy Director for Strategy in the Scowcroft Center for Strategy and Security at the Atlantic Council; Director of the South Asia Center at the Atlantic Council

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

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

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

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

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

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

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

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

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

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

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

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

**1NC---K**

**Political refusal finds comfort in the fulfillment of individual demands --- this accepts as a given the powerlessness of the left, depoliticizing any concrete power struggles --- radical movements must become political to combat climate change, fascism, and rampant inequality.**

**Dorman 16**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Their out of hand rejection of institutional politics destroys movement building, which requires flexibility and willingness to negotiate with power --- they make us revolutionaries for a weekend at the expense of building proto-institutional skills necessary for effective movements.**

**Heller 17**

Nathan Heller, Writer and Contributor for The New Yorker, “Is There Any Point to Protesting?” The New Yorker. August 21, 2017. <https://www.newyorker.com/magazine/2017/08/21/is-there-any-point-to-protesting>

An odd and revealing feature of American culture over the past half century is that its protest trends and its workplace ideals mirror each other. Just as businesses have sought to escape the old corporate strictures by encouraging flexible and off-site work and by flattening hierarchies (sometimes even eliminating managers), protesters have tried to move past the groaning actions of the past by coordinating instantly across distance and embracing leaderless or “horizontal” movements. **This is** usually **easier said than done**; the hardest aspect of working without leaders tends to be working at all. **A nagging question is how to get the people going when there’s no Gandhi to lead the charge.**

This challenge lies at the core of “[Assembly](https://www.amazon.com/dp/0190677961/?tag=thneyo0f-20)” (Oxford), by Michael Hardt and Antonio Negri, two political philosophers who try to figure out how movements can be led well without leaders. “Gone are the days, on the one hand, when a political vanguard could successfully take power in the name of the masses,” they write. “On the other, it is a **terrible mistake** to translate valid critiques of leadership **into a refusal of sustained political organization and institution**.” Hardt and Negri also work in the Marxist tradition, and their book is light on details from society and extremely heavy on abstract forces. Sometimes, they seem to be describing less the art of the possible than the fluid mechanics of a gas. (“As capitalists, under the rule of finance, lose their innovative capacities and are gradually excluded from the knowledge of productive socialization, the multitude increasingly generates its own forms of cooperation and gains capacities for innovation . . .”) Their scheme is apt to be of greater interest to a fellow with a lot of whiteboard markers than to somebody with a handmade poster in the street.

That’s a shame, because empowering those they call “the multitude” is what their program is supposedly about. According to the classical model of protest, strategy (the big idea, the master plan) falls to a movement’s leaders, while tactics (the moves you make, the signs you wave, the action in the street) fall to the people on the ground. One of Hardt and Negri’s cornerstone ideas is that the formula should be flipped: strategy goes to the movement masses, tactics to the leadership. In theory, this allows movements to stay both nimble (an emergency on the ground is when you call in the brass) and on guard against autocracy (no group can decide for the many). “People do not need to be given the party line to inform and guide their practice,” they write. “They have the potential to recognize their oppression and know what they want.” Possibly Hardt and Negri have much clearer-minded friends than you or I do.

And yet their inquiry highlights an important feature of contemporary activism. In “[Direct Action: Protest and the Reinvention of American Radicalism](https://www.amazon.com/dp/1784784095/?tag=thneyo0f-20)” (Verso), L. A. Kauffman assesses movements of the past half century not as scattered uprisings but as phases of an overarching project. **It’s often assumed that today’s style of protest flowed naturally out of the nineteen-sixties.** But Kauffman sees the end of that decade as a kind of meteor strike that left radicalism atomized, chaotic, and fractured. Our current radical-action culture, she thinks, really started in the early seventies, when a new generation of green shoots rose up from the ash.

She places its start at the moment of a famous failure: the Mayday Vietnam protest of 1971, when twenty-five thousand people blockaded bridges and intersections around Washington, D.C. A manual describing the demonstration’s tactics allowed Nixon’s Attorney General to summon the police, the military, and the National Guard preëmptively. More than seven thousand protesters were arrested. Mary McGrory, a journalist who was sympathetic to the cause, described it as “the worst planned, worst executed, most slovenly, strident and obnoxious peace action ever committed.”

Kauffman disagrees. The spectre of the protest rattled the Administration, she points out. What’s more, **it marked the shift toward the tactics-driven approach that we still follow today**. “The last major national protest against the Vietnam War, Mayday was also a crucial first experiment with a new kind of radicalism,” she writes. It was less about moral leadership than about the fact of obstruction. It embraced whatever—and whoever—**forced the hand of power**. “You do the organizing,” the Mayday manual read. “This means no ‘movement generals’ making tactical decisions you have to carry out.”

It is hard to overstate what a fresh idea this seemed—or how deeply it’s now seated in our notions of activist assembly, down to “soft” protests like flash mobs and Critical Mass. Authority, in the new tactical model, arose from the number of people who showed up. It swept away the need for common principles or precisely coördinated strategies; the choices behind public protest could be personal and private. As Srnicek and Williams observe, “Folk politics prefers that actions be taken by participants themselves—in its emphasis on direct action, for example—and sees decision-making as something to be carried out by each individual rather than by any representative.” After the labyrinthine doctrine of late-sixties movements, this freedom was new.

Kauffman tells us that in the seventies, under this model, “alt” organizing movements started to emerge in the corners of society, usually with modest and local ambitions—the Park Slope Food Coop, the Michigan Womyn’s Music Festival, and other Birkenstocky citadels. To the extent that such projects made political arguments, they were expressed through what is often called “prefigurative” politics: you behave according to the rules of the society you hope to create. Queer and punk activism, well-practiced in work at the periphery, took a lead, and paved a road into the eighties, with theatrical protests at the 1984 Democratic National Convention; the audacious, enormously successful efforts by act up to change aids policy; and the pushy, calculating Earth First! movement, which sought to “make it more costly for those in power to resist than to give in.”

Kauffman follows this lineage of tactical activism up to and beyond the era of Iraq War demonstrations. She focusses on New York’s Iraq protest of February 15, 2003—purportedly the largest action in decades, organized quickly. But she shrugs off its lack of effect. “Sometimes you protest just to register a public objection to policies you have no hope of changing,” she explains. Movements might have lost their leaders, gained force, and offered personal autonomy. Yet they hadn’t acquired the crucial thing—a good crack at success.

History provides an especially sharp rejoinder to those who doubt the sustained power of protest: **the civil-rights movement**. From the mid-fifties to the mid-sixties, activists successfully worked to roll back school segregation, public-transit segregation, interstate-bus segregation, restaurant segregation, poll taxes, employment discrimination, and more. **It happened, piece by piece**, under politically entrenched and physically threatening conditions**. Its efficacy was virtually unmatched in our national past**. The civil-rights movement preceded the protest meteor of the late sixties, but, for a new generation eager for change, it showed what was possible by taking to the streets.

**Why did civil-rights protest work where recent activism struggles?** The question looms behind Zeynep Tufekci’s “[Twitter and Tear Gas: The Power and Fragility of Networked Protest](https://www.amazon.com/dp/0300215126/?tag=thneyo0f-20)” (Yale). Tufekci is, by training, a sociologist, and her research centers on the place where protest and digital media meet. She was in Chiapas, Mexico, among the Zapatistas, in the nineties; in Tahrir Square for [Egypt’s revolution](http://www.newyorker.com/magazine/2017/01/02/egypts-failed-revolution); in lower Manhattan for Occupy Wall Street; and at Istanbul’s Gezi Park for protests of the Erdoğan government. She spent a heroic amount of time in these protests’ digital antechambers, too, attending a Tunisian meet-up of Arab bloggers and visiting the café offices of self-made social-media reporters. Yet she has a mixed review of their successes. “Modern networked movements can scale up quickly and take care of all sorts of logistical tasks without building any substantial organization cavity before the first protest or march,” she writes. “However, **with this speed comes weakness.”**

Tufekci believes that digital-age protests are not simply faster, more responsive versions of their mid-century parents. **They are fundamentally distinct.** At Gezi Park, she finds that nearly everything is accomplished by spontaneous tactical assemblies of random activists—the Kauffman model carried further through the ease of social media. “Preexisting organizations whether formal or informal played little role in the coordination,” she writes. “Instead, to take care of tasks, people hailed down volunteers in the park or called for them via hashtags on Twitter or WhatsApp messages.” She calls this style of off-the-cuff organizing “adhocracy.” Once, just getting people to show up required top-down coördination, but today anyone can gather crowds through tweets, and update, in seconds, thousands of strangers on the move.

At the same time, she finds, **shifts in tactics are harder to arrange**. Digital-age movements tend to be **organizationally toothless, good at barking at power but bad at forcing ultimatums or chewing through complex negotiations**. When the Gezi Park occupation intensified and the Turkish government expressed an interest in talking, it was unclear who, in the assembly of millions, could represent the protesters, and so the government selected its own negotiating partners. The protest diffused into disordered discussion groups, at which point riot police swarmed through to clear the park. The protests were over, they declared—and, by that time, they largely were.

**The missing ingredients**, Tufekci believes, **are the structures and communication patterns that appear when a fixed group works together over time**. That practice puts the oil in the well-oiled machine. It is what contemporary adhocracy appears to lack, and what projects such as the postwar civil-rights movement had in abundance. And it is why, she thinks, despite their limits in communication, these earlier protests often achieved more.

Tufekci describes **weeks of careful planning** behind the yearlong Montgomery bus boycott, in 1955. That spring, a black fifteen-year-old named Claudette Colvin refused to give up her seat on a bus and was arrested. Today, though, relatively few people have heard of Claudette Colvin. Why? Drawing on an account by Jo Ann Robinson, Tufekci tells of the Montgomery N.A.A.C.P.’s shrewd process of auditioning icons. “Each time after an arrest on the bus system, organizations in Montgomery discussed whether this was the case around which to launch a campaign,” she writes. “They decided to keep waiting until the right moment with the right person.” Eventually, they found their star: an upstanding, middle-aged movement stalwart who could withstand a barrage of media scrutiny. This was Rosa Parks.

On Thursday, December 1st, eight months after Colvin’s refusal to give up her seat, Parks was arrested. That night, Robinson, a professor at Alabama State College, typed a boycott announcement three times on a single sheet of paper and began running it through the school’s mimeograph machine, for distribution through a local network of black social organizations. The boycott, set to begin on Monday morning, was meant to last a single day. But so many joined that the organizers decided to extend it—which necessitated a three-hundred-and-twenty-five-vehicle carpool network to get busless protesters to work. Through such scrupulous engineering, the boycott continued for three hundred and eighty-one days. Parks became a focal point for national media coverage, while Colvin and four other women were made plaintiffs in Browder v. Gayle, the case that, rising to the Supreme Court, got bus segregation declared unconstitutional.

What is striking about the bus boycott is not so much its passion, which is easy to relate to, as its restraint, which—at this moment, especially—is not. No outraged Facebook posts spread the news when Colvin was arrested. Local organizers bided their time, slowly planning, structuring, and casting what amounted to a work of public theatre, and then built new structures as their plans changed. The protest was expressive in the most confected sense, a masterpiece of control and logistics. **It was strategic, with the tactics following**. And **that made all the difference in the world.**

Tufekci suggests that, among that era’s successes, deliberateness of this kind was a rule. She points out how, in preparation for the March on Washington, in 1963, a master plan extended even to the condiments on the sandwiches distributed to marchers. (They had no mayonnaise; organizers worried that the spread might spoil in the August heat.) And she focusses on the role of the activist leader Bayard Rustin, who was fixated on the audio equipment that would be used to amplify the day’s speeches. Rustin insisted on paying lavishly for an unusually high-quality setup. Making every word audible to all of the quarter-million marchers on the Mall, he was convinced, would elevate the event from mere protest to national drama. He was right.

Before the march, Martin Luther King, Jr., had delivered variations on his “I Have a Dream” speech twice in public. He had given a longer version to a group of two thousand people in North Carolina. And he had presented a second variation, earlier in the summer, before a vast crowd of a hundred thousand at a march in Detroit. The reason we remember only the Washington, D.C., version, Tufekci argues, has to do with the strategic vision and attentive detail work of people like Rustin. Framed by the Lincoln Memorial, amplified by a fancy sound system, delivered before a thousand-person press bay with good camera sight lines, King’s performance came across as something more than what it had been in Detroit—it was the announcement of a shift in national mood, the fulcrum of a movement’s story line and power. It became, in other words, the rarest of protest performances: the kind through which American history can change.

Tufekci’s conclusions about the civil-rights movement are unsettling because of what they imply. People such as Kauffman portray direct democracy as a scrappy, passionate enterprise: the underrepresented, the oppressed, and the dissatisfied get together and, strengthened by numbers, force change. Tufekci suggests that **the movements that succeed are actually proto-institutional**: highly organized; **strategically flexible**, due to sinewy management structures; and **chummy with the sorts of people we now call élites**. The Montgomery N.A.A.C.P. worked with Clifford Durr, a patrician lawyer whom Franklin Roosevelt had appointed to the F.C.C., and whose brother-in-law Hugo Black was a Supreme Court Justice when Browder v. Gayle was heard. The organizers of the March on Washington turned to Bobby Kennedy—the U.S. Attorney General and the brother of the sitting President—when Rustin’s prized sound system was sabotaged the day before the protest. Kennedy enlisted the Army Signal Corps to fix it. **You can’t get much cozier with the Man than that.** **Far from speaking truth to power, successful protests seem to speak truth through power**. (The principle holds for such successful post-sixties movements as act up, with its structure of caucuses and expert working groups. And it forces one to reassess the rise of well-funded “Astroturf” movements such as the Tea Party: successful grassroots lawns, it turns out, have a bit of plastic in them, too.) Democratizing technology may now give the voiceless a means to cry in the streets, but real results come to those with the same old privileges—time, money, infrastructure, an ability to call in favors—that shape mainline politics.

Unsurprisingly, this realization irks the Jacobins. Hardt and Negri, as well as Srnicek and Williams, rail at length against “neoliberalism”: a fashionable bugaboo on the left, and thus, unfortunately, a term more often flaunted than defined. (Neoliberalism can broadly refer to any program that involves market-liberal policies—privatization, deregulation, etc.—and so includes everything from Thatcher’s social-expenditure reductions to Obama’s global-trade policies. A moratorium on its use would help solidify a lot of gaseous debate.) According to them, neoliberalism lurks everywhere that power resides, beckoning friendly passersby into its drippy gingerbread house. Hardt and Negri dismiss “participating in government, respecting capitalist discipline, and creating structures for labor and business to collaborate,” because, **they say**, “**reformism** in this form **has proven to be impossible** and the social benefits it promises are an illusion.” They favor antagonistic pressure, leading to a revolution with no central authority (a plan perhaps more promising in theory than in practice). Srnicek and Williams don’t reject working with politicians, though they think that real transformation comes from shifts in social expectation, in school curricula, and in the sorts of things that reasonable people discuss on TV (the so-called Overton window). It’s an ambitious approach but not an outlandish one: Bernie Sanders ran a popular campaign, and suddenly socialist projects were on the prime-time docket. Change does arrive through mainstream power, but this just means that your movement should be threaded through the culture’s institutional eye.

The question, then, is what protest is for. Srnicek and Williams, even after all their criticism, aren’t ready to let it go—they describe it as “necessary but insufficient.” Yet they strain to say just how it fits with the idea of class struggle in a postindustrial, smartphone-linked world. “If there is no workplace to disrupt, what can be done?” they wonder. Possibly their telescope is pointing the wrong way round. Much of their book attempts to match the challenges of current life—a shrinking manufacturing sphere, a global labor surplus, a mire of race-inflected socioeconomic traps—with Marx’s quite specific precepts about the nineteenth-century European economy. They define the proletariat as “that group of people who must sell their labor powers to live.” It must be noted that this group—now comprising Olive Garden waiters, coders based in Bangalore, janitors, YouTube stars, twenty-two-year-olds at Goldman Sachs—is really very broad. A truly modern left, one cannot help but think, would be at liberty to shed a manufacturing-era, deterministic framework like Marxism, allegorized and hyperextended far beyond its time. Still, **to date no better paradigm for labor economics and uprising has emerged.**

What comes undone here is the dream of protest as an expression of personal politics. Those of us whose days are filled with chores and meetings may be deluding ourselves to think that we can rise as “**revolutionaries-for-a-weekend**”—Norman Mailer’s phrase for his own bizarre foray, in 1967, as described in “[The Armies of the Night](https://www.amazon.com/dp/0452272793/?tag=thneyo0f-20).” Yet that’s not to say the twenty-four-year-old who quits his job and sleeps in a tent to affirm his commitment does more. The recent studies make it clear that protest results don’t follow the laws of life: **eighty per cent isn’t just showing up**. Instead, logistics **reign** and then **constrain**. **Outcomes rely on how you coordinate your efforts, and on the skill with which you use existing influence as help.**

If that seems a deflating idea, it only goes to show how entrenched self-expressive protest has become in political identity. In one survey, half of Occupy Wall Street allies turned out to be fully employed: even that putatively radical economic movement was largely middle class. (Also, as many noted, it was largely white.) That may be because even the privileged echelons of working America are mad as hell and won’t take it anymore. But it may also be because the social threshold for protest-joining is low. A running joke in “The Armies of the Night” is that many of the people who went off to demonstrate were affluent egghead types—unsure, self-obsessed, squeamish, and, in many ways, pretty conservative. “There was an air of Ivy League intimacy to the quiet conversations on this walk—it could not really be called a March,” Mailer says. Writing of himself: “He found a friendly face. It was Gordon Rogoff, an old friend from Actors Studio, now teaching at the Yale Drama School; they talked idly about theatrical matters for a while.” This has been the cultural expectation since the late sixties, even as tactical protest has left mainstream power behind. As citizens, we get two chips—one for the ballot box, the other for the soapbox. Many of us feel compelled to make use of them both.

Would casual activists be better off deploying their best skills toward change (teachers teaching, coders coding, celebrities celebritizing) and leaving direct action in the hands of organizational pros? That seems sad, and a good recipe for lax, unchecked, uncoördinated effort. Should they work indirectly—writing letters, calling senators, and politely nagging congresspeople on Twitter? That involves no cool attire or clever signs, and no friends who’ll cheer at every turn. **But there’s reason to believe that it works,** because even bad legislators pander to their electorates. In a new book, “The Once and Future Liberal” (Harper), Mark Lilla urges a turn back toward governmental process. “The role of social movements in American history, while important, has been seriously inflated by left-leaning activists and historians,” he writes. “**The age of movement politics is over, at least for now. We need no more marchers. We need more mayors**.” Folk politics, tracing a fifty-year anti-establishmentarian trend, flatters a certain idea of heroism: the system, we think, must be fought by authentic people. Yet that outlook is so widely held now that it occupies the highest offices of government. Maybe, in the end, **the system is the powerless person’s best bet.**

**The law is inevitable, and absent leftist engagement will be ceded to reactionary forces --- the polyvalent nature of legalism makes it possible to carve out spaces in the law for the oppressed**

--Engagement with law inevitable – when activists are jailed or need to change structures, it’s always mediated by law – law imposes hierarchy on people and must be contested

--Radical change is not overnight – requires intermediate steps that use law

--Absence of laws guarantees failure – Occupy proves – just shouted and let Wall Street maintain control

--Law is not a monolith but contestable – laws are created by individuals which makes them necessarily incomplete – interests of groups shift and can converge

--Liberalism contains seeds of its own salvation and can be used against itself – liberal principles of rights have been invoked for LGBTQ rights, BLM, immigration rights, indigenous sovereignty, living wages, healthcare, housing, etc

**McCann and Lovell, 18**

Michael McCann and George I. Lovell. Michael McCann is Gordon Hirabayashi Professor for the Advancement of Citizenship at the University of Washington. George Lovell is Professor and Chair of Political Science, Harry Bridges Endowed Chair in Labor Studies, and Adjunct Professor in Law, Societies, and Justice at the University of Washington. “Toward a Radical Politics of Rights: Lessons about Legal Leveraging and Its Limitations,” Chapter 7 of “From the Streets to the State,” SUNY Press (2018)

In our aspirations for progressive change, **engaging with the law is not a free choice among tactics**. **It is a necessity**. Egalitarian activists are routinely forced into legal engagement by the omnipresence of law as a violent force imposing hierarchical order and harsh punitive constraints on oppressed populations. Although activists are often motivated by the quest for legal recognition of rights claims, offensively mobilizing law to support egalitarian struggles is only a small part of movement appeals to law. Defensive actions to evade law’s repressive force or to protect previous gains are often much more significant. In our view, there is surprisingly little rigorous theorizing about the different types of struggles on the terrain of law, the most useful indicators of effective legal action, and especially the measures of egalitarian

or inclusionary change.1

Law is an enduring site for **progressive democratic contestation**. Although official law is often a tool of repression, legal norms and institutions can also be **resources** for egalitarian rights claims, and, at certain historical moments, even **social transformation.** No matter **how radical** one’s political aspirations, the necessarily long-run character of revolutionary social transformation requires a series of **intermediate steps, including those on the terrain of law**. As the British socialist E. P. Thompson (1975) asserts

Most [people] have a strong sense of justice, at least with regard to their own interests. If the law is evidently partial and unjust, then it will mask nothing, legitimize nothing, contribute nothing to any class’s hegemony. The essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just. . . . The rhetoric and the rules of a society are something a great deal more than sham. In the same moment they may modify, in profound ways, the behavior of the powerful, and mystify the powerless. They may disguise the true realities of power, but, at the same time, they may curb that power and check its intrusions. . . . And it is often from within that very rhetoric that a radical critique of the practice of the society is developed. (436–39)

In this chapter, we describe legal mobilization as the articulation of a social interest, general policy, or a societal vision in terms of legal entitlement. As Frances Kahn Zemans (1983) famously put it, legal mobilization entails that “a desire or want . . . is translated into a demand as an assertion of one’s rights” (3). Since legal language is **indeterminate** and **polyvalent**, **it is contestable**. Dominant legal norms are **incomplete** and **rife with tensions**, and they adapt as the perceived interests of dominant groups respond to, or occasionally **converge with**, the **demands of oppressed groups** (Bell 1980). Although much legal contestation occurs between recognized rights-bearing subjects over the authoritative meaning of clashing liberal legal principles, legal mobilization also involves oppressed groups mobilizing **liberal principles against illiberal,** repressive **modes of social control.** These contests over ascribed race, gender, sexual, immigrant, and other marginalized identities often expand the rule of liberal legalism (Smith 1997; Orren 1992). More importantly,

struggles by progressive activists can use the liberal principle of equal citizenship to counter the property- and contract-based principles of capitalism, thereby challenging unequal resource distribution and class exploitation (Brown 2003; Smith 1997).

As Stuart Scheingold (1974) argues, “law cuts both ways,” both for and against egalitarian social justice (91; see also McCann 1994). When, how, and to what degree legal discourse and institutions provide resources for oppressed groups depends largely on the mix of legal and especially extralegal factors in a given historical context. Our research devotes considerable attention to the changing features of the cultural and institutional terrain that delimit the possibilities and forms of contestation within and against law. Of course, fighting for control of legal institutions and principles does not guarantee radical social change. But **succumbing to anti-legalism cedes control** over the terms of institutional organization, instrumental rule, and regime legitimation to **dominant** forces propelling capitalism and other hierarchies.

We recognize that our approach is at odds with some important recent movements and their interpreters. Arguably, the Occupy movements in and beyond the United States expressed a notable disdain for legal rights claiming, litigation strategies, and general appeals to legal strategies (Almog and Barzilai 2014). This disenchantment with law, legal processes, and lawyers is understandable in the post-civil rights era and the immediate post-recession moment. Indeed, wariness about law is always sound. Moreover, Occupy did profoundly reorient the dominant agenda in many parts of the global North. It put “deficit and debt hawks” on the defense and elevated concerns about economic fairness and the political accountability of private financial managers. At the same time, Occupy espoused and enacted **little in the way of institutional changes** within government and capitalist society. By shedding any reliance on discourses of rights, Occupy arguably limited its use of important ideological resources in the neoliberal context (Brown 2003; Obando 2014).

It is noteworthy that many movements inspired by the Occupy movement— especially among low-wage workers and advocates for corporate accountability— have recovered and **prominently invoked rights claims and legal resources**. Indeed, there has been a recent convergence around rights-based claims by campaigns for a minimum wage and sick pay, for immigrant rights and support, for LBGTQ rights, for the Black Lives Matter movement, and for **other progressive and radical causes** in the United States. Their reliance on lawyers and litigation has varied widely, **but none of these movements discount them** as much as did the earlier Occupy movement. Furthermore, many grassroots struggles in both the global North and South—against apartheid; for indigenous people’s sovereignty; for socioeconomic entitlements to housing, health-care, education, and minimum income—also **appeal to legal or human rights and rely** in part **on** national or transnational **courts** (Haglund and Stryker 2015; Rodriguez-Garavito 2011).

**Their rejection of political organizing sutures neoliberalism --- individual action is insufficient to combat existential risks --- our alternative is to affirm political organization in the name of socialism and class struggle.**

**Gude 12** Shawn Gude, Shawn Gude is an associate editor at Jacobin. “Occupy Anti-Politics.” Jacobin. November 13, 2012. https://www.jacobinmag.com/2012/11/occupy-anti-politics

In my new neighborhood, in Baltimore, “Occupy the Vote: Re-Elect Obama” signs still pepper the landscape. They’re planted in front yards, posted in front windows, positioned on sidewalk strips.

This irks me, to an extent — this wanton appropriation of the Occupy name, used to declare allegiance to a president firmly ensconced in the very neoliberal consensus the movement hoped to dislodge. Yet as much as I find the diction disquieting, its social movement-electoral politics linkage is provocative and pregnant, given Occupy’s missteps.

Last year at this time, the Left was emboldened and highly visible. And now? Occupiers are providing important support to existing struggles and launching their own campaigns. Last week, Sarah Jaffe documented Occupy’s heartening role in the post-Sandy recovery [in these pages](http://jacobinmag.com/2012/11/power-to-the-people/). But this is all occurring locally, on a relatively small scale.

As [Thomas Frank points out](http://www.thebaffler.com/past/to_the_precinct_station) in the current issue of the Baffler, the term “the one percent” has been the movement’s only lasting contribution to national politics; a tax code classification morphed into a usefully polarizing pejorative. But that’s it. **The way Obama and Romney campaigned, you’d think Occupy never happened.**

So what went wrong? Frank is unsparing in his criticism, hitting occupiers for being self-absorbed and self-aggrandizing, more taken by esoteric theorizing than apt to take consequential action. Frank also assembles a rather conventional list of objections to Occupy: **its absence of enumerated demands, its consensus model and distaste for structure, its outsized love for building community.**

The blows that really land all have a common thread. Each are, at bottom, **instances of occupiers’ aversion to politics**. This antipathy wasn’t unanimous among the movement’s ranks, but it was pervasive. And it was, along with police repression, one of the **key reasons** Occupy failed.

Early on, many occupiers, myself included, fretted that established progressive groups and Democratic partisans would try to funnel the élan of Occupy into mainstream politics; the movement would then quickly wither and die. Co-opt: utter the word, and the implicated party was instantly put on the defensive. These worries weren’t entirely born of paranoia, and activists were right to keep a wary eye on the center-left. But the vigilance had the unfortunate tendency of cloistering and marginalizing the movement. Activists customarily viewed anyone connected to electoral politics with suspicion.

And when not a few occupiers averred that the movement was resolutely anti-political, they weren’t being glib — they meant electoral politics, the political process, everything. The world they sought would have no politics, no debased struggles for power. They didn’t just want to democratize power, but eradicate it. In their minds, the encampments were harmonious, experimental sites of prefiguration, a glimpse into the politics-free future. Transforming a stodgy corporate park into a liveable space, they would provide the model.

The desire to foster community and build emotional bonds was well-intentioned and, in small doses, salutary. Developing and maintaining relationships is vitally important to retaining and attracting new people, to building a strong movement. Casual participants are more apt to leave — or limit their involvement — if they lack personal connections to other movement members. Particularly trying junctures are easier to handle if you know your comrades have your back, and vice versa. Facing a phalanx of riot cops becomes disconcerting, not disabling (that is, until they start letting their truncheons fly).

So community is important. **Occupiers were wrong**, however, when they viewed it as a resounding step towards a more egalitarian, just society.

I remember a beautiful moment this spring. It was a Sunday night in Chicago, the weekend of the Occupy anti-NATO protests. Most everyone was tired after several days of meandering marching. Following a thousands-strong, permitted march earlier in the day, several hundred of us had tried and failed to break through a police line; our chimerical goal was to shut down the conference. Now it was night, and hundreds of us had headed north to the Art Institute, the site of a dinner for NATO leaders’ spouses. Police ringed the building. We could make some noise and mount a sit-in, but little else. Soon, it started pouring. The rain didn’t precipitate despair among the youthful throng, though, but euphoria. There was a street dance party, and then a group hug. A feeling of deep, visceral cohesiveness with my fellow occupiers overcame me. I felt fulfilled. This was, in many ways, Occupy encapsulated.

It was marvelous. And, in retrospect, meaningless.

**The one percent is content with the fetishization of feelings, because it poses little threat to their plutocratic power**: Build your small, mutual aid communities. **We’ll continue** our rapacious behavior, unmolested and untouched. We’ll continue to brandish the coercive power of the state, a state that, if so pressured, could **pose an existential threat to capitalist power.**

Politically, **Occupy accomplished little because we were often too wary of acting politically**, of making demands on the political system, of acknowledging conflict and structuring our movement accordingly. Many in the movement thought structure carried the patina of the establishment, that demand making would simply serve to legitimize the malevolent state. So we got an amorphous, highly decentralized movement that, after a miraculous flourish in its embryonic stages, tapered off.

**This wasn’t the practice of politics. It was an attempt to transcend it.**

Joseph Schwartz, a political philosopher at Temple University, argues in his 1995 book The Permanence of the Political that the Left has long had these anti-political inclinations — “either through the stifling solidaristic general will of Rousseau, the spontaneous postscarcity anarchism of Marx’s ‘full communism,’ or the technocratic, scientistic rule of Lenin’s vanguard party.”

Schwartz continues:

 [A]lthough viewed by some as patron saints of “radical democracy,” these theorists did not conceptualize a further democratization of political life but rather the transcendence of politics through the creation of societies characterized by minimal social conflict and universally shared conceptions of the public or human good.

Sound familiar?

**Even for those who find the state of American politics repulsive** (and I, emphatically, do) **the principle, the idea, of politics and the democratic process must be defended.** Jaundiced resignation redounds to the benefit of the Right. They relish anti-political cynicism. They oppose concerted collective action, so they harness the sentiment to subvert politics itself. They adopt a sort of aloof, cooler-than-thou detachment from the political arena, a pernicious posture that ineluctably elevates apathy and inaction to the status of beau ideal. Politics-averse leftists risk falling into the same pattern of passivity and discrediting the necessarily political solutions to our social ills.

What we have in the case of **climate change,** for example, is both the largest market failure and most daunting collective action problem in human history. The hyper-decentralized, quasi-primitivist solutions popular in some corners of the radical left are laughably inadequate or execrably anti-humanist. **The antidote to a collective problem is collective action**. So too with issues of **inequality, poverty, and imperialism.**

Acting politically means confronting power, not side-stepping it. It means reshaping existing institutions, not just building alternative ones. It means directly and indirectly engaging the state, not cocooning oneself from it.

Even as we on the democratic left offer impassioned critiques of our political system **we mustn’t eschew politics**. We’ve already seen what that can do to our most promising social movements.

**Case---Extra Sheet**

**1 – The judge should decide debates through line by line and evaluating who did the better debating by what they have on the flow – the alternative is an arbitrary world where judges just vote based on their personal opinions and collapses the structure of how debate works.**

**2 - BUT this does not mandate a certain way to talk! T just says that you must defend a plan, which doesn’t require codeswitching.**

**3 - There are no fixed codes, to speak is to code switch, and insistence on a single preferable code is essentialist**

**Mellom 6** - Assistant Research Scientist for CLASE; Center for Latino Achievement and Success in Education CODE-SWITCHING AT A BILINGUAL SCHOOL IN COSTA RICA: IDENTITY, INTERTEXTUALITY AND NEW ORTRAITS OF COMPETENCE, PAULA JEAN MELLOM

<http://athenaeum.libs.uga.edu/bitstream/handle/10724/9023/mellom_paula_j_200605_phd.pdf?sequence=1>

On the other hand, some sociolinguists have tended to view code-switching as an emergent phenomenon which is a product of social interaction (Gumperz, 1982) and a means to construct identity or (re)affirm group membership (Heller, 1988). However, there is little agreement about when code-switching can happen and who can do it. Some argue that code-switching, can only occur in “stable bilingual communities”, like those in countries like Belgium and Switzerland. However, some researchers (Zentella, 1997) have troubled **the essentialist model of traditional diglossia** which posits that the two languages used in a community are relegated to certain social situations which are **clearly defined and mutually exclusive.** In fact, recent studies have begun to focus on other language contact situations, where code-switching can also occur (Gallindo 1996, Rampton 1995). These “linguistic borderlands” like cities with large immigrant populations, borders between countries or territories and schools with large and diverse ethnic populations are rife with individuals, with varying degrees of bilingualism who alternate from one language to another as a matter of course. But these borderlands, with their shifting linguistic landscape, muddy the monolingual-based analysis waters and **pose serious theoretical problems to structuralist frameworks** **designed to analyze code-switching** because these **depend on the integrity of discreet language systems**. Gardner-Chloros (1995), in her work on Alsatian code-switching advocates a (re)viewing of the theoretical assumptions behind the terminology used in code-switching research. She forcefully argues that the commonly accepted concept of “code-switching” **implies two inherently separate “standard” languages** and asserts that **we must remember that all “standard languages” are hybrids.**

**Case**

**Abstract moralizing is useless when trying to construct a political strategy – only by evaluating the consequences of political strategies can we actual do something about issues facing us today**

David **Runciman 17**, Politics, Cambridge University, “Political Theory and Real Politics in the Age of the Internet,” The Journal of Political Philosophy, Volume 25, Issue 1, March 2017, Pages 3–21

Contemporary political realism carries echoes of this line of argument and of Bentham's shift from the weaker to the stronger version of it, even though Bentham's direct influence is rarely in evidence. Critics of the current ubiquity of the language of human rights often point out that in the absence of a robust account of the power relations that are needed to underpin any rights regime—in particular, an answer to the question of who does the enforcing—all such talk is a massive distraction from the real business of improving the situation on the ground to which human rights are meant to apply.9 But for more radical critics the emptiness of human rights talk is too convenient to be merely a confusion: it serves as the perfect cover for the sinister interests of those engaged in neo-colonial projects of exploitation and expropriation.10 However, these two poles of the Benthamite case against moralism—from inadvertent confusion to deliberate deception—do not exhaust the range of explanations for what is wrong with it. There is another answer, drawn from an alternative intellectual tradition, which appears more frequently in the current realist literature. This is the Weberian idea that moralism does not so much obscure what politicians are really up to, as **conceal the truth** about their personal motives from political actors themselves. In other words, political moralism is less a form of deception than of self-deception: it lets politicians avoid **looking political reality squarely in the face** because it allows them to believe they **have their eyes set on something higher**. Conviction politicians think they can **transcend the messy reality of politics**. That belief is **dangerous** because their response when they encounter the messy reality is to **deny it**, or to **ignore it**, or to insist they can **mould it to their higher purposes**, which **only makes the mess worse**. Weber's case against allowing an ethic of conviction to trump an ethic of responsibility in politics—which requires, among other things, that politicians **face up to the unintended consequences** of what they do—remains compelling.11 But it does not map onto any sharp distinctions between realism and moralism. That is because the convictions that can breed self-deception are **not necessarily moralistic beliefs**; they can be beliefs about **anything**, including beliefs about how **contingency trumps moral certainty**. On the Weberian account it is not **what you believe** but **how you believe it** that makes the difference. Realists, too, can be self-deceived, because the strength of their convictions against moralism produces its own self-deceptions and blind spots. This is the case that can be made against Bentham, who was so thoroughly dogmatic about the vapidity of all talk of rights that it served to blind him to what was missing from his own understanding of politics. Macaulay made the point in his celebrated takedown of the Benthamites published in the Edinburgh Review in 1829: ‘They surrender their understandings … to the meanest and most abject sophisms, provided these sophisms come before them disguised with the externals of demonstration. They do not seem to know that logic has its illusions as well as rhetoric—that a fallacy may lurk in a syllogism as well as a metaphor.’12 Bentham was insufficiently sensitive to the ways in which the attempt to ground political argument in the language of force neglects the capacity of other sorts of arguments to move people successfully. Conviction politics is not simply the preserve of the moralisers. Likewise, it is not the case that moral political philosophy is itself incapable of seeing the merit of arguments that point towards the unavoidability of unintended consequences. Just as realists can be blind to contingency, so moralists can be alive to it. Take the example of Robert Nozick, the most prominent early critic of Rawlsian political philosophy from within the discourse of rights. Nozick's ‘Wilt Chamberlain example’ was designed to highlight the inability of Rawlsian schemes of justice to accommodate the unintended consequences of cumulative instances of contingent rightful action on the part of individuals (in this case, their willingness to hand over small amounts of their own money to watch the best basketball player around ply his trade, which would generate unjustifiable inequalities of wealth—Chamberlain becomes very rich—unless the state intervenes to circumscribe their choices).13 The challenge to Rawls is to adapt his patterned view of justice to a world in which events inevitably take place that will break up the pattern. But this challenge does not come from a realist; it comes from a moralist (and a self-professed utopian to boot). There are many possible ways to push back against the apparent force of the Wilt Chamberlain example.14 A realist response would be to challenge the assumptions behind the case itself. We live in societies that enrich leading sportspeople on a scale that even Nozick might have found hard to imagine (Nozick envisages Chamberlain earning $250,000; his contemporary equivalent—LeBron James—earned more than $50,000,000 in 2015). But the players’ wealth is not simply the cumulative consequence of the unfettered choice of large numbers of people to hand over small amounts of money to watch them play. Any such relationship—between fans and performers—is mediated by vast institutional structures of commodification and exchange, which make it very hard to follow the money from individual consumers to the pockets of the superstars. It passes through the hands of many others—broadcasters, agents, advertisers, and administrators—such that the path of justice may be at best obscured and more likely undermined (recent revelations about how FIFA operates do not inspire confidence that this is a transparently just business). A further iteration of the realist response would indicate that an example drawn from the world of sports is itself a misleading one. Though polling evidence suggests that in our increasingly unequal societies it is sporting celebrities and their like who are widely believed to be reaping the most outsize rewards—on the assumption that there is at least some correlation between reward and measurable talent—most of the superrich in fact come from the financial services industry, where visible talent is much harder to identify.15 Tracing the just transfer of money in Nozick's terms from individual consumers to the pockets of bankers would be a thoroughly thankless task. In that sense, the Wilt Chamberlain example appears designed to play into our unwarranted presuppositions about the workings of the free market. It serves as a smokescreen. So realists can respond to Nozick's argument about contingency with some contingencies of their own. But so too can Rawlsians. It is possible to turn Nozick's argument on its head. He purports to grant Rawls his ideal society in order to show that no political ideal can survive eventualities for which it was not designed. But what if Nozick is granted his ideal society—his utopia—in which there is no political eventuality that cannot be justified in terms of the underlying individual rights that must remain un-breached for any social arrangement to count as just. That society will also be **subject to unforeseen contingencies**, including emergent monopolies and other market failures. Correcting for those failures **will require breaches of rights** in Nozick's terms; but **sitting back and doing nothing** will make the preservation of the conditions of justice—which includes the ability to track the distribution of wealth through a series of free exchanges—**much more difficult**. There is a real world variant of this argument that illustrates what can be at stake. Critics of the most urgent demands to address the threat of climate change tend to argue that pre-emptive responses will preclude the sort of market innovation that offers the best chance of finding a solution.16 In other words, patterned state intervention forecloses the opportunities provided by being open to unforeseen contingencies. But equally, openness to contingency **can be its own form of limitation**, if it **forecloses the opportunities provided** by state intervention in the face of failure. Putting one's faith in an unforeseen future to generate outcomes that will in due course solve the problems of the present **rules out the possibility** of an unforeseen future that **requires action in the present** to solve its looming problems. Those whose convictions blindly favour contingency and the free exchange of ideas can be as self-deceived in Weber's sense as those who want to intervene in the name of a better politics. All convictions, however adaptable, have **an edge of fatalism** to them.17

**Mere imagination is insufficient – liberation only arises from focus on putting ideas into action and explicit commitment to institutional engagement, and static conceptions of the future and apoliticism prevent that**

-this card’s about ecotopianism specifically, but I think the argument is broadly applicable to whatever else people try to say

-the card makes a sort of three-tiered argument: first, utopian visions of the world can’t be static; second, it’s not enough to imagine things because you also have to take steps to revise your visions and put them into action, moving beyond idealism; third, even if they win that they do spill over, their vision is meaningless absent explicit institutional engagement

-the latter part of the card is talking about the process by which their stuff gets coopted in the event that they actually do try to put stuff in action without paying attention to things like the dynamics of capital

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David Pepper, “Tensions and Dilemmas of Ecotopianism,” *Environmental Values*, 2007, [http://sci-hub.tw/https://doi.org/10.3197/096327107X228364](http://sci-hub.tw/https:/doi.org/10.3197/096327107X228364)

In the name of creating a dynamic of social change, progressing towards a radically alternative future, Ecotopianism sometimes produces rigid social blueprints based on principles of ‘equilibrium’ and stasis. But since these implicitly call for no further evolution, such principles are ultimately regressive, especially when grounded in idealistic yearnings for an imagined past of society-nature harmony, rather than in present material realities. Ecotopians may respond to this dilemma by endeavouring to establish progressive, ‘anticipatory’ and transformative material practices in the here and now, but these are often prone to assimilation within existing social arrangements, so may lead us back to the status quo.

The problem of static perfection

A major problem of utopia as the ‘perfect place’ is that it leaves **little room for innovation, change and evolution**. Goodwin and Taylor (1982) suggest that pre-eighteenth century utopias were static because then there was no concept of progress. But in our age a society without developmental capacity is seen as undesirable, because, as Kumar (1987) says, ‘There is no intelligence where there is no change and no need of change’. Kumar refers to how the Eloi of H.G. Wells’s Time Machine live perfectly in harmony with their environment but have lost all intellectual endeavour. In similar vein, Cooper’s (1973) fictional inhabitants of an ecotopia established on a ‘tenth planet’, escaping ecological disaster on earth, have successfully eliminated aggressive instincts, but only by creating a ‘stable’ society which is not evolving. This problem of utopias in general can be compounded in ecotopianism through a predilection for holism, where the ‘view that everything is indissolubly connected has the unacceptably fatalistic consequence that nothing can ever be changed without changing the whole given universe’ (Goodwin and Taylor 1982: 211).

Additionally, radical environmentalism abounds with problematical notions of human wellbeing founded on a natural order that has stabilised around an equilibrium state – a ‘homeostasis’, meaning to ‘keep the same’ (Russell 1991). From the Blueprint for Survival to Gaia theory, there is concern about important ecological ‘laws’ apparently requiring stability and steady state for ecosystems health (see Sale 1985, Devall and Sessions 1985), which by extension demand ‘balance’ and harmony with nature for social wellbeing (Bookchin 1990a). Milbrath et al. (1994: 425) epitomise the environmentalist view that it is ‘perilous for us to perturb those systems’, while Devall and Sessions infer that ‘not do’ should become a guiding social principle.

Unfortunately such sentiments can create what is, for a social change movement, the paradox of ‘**deep dislike of dynamism, uncertainty and change**…ʼ (Bramwell 1994: 177, 205). Indeed, Prugh et al. (2000), among others, have accused ecotopias of demonstrating **static, frozen social structures**, as well as **lacking ‘politics’** and the emergent properties of real human societies. Associated with these accusations are fears of how blueprints of a ‘perfect’ steady state may encourage unhealthy totalitarian repression of deviation and dissent.4

Such criticisms are not always deserved, since at least some ecotopianism does admit a measure of dynamism, uncertainty, change and deviation from static perfection. Callenbach’s (1975) Ecotopia itself contains political dissenters, some disturbingly aggressive war games, urban ghettoes and other ‘imperfect’ features. And Kirkpatrick Sale’s work on bioregionalism does concede that because of the key biological principles of diversity and self-determination ecotopia would be a changing society, likely to contain imperfections. So some bioregions in his ecotopia might not heed values of democracy, equality, freedom, justice, and ‘bioregional standards’. This being so, Sale seeks a system which will work even if not everyone in it is good (more on this problem below).

Again, Bernard and Young’s (1997) review of actual community experiments in sustainable development emphasises the sustainability utopia as imperfect and dynamic. Sustainability in its fullest sense, they say, exists nowhere and may never exist: a **destination not to be reached, but it is the journey itself which is important**. When thus conceived, ecotopian visions **veer away from highly-defined blueprints**, towards constituting merely a ‘navigational compass’ (de Geus 1999). They jettison final and static spatiotemporal utopian forms as unachievable – or, if achieved, still unstable and transitional. This means that utopianism must concentrate on the underlying processes needed to move towards a final state which will remain hypothetical (Harvey 2000). Utopian works that focus on the dialectics of making a new socio-ecological future in worlds which are still ‘messy’ include those of LeGuin (1975), Piercy (1979) and Robinson (1996).

Harvey opposes what he sees as traditional ecotopianismʼs tendency to romanticise an idealised nature, seeing ‘natural laws’ as overly restrictive of human activity. Harvey’s perspective resonates with Marxism’s critique of utopian socialism (Lukes 1984), insisting that ecological utopianism must **reject idealism** and concentrate instead on **transforming into action the material forces working within existing society**, if it is to be truly emancipatory. So ecotopia should reflect the **dialectic between the existing and the desired socio-ecological conditions**, seeking to subvert what exists and creating transgressive spaces and ‘transitional forms’.

As I have suggested, the truth seems to be that ecotopianism swings from one side to another of this materialist-idealist duality. I have shown elsewhere (Pepper 2005) that bioregionalism, and deep ecology in particular, sometimes retreats from the material struggles of the modern world, instead falling back on a romantic future primitivism. Sale (1985: 478), for instance, urges a return to premodernity on grounds that old peoples ‘know the way of nature best’, while Bowers (2003) compiles a list of prerequisites for a sustainable future by looking at the ‘morally coherent and ecologically responsible’ communities of the Apache, Quechua, Inuit, Aboriginal etc. The Planet Drum Foundation, initiated in 1973, holds bioregional congresses featuring ‘earth connecting native American ceremonies’, echoing the tree worship and war game rituals in Callenbach’s novel, and deep ecology invocations to ‘seek inspiration from primal traditions’ (Devall and Sessions 1985: 97) and ‘dance … with the rhythms of our bodies, the rhythms of flowing water, changes in the weather and seasons and the overall processes of life on earth’ (p. 7) needing fewer desires and simpler pleasures.

On the other hand there are examples of ecotopianism seemingly more engaged with the modern world. The seminal Blueprint for Survival (Goldsmith 1972), for instance, gave much space to detailing the transitional processes and forms thought necessary in the journey from what is recognisably today’s world to the unfamiliar world of ecotopia. Indeed, Callenbach (1981) presents a whole volume devoted to transition from the present to ecotopia, seeing this transition as triggered by contemporary processes of ecological degradation that, alongside economic globalisation, produce crises in human welfare. Callenbach draws on a pervasive theme of contemporary America when he suggests that the struggle of small communities against state control and the dislike of ‘ordinary’ people against ‘bigness and greed’ will be significant in provoking ecotopiaʼs emergence. Sale (1985: 179), too, roots his bioregional vision in what he (like many anarchists) claims to be ‘thoroughly expressive of the basic trends of the 20th century’: that is, distrust of bigness, breakdown of the nation state and of the industrial economy. Bioregionalists, he asserts, call for nothing that is not already here today (though whether he or other ecotopians have accurately diagnosed contemporary ‘basic trends’ is of course arguable).

However, when ecotopianism does swing towards the ‘concrete’ and away from abstract fantasising, to engage with the contemporary world, it faces a different sort of dilemma, that of **assimilation into the culture to which it is supposed to run counter**. As such it may **lose transgressive impetus** because it **no longer presents any serious challenge to the status quo.**

Transitional forms and assimilation

This dilemma is of more than academic interest. It is germane to the active involvement of ecotopians in what they consider to be ‘transformative practices’ and ‘transitional forms’, i.e. anticipatory practices in the here and now, reflecting Marx’s idea of ‘immanent critique’ (Hayward 1994). Such practices constitute a familiar liturgy – from local community initiatives for organic farming, micro credit and banking to city farms and neighbourhood schemes for recycling and energy conservation; from worker cooperatives to local employment and trading systems (LETS), from the Mondragon collectives in Spain5 to the Second Economic Model in W. Massachusetts;6 they have all been read, at one time or another, as moving us towards ecological utopia (see for example Douthwaite 1996, Dauncey 1999).

For in ecotopianismʼs characteristically anarchistic analysis, such institutions and practices prefigure the desired society. The analysis reflects Martin Buberʼs contentions that in utopian society there cannot be dissonance between means and ends (so violence or vanguardism, for instance, cannot be countenanced as means to secure a non-violent, non-elitist society), and there should be continuity within revolution . This implies that the method of revolution must be to set up features of the desired society in the here and now.

Ted Trainer (1998) typifies these arguments from a deep green perspective. He stresses how key ecotopian practices and institutions (self sufficiency, small-scale living, localised economies participatory democracy and alternative technologies) already exist in the ‘global ecovillage movement’, a network of intentional communities, city neighbourhoods, producer/community coops and local currencies which constitutes part of the implicit transition strategy of building post-capitalist society in existing society. They are ‘grassroots movements of hope’ (Fournier 2002).

Socialists often reason similarly. Harvey (1996) for instance describes money as the most important expression of spatio-temporality in contemporary society: its social power currently depending on a hegemonic territorial configuration constituting a system of privilege and social control. From this he argues that because LETS have new spatial-temporal characteristics (currencies are invalid outside a local area for instance, see Meeker-Lowry 1996) their adoption enables alternative, non-hegemonic social practices to be established

However the dilemma of such ‘transitional forms’ is that in place of transgressive potential they could as **easily become an accepted element of the status quo** – for reasons detailed in the Marxian critique of utopian socialism. For **inasmuch as their supporters** often **reject conventional politics** – Trainer for instance approvingly describes the global village network as ‘theoryless and apolitical’ – and may underestimate the extent to which contemporary material forces set the terms of mainstream discourse, they often exhibit **false consciousness**. False consciousness imagines that (a) by appealing to reason and ‘common sense’ these transitional forms and practices set an example which the masses will want to follow, and (b) that if they in fact grew to challenge seriously existing power hegemonies, that challenge would not be ruthlessly suppressed.

A potential danger of this lack of realism could be **blindness to the risks of assimilation** into the mainstream culture. Yet we often see how ostensibly ‘transitional’ practices and ‘alternative ‘arrangements can **easily become institutionalised into the status quo**: so that, for instance, some LETS schemes now pay national taxes (Fitzpatrick and Cauldwell 2001); local produce, ‘farmers markets’ and ‘fair trade’ now feature in many supermarkets; what was once regarded as radical technology (i.e. renewables, see Boyle and Harper 1976) becomes a major platform for continuing growth of the major oil companies, etc. Furthermore, inasmuch as they permit their members to survive financially in the context of conventional society, many such ‘alternative’ enterprises decrease the state’s obligation to supply adequate social security arrangements – effectively, some might say, **prolonging the legitimacy of an existing economics which inherently creates social exclusion**. They become, then, **counter-revolutionary**.

An allied danger is that ‘transitional’ form, rather than process, becomes seen as most important. As Carter (1996) reminds us, most ecotopias presume that self-sufficient communes and worker cooperatives intrinsically benefit the environment because of their small scale, potential contribution to quality of life, and imagined concern about local community interaction with environment. Yet this is all highly questionable – small scale is not inherent to coops for instance, and neither do they necessarily exemplify democracy, inclusiveness or environmental concern. Frequently they are veh**icles for alienation through self-exploitation** as they **strive to compete in a capitalist environment**. The anarchist cooperatives in Mondragon have experienced wage hierarchies, a management culture, downsizing and ‘rationalisation’ in order to become successful players in the global economy (Kasmir 1996). Carter insists that form of itself is not crucial, coops being a vessel into which almost any meaning can be poured.

In reality it is the context of potentially ‘transitional’ forms that may be key. As Gare (2000) argues, they must be set within a **culture of non-capitalist values and a clearly radical social change agenda**. This is why Fotopoulos (1998a), in arguing for transitional forms, nonetheless opposes Trainer’s position for its lack of clear goals for systemic change. An **unambiguous programme for** such **change** – ultimately to a stateless moneyless economy, says Fotopoulos – is **necessary** if an ecotopian inclusive democracy is to be established.

**We should be held responsible for unintended consequences – almost everyone wants their actions to do good which means the only way to choose what to do depends on evaluating consequences**

**Chandler**, Professor of International Relations and Director of the Centre for the Study of Democracy at the Department of Politics and International Relations, University of Westminster, **‘14**

(David, “Beyond good and evil: Ethics in a world of complexity,” International Politics Vol. 51, 4, 441–457)

Good and evil, and the social judgements connected with these concepts, cannot exist in a world without fixed structures of meaning derived from the separation of the subject from the world. Rather than moral judgements based upon fixed frameworks of right and wrong, political actors are more likely to evade judgements allocating responsibility and less likely to take sides for or against a particular policy on the basis of political principle. This is reflected in the rise of relational ontologies, such as pragmatism, new materialism or post-humanism, which suggest that any transcendental framing of right and wrong is inherently problematic. If we can no longer stand apart from the world, then we are left only with immanent understandings of complex chains of emergent causation. Rather than good and evil as metaphysical or normative constructs, good and bad forms of interconnection are revealed through their practical consequences as relational ontologies trace outcomes back through concrete social processes. Deleuze (1988) in his ‘practical philosophy’ captures this well:

… Ethics, which is to say, a typology of immanent modes of existence, Ethics overthrows the system of judgement. The opposition of values (good-evil) is supplanted by the qualitative difference of modes of existence (good-bad). (p. 23)

In the world of **immanent chains of connection**, social outcomes reflect modes of being, either ‘good’ modes of being, which reflect upon embedded affinities and connections, or ‘bad’ and unreflective modes of being, which **do not reflect on the effects of actions or inactions**. In a globalized world of **unintended consequences** of interconnection, the appearances of the world enable us to reflect upon the ontological necessity **of reflexively learning from bad modes of social being**. Here the appearance of ‘evil’ seems to enable just such reflexive learning, indeed to impose reflexivity as an ethico-political social necessity. Evil thus provides a framework of experiential learning but only on the basis of understanding evil not as an exception to the norm but by inversing this reasoning to understand evil as revealing an underlying truth or ontological reality in its emergence.

This understanding of evil as an **emergent causality**, a product of the unintended effects of societal interconnection and association, was provided by the Breivik case. The treatment of Breivik provided a snapshot of a world beyond good and evil, where evil is considered as much less the ‘other’ to the norm than as entirely imbricated within it. Breivik illustrated an ‘evil’ that was entirely socialized, understood as immanent beneath the social surface and as generated by a problematic social milieu or socialization process. The response therefore was similar to that of post-Nazi Germany, of engaging in a correcting societalizing process of social education (or de-nazification). The Breivik trial itself was less about proving the guilt or innocence of Breivik, there was no doubt about this, but about ‘sending a message’, a demonstration of the democratic consensus and its importance to Norwegian society, along with the gory and in-depth descriptions of the horrors that can occur if there is a fault in this process. In order for Breivik’s case to perform this ethical work of community construction in the milieus through which the problem was seen to arise, it was vital that Breivik’s ‘evil’ was understood to be not the arbitrary, criminal or insane exception to the norm but rather as an emergent social or societal product. The evil of Breivik, much like that of Eichmann in Arendt’s reading, was societalized or banalized precisely because it was no longer possible to understand it as an isolated act of an individual. The individual may still be legally responsible, but is no longer considered to bear the full moral responsibility – the moral responsibility is that of society not the individual. **Evil is a social product** – a problem that cannot be ‘othered’ or excluded from the norm. This approach is so dominant that a typical example of the ‘lessons of Breivik’ goes thus:

The onus falls on everyone in society to raise their voice a bit more often to correct that borderline racist in the pub or that colleague spreading bigoted nonsense about Muslims or immigrants at work. Once the terrible grief has eased in Norway, one of the conclusions may well be that the ‘it couldn’t happen here’ complacency of a civilised country that did not prepare properly and was too tolerant of the sentiments of the likes of Breivik was a factor in failing to stop the horror…Well, it did happen there. And it could happen here too if we do not take adequate steps to prevent the growth of extremism in all its forms. (Knott, 2012) The fact that there is **no clarity** or consensus on exactly how or which milieu-shaping **institutional practices** are at fault or stand in a **causal relationship** to Breivik’s acts is not a barrier to the perceived necessity of ‘learning the lessons’. These lessons are those of governance: of societal intervention as a ‘milieu-shaping’ project understood to be a preventive and precautionary exercise of adapting societal institutions to prevent the repeat of humanitarian tragedy. This is a process driven by the lessons of necessity, and therefore to be taken across Norwegian society itself, ensuring to include every avenue of societal shaping-influence, from schools and workplaces to places of worship and the media. And, as the above quote illustrates, the democratization of evil does not stop at the Norwegian border, in a globalized world, Breivik teaches the need for ‘everyone in society’ to take moral responsibility for the environmental milieu in which social values are inculcated.

To explain how the democratization of evil works, it is important to recall a point emphasized in the work of Hannah Arendt on how agency works in relation to ‘guilt’. As Arendt (2003) noted, when we claim that ‘we are all guilty’ we are actually expressing ‘**solidarity with the wrong-doers’ rather than the wronged** (p. 148). As wrong-doers, we are then ethically called upon to reform ourselves and are unable to distinguish ourselves from the world in order to pass judgement upon the acts of others. A striking example of how this dispersal of responsibility works in constructions of globalization and complexity is in relation to capitalism or market relations. In modernist framings, political solidarity was often demonstrated in understanding a common cause of struggle against market relations and its enforcement through the coercive political power of capital. In today’s understandings of embedded associational responsibility for the unintended consequences of our actions, we are more likely to see our lifestyle or consumption choices as responsible for inequalities, conflict or environmental problems in other parts of the world (see, for example, Cheah and Robbins, 1998; Dobson, 2003). However, **it needs to be stressed that this reflectivity plays an important role in providing meaning and political purpose when modernist structures of social mediation no longer exist or seem to be hollow remnants.**

In an age of political complexity, when it is ‘easier to imagine the end of the world than the end of capitalism’ (Jameson, 2003; Žižek, 2011), responsibility is recast or internalized, displacing capitalism as the problem through vicariously seeing ourselves as responsible. Thus, capitalism is understood as merely a complex emergent process of exchanges in which we are to differing extents embedded and therefore indirectly responsible. In an age where the overthrow of capitalism seems unimaginable, capitalism is transformed as the sociological vehicle of connection, displacing the conscious and direct chains of public political connection. In fact, a substitute sense of community and of social interconnection is gained through socially reimagining market relations as empowering: enabling **self-reflexive agency to operate in a complex world.** It is precisely through this shift of political responsibility, from social structures and political frameworks external to ourselves, to the recognition of our own indirect social or societal responsibility, as complicit through our own choices and actions, that onto-ethics operates.

**Self-reflexive ethics redistribute responsibility and emphasize the indirect, unintended and relational networks of complex causation**. Collective problems are reconceived ontologically: as constitutive of communities and of political purpose. This is why many radical and critical voices in the West are drawn to the problems of ‘**side effects’**, of ‘**second-order’ consequences** – of a lack of knowledge of the emergent causality at play in the complex interconnections of the global world. The more these interconnections are revealed, though the work of self-reflexivity and self-reflection, **the more ethical authority can be regained by governments and other agents of governance**. We learn and learn again that we are responsible for the world, not because of our conscious choices or because our actions lacked the right ethical intention, **but because the world’s complexity is beyond our capacity to know and understand in advance**. The unknowability of the outcomes of our action does not remove our ethical responsibility for our actions, **it, in fact, heightens our responsibility for these second-order consequences or side effects.** In a complex and interconnected world, few events or problems evade appropriation within this framing, providing an opportunity for recasting responsibility in these ways.

The new ethics of **indirect responsibility** for market consequences can be seen clearly in the idea of environmental taxation, both state-enforced through interventions in the market and as taken up by both firms and individuals. The idea that we should pay a carbon tax on air travel is a leading example of this, in terms of governmental intervention, passing the burden of such problems on to ‘unethical’ consumers who are not reflexive enough to consider the impact of package holidays on the environment. At a broader level, the personalized ethicopolitical understanding that individuals should be responsible for and measure their own ‘carbon footprint’ shifts the emphasis from an understanding of broader inter-relations between modernity, the market and the environment to a much narrower understanding of personal indirect responsibility, linking all aspects of everyday decision making to the problems of global warming (see, for example, Marres, 2012). The shared responsibility for the Breivik murders is not different – ontologically – from the societally shared responsibility for global warming or other problematic appearances in the world. Through our actions and inactions we **collectively constitute** the frameworks in which others act and make decisions – failing to raise our voice against ‘borderline racism’ or extremism in a bar makes us indirectly responsible for acts of racism or extremism in the same way that failing to save water or minimize air travel makes us indirectly responsible for the melting polar ice caps.

**Afrofuturism is cruel optimism – it sustains the fantasy of progress and improvement without accompanying action, which causes burnout rather than renewal**

**Dila 18** – acclaimed writer, filmmaker, and social activist. Dila’s works include a collection of speculative short stories, *A Killing in the Sun*, and the sci-fi film *Her Broken Shadow*.

Dilman Dila, “The trouble with Afrofuturism,” *Dilman Dila*, 14 February 2018, <https://www.dilmandila.com/the-trouble-with-afrofuturism>

Last year, I gave my work-in-progress novel to test readers. Two Ugandans who read it are not particularly fans of SFF, they are just good readers who enjoyed my earlier book, A Killing in the Sun, whose stories mostly sit in a grey area between genres, which is why the title story was shortlisted for a major literary prize. I aimed for the same in this book and both readers said they enjoyed it, very much, especially as it is rooted in a world they know. But **they thought it was childish**. ‘Why?’ I asked. ‘The afrofuturism thing was too much,’ one said. She failed to relate to the techno-fantasy, and she echoed the lead actress of a short film I made last year; ‘**This can’t happen in Uganda.**’

If a reader needs to suspend belief to enjoy a story, **a writer has to live in the world of the story** to enjoy writing it. I think it has given me a ‘schizophrenic’ condition. I put that word in quotes so as not to assume I share an experience with schizophrenics. I discovered this condition in 2010 while working on a one-character screenplay about a radio-presenter stuck in a room, talking and talking and talking. The idea has obsessed me since, and I ended up telling a similar story in Her Broken Shadow, but it’s something I’ll be revisiting soon.

At that time, I was in a sweltering room in Nepal. Humidity made me feel as though I had a second layer of skin. A fan rattled overhead, the noise it made did little to assuage the heat. I was fretting over the structure of the script, the plot points and character arc, since I was a novice and fussed over such things. Suddenly, I teleported into the character’s room, in Kampala. I no longer felt the heat or humidity. The fan’s noise became the drone of bodabodas. The loud chatter of Tharu women winnowing rice, in a neighboring compound, became the yelling of taxi touts. The room was dark because the character had sealed himself in, the only light came from a table lamp, revealing a makeshift studio with a battered laptop and a mic made from scrap. I listened as he made jokes and played oldies. Then, another person crawled out from under the table, and a third popped up on the bookshelf. I did not know where these two came from. I snapped out of it, surprised and angry, plunged back into the hot, humid terai, and I jumped off my chair and stamped my feet as I shouted aloud; “I want only one character! Not effing three!” I never wrote that script because the other two characters did not go away.

Since then, **I’ve lived in two universes**, the real world and the mind-world which shifts according to whatever fantasy is in control. Of course, I can tell the difference. The line between the two is clear. Yet **it hurts, for the mind-world is sometimes so strong that I can feel it.**

For the last few years, the dominant fantasy has been that something turns Africa into, well, a utopia, for lack of a better word. A place where things work, with no poverty as we know it, no colonialism, where nobody feels inferior because of their (dark) skin color. It’s become my favorite daydream, and I’ll leave you to imagine why **it hurts when I snap out of it.**

Often, the catalyst for this change is a genius whose scientific inventions gives humans tools that respect nature, and which can be replicated with resources that are easily or cheaply available in any community. Inventions that destroy capitalism. Sometimes, ancestral spirits guide the genius. I think this is becoming a trope in works of African science fiction, partly because to many Africans the supernatural is alive and breathes alongside smart phones and robots and flat screen TVs. Sometimes, the genius has access to indigenous knowledge and technologies that have been kept a deep secret all these years (another emerging trope). The idea is that colonialism did not destroy everything, something survived and now arises to bring hope.

Here are a few examples of these technologies. A road making machine that’s as cheap as a bicycle and that any community can build from scratch to make an all-weather road. Solar panels, again that any community can build from scratch using resources in their backyard. Sometimes it’s a plant that makes a wonder-fuel (another emerging trope, linked to herbal medicine). It grows in the backyard. If you want to cook lunch, you simply pluck off and process a few leaves using sunlight; turning photosynthesis into energy we can use. The fantasy that wakes me up each morning is a smart phone-like device, which does not need a service provider to make calls or access internet, yet it is cheap enough that any peasant can afford. **Such a device could make the inventor an instant billionaire**, and their country’s wealth would increase tremendously overnight. Maybe the value of the currency shoots through the roof as demand for it rises. **I’d love to wake up one morning and discover that the shilling is now the same value as the dollar** 🙂

Whenever I step out of my house and I’m swallowed up in clouds of dust from the dirt road, or whenever I ride a boda on a muddy road full of potholes, **I curse the authorities for not using the road making machine**. I curse them for taking huge World Bank loans and contracting all road works to China. When I the price of cooking gas goes up because the shilling has lost value, **I wonder why I can’t get seedlings of the wonder plant**. When the government shuts down the internet or media-houses, I know they are suppressing the device for if they allow it, they lose control. I become convinced that they are forcing the inventor to sell it to something like Google or Apple because these corps want to remain in total control of what people see on their devices, and dictators rely on these corps to maintain control.

Whatever the scenario**, I can’t see our leaders having the guts to bankroll such inventions**, partly because **stories need conflict**. Mostly because of reality. Our leaders would rather remain puppets of global corporations and Western or Chinese governments, to stay in power.

I’m not a pessimist. It’s just that the future is **intricately linked to the present and the past**. Look at the Arab spring. It brought a lot of hope, but where did that end up? Some people were determined to see it fail, and ensured we have Libya, and Egypt, and Syria. Look at South Africa, with Mandela selling out his people, with Zuma and the ANC’s new choice who has something to do with massacre of miners. Nigeria has ridiculous long queues for fuel, relies on plastic-bag water, and its generators hum a constant reminder of the leadership’s failure to fix things. Ethiopia is firmly in the grips of a dictator, while Kenya… well, it made a huge step forward following the end of the Moi-era, and now has made ten steps backward with Uhuru.

Recently, someone shared the front page of The Daily Nation. The headline was something about Raila vs Uhuru, and it symbolically overshadowed a more important story, about doctors re-attaching a boy’s severed arm. The kind of story that, if told more often, could make afrofuturism appear much closer to possibility, and then readers would not tag it as ‘childish’ or say things like ‘this can’t happen in Uganda.’ When the Ugandan government launched Vision 2040, people laughed in ridicule. When Makerere made an EV vehicle, people were skeptical and suggested Makerere merely assembled the vehicle. When the President launched a solar bus, celebrations were muted, because people could not see beyond his greed. Just as **celebration** of the arm-re-attachment **is muted because people see what is happening in politics and they get worried.**

**It hurts to daydream of better things. It hurts even more to write about it**, for at some point I begin to feel like afrofuturism is becoming something like a **mind-control drug**, something like a religion that makes you **endure a horrible life with promises of a paradise after death**.

**Specifically, it’s bound to fail as long as it conforms to a linear notion of time – that dooms it to repeat status quo inequalities rather than being liberatory**

**Opperman 16** – doctoral candidate whose work bridges the fields of Africana and Environmental Philosophy. She plans to defend her dissertation, “Race, Ecology, Freedom: Climate Justice and Environmental Racism,” in Spring 2020. The work draws on Wynter, Fanon, and Hartman to critique liberal framings of environmental and climate justice.

Romy Opperman, “‘Born in Flames’ and the No Future of Afrofuturism,” *Another Gaze*, 15 September 2016, <https://www.anothergaze.com/born-in-flames-and-the-no-future-of-afrofuturism-lizzie-borden/#_ftn2>

While Born in Flames has been widely celebrated as an afro-futurist classic, to which we might turn for an uplifting narrative of struggle and hope, we should resist the increasingly popular and popularized reading of afro-futurism as ‘a utopic imagining of otherworldly racial harmony explored through seventies sportswear and Swarovski shimmers’ – not merely because such a reading is superficial, but because it is **complicit in the political hegemony of time** that is challenged in the film[2]. Revisiting the film from our own vantage point suggests that the ‘future’ in afro-futurism can **no longer be read as a utopic horizon** to be reached through a playful progression on the same temporal continuum. Instead it might better be understood to refer to the politicization of time that works to explode this continuum altogether[3].

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Born in Flames opens with an official party announcement of the ten-year anniversary of the first ever Socialist Democrat revolution in the USA. Since the revolution has already occurred, the doxic temporality is one in which radical rupture or alterity is no longer expected. Instead, evoking the rhetoric that decked out neoliberalism’s triumphant destruction of the Berlin Wall, the official consensus is that all the citizens of this one-party alternative reality should hope for is a progressive self-perfection over time of the party and its system. The official line is that gender parity has already been achieved, yet this is undercut through the vision of the film’s women, and in particular its Black queer women. The viewer is inundated with images of continued systemic misogyny and oppression. Through the splicing of documentary-like footage, clips of (fictional) official media outlets, surveillance footage and pirate radio, we witness over the course of the film the characters’ collective realization that the channels of accepted politics will not yield anything like meaningful change. The way in which our vision of the film’s events is often mediated through the optic of power, which monitors and attempts to neutralize anything that aims at overthrowing that power, only reinforces the point that democratic dialogue and routes are not only ineffective but in fact serve to mask the mechanisms of the world which these women are trying to resist.

In fact, the splicing of heterogeneous and heavily mediated material throughout the film (such as the COINTELPRO-like clandestine surveillance of these characters by the FBI), or the flat image of Adelaide’s face that is reproduced on the front pages announcing the fabricated narrative of her suicide) is integral to Borden’s temporal vision. Rather than undoing the uncompromising politics of time that the vision of the Black female queer gives us, they work to politicize the apparent neutrality of the film’s present, which despite its apparent futurity strikingly resembles our own. It is this similarity that lends itself to what I understand to be a politics of time, which is not only a politics that resists a particular feature of the present, but perhaps more significantly resists the temporal understanding that undergirds and reproduces particular features of the present.

By adopting the various optics and media of power, Borden is able to show that despite apparent ‘progress’, ‘equality’ and ‘tolerance’, **barely concealed mechanisms of control continue to operate**. In Born in Flames, regardless of the formal occurrence of ‘revolution’, we are privy to the brutal and calculating strategising of power. Indeed, the characters’ initial attempts at dialogue and more acceptable forms of protest are met with what almost becomes a refrain: ‘There are problems, we know. But things are so much better than they were before. Things are not going to happen overnight. It’s important that the party remains strong so progress can be made.’ The soporific effect of this chorus, however, quickly wears off for those who are woke – and by seeing the machinations of power, the viewer is also woken to the suggestion that **a revolution occurring along the lines of the present promises only more of the same**. In the words of Audre Lorde, ‘the master’s tools will never dismantle the master’s house.’[4]

The viewer shares in the protagonists’ despair and rage at having to bear the struggles faced by their mothers and at the frustration they feel at coming up against the white liberal feminists’ disavowal of their struggle as ‘separatist’. Despite and in response to pacifying promises of progress, we witness through radio, radical spaces, and (militant) direct, the birth of a view akin to the one Michele Wallace expressed and that the radical Black queer feminist group the Combahee River Collective took up in (1978):[5]

‘We exist as women who are Black who are feminists, each stranded for the moment, working independently because there is not yet an environment in this society remotely congenial to our struggle – because, being on the bottom, we would have to do what no one else has done: WE WOULD HAVE TO FIGHT THE WORLD’[6]

Borden’s isolated and disempowered women band together to do precisely this. Far from remaining a separatist group they try to form lines of allegiance with male workers, urging them to strike and struggle together in solidarity. Refused and rebuffed by lame excuses that display cowardice and self-interest, they get in formation with the profound awareness that ‘it’s already, it’s that time’.

If, then, the task is ‘to fight the world’, the question that follows is how one dismantles the world – both the planetary scale of a hegemonic logic, and the way in which this logic gives coherence and viability to experience and thought in the present. In a way this is an almost unthinkable question, since it requires conceptualising an attack on the dominant mode of thought: that is, fighting the world requires such a radical inversion of thought that it is scarcely imaginable.

It is for this reason that Borden’s film can only begin to visualize this question. While we see the importance of friendship, solidarity, autonomous pleasure, communication and militancy, what is required for total revolution exceeds this. Borden’s film attacks the apparently depoliticized politics of time, which attempts to foreclose in advance all meaningful alterity and rupture. Like ‘the end of history’ that announced neoliberalism’s current global hegemony, the time after the revolution is systematically and ruthlessly anti-revolutionary. Not only are the women of the film collectively ‘tired of waiting on promises because they’ve been waiting too long’; this impatience also means an exit from the temporality in which they’ve been entombed. The characters’ refusal to wait for a future that is only a death sentence – more of the same – is at the same time an affirmation that explodes the logic of continuity and progression.

The final image of the film, in which a white male news broadcaster is interrupted by the destruction of the World Trade Center in a glittering column of fire, etches itself into our minds – and not only because it now seems to eerily prophecy the hyper-replicated image of the 9/11 attacks. More importantly, it tempts the viewer to identify with a radical move that would decisively strike at the twinned phalli of (what was then) capital’s latest incarnation of global neoliberal imperialism, while at the same time undercutting the view that one such act of spectacular violence would be adequate to the task at hand. As the sparkling image of the explosion of one of World Trade Center’s communication towers closes the film, it simultaneously opens a new politics of time, which is not that of a regulated sameness nor a teleologically governed revolution but something unimaginable: the end of the world, and therefore the inconceivable destruction of the system of oppression that immiserates everyone.

Viewed from this angle, the title of the film and the name of Phoenix Radio (the crucial vehicle for Honey’s simultaneously dulcet and incendiary words) take on more nuanced meanings. Endlessly arising from its own fiery destruction, the phoenix mirrors the endless repetition of Black women’s suffering and resistance. But by acknowledging this repetition, the symbol also wages a critique against a future-oriented and progressive temporality that serves only to reproduce its own coordinates of power. The sequence of Adelaide’s death before the protagonists’ attack on the World Trade Center seems to suggest an almost messianic narrative of time, in which her death acts as the necessary sacrifice for collective liberation through the apocalyptic means of the end of the world. But there is a contradiction here, since to fight the world means to rupture the coherence, continuity and promises of such established narratives.

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Borden’s decision to use footage from then-contemporary New York, rather than the futuristic aesthetic we might expect in a nominally dystopian film, suggests a **repetition of the inequalities and injustices of the present into the future ad infinitum**: the future-oriented sacrifice of the revolution has resulted in a future that is no future, but looks almost exactly the same as now. Through the similarity between the position of Black women before the fictional revolution, the film’s post-revolutionary present, and the viewer’s own time (both when the film was released and significantly in 2016), the progressive and linear model of time – which works by producing and orienting hope towards a future always yet-to-come – is shown to be a **fiction that has very real and damaging effects** observable both in the film’s present and our own today. That is, by exposing the similarity in **repeating patterns of inequality and violence**, the film shows that a future-oriented politics of time is both hollow and contingent.

Thus as Stephen Dillon has noted, the film preempts the critique of future-oriented politics that has been articulated in the queer negativity of theorists such as Lee Edelman, as well as the pessimism of afro-pessimism[7]. Indeed, reading the film now, from its own future-present, might twist it further out of joint. For the film not only remains significant as a dramatization of the Women-of-Color and Black feminist struggles of its own time, but also as an articulation of something akin to a kind of queer afro-pessimism, on which ‘the structure of the entire world’s semantic field is **sutured by anti-Black solidarity’**. From this angle the movement of the film towards joyful destruction becomes even more essential, and it takes on world-annihilating resonance in such a way as to ‘refuse solution-oriented, interest-based’ ends[8]. While Calvin Warren has suggested recently that the Black queer is outside of ontology and unimaginable because of its non-human status as the object of a kind of hyper-violence, Born in Flames allows us to add that this unimaginable status is also due to its potential to rupture the world.

Despite the film being widely cited as an example of the internally heterogeneous aesthetic movement referred to as afro-futurism, then, the politics of time that the film opens up through the lens of the Black female queer indicates a point at which afro-futurism meets afro-pessimism, causing us to reassess the very idea of ‘future’ in the label of afro-futurism. Born in Flames suggests that the future referred to is one that **defies the register of linear time**: that it is an **unthinkable future, not simply a repetition of the present**; that a future worthy of the name that cannot be plotted through linear continuity. Instead, such a future is a kind of unthinkable moment that requires the **reorienting of our desire away from the future** as it is currently presented to us, and towards the impossible project of a complete re-envisioning of time.

**AND, it’s stripped of all radical content---it’s been coopted and deracialized**

**Abraham, 19** – Managing Editor, Dazed

Amelia Abraham, “An Afrofuturism exhibition is being criticised for excluding black artists,” Dazed. July 31, 2019. https://www.dazeddigital.com/art-photography/article/45455/1/afrofuturism-elon-musk-art-exhibition-black-artists-diversity-exclusion-berlin

The art world is not best known for inclusiveness, but a new exhibition opening in Berlin this week has dipped to new levels. A show about [Afrofuturism](https://www.dazeddigital.com/tag/afro-futurism) – a term to describe the genre of artists, musicians and thinkers of the African diaspora who draw on themes of technology, space and utopia to reimagine black life for the future – features, wait for it... **no black artists.**

The [exhibition](https://www.bethanien.de/en/exhibitions/milchstrassenverkehrsordnung/), which opens on August 1 at The Künstlerhaus Bethanien art centre, takes its name – Space Is The Place – from a song by the famous black jazz composer Sun Ra, who has influenced the likes of [Solange](https://www.dazeddigital.com/tag/solange) and [Kelsey Lu](https://www.dazeddigital.com/tag/kelsey-lu). It claims to celebrate Afrofuturism alongside, bizarrely, the work of [**Elon Musk**](https://www.dazeddigital.com/tag/elon-musk)**.**

Shockingly, of the 22 artists in the group show, only one is a person of colour – the male Singaporean conceptual artist [Song-Ming Ang](https://www.artsy.net/artist/song-ming-ang). 18 of the other artists are white men, and three are white women. Of the accompanying performance program, only one performer, the Detroit DJ Juan Atkins, is a person of colour.

A collective called Soap Du Jour, made up of activists, artists and curators, has written an open letter to the show's curator Christoph Tannert, rightly criticising his “unwavering commitment to white muskulinity!” and asking why it is even relevant to curate a show that melds Afrofuturism with anything to do with “South African megalomaniac Elon Musk”.

Afrofuturism is about the emancipation of people of colour, **while Elon Musk leads a new kind of colonialism**, the group points out. “So, you’re saying that this exhibition aligns itself with the vision of a South African billionaire who wishes to colonise as much territory as possible for the sake of immense personal and corporate enrichment? Don’t we know that plot from somewhere? Haven’t we seen that movie before?” they ask.

Continuing, the [letter reads](https://news.artnet.com/art-world/soap-du-jour-kunstlerhaus-bethanien-1612108): “It would appear that **not a single black artist could be meaningfully accommodated within your group** show of 22 artists. Indeed, we must be fair in acknowledging that almost completely avoiding artists who happen to identify as anything other than white men, takes deep and focused effort in the increasingly diverse ecosystem that is contemporary Berlin.”

Tannert replied to artnet News, giving a statement that pointed out how, every year, more than half of the artists shown at Künstlerhaus Bethanien are women, some of whom are women of colour, adding that: “Curatorial freedom is as valuable as artistic freedom.”

But should curatorial freedom allow a white curator to appropriate and whitewash a genre created by artists of colour?

The gallery followed with a Facebook statement acknowledging that the “artist list is not diverse and that the wording of the press release required more nuance” and claiming that they "regret that this particular exhibition is not reflective of (our) diverse and international outlook and take the criticism very seriously”.

Soap Du Jour had some suggestions for how they could do better next time: “If you’re serious about imagining ‘advanced utopias,’ dear Christoph Tannert, may we suggest that you start by **reflecting on the realities of the planet** that we currently inhabit? We invite you to consider broadening your earthly horizons **before expanding your vision to the universe at large.”**

**Structural barriers either strip afrofuturism of its revolutionary potential or prove it’s doomed to fail**

**Olukotun 15** – author of the novel *After the Flare*, which won a 2018 Philip K. Dick Special Citation. He is a fellow at Future Tense.

Deji Bryce Olukotun, “Utopian and Dystopian Visions of Afrofuturism,” *Slate*, 30 November 2015, <https://slate.com/technology/2015/11/utopian-and-dystopian-visions-of-afrofuturism.html>

In the dystopian vision, no one on the business end of creative industries—the agents, marketers, publishers, producers—takes risks on creators of color. Artists **might be forced to revert to addressing explicitly black themes**. “We have to write a slave narrative,” Lisa Lucas said, “or a story about civil rights, a retelling of Rosa Parks, some kind of better understanding of what it was like in 1960 or 1830, or what it was like on a slave boat.”

It’s a mistake, too, to think that crowdfunding platforms such as Kickstarter, Indiegogo, and Patreon can solve the problem of structural exclusion. The impressive speculative fiction collection Long Hidden: Speculative Fiction From the Margins of History was created from a Kickstarter campaign. The volunteer-run Tumblr blog We Are Wakanda, which is named for the fictional African kingdom in Marvel’s Black Panther series, publishes an incredible volume of content about black comics and science. Founder Lionel Queen recently launched an Indiegogo campaign to develop a new app to support underrepresented creators. It’s a great idea, well worth supporting, but an Afrofuturism that relies upon crowdfunding to survive is **dystopian**. It means there’s **no sustainable investment**.

Afrofuturism also needs to overcome its geographic myopia. Nnedi Okarafor, one of the most prominent science fiction writers working today, said: “My issue with Afrofuturism is that it has traditionally been **based and rooted far too much in American culture**.” She champions what she calls “Africa-based sci-fi.” Authors such as Fred Strydom, Lauren Beukes, and Sarah Lotz are writing engaging fiction set on the continent. But it’s dangerous to oversimplify this trend. To my knowledge, **not a single black sci-fi writer has been published by a major publishing house in Africa**, and most writers working in Africa-based sci-fi hail from South Africa or Nigeria—not coincidentally, the largest economies on the continent.

There are other threats to Afrofuturism, too. Safe online spaces could become mired in hate and vitriol. The recent controversy surrounding the Hugo Awards—one of the most prestigious awards for science fiction writing—shows that the “administrators of color” whom Lisa Lucas supports tend to be missing from sci-fi culture. In that distasteful example, white authors **attempted to game the voting system to fight against the rise in sci-fi of nontraditional and marginalized voices**, such as LGBTQ authors. (They did not succeed.)

In some ways, the new film Star Wars: The Force Awakens exemplifies both the utopian and dystopian visions of Afrofuturism. The film stars the black British actor John Boyega as Finn, reportedly a major character in the storyline. Boyega can inspire the next generation of black sci-fi actors, but none of the credited writers will become a role model for the next generation of black writers—**they’re all white.**

**Their refusal to defend anything is exactly what makes nouveau radicalism so useless**

**Smulewicz-Zucker**, Editor of Logos and adjunct professor of Philosophy at Baruch College, CUNY, **and Thompson**, Associate Professor of Political Science at William Paterson University, **‘15**

(Gregory and Michael J., “The Treason of Intellectual Radicalism and the Collapse of Leftist Politics,” <http://logosjournal.com/2015/thompson-zucker/>)

But this is merely one fringe expression of what we see as a corrupted, simplified and de-politicized “new” radicalism. Once grounded in the Enlightenment impulse for progress, equality, rationalism, and the critical confrontation with asymmetrical power relations, the dominant trends of radical political thought now **evade** the concrete nature of these concerns. The battles that raged in the 1980s and 1990s between postmodernists and defenders of modernity – while serving as a harbinger of the contemporary split between the radical theorists divorced from reality and those who seek to establish anti-foundationalist conceptions of democratic discourse – were attached to a strong sense that the future of rationalism and radical politics hung in the balance. Today’s radical intellectuals **do not feel compelled to defend their arguments** **or respond to their critics.** Their purported radicalism becomes all the more **opaque** when the coherence of their claims is called into question. A concern for an exaggerated **subjectivity**, **identity politics**, **anti-empirical theories of power**, an **obsession with “difference**” – all serve to **deplete the radical tradition of its potency**. Radical intellectuals now formulate new vocabularies, **invent new forms of “subjectivity**,” and concoct **new languages** of discourse that only serve to **splinter** forms of political resistance, **consigning radicalism to the depths of incoherence** and (academic success notwithstanding) **political irrelevance**.

Indeed, the disintegration of the great radical movements of the nineteenth and twentieth centuries – from the labor movement to the Civil Rights movement – has **detached philosophical thinking** **from the mechanisms of power and political reality more broadly**. The result has been – despite the ironic new turn toward “anti-philosophy” – the conquest of politics by poorly constructed philosophy. **Abstraction has been the result**, as well as a panoply of **shibboleths** that have only served to **sever “radical” thought** from its relevance to contemporary politics and society. It seems to us that the survival of the tradition of rational, radical political and social criticism pivots on a confrontation with these new academic trends and fads.

# 2NC

## T

#### The law has emancipatory potential despite its repressive history. Rejecting it dooms radical social change.

McCann and Lovell, 18—Gordon Hirabayashi Professor for the Advancement of Citizenship at the University of Washington AND professor of political science, department chair, and the Harry Bridges Endowed Chair in Labor Studies at the University of Washington (Michael and George, “Toward a Radical Politics of Rights: Lessons about Legal Leveraging and Its Limitations,” *From the Streets to the State: Changing the World by Taking Power*, Chapter 7, 139-141, dml)

In our aspirations for progressive change, engaging with the law is not a free choice among tactics. It is a necessity. Egalitarian activists are routinely forced into legal engagement by the omnipresence of law as a violent force imposing hierarchical order and harsh punitive constraints on oppressed populations. Although activists are often motivated by the quest for legal recognition of rights claims, offensively mobilizing law to support egalitarian struggles is only a small part of movement appeals to law. Defensive actions to evade law’s repressive force or to protect previous gains are often much more significant. In our view, there is surprisingly little rigorous theorizing about the different types of struggles on the terrain of law, the most useful indicators of effective legal action, and especially the measures of egalitarian or inclusionary change.1

Law is an enduring site for progressive democratic contestation. Although official law is often a tool of repression, legal norms and institutions can also be resources for egalitarian rights claims, and, at certain historical moments, even social transformation. No matter how radical one’s political aspirations, the necessarily long-run character of revolutionary social transformation requires a series of intermediate steps, including those on the terrain of law. As the British socialist E. P. Thompson (1975) asserts,

Most [people] have a strong sense of justice, at least with regard to their own interests. If the law is evidently partial and unjust, then it will mask nothing, legitimize nothing, contribute nothing to any class’s hegemony. The essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just. . . . The rhetoric and the rules of a society are something a great deal more than sham. In the same moment they may modify, in profound ways, the behavior of the powerful, and mystify the powerless. They may disguise the true realities of power, but, at the same time, they may curb that power and check its intrusions. . . . And it is often from within that very rhetoric that a radical critique of the practice of the society is developed. (436–39)

In this chapter, we describe legal mobilization as the articulation of a social interest, general policy, or a societal vision in terms of legal entitlement. As Frances Kahn Zemans (1983) famously put it, legal mobilization entails that “a desire or want . . . is translated into a demand as an assertion of one’s rights” (3). Since legal language is indeterminate and polyvalent, it is contestable. Dominant legal norms are incomplete and rife with tensions, and they adapt as the perceived interests of dominant groups respond to, or occasionally converge with, the demands of oppressed groups (Bell 1980). Although much legal contestation occurs between recognized rights-bearing subjects over the authoritative meaning of clashing liberal legal principles, legal mobilization also involves oppressed groups mobilizing liberal principles against illiberal, repressive modes of social control. These contests over ascribed race, gender, sexual, immigrant, and other marginalized identities often expand the rule of liberal legalism (Smith 1997; Orren 1992). More importantly, struggles by progressive activists can use the liberal principle of equal citizenship to counter the property- and contract-based principles of capitalism, thereby challenging unequal resource distribution and class exploitation (Brown 2003; Smith 1997). As Stuart Scheingold (1974) argues, “law cuts both ways,” both for and against egalitarian social justice (91; see also McCann 1994).

When, how, and to what degree legal discourse and institutions provide resources for oppressed groups depends largely on the mix of legal and especially extralegal factors in a given historical context. Our research devotes considerable attention to the changing features of the cultural and institutional terrain that delimit the possibilities and forms of contestation within and against law. Of course, fighting for control of legal institutions and principles does not guarantee radical social change. But succumbing to anti-legalism cedes control over the terms of institutional organization, instrumental rule, and regime legitimation to dominant forces propelling capitalism and other hierarchies.

We recognize that our approach is at odds with some important recent movements and their interpreters. Arguably, the Occupy movements in and beyond the United States expressed a notable disdain for legal rights claiming, litigation strategies, and general appeals to legal strategies (Almog and Barzilai 2014). This disenchantment with law, legal processes, and lawyers is understandable in the post-civil rights era and the immediate post-recession moment. Indeed, wariness about law is always sound. Moreover, Occupy did profoundly reorient the dominant agenda in many parts of the global North. It put “deficit and debt hawks” on the defense and elevated concerns about economic fairness and the political accountability of private financial managers. At the same time, Occupy espoused and enacted little in the way of institutional changes within government and capitalist society. By shedding any reliance on discourses of rights, Occupy arguably limited its use of important ideological resources in the neoliberal context (Brown 2003; Obando 2014).

It is noteworthy that many movements inspired by the Occupy movement— especially among low-wage workers and advocates for corporate accountability— have recovered and prominently invoked rights claims and legal resources. Indeed, there has been a recent convergence around rights-based claims by campaigns for a minimum wage and sick pay, for immigrant rights and support, for LBGTQ rights, for the Black Lives Matter movement, and for other progressive and radical causes in the United States. Their reliance on lawyers and litigation has varied widely, but none of these movements discount them as much as did the earlier Occupy movement. Furthermore, many grassroots struggles in both the global North and South—against apartheid; for indigenous people’s sovereignty; for socioeconomic entitlements to housing, health-care, education, and minimum income—also appeal to legal or human rights and rely in part on national or transnational courts (Haglund and Stryker 2015; Rodriguez-Garavito 2011).

**[B]---Saying the USfg should do something doesn’t endorse nor legitimize it**

Saul **Newman**, PhD, Professor of Political Theory, Goldsmith University, London, **’11**

(*The Politics of Postanarchism*, pg. 114)

Despite the obvious pitfalls of the Leninist vanguard strategy, we should nevertheless take Zizek's challenge to Critchley seriously: that, in other words, the problem with the strategy of working outside the state is that it **may essentially leave the state intact**, and entail an irresponsible and even self-indulgent politics of demand that hides a secret reliance on the state to take care of the everyday running of society. Is there some truth to this claim? There are two aspects that I would like to address here. First, the notion of demand: making certain demands on the state - say for higher wages, equal rights for excluded groups, to not go to war or an **end to draconian policing** - is one of the **basic strategies** of social movements and radical groups. Making such demands **does not necessarily mean working within the state or reaffirming its legitimacy.** On the **contrary**, demands are made from a position **outside the established political order,** and they often **exceed the question of the implementation** of this or that specific measure. They implicitly **call into question the legitimacy** and even the sovereignty of the state by highlighting fundamental inconsistencies between, for instance, a formal constitutional order that guarantees certain rights and equalities, and state practices that in reality violate and deny them. Jacques Ranciere gives a succinct example of this when he discusses Olympe de Gouges, who, at the time of the French Revolution, demanded that women be given the right to go to the Assembly. In doing so, she demonstrated the inconsistency between the promise of equality - invoked in a general sense and yet denied in the particular by the Declaration of the Rights of Man and the Citizen - and the political order which was formally based on this: Women could make a twofold demonstration. They could demonstrate that they were deprived of the rights that they had, thanks to the Declaration of Rights. And they could demonstrate, through their public action, that they had the rights that the constitution denied to them, that they could enact those rights. So they could act as subjects of the Rights of Man in the precise sense that 1 have mentioned. They acted as subjects that did not have the rights that they had and had the rights that they had not.21

## Extra Sheet

# 1NR

## Case

**Their refusal to defend anything is exactly what makes saps the potential out of Afrofuturism.**

**Smulewicz-Zucker**, Editor of Logos and adjunct professor of Philosophy at Baruch College, CUNY, **and Thompson**, Associate Professor of Political Science at William Paterson University, **‘15**

(Gregory and Michael J., “The Treason of Intellectual Radicalism and the Collapse of Leftist Politics,” <http://logosjournal.com/2015/thompson-zucker/>)

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Indeed, the disintegration of the great radical movements of the nineteenth and twentieth centuries – from the labor movement to the Civil Rights movement – has **detached philosophical thinking** **from the mechanisms of power and political reality more broadly**. The result has been – despite the ironic new turn toward “anti-philosophy” – the conquest of politics by poorly constructed philosophy. **Abstraction has been the result**, as well as a panoply of **shibboleths** that have only served to **sever “radical” thought** from its relevance to contemporary politics and society. It seems to us that the survival of the tradition of rational, radical political and social criticism pivots on a confrontation with these new academic trends and fads.

**Black women can engage with the state and the resolution in empowering ways.**

**Nash, 19**—Professor of Gender, Sexuality, and Feminist Studies at Duke University (Jennifer, “love in the time of death,” *Black Feminism Reimagined: After Intersectionality*, Chapter 4, 121-126, dml)

My conception of witnessing is also resonant with Sharpe’s notion of “**wake work**,” an insistence that black subjects live in the midst of ordinary daily violence, but that we live nonetheless. Here, Sharpe builds on the long black feminist engagement with survival as a **radical form of politics**, a tradition that emphasizes black creativity, black thriving, and **black life** in the midst of **overwhelming violence**. For Sharpe, “wake work” refers to how black subjects “resist, rupture, and disrupt that immanence and imminence [death] aesthetically and materially.”30 It is an **analytic**, a critical practice, a mode of living, and a form of witnessing that names the ecology of relentless antiblack violence and the acts of black world-making that unfold nonetheless. It is, then, a form of witnessing that attends to black life in “the wake.”

This section has endeavored to reanimate some of my earlier work on love-politics by centering vulnerability and witnessing as crucial to black feminism’s long labor of investing in love as a political practice. In so doing, I aspire to theorize love’s meanings more robustly than has been done in black feminist scholarship, which simply claims love as a terrain of hope, potentiality, or promise. Instead, I aim to think through the underpinnings of love, carefully tracing the analytics that undergird black feminism’s investment in loving practices as political work. In the next section, I consider how, surprisingly, intersectionality’s **juridical iterations** make **visible** and **possible** black feminism’s long-standing investment in these dual **ethics**.

Returning to the State

This book began with substantial engagement with intersectionality’s origin stories, examining how the question of where the analytic came from, who coined it, and who deserves “credit” for its rise and circulation have come to predominate in black feminist scholarship. Curiously, though, none of these widely circulating origin stories contend with intersectionality’s connections to the juridical, or think deeply about intersectionality as a legal project. Though this book **eschews** simple origin stories that **presume** that intersectionality has a **singular history**, in this section, I advocate for remembering intersectionality’s connections to critical race theory, and thus its intimate relationship with **remaking law**. I invest in this project because intersectionality has been **swept** into a larger black feminist conversation that **presumes the violence** of the juridical, **ignoring** both intersectionality’s loving investment in the juridical and the juridical as a potential site of **loving practice**. Put differently, in this section, I emphasize intersectionality’s location in critical race theory, in Left legal projects, to move **beyond** the now **knee-jerk** Left (and black feminist) sense that radical and transgressive projects are **necessarily antistate**. In place of this now familiar political terrain, I seek to ask different questions: Is it **simply** collusion or “**cruel optimism**” for black feminists to **seek engagement with the state**?31 Can we imagine black feminist engagements with the state as taking forms **other** than seeking **redress** and demanding **visibility**? Are there ways to imagine black feminist legal engagement that circumvent the uncomfortable and problematic position of being “at home with the law”? How can black feminists reimagine law as a site for staging **productive intimacies** and enacting **radical vulnerabilities**?

In its juridical iteration, intersectionality emerged in a moment where critical race theorists offered analytical tools to upend prevailing fictions of law’s objectivity, to reveal the quotidian nature of racism and sexism, and to argue for **fundamental transformations** in legal pedagogy. Critical race theory, then, was born of a **sustained attention** to law’s failures, even as it **contained**—at times—certain kinds of **faith** in law’s **potentiality** and **promise**. Critical race scholars were a post–Brown v. Board of Education generation who witnessed the end of the Warren court’s promises of integration and inclusion. They saw affirmative action rolled back, transformed from a substantive remedy for past and ongoing discrimination to a promise of “diversity” to benefit white students who would be changed into global citizens ready for corporate employment thanks to their “exposure” to socalled racial difference.32 They witnessed the ratcheting up of standards for proving employment discrimination from racially disparate effects to discriminatory intent, effectively making it harder for minoritarian plaintiffs to prevail in discrimination suits. They emphatically asked, then, whether the goal of antiracist legal scholars should be inclusion in white institutions or whether it should be, for example, the creation of robustly funded and supported black institutions. They interrogated whether the Warren court’s landmark decision in Brown would have better served its black plaintiffs if it equally funded black schools, rather than championing desegregation and then mandating integration at “all deliberate speed.” They debated whether affirmative action should be supported if the only logic to support it is “diversity,” where students of color provide a pedagogical value for white students. Critical race theory, then, was never an embrace of an ethic of inclusion, or even a form of advocacy for new forms of redress. Instead, it was undergirded by an investment in revealing that racial progress was the result of “interest convergence” rather than a genuine investment in antisubordination, and by a fundamental belief that law would look and feel different if it “looked to the bottom.”33

While critical race theorists offered critical interrogations of law’s imagined progress, treating it as evidence of US self-interest rather than a genuine investment in racial redress, they **also** routinely offered ways of **imagining law otherwise**, refashioning antidiscrimination law, conceptions of evidence, property, and contract. They imagined a form of law that eschewed color blindness and argued that any legal regime that sought to contend with American racial violence had to be deeply color-conscious to exact meaningful remedies. They advanced **new methods**—**narrative**, **parable**, **allegory**, **speculative fiction**, **storytelling**—in an effort to **jam** the fictions of **objectivity** and **neutrality** and to expose that law is itself a racial project, never removed from the racial regimes it purports to disrupt. In other words, they sought to use their locations in the legal academy and in the legal profession to **radically remake law**, to **push the boundaries** of how legal doctrine could be **written**, **imagined**, and **enacted**. They aspired to make law into something **unrecognizable** and **unimaginable**, to push at its very parameters in the pursuit of a “jurisprudence of generosity.”34

My entry point for thinking through law as a site of black feminist love-politics is through the work of Patricia J. Williams. Her book The Alchemy of Race and Rights is complex in its form and its argument—it is memoir, “diary,” legal treatise, and critical theory at once. Williams presents herself as professor, consumer, daughter, granddaughter, train rider, and “crazy” black woman exhausted from the ordinary and spectacular raced and gendered brutalities of American life and the project of teaching law at a historically white law school. The project, then, is a rumination on the felt life of racial and gendered violence, and a critical analysis of the myriad spaces where this violence unfolds, from the media onslaught against Tawana Brawley to the experiences of being a black female faculty member at a law school.

Williams’s inquiry, though, is not simply about documenting the ubiquity of racial and gendered violence but also about engaging and describing the lived experience of racialized and gendered vulnerability, what she terms “spirit murder.” For Williams, “spirit murder” is the psychic and spiritual wounding that unfolds as a result of racial violence. “Spirit murder” describes the wounds left on the flesh, psyche, and even soul of those who experience violence and the wounds, often invisible, that haunt perpetrators of violence, including a willingness to accept, and to render unseen, those who are dispossessed. Williams’s task, then, is to imagine what law could look and feel like if it accounted for “spirit murder,” a form of violence that she argues includes “cultural obliteration, prostitution, abandonment of the elderly and the homeless, and genocide. . . . What I call spirit murder—disregard for others whose lives qualitatively depend on our regard—is that it produces a system of formalized distortions of thought.”35 Williams argues that “we need to elevate spirit murder to the conceptual—if not punitive— level of a capital moral offense. . . . We need to eradicate its numbing pathology before it wipes out what precious little humanity we have left.”36 Williams’s conception of “**spirit murder**” imagines law’s capacity to **remedy** forms of **violence** against the psyche and soul, a terrain that has been **unimaginable** to law precisely because of its commitment to remedying only visible and legible harms, and law’s ability to be mobilized “conceptually”— but not punitively—to respond to violence. In other words, the endeavor of the text is to imagine a legal project **capacious** and **creative** enough to attend to what it has always ignored: the **violence** inflicted on the **psyche**. Williams effectively invites us to imagine how we might **feel differently** toward each other, and toward law itself, if we had **legal obligations toward mutual regard**, if we knew that law **took seriously** spirit murder.

If Williams seeks to **use law** to exceed what it aspires to do, **to respond to** the “cultural cancer” of **spirit murder**, her book also contains a resounding, and even surprising, redemption of rights as a key strategy for reforming law. An embrace of rights **might** sound like a **deeply conventional** strategy, mobilizing law to do what it has long claimed to do on behalf of racialized and gendered minorities: confer rights. Despite her lengthy engagement with state violence, her exacting critique of how law permits rather than redresses spirit murder, Williams ends **not** with an **abandonment of the state** but with a **deep affection** for what rights could **accomplish**. She writes:

The task is to **expand private property rights** into a conception of civil rights, into the right to **expect civility** from others. . . . Instead, society must give them [rights] away. Unlock them from reification by giving them to slaves. Give them to trees. Give them to cows. Give them to history. Give them to rivers and rocks. Give to **all** of society’s objects and untouchables the rights of **privacy**, **integrity** and **self-assertion**; give them **distance** and **respect**. Flood them with the animating spirit that **rights** mythology **fires** in this country’s most oppressed psyches, and **wash away** the shroud of **inanimate-object-status**, so that we may say not that we own gold but that a luminous golden spirit owns us.37

If critical legal studies called for the abandonment of investment in rights, treating rights as relatively unsuccessful in securing social change and as promoting problematic conceptions of individualism, Williams makes a plea for a dramatic expansion of rights and a surprising reconceptualization of the labor of rights. Rights, she argues, should not be the purview of those who can explicitly and legibly name harm. Cows, history, and rocks should have rights, including rights to “privacy, integrity and self-assertion.” Rights should not be “reified” but generously bestowed upon everyone and everything; rights should not be used to shore up ideas of property and ownership, to allow us to claim that “we own gold,” but instead to ensure a deep spiritual connection between us. In so doing, law could **remake** “**society**,” **transforming** its **investments** in rights as something that **protects property holders** into rights as something that can ensure our **mutual accountability**, and reminds us of the “luminous golden spirit [that] owns us” all.

It is easy to read Williams as optimistically rehabilitating rights from the critical legal studies’ critique of rights, and problematically investing in precisely the doctrinal formulation that has consistently failed minoritarian subjects. In this reading, Williams is imagined as paradoxically investing in precisely the site of violence she carefully documents with far too little explanation for how rights can circumvent the problems of racism and sexism she delineates. Yet I read Williams’s visionary account of rights differently. For her, law can be mobilized **not** to produce **new causes of action**, to simply **make visible new wounded subjects** who can make appeals to redress, but to **imagine new** and **radical vulnerabilities**. As it is **currently structured**, property **deeply organizes sociality**, and law operates to **protect property** from trespass and theft. Thus, law operates to create categories like property holder (owner) and trespasser (thief), and to organize the social world around proximities to ownership. Williams uses her capacious conception of rights to **imagine another way** of organizing sociality: around vulnerability. Indeed, Williams asks: How are we bound up with others? What is our responsibility to **ensuring the vital** “**spirit**” of others, and to **demanding the protection** of our own “spirits”? What happens when we harm things that can’t articulate injuries (trees, rocks, rivers) but can only make that injury visible and oftentimes in ways that we refuse to recognize, or that might even make that injury visible in another time, in decades or centuries when we are not even here to be accountable? What happens when we take responsibility for our capacity to wound and for the histories of wounding and violence that have unfolded, often in our names? And what happens when law becomes a **critical tool** in making visible **mutual vulnerability**, in insisting that we recognize that we can “**undo each other**,” and in demanding that we **take seriously** our indebtedness to each other? For Williams, then, expanding rights becomes a strategy for **transforming law** to be a space that **enshrines** a vision of **interdependence** and **shared vulnerability**.

I begin my investigation of the possibility of rooting black feminist lovepolitics in law with Williams’s visionary work because it reveals the potential of black feminist legal scholarship that fundamentally reorients law around ethics of vulnerability. This is work that expresses a **fundamental faith** in law’s capacity to perform different kinds of justice work, **even as it recognizes** how law is often mobilized as an agent of **inequality** and **injustice**. Like Williams’s radical remaking of rights, Crenshaw’s conception of intersectionality tugs at the seams of law, working within its confines to radically unleash its transformative capacity. As I explained earlier in the book, intersectionality is primarily remembered for its now widely circulating accident metaphor, where discrimination is imagined as traffic flowing through an intersection. It can move in one direction, another direction, or both, and an “accident” can occur on either street or in the intersection. According to this logic, discrimination can be race-based, gender-based, or race-and-gender-based, yet the possibility of raced and gendered discrimination is rendered impossible by antidiscrimination law that actively refuses to account for this form of violence. As Crenshaw notes, “Judicial decisions which premise intersectional relief on a showing that Black women are specifically recognized as a class are analogous to a doctor’s decision at the scene of an accident to treat an accident victim only if the injury is recognized by medical insurance.”38 Intersectionality, then, spotlights law’s refusal to see black women’s race- and gender-based injuries.

Many have envisioned intersectionality’s mandate as the insertion of black women into existing antidiscrimination law, as a call for antidiscrimination law to abandon its race or gender logic and instead embrace a race and gender logic. Yet, as Crenshaw’s second metaphor reveals, antidiscrimination law is constructed around leaving the multiply marginalized in the proverbial basement. Put differently, antidiscrimination law itself is constructed around remedying only certain forms of discriminatory activity and is designed to refuse to recognize and redress discrimination against the most vulnerable. Intersectionality, then, is not a call for inserting black women into a preexisting legal regime, precisely because that regime is designed to refuse to see black women. Instead, it is a tactic of making visible black women’s status as witnesses who can name and describe the basement, which is not merely a social location but a space produced by law’s doctrinal failures.

If intersectionality **embraces black women’s social location** as a juridical **starting point**, it also advocates for **tailoring law** to address injuries in **particular ways**. In other words, it offers a vision of law that is rooted in **flexibility** and **customization**, in responding to **particular lived experience**. In her second article on intersectionality, “Mapping the Margins,” Crenshaw reveals not only that law ignores black women’s experiences of injury but also that intersectionality **compels state interventions** that **more appropriately respond** to black women’s particular experiences of injury. In the context of domestic violence, for example, Crenshaw shows that meaningful legal intervention requires an attention to race, gender, class, and immigration status, and thus state intervention might need to take different and multiple forms to produce substantive justice. Intersectionality, then, **requires** a commitment to witnessing, to empathic looking, that responds not with the messy bluntness that law so often deploys in the name of fairness and uniformity. Instead, intersectionality calls for **imagining legal action** that can be **individualized**, **intimate**, and **rooted in lived experience**. This work has been expanded by other scholars, especially those working in the context of domestic violence law, including Linda Mills and Elizabeth Schneider, who have considered how mandatory arrest/no-drop policies ignore the particular experiences of women of color who may have to weigh their own distrust of the state, the necessity of a partner’s income to survive, and the potential stigma, shame, or violence of calling law enforcement against a desire for bodily integrity and safety. As Mills suggests, a vision of legal intervention that is survivor-centered and survivor-guided, that recognizes the differently situatedness of each subject who engages with the state, is the only way to ensure justice, particularly in the context of intimate life. Similarly, Crenshaw’s work asks for law to witness violence as it unfolds and to respond contextually, to recognize that uniformity might not be the hallmark of fairness and equity. Ultimately, Crenshaw’s vision of the demands of intersectionality in the context of violence has underscored the importance of law as a tool that sees, witnesses, and even willingly inhabits the social locations of the multiply marginalized.

If it is **easy to dismiss** Williams’s embrace of rights as overly optimistic in the face of ample description of law’s failures, it is all too easy to treat Crenshaw as an inclusionist, one who imagines intersectionality as a strategy that grants black women entry into the **problematic logics of** antidiscrimination **law**. Yet in my reading of intersectionality, Crenshaw’s vision is **not** one of including black women in **existing** legal doctrine, or **simply expanding** legal doctrine to make space for black women’s particular experiences of discrimination. Indeed, Crenshaw ends “Demarginalizing the Intersection” with a personal account that underscores her deep commitment to unsettling inclusionary politics. She describes an experience in which, as a law school student, she was invited to a prestigious Harvard men’s club, one that was formerly all white, to celebrate the end of first-year exams. Upon her arrival, her friend—a member of the club—quietly mentioned that he had forgotten to share an important detail: Crenshaw would have to enter the club through the back door because she was a woman. She and her friends had long assumed that it was their blackness that would bar them from the club, but it was her womanhood that required her to use the back door if she wanted entry into the club. Crenshaw ruminates on this experience as emblematic of the importance of intersectional analysis, noting that “this story does reflect a markedly decreased political and emotional vigilance toward barriers to Black women’s enjoyment of privileges that have been won on the basis of race but continue to be denied on the basis of sex.”39 Yet what interests me about this account, and how it animates the end of the article, which borrows from Paula Giddings’s work to conclude “when they enter, we all enter,” is that intersectionality is not a tool Crenshaw uses to advocate access and entry. In other words, she does not suggest that an intersectional analysis demands her inclusion—and all black women’s inclusion—in a structure constructed around black women’s exclusion. Instead, the story reveals that battles for entry are **always imperfect**, **exclusionary**, and **problematic**. To be granted entry to a space because of blackness and to be barred entry to that same space because of womanhood speaks to the flimsiness of entry as a form of politics, precisely because inclusion always hinges on a system of exclusion, hierarchy, and valuation. Ultimately, intersectionality reveals both the **limits** of juridical projects and the possibility of **mobilizing** law to **exceed** law’s own critical desires. In Crenshaw’s hands, intersectionality invites a legal project that takes seriously black women’s witnessing (and black women as witnesses, something crucial in a juridical system that continues to disbelieve black women), that invites an attention to a literal, material space—the intersection, the basement—that black women know, experience, and inhabit.

In this section, I ask what might happen if black feminists treated intersectionality’s legal roots not as an embarrassment but as a crucial site of the analytic’s **transformative potential**. Indeed, in reading Crenshaw’s conception of intersectionality alongside Williams’s work on rights, and in emphasizing intersectionality’s roots in critical race theory, I treat intersectionality as an analytic that **radically occupies** law, **takes hold** of legal doctrine and refuses its conceptions of neutrality and uniformity as performance of justice. It is, then, a strategy of demanding that law **move otherwise**, that it **center witnessing** and **vulnerability**, that it encourage forms of **relationality** and **accountability** that jettison logics of **contract** and **property**. My reading insists that black feminists **refuse well-rehearsed dismissals** of intersectionality as an **inclusionary project** (dismissals that are all the more possible to rehearse because this is how intersectionality so often circulates in the university) that seeks to **insert** black women’s bodies into **otherwise problematic** structures, and instead advocates treating intersectionality’s juridical project as the very heart of its radical political agenda. It is intersectionality’s capacity to index vulnerability and witnessing, to imagine legal doctrine as **centering** those **ethics** (even as law might **refuse** those efforts), that makes intersectionality a space that **resonates deeply** with black feminism’s ongoing efforts to construct a **political agenda** rooted in love.

Risk and Promise

What if we **refuse**d the lure of **negative affects**, the tendency to **grieve** and **mourn** black feminism and its analytics? What if we **reject**ed both the notion that blackness is **synonymous with death** and the idea that black feminism is dead or dying? My call for this rejection is **not** meant as a **wholesale rejection of afropessimism**, and its attendant affects of **grief**, **loss**, **mourning**, and **despair**. Nor is my plea here rooted in a sense that negative affects are per se problematic; indeed, the work of a host of scholars including Ann Cvetkovich, Heather Love, and Sianne Ngai has been to reclaim negative affects and to mine these feelings for their productive, world-making potential. Instead, my call is for us to consider why the position of death has become so alluring in this moment, particularly for black feminists who have made a practice of lamenting the slow and steady demise of our tradition. This chapter, then, aspires to perform letting go by suggesting another way to feel black feminism, one rooted in love rather than territoriality and defensiveness. Indeed, I argue that remembering intersectionality’s **juridical orientations**, and **recovering** them rather than **eschewing** them (even in a moment where law is treated as the **paradigmatic site of antiblack violence**), might allow black feminists to encounter the broad sweep of our transformative call for love-politics. In so doing, I emphasize that law might be a space of black women’s **survival** rather than simply the site of black women’s **wounding**. Moreover, I underscore that a space that black women **did not author**, and that was created largely with the interest in enshrining black women as **property** rather than as **subjects**, might become a site that allows us to **imagine other ways** of being and feeling black feminist. As I argue, black feminism’s long-standing commitment to lovepolitics, to ethics of mutual vulnerability and witnessing, is **echoed by** critical race feminist **legal practices**, including Williams’s expansive investment in **rights** and Crenshaw’s engagement with intersectionality as a critique of inclusionary politics. What both **share** are **demands** that law **imagine itself otherwise**, that it unfold and move in ways that **might seem contrary** to its fundamental project. These are demands that law acknowledge the failures and short-sightedness of inclusion and redress projects, and that law instead imagine its radical work to be an **embrace of** ideas of **intimacy**, **proximity**, **vulnerability**, and **mutual regard**. Reanimating black feminist engagement with law is particularly important because it **upends** the long-standing tenet that black women’s freedom comes **exclusively** through spaces that we **self-authored**, and, correlatively, that sites **historically constructed** to secure our status as property can **never** become locations where we stage our **liberation**. My inquiry shows otherwise and argues that freedom and radical black feminist politics can be rooted in **myriad sites**, including spaces that have been **rife with** our own **subordination**. Indeed, my engagement with law seeks to rescue law’s status of death in black studies, tracing how it can be a location of **radical freedom-dreaming** and **visionary world-making** rather than simply a **death-world** and the **paradigmatic site of antiblackness**.

**Materially---a confluence of statistical factors prove racial progress is possible and occurring.**

**Hochschild 17** (Jennifer L. Hochschild , Professor of Government, African and African American Studies, and the Chair of the Department of Government (Harvard University), Chair in American Law and Governance at the Library of Congress, President of the American Political Science Association, “Left Pessimism and Political Science,” Perspectives on Politics, Volume 15, Issue 1, March 15th, p. 6-19, DOI: <https://doi.org/10.1017/S1537592716004102> \*\*modified to allow for more humanizing frames)

Is Pessimism the Only Sensible or Empirically Warranted Response in these Two Arenas? It is easy to find evidence to support pessimism about American racial dynamics or the societal deployment of genomic science. The **U**nited **S**tatesis notorious for itsracially- and ethnically-inflected poverty and excessive levels ofincarceration; undocumented migrants live in legallimbo; new genomics techniques such as CRISPR-Cas9 tempt humankind into hubristic manipulation of nature,and scientists’ promises to cure cancer through genetics knowledgering hollow to many. Thequestion for this articleis whether there are also **strong grounds for optimism** in my two illustrative realms,such that one could **plausibly** and **persuasively** choose to be “centered on advancement concerns” rather than “centered on security concerns.” The answer is **yes**. Again I can point only to illustrative, suggestive evidence.First, thegap between **~~blacks’~~** [black people’s] and whites’ life expectancy declined from seven years in 1990to 3.4 years in 2014.That is an **astonishing**,perhaps **unprecedented**,rate of change given the usual slow pace of demographic transformation.It is important **in itself**, of course,and alsoas a summary statement about **an array of other social phenomena** in which racial disparities are **declining**. **~~Blacks~~** [Black people] are living longer mainlybecause of **declining rates** of homicides, HIV mortality, infant mortality, cancer andheart disease, and suicide among black men.19 **A lot of things have to go right** for a group’s life expectancy to rise **rapidly**. Second, applications for U.S.citizenship rose from the previous yearin ten of the fifteen years from 2000 to 2015, while declining in four (and remaining stable in one).That is an **important indicator** of immigrant incorporation, and especially relevant to political scientists because “Hispanics and Asians who are naturalized citizens tend to have higher voter turnout rates than their U.S.-born counterparts.” 20 Third, non-white Americans themselves tend to feel **pretty good** about their lives.Gallup Poll asked in 2016, “Where do you expect yourlife satisfaction to bein five years?” If whites’ response is standardized at 1, then **~~blacks~~** [black people’s] are **at 2.97**,and Hispanics at **1.29**. Only Asian Americans, at 0.97, were less optimistic than whites.Gallup alsoasked about one’s level ofstress in the previous day.If whites are again standardizedat 1, then **~~blacks~~** [black people] are at **0.48**; Hispanics at 0.53; and Asian Americans at 0.75. Middle-class **~~blacks~~** [black people] were half as likely as middle class whites to report stress during the previous day.21 In the arena ofgenomics also,one can point to **grounds for optimism** rather than pessimism. TheInnocence Project, “dedicated to exonerating wrongfully convicted individuals through DNA testing and reforming the criminal justice system to prevent future injustice,” hasenabled about350 people to be released from prison. (Not so parenthetically, **seven out of ten** are African American or Latino, mostly poor men.)More extensive DNA testing might lead to **many more exonerations**; one careful analysis of serious crime convictions found that “in five percent of homicide and sexual assault cases DNA testing eliminated the convicted offender as the source of incriminating physical evidence.” Previous estimates had pegged the share of wrongful convictions at no more than one to two percent.22 More generally, “DNA profiling [of convicted felons]reduces theprobability of **future convictions** by **17%** for serious violent offenders and by 6% for serious property offenders ....These are likelyunderestimates of **the true deterrent effect** of DNA profiling.” 23 Genomic scientists can point to impressive successes with regard to Mendelian (single-gene) diseases, and they focus even more on diagnoses and cures yet to come. Eric Lander, director of the Broad Institute, likens the trajectory of genomic medicine to the development of medicine based on the germ theory of disease, which “took about 75 years. With genomics, we’re maybe halfway through that cycle.” In his view, “the rate of progress is just stunning. As costs continue to come down, we are entering a period where we are going to be able to get the complete catalogue of disease genes.” Cancer is a prime target, almost in sight:“If you understand that this is a game of probability, and there is only a finite number of cancer cells and each has only a certain chance of mutating, and if we can put together two or three independent attacks on the cancer cell, we win. If we invest vigorously in this and we attract the best young people into this field, we get it done in a generation. If we don’t, it takes two generations.” Lander is “not Pollyanna .... [I]t’s not for next year. We play for the long game. I don’t want to overpromise in the short term, but it is incredibly exciting if you take the 25-year view.” 24 This is a classic statement ofoptimism, or being centered on advancement concerns. Itbegins with expertise and perspective, **sees dangers** and weaknesses,and nonetheless **asserts empirical grounds** for faith. PresidentObama’s insistence that “if you had to choose a moment in human history to live ... **you’d choose now**”has the same quality. My point is not that left pessimism is wrong—only thatthere are grounds, perhaps equally strong,for **left** optimism. **One can choose** either, and then find good evidence for that choice. **Why Is Left Pessimism Problematic?** That wily politician, BarneyFrank, offers the **best answer** from thevantage point of the public arena: “When you tell your supporters thatnothing has gotten better, and that any concessions you’ve receivedare meretokenism, **you take away their incentive to stay mobilized**.As for those you’re negotiating with, if you denigrate anything they concede as worthless,they will soonrealize they canobtain the same response **by giving nothing at all.”** 25 One can offer the same type of answerfrom the vantage point of a teacher. Many of us have had the experience of teaching a course—about civil war, inequality and politics, environmental policy, or the meaning of liberty—only to have our students politely request on the last day of class some idea or piece of information about which they can feel good or which they can use in their public engagement. **We need to offer answers.** Optimism may alsobe associated with **academic success**; one careful study found that“although achievement in mathematics was most strongly related to prior achievement and grade level, optimism and pessimism were significant factors. In particular,students with a more generallypessimistic outlook on lifehad **a lower level of achievement** in mathematicsover time.” 26Astudy of **college students** similarlyfound that “dispositional and academic optimism were associated with **less chance of dropping out** of college,as well as better **motivation and adjustment**.Academic optimism was alsoassociated with higher grade point average.” 27 And for those of us of a certain age, it is heartening to discover that “after adjusting for covariates, theresults suggested thatgreater optimism [among middle-aged, predominantly white Americans]was associated with greater high-density lipoprotein cholesterol and lower triglycerides .... In conclusion, ...optimism is associated with a healthy lipid profile; moreover, these associations can be explained, in part, by thepresence of healthier behaviors and a lower body mass index.” 28

**Voting AFF as a method forecloses the active engagements necessary for combatting the oppression of queer and black women especially.**

**Mathews, 20**—PhD in political science and MA in sociology from Clark Atlanta University (Tayler, “Queering Black Feminism The Political Thought of Cathy J. Cohen,” National Review of Black Politics, Vol. 1, Number 2, pp. 291–310, dml)

Black queer feminism is a particular strand of Black feminism. The underlying paradigm of Black queer feminism is derived from Black feminist thought, a social and political theory with its own **epistemological** and **ontological** assumptions, as well as a worldview that originates from the experiences and subjectivities of Black womxn. Black queer feminism further derives its **explanatory power** from Black queer and trans thought, although it must be stressed that Black feminism and Black queer and trans thought cannot be neatly separated (Green and Bey 2017; Carruthers 2018; Ferguson 2018). As mentioned earlier, Black womxn are not a monolith: just as all Black womxn are not feminists, all Black feminists do not share the same ideological space (nor are they all womxn). Indeed, it is most accurate to speak of Black feminisms, a multifaceted ideological and theoretical space in which there are numerous (and sometimes conflicting) beliefs, ideals, and political commitments. Certainly, what is today named as Black queer feminism is not new (Carruthers 2018; Cohen 2019a). Its theoretical and activist lineage can be traced to Black lesbian feminists such as **Audre Lorde**, **Barbara Smith**, **Cheryl Clarke**, and **Pat Parker**, among others (Cohen 2019a); and Black trans womxn such as **Marsha P. Johnson** (Tourmaline 2013; Willis 2019). Black feminisms encompass a **range** of theories and methods across multiple academic fields in **addition** to and in **concert** with ideas that arise **directly** from **community organizing**.

Cathy J. Cohen’s theorizing on Black feminism and queer politics demonstrates what Julia Sudbury and Margo Okazawa-Rey (2016: 3) conceptualize as **activist scholarship**: “the production of knowledge and pedagogical practices through **active engagements** with, and in the **service** of, **progressive social movements**.” Cohen makes “interdisciplinary trouble” (Alexander-Floyd 2013) across the fields of political science, Black queer studies, Black Women’s Studies, Black studies, and “women, gender and sexuality studies.” As a Black lesbian feminist, she has been at the forefront of Black queer studies by intervening in the persistent queer masculinist focus on “Black gay exceptionals” (Cohen 2004: 28). Cohen’s political thought contributes an alternative frame of reference that is not only **essential** for advancing scholarship on Black politics but is equally useful for engaging in Black queer feminism as a **praxis within** and **beyond academia**. Her work is **unmistakably leftist**, **foregrounding** racial oppression and economic exploitation alongside processes of gender and sexual normalization.

Through Cohen’s ideas one discovers that Black queer feminism **adds greater nuance** to our understanding of gender, sexuality, race, and class. Cohen’s political thought broadens where we **locate power struggles**, **exposes oppressive systems**, and inspires **counter-hegemonic knowledge** that **challenges the rigidity** of what and who counts as “**legitimate**” subjects for political science inquiries. Below, I employ the constituent elements that characterize a frame of reference (Barker, Jones, and Tate 1999) to synthesize Cohen’s political thought in an effort to outline a Black queer feminist frame of reference. The assumptions, concepts and categories of analysis, levels of analysis, and questions vis-a`-vis Black queer feminism are presented. These elements assist in conceptualizing Black queer feminism while illuminating the sociopolitical context of nonnormative Black political experiences.

Assumptions

When exploring the possibilities of a Black queer feminist frame of reference through the works of Cohen, one ascertains quickly that this frame is premised upon an analysis of **power**. Specifically, Black queer feminism accentuates relationships to normative power: “normative meaning the structured nature of power that comes from **traditional institutions** like the **state** and the **government** ...[the] economic system and capitalism ...[and] from practices of identity that are thought to be normal” (Cohen 2017). Within this frame it is assumed that politics and analyses should be organized around the **most marginal** within Black communities and the larger body politic. That is, all “those who stand on the (out)side of state-sanctioned, normalized, White, middle- and upper-class, male heterosexuality” (Cohen 2004: 29), those with the **least influence** over the hegemonic apparatuses that dominate their lives. Cohen’s political thought inspires us to think **beyond** the current sociopolitical organization in order to **address unjust distributions of power**, **access**, and **resources**. She rejects assimilationist strategies that seek to move those on the margins into “dominant institutions and normative social relationships,” arguing alternatively for **radical** and **transformational** politics that strive to **shift** the “values, definitions, and **laws** [that] **make these institutions** and relationships **oppressive**” (Cohen 1997: 444–45).

Furthermore, Cohen complicates assumptions concerning the structures governing individuals and groups within Black communities. In addition to the oppressive systems of white supremacy, racial capitalism, and heteropatriarchy, there is also the struggle against institutionalized heteronormativity that attempts to regulate and constrain nonnormative conceptions and expressions of gender and sexuality. Heteronormativity “privilege[s] heterosexuality and heterosexual relationships as fundamental and ‘natural’ within society” (Cohen 1997: 440) while also enforcing a strict cisnormative gender binary. Heteronormativity operates by way of sociopolitical normalizing processes, the precepts of conservative cisheterosexist moral beliefs, and is sanctioned by the heteropatriarchal state.

Concepts and Categories of Analysis

Cohen foregrounds ideas that add depth to extant concepts and categories of analysis. Cohen’s broad assertion regarding the concept queer has led her to argue for queer as a verb; that is, the queering of politics and analyses. This idea of queering informs much of Cohen’s political thought. Although other scholars also view gender categories and identities as political, when discussing Black womxn, scholars most often conceptualize gender as a binary comparative category of analysis against (presumably cisgender and heteronormative) Black men or white womxn. Cohen’s theorizing on gender moves us beyond these conventional notions. To queer gender is to emphasize that even within gender categories there is nuance, fluidity, and various connections to power. Cohen remarks that “the possibilities that come from a Black queer feminist analysis” are in the recognition that “queer, at its best, can move us **away** from the **simple binaries** of difference, binaries of man/woman, straight/gay, I dare say even cis/trans which sometimes can **flatten the complexity** of our relationship to **power** and our **relationship** to each other” (Cohen 2018). **Oversimplified conceptions** of gender and sexuality are not merely the result of individual lack of imagination. These conceptions stem from efforts of white supremacist **state power** and dominant institutions to **oppress our collective imaginations** and **agency** (Cohen 1997; Cohen and Jackson 2016).

One **need not** claim queer as a personal identity to practice Black queer feminist politics. Many nonqueer self-identified people are nevertheless queered by racial capitalism and the state (Cohen 2019a). “The **radical potential** of queer politics,” says Cohen (1997), is in its ability to **unite** those on the outside of hegemonic state and capitalist power, those who share a **common material reality** in that “**numerous systems** of oppression interact to **regulate** and **police**” their lives (441). It is this **shared**, though **nuanced** and **multifaceted**, plight that can generate the “**radical coalition**” and **collective resistance** to bring about change (452). By opening up to the idea of an **active** queer, rather than **limiting** queer to a **static identity**, **radical reinterpretations** can occur. When analyses are queered, for instance, concepts like deviance become filled with possibility. For Cohen, what is pejoratively labeled as deviant behavior may in fact hold tremendous potential for social movements. When deviance is **combined** with the intent to **challenge unjust power distributions** it is “**transformed** into politicized resistance” (Cohen 2004: 38). In fact, intentionality is an orienting idea underlying Black queer feminist politics. As Cohen explains, “Black queer feminism is an intentional radical politics, pushing back against dominant and community-based identities and institutions that prescribe and reify hetero-gendered, or normalized understandings of family, of sex, of desire, or joy, and the presentation of self, including gender” (Cohen 2018).

Levels of Analysis

When using Black queer feminism to frame studies on Black womxn, gender, and sexuality politics, **multiple levels** of analysis can be employed. Cohen’s political thought emphasizes that unjust power at the **macro** level originates in the sociopolitical **structure** in which harms such as “exploitation and violence [are] **rooted in state**-regulated **institutions** and **economic systems**” (Cohen 1997: 442). At the meso or community and group level, Cohen theorizes that within both Black and LGBTQ communities, and of course Black LGBTQ communities, there are **multiple stratifications** and **relationships** to power (Cohen 1997, 2004; Cohen and Jackson 2016). Intracommunity **power distributions** impact **how** and **if** community members can **access key resources** and **relationships** within and outside of one’s various groups (Cohen 1999). When examining politics at the individual level, it is helpful to return to Cohen’s articulation of deviance. Micro choices can engender both meso and macro effects such that “it is possible that through deviant choices individuals open up a space where public defiance of the norms is seen as a possibility and an oppositional worldview develops” (Cohen 2004: 41). This multilevel approach to analyzing Black politics found within a Black queer feminist frame of reference lends scholars another foundation that enables alternative knowledge about the scope, possibility, and relevance of political science.

Questions

Black queer feminism generates **critical empirical** and **theoretical questions**. I call attention to only a few questions that Cohen’s work incites here. Cohen moves us to **deliberate over what we are fighting for** under the banner of feminism, reminding scholars to interrogate the class positionality from which they speak and the necessity of **practicing radical politics** (Cohen and Jackson 2016). As previously highlighted, one of the **core aspects** of her political thought is an **analysis of power**, particularly its **structural implications**. Again, Cohen is interested in **transforming** our current conditions, not merely reforming them or only privileging certain individuals (such as cisheteronormative Black scholars) in solutions. This provokes inquiries that encourage scholars to study **where** power is **located** in Black communities, **how** resources are **distributed**, and why some are able to **access relative power** over others (Cohen 1999). In this way we are urged to think with **greater depth**, beyond how circumstances can be improved for marginalized individuals with access to relative normative power, as multiple struggles for identity take place within under-resourced groups. Cohen further motivates us to question how we contemplate gender, as well as how we can move toward visionary futures. She remarks that

through a Black queer feminist approach I think we’re compelled to create spaces where we can have **hard** and **liberatory discussions** based on love and respect ... in those spaces we can **ask questions** about the **future** of gender that include: Is our **goal** to **abolish** gender? Are we seeking to **democratize** gender? ... Can we imagine a time when gender **empowers** instead of **limits**, or when it’s **not tied** to a system of oppression, and if it exists at all that maybe in fact it generate[s] joy and help[s] us thrive? And what does the end of gender oppression **look like** and **entail** for those in **particular** on the margins of the margins? That’s where we find **liberation**. That’s where we find freedom. (Cohen 2018)

The periphery of the margins not only points to the political experiences of Black queer and trans individuals but equally includes those individuals who are otherwise queered by the state. Nonnormative cisgender heterosexual Black womxn, for example, whose familial and parenting formations are at odds with the norms and values laid down by the white supremacist-capitalist-heteropatriarchal regime, and whose economic vulnerability makes them susceptible to regulation by the surveillance state through “welfare offices, courts, jails, prisons, child protective services and public housing authorities” (Cohen 2004: 29), surely do not experience the autonomy of, nor resource equity with, middle-and-upper-class (white) LGBTQ individuals. A Black queer feminist analysis appreciates this critical difference of power.

Black Queer Feminism and Political Science

By queering Black feminism for the study of Black womxn, gender, and sexuality politics, it becomes more apparent that Black womxnhood is not a monolithic experience but rather a multidimensional experience with differing interpretations. Nonetheless, Black womxn encounter similar vulnerabilities that necessitate solidarity for total liberation. It cannot yet be assumed that Black queer and trans womxn are already included in Black feminist scholarship. As Davis (2006: 60) indicates, “**substantive theoretical inquiry requires specificity**.” Black queer feminism offers an approach for studying not only Black politics, but also yields implications for what are arguably the more **mainstream** political science subfields of “women and politics” and LGBTQ **politics**, thereby **integrating** literatures that may be understood as **discursively distinct**. Overcoming the subdisciplinary disjunctions that render invisible Black queer womxn, and Black queer and trans people generally, in political science is a problem that Black queer feminism is suited to address. Indeed, this frame adds further **dimensionality** to intersectional analyses within the discipline.

Before concluding, it is worth considering how such an analysis can also be applied to intradisciplinary processes, including those related to **access** and **power**. How might a Black queer feminist lens explain the lack of attention to Black queer and trans individuals within Black politics scholarship? While it is true that all scholars who focus on LGBTQ politics face challenges vis-a`-vis mainstream political science, often paralleling the objections brought by Black political scientists by objecting to the methodological barriers of behavioralist and rational-choice approaches (Ackelsberg 2017), I am still curious if there are particular processes to be found among Black political scientists themselves. These processes may explain the marginalization of individuals and research topics. Collectively, Black political scientists must continue to look inward, **considering** not only how race and racist knowledge has structured the discipline but also **how power is distributed** among (and between) various groups of Black political scientists (and Black scholars generally). Cohen originally conceptualized marginalization with reference to Black politics, specifically the impact and lack of attention to HIV/AIDS in the Black community (Cohen 1999). In a different context, such as when **analyzing power** within political science, these ideas remain **useful**. A marginalization process within the discipline and among Black political scientists is one way to **explain** the **epistemic**, **methodological**, and **research limitations** of Black scholars.

For example, integrative marginalization may explain the favoring of particular Black politics scholars in mainstream political science. Integrative marginalization is “a strategy that allows for the limited mobility of some ‘deserving’ marginal group members” (Cohen 1999: 26). In the discipline this is akin to the privileging of scholarship that resembles the frameworks and methods of Eurocentric heteropatriarchal political science, research that “seems to mirror the increasing specialization of disciplines and distancing between researcher and worldly experience that characterize the academy” (Cohen 2004: 28). Or, as Jones (2014: 36) states, this is the scholarship that demonstrates “Black political science and political scientists have been mainstreamed.” It is less clear to me if there is the additional process of advanced marginalization (Cohen 1999: 27), in which those Black politics scholars with greater access to dominant academic institutions and rewards additionally accept and perform within the (neo)liberal professionalized academic culture, serving as managers that keep more radical and nontraditional Black politics scholars(hip) at bay. This may occur through citational choices (which are always political), topic selection, epistemological orientation, and chosen methods (Alexander-Floyd 2016; Jordan-Zachery 2012, 2013). What is more apparent is the occurrence of a type of secondary marginalization in which the inequities of academe, and larger society, are reproduced among Black scholars. This can manifest in the calculated discouragement of research on Black womxn, gender, and sexuality; the exclusion of Black queer and trans scholars from course syllabi; and/or discrimination against more vulnerable Black political scientists (Brown 2019; Jackson 2019; Mathews 2019).

The occurrence of practices of marginalization and acts of overt discrimination among Black scholars should not be surprising. The discipline of political science is notoriously conservative, and at times even openly sexist and heterosexist (Brettschneider, Burgess, and Keating 2017). Notwithstanding discipline-wide issues, Black political scientists have a **responsibility** to **create knowledge** in the service of the **liberation** of under-resourced communities, to **expose injustice**, not embrace it for their own personal gain (Jones 1977). For “without **increased recognition** of the broadening of identities through which people **exist** in and **understand** the world, traditional black leaders and scholars may end up **so out of touch** with the **differing experiences** of multiple segments of black communities that they **fill no real function** in their communities and thus are left to **talk to themselves**” (Cohen 1999: 347).

Conclusion

In 1989, Jones (2014: 40) called for Black political scientists to become “brave visionaries” and it seems that Cohen answered. Cohen’s political work seeks to **expose oppressive systems**, **demystify** the nature of **political power**, and ultimately **facilitate systemic transformation**. We are all beneficiaries of this Black queer feminist bounty and even the more fortunate as Cohen’s multifaceted political work is ongoing. In closing, I must reemphasize that this article represents only a summary outline of Cohen’s political thought vis-a`-vis Black queer feminism. Cohen’s work merits further critical engagement in which her ideas are struggled with, more thoroughly analyzed, and applied. A brief article can only do so much justice to her ideas, although I hope the significance and possibilities of Cohen’s political thought have been imparted to those who are unfamiliar with her work. More efforts must be undertaken to ensure that Black queer and trans political thought has an established place within the discipline. In Cohen’s own words, “the critical nature of theorizing is not its difficulty but in fact who are we doing it with [;] ... multiple people can help us think about and analyze the situation so that we can move forward” (Cohen 2019b).

While Black feminist political scientists have moved Black politics scholarship forward, beyond its masculine bias, much less analysis of the ways in which cisnormativity and heteronormativity have informed scholarship within Black (feminist) political science has occurred. As Julia S. Jordan-Zachery (2012: 407) has argued, “we have to move beyond upper-class, heterosexual women as our model.” If all Black womxn’s lives are not prioritized in Black feminist political science scholarship, then the analytical power and applicability of Black feminist political science will remain limited. Black queer feminism can help all Black politics scholars understand the nuances of gender, sexuality, and their political implications, bringing Black queer and trans political experiences into focus.

Certainly, there is **no shortage** of phenomena that can benefit from a Black queer feminist analysis, including **macro-level problems** such as the **prison industrial complex** and the intersections of **racial capitalism** and **queer subjects** (Cohen 2018). I highlight only a few of my own curiosities here, those that center a meso-level analysis of Black communities to demonstrate the possibilities of this frame of reference for political science inquiries. For instance, Black queer feminism can provide **context** for studies exploring **abuses of power** as it relates to gender and sexual violence. Indeed, a Black queer feminist lens has already been applied to examine sexual harassment and solutions to this discrimination within the discipline (Jackson 2019). The unequal distribution of power in public space is an additional topic to explore as public space is so often racialized, heteronormative, and gendered cis, male, and “conventionally” masculine. Building upon the work of Davis (2006), scholars may examine how the street harassment of queer and trans individuals affects the experience of public space by threatening bodily autonomy and freedom of movement, and further facilitates the murders of Black trans womxn.

I am equally intrigued by the **theoretical** and **empirical possibilities** resulting from the application of a Black queer feminist frame of reference to **politics** at HBCUs. What can a Black queer feminist analysis uncover about queer and trans discrimination on campus? How do cisnormativity and heteronormativity contribute to the violence womxn, gender nonbinary, and LGBTQ students (and faculty) confront (Mathews 2017)? How do womxn, queer, and trans students **organize** and **advocate for policy** and curricula **change** within these cisheteropatriarchal community **institutions** that often subscribe to **white supremacist norms** and **gender scripts**? With new admission policy changes that inscribe the acceptance of transgender students to single-gender HBCUs, what other **policy recommendations** may be **necessary** to ensure that these students have an equitable campus experience after they arrive? How might a Black queer feminist approach **inform these questions** and **solutions**?

In the Black political scientist activist-scholar tradition, scholars embracing a Black queer feminist analysis will continue to demonstrate the necessity of interdisciplinary knowledge, **challenge** the assumptions that **exclude** certain groups, and **produce scholarship** in an effort to create a **more just world**. As Jones (2014: 37) reminds us, “we are the ones who are paid and **given** the **time** to **study** and **think about politics**. We have a **responsibility** to produce **coherent**, **insightful interpretations** of our practice as a people, interpretations that serve as **bridges** from one movement to the next and from one generation to the next.” Such generational bridging can be seen within the contemporary formation of the NCOBPS, which has recognized the significance of Black queer and trans politics, and scholars, through the LGBTQ Caucus. Black political science must continue moving forward. Following the intellectual ground cultivated by Cohen, we must begin to write Black queer feminism into the discipline.

**“The pulling themselves up by their bootstrap” narrative was created via social structures and institutions – which means they can be altered via legal changes.**

**Harari 15** [Yuval Noah Harari, Israeli historian and a tenured professor in the Department of History at the Hebrew University of Jerusalem, specializing in World History, Doctorate in Philosophy from Oxford University, and an acclaimed author whose first book, Sapiens, was an international bestseller that received lavish praise by figures ranging from Barack Obama to Bill Gates, *Sapiens: A Brief History of Humankind,* tr. by Yuval Harari with help from John Purcell and Haim Watzman, HarperCollins: Broadway, NY, 2015, p. 133-144]

UNDERSTANDING HUMAN HISTORY IN THE millennia following the Agricultural Revolution boils down to a single question: how did humans organise themselves in mass-cooperation networks, when they lacked the biological instincts necessary to sustain such networks? The short answer is that humans created imagined orders and devised scripts. These two inventions filled the gaps left by our biological inheritance. However, the appearance of these networks was, for many, a dubious blessing. The imagined orders sustaining these networks were neither neutral nor fair. They divided people into make-believe groups, arranged in a hierarchy. The upper levels enjoyed privileges and power, while the lower ones suffered from discrimination and oppression. Hammurabi’s Code, for example, established a pecking order of superiors, commoners and slaves. Superiors got all the good things in life. Commoners got what was left. Slaves got a beating if they complained. Despite its proclamation of the equality of all men, the imagined order established by the Americans in 1776 also established a hierarchy. It created a hierarchy between men, who benefited from it, and women, whom it left disempowered. It created a hierarchy between whites, who enjoyed liberty, and blacks and American Indians, who were considered humans of a lesser type and therefore did not share in the equal rights of men. Many of those who signed the Declaration of Independence were slaveholders. They did not release their slaves upon signing the Declaration, nor did they consider themselves hypocrites. In their view, the rights of men had little to do with Negroes. The American order also consecrated the hierarchy between rich and poor. Most Americans at that time had little problem with the inequality caused by wealthy parents passing their money and businesses on to their children. In their view, equality meant simply that the same laws applied to rich and poor. It had nothing to do with unemployment benefits, integrated education or health insurance. Liberty, too, carried very different connotations than it does today. In 1776, it did not mean that the disempowered (certainly not blacks or Indians or, God forbid, women) could gain and exercise power. It meant simply that the state could not, except in unusual circumstances, confiscate a citizen’s private property or tell him what to do with it. The American order thereby upheld the hierarchy of wealth, which some thought was mandated by God and others viewed as representing the immutable laws of nature. Nature, it was claimed, rewarded merit with wealth while penalising indolence. All the above-mentioned distinctions – between free persons and slaves, between whites and blacks, between rich and poor – are rooted in fictions. (The hierarchy of men and women will be discussed later.) Yet it is an iron rule of history that every imagined hierarchy **disavows its fictional origins** and claims to be natural and inevitable. For instance, many people who have viewed the hierarchy of free persons and slaves as natural and correct have argued that slavery is not a human invention. Hammurabi saw it as ordained by the gods. Aristotle argued that slaves have a ‘slavish nature’ whereas free people have a ‘free nature’. Their status in society is merely a reflection of their innate nature. Ask white supremacists about the racial hierarchy, and you are in for a pseudoscientific lecture concerning the biological differences between the races. You are likely to be told that there is something in Caucasian blood or genes that makes whites naturally more intelligent, moral and hardworking. Ask a diehard capitalist about the hierarchy of wealth, and you are likely to hear that it is the inevitable outcome of objective differences in abilities. The rich have more money, in this view, because they are more capable and diligent. No one should be bothered, then, if the wealthy get better health care, better education and better nutrition. The rich richly deserve every perk they enjoy. People with lighter skin colour are typically more in danger of sunburn than people with darker skin. Yet there was no biological logic behind the division of South African beaches. Beaches reserved for people with lighter skin were not characterised by lower levels of ultraviolet radiation. Hindus who adhere to the caste system believe that cosmic forces have made one caste superior to another. According to a famous Hindu creation myth, the gods fashioned the world out of the body of a primeval being, the Purusa. The sun was created from the Purusa’s eye, the moon from the Purusa’s brain, the Brahmins (priests) from its mouth, the Kshatriyas (warriors) from its arms, the Vaishyas (peasants and merchants) from its thighs, and the Shudras (servants) from its legs. Accept this explanation and the sociopolitical differences between Brahmins and Shudras are as natural and eternal as the differences between the sun and the moon.1 The ancient Chinese believed that when the goddess Nü Wa created humans from earth, she kneaded aristocrats from fine yellow soil, whereas commoners were formed from brown mud.2 Yet, to the best of our understanding, **these hierarchies are all the product of human imagination**. Brahmins and Shudras were not really created by the gods from different body parts of a primeval being. Instead, the distinction between the two castes was created by laws and norms invented by humans in northern India about 3,000 years ago. Contrary to Aristotle, there is no known biological difference between slaves and free people. Human laws and norms have turned some people into slaves and others into masters. Between blacks and whites there are some objective biological differences, such as skin colour and hair type, but there is no evidence that the differences extend to intelligence or morality. Most people claim that their social hierarchy is natural and just, while those of other societies are based on false and ridiculous criteria. Modern Westerners are taught to scoff at the idea of racial hierarchy. They are shocked by laws prohibiting blacks to live in white neighbourhoods, or to study in white schools, or to be treated in white hospitals. But the hierarchy of rich and poor – which mandates that rich people live in separate and more luxurious neighbourhoods, study in separate and more prestigious schools, and receive medical treatment in separate and better-equipped facilities – seems perfectly sensible to many Americans and Europeans. Yet it’s a proven fact that most rich people are rich for the simple reason that they were born into a rich family, while most poor people will remain poor throughout their lives simply because they were born into a poor family. Unfortunately, complex human societies seem to require imagined hierarchies and unjust discrimination. Of course not all hierarchies are morally identical, and some societies suffered from more extreme types of discrimination than others, yet scholars know of no large society that has been able to dispense with discrimination altogether. Time and again people have created order in their societies by classifying the population into imagined categories, such as superiors, commoners and slaves; whites and blacks; patricians and plebeians; Brahmins and Shudras; or rich and poor. These categories have regulated relations between millions of humans by making some people legally, politically or socially superior to others. Hierarchies serve an important function. They enable complete strangers to know how to treat one another without wasting the time and energy needed to become personally acquainted. In George Bernard Shaw’s Pygmalion, Henry Higgins doesn’t need to establish an intimate acquaintance with Eliza Doolittle in order to understand how he should relate to her. Just hearing her talk tells him that she is a member of the underclass with whom he can do as he wishes – for example, using her as a pawn in his bet to pass off a jower girl as a duchess. A modern Eliza working at a jorist’s needs to know how much effort to put into selling roses and gladioli to the dozens of people who enter the shop each day. She can’t make a detailed enquiry into the tastes and wallets of each individual. Instead, she uses social cues – the way the person is dressed, his or her age, and if she’s not politically correct his skin colour. That is how she immediately distinguishes between the accounting-firm partner who’s likely to place a large order for expensive roses, and a messenger boy who can only afford a bunch of daisies. Of course, differences in natural abilities also play a role in the formation of social distinctions. But such diversities of aptitudes and character are usually mediated through imagined hierarchies. This happens in two important ways. First and foremost, most abilities have to be nurtured and developed. Even if somebody is born with a particular talent, that talent will usually remain latent if it is not fostered, honed and exercised. Not all people get the same chance to cultivate and refine their abilities. Whether or not they have such an opportunity will usually depend on their place within their society’s imagined hierarchy. Harry Potter is a good example. Removed from his distinguished wizard family and brought up by ignorant muggles, he arrives at Hogwarts without any experience in magic. It takes him seven books to gain a firm command of his powers and knowledge of his unique abilities. Second, even if people belonging to different classes develop exactly the same abilities, they are unlikely to enjoy equal success because they will have to play the game by different rules. If, in British-ruled India, an Untouchable, a Brahmin, a Catholic Irishman and a Protestant Englishman had somehow developed exactly the same business acumen, they still would not have had the same chance of becoming rich. The economic game was rigged by legal restrictions and unoɽcial glass ceilings. The Vicious Circle All societies are based on imagined hierarchies, but not necessarily on the same hierarchies. What accounts for the differences? Why did traditional Indian society classify people according to caste, Ottoman society according to religion, and American society according to race? In most cases the hierarchy originated as the result of a set of accidental historical circumstances and was then perpetuated and refined over many generations as different groups developed vested interests in it. For instance, many scholars surmise that the Hindu caste system took shape when Indo-Aryan people invaded the Indian subcontinent about 3,000 years ago, subjugating the local population. The invaders established a stratified society, in which they – of course – occupied the leading positions (priests and warriors), leaving the natives to live as servants and slaves. The invaders, who were few in number, feared losing their privileged status and unique identity. To forestall this danger, they divided the population into castes, each of which was required to pursue a specific occupation or perform a specific role in society. Each had different legal status, privileges and duties. Mixing of castes – social interaction, marriage, even the sharing of meals – was prohibited. And the distinctions were not just legal – they became an inherent part of religious mythology and practice. The rulers argued that the caste system rejected an eternal cosmic reality rather than a chance historical development. Concepts of purity and impurity were essential elements in Hindu religion, and they were harnessed to buttress the social pyramid. Pious Hindus were taught that contact with members of a different caste could pollute not only them personally, but society as a whole, and should therefore be abhorred. Such ideas are hardly unique to Hindus. Throughout history, and in almost all societies, concepts of pollution and purity have played a leading role in enforcing social and political divisions and have been exploited by numerous ruling classes to maintain their privileges. The fear of pollution is not a complete fabrication of priests and princes, however. It probably has its roots in biological survival mechanisms that make humans feel an instinctive revulsion towards potential disease carriers, such as sick persons and dead bodies. If you want to keep any human group isolated – women, Jews, Roma, gays, blacks – the best way to do it is convince everyone that these people are a source of pollution. The Hindu caste system and its attendant laws of purity became deeply embedded in Indian culture. Long after the Indo-Aryan invasion was forgotten, Indians continued to believe in the caste system and to abhor the pollution caused by caste mixing. Castes were not immune to change. In fact, as time went by, large castes were divided into sub-castes. Eventually the original four castes turned into 3,000 different groupings called jati (literally ‘birth’). But this proliferation of castes did not change the basic principle of the system, according to which every person is born into a particular rank, and any infringement of its rules pollutes the person and society as a whole. A persons jati determines her profession, the food she can eat, her place of residence and her eligible marriage partners. Usually a person can marry only within his or her caste, and the resulting children inherit that status. Whenever a new profession developed or a new group of people appeared on the scene, they had to be recognised as a caste in order to receive a legitimate place within Hindu society. Groups that failed to win recognition as a caste were, literally, outcasts – in this stratified society, they did not even occupy the lowest rung. They became known as Untouchables. They had to live apart from all other people and scrape together a living in humiliating and disgusting ways, such as sifting through garbage dumps for scrap material. Even members of the lowest caste avoided mingling with them, eating with them, touching them and certainly marrying them. In modern India, matters of marriage and work are still heavily influenced by the caste system, despite all attempts by the democratic government of India to break down such distinctions and convince Hindus that there is nothing polluting in caste mixing.3 Purity in America **A similar vicious circle perpetuated the racial hierarchy in modern America**. From the sixteenth to the eighteenth century, the European conquerors imported millions of African slaves to work the mines and plantations of America. They chose to import slaves from Africa rather than from Europe or East Asia due to three circumstantial factors. Firstly, Africa was closer, so it was cheaper to import slaves from Senegal than from Vietnam. Secondly, **in Africa there already existed a well-developed slave trade** (exporting slaves mainly to the Middle East), **whereas in Europe slavery was very rare**. It was obviously **far easier to buy slaves in an existing market** than to create a new one from scratch. Thirdly, and most importantly, American plantations in places such as Virginia, Haiti and Brazil were plagued by malaria and yellow fever, which had originated in Africa. Africans had acquired over the generations a partial genetic immunity to these diseases, whereas **Europeans were totally defenceless and died in droves**. It was consequently wiser for a plantation owner to invest his money in an African slave than in a European slave or indentured labourer. Paradoxically, genetic superiority (in terms of immunity) translated into social inferiority: precisely because Africans were fitter in tropical climates than Europeans, they ended up as the slaves of European masters! **Due to these circumstantial factors**, the burgeoning new societies of America were to be divided into a ruling caste of white Europeans and a **subjugated caste of black Africans**. But people don’t like to say that they keep slaves of a certain race or origin simply because it’s economically expedient. **Like the Aryan conquerors of India, white Europeans in the Americas wanted to be seen** not only as economically successful but also **as pious, just and objective**. Religious and scientific myths were pressed into service to justify this division. Theologians argued that Africans descend from Ham, son of Noah, saddled by his father with a curse that his offspring would be slaves. Biologists argued that blacks are less intelligent than whites and their moral sense less developed. Doctors alleged that blacks live in filth and spread diseases – in other words, they are a source of pollution. These myths struck a chord in American culture, and in Western culture generally. They continued to exert their influence long after the conditions that created slavery had disappeared. In the early nineteenth century imperial Britain outlawed slavery and stopped the Atlantic slave trade, and in the decades that followed slavery was gradually outlawed throughout the American continent. Notably, this was the first and only time in history that slaveholding societies voluntarily abolished slavery. But, even though the slaves were freed, the racist myths that justified slavery persisted. Separation of the races was maintained by **racist legislation and social custom**. The result was a **self-reinforcing cycle of cause and effect**, **a vicious circle.** Consider, for example, the southern United States immediately after the Civil War. In 1865 the Thirteenth Amendment to the US Constitution outlawed slavery and the Fourteenth Amendment mandated that citizenship and the equal protection of the law could not be denied on the basis of race. However, two centuries of slavery meant that most black families were far poorer and far less educated than most white families. A black person born in Alabama in 1865 thus had much less chance of getting a good education and a well-paid job than did his white neighbours. His children, born in the 1880S and 1890s, started life with the same disadvantage – they, too, were born to an uneducated, poor family. But economic disadvantage was not the whole story. Alabama was also home to many poor whites who lacked the opportunities available to their better-off racial brothers and sisters. In addition, the Industrial Revolution and the waves of immigration made the United States an extremely fluid society, where rags could quickly turn into riches. If money was all that mattered, the sharp divide between the races should soon have blurred, not least through intermarriage. But that did not happen. By 1865 whites, as well as many blacks, took it to be a simple matter of fact that blacks were less intelligent, more violent and sexually dissolute, lazier and less concerned about personal cleanliness than whites. They were thus the agents of violence, theft, rape and disease – in other words, pollution. If a black Alabaman in 1895 miraculously managed to get a good education and then applied for a respectable job such as a bank teller, his odds of being accepted were far worse than those of an equally qualified white candidate. The stigma that labelled blacks as, by nature, unreliable, lazy and less intelligent conspired against him. You might think that people would gradually understand that these stigmas were myth rather than fact and that blacks would be able, over time, to prove themselves just as competent, law-abiding and clean as whites. In fact, the opposite happened – these prejudices became **more and more entrenched as time went by**. Since all the best jobs were held by whites, it became easier to believe that blacks really are inferior. ‘Look,’ said the average white citizen, ‘blacks have been free for generations, yet there are almost no black professors, lawyers, doctors or even bank tellers. Isn’t that proof that blacks are simply less intelligent and hard-working?’ Trapped in this vicious circle, blacks were not hired for whitecollar jobs because they were deemed unintelligent, and the proof of their inferiority was the paucity of blacks in white-collar jobs. The vicious circle did not stop there. **As anti-black stigmas grew stronger, they were translated into a system of ‘Jim Crow’ laws and norms** that were meant to safeguard the racial order. Blacks were forbidden to vote in elections, to study in white schools, to buy in white stores, to eat in white restaurants, to sleep in white hotels. The justification for all of this was that blacks were foul, slothful and vicious, so whites had to be protected from them. Whites did not want to sleep in the same hotel as blacks or to eat in the same restaurant, for fear of diseases. They did not want their children learning in the same school as black children, for fear of brutality and bad influences. They did not want blacks voting in elections, since blacks were ignorant and immoral. These fears were substantiated by scientific studies that ‘proved’ that blacks were indeed less educated, that various diseases were more common among them, and that their crime rate was far higher (the studies ignored the fact that these ‘facts’ resulted from discrimination against blacks). By the mid-twentieth century, segregation in the former Confederate states was probably worse than in the late nineteenth century. Clennon King, a black student who applied to the University of Mississippi in 1958, was forcefully committed to a mental asylum. The presiding judge ruled that a black person must surely be insane to think that he could be admitted to the University of Mississippi. The vicious circle: a chance historical situation is translated into a rigid social system. Nothing was as revolting to American southerners (and many northerners) as sexual relations and marriage between black men and white women. Sex between the races became the greatest taboo and any violation, or suspected violation, was viewed as deserving immediate and summary punishment in the form of lynching. The Ku Klux Klan, a white supremacist secret society, perpetrated many such killings. They could have taught the Hindu Brahmins a thing or two about purity laws. With time, the racism spread to more and more cultural arenas. American aesthetic culture was built around white standards of beauty. The physical attributes of the white race – for example light skin, fair and straight hair, a small upturned nose – came to be identified as beautiful. Typical black features – dark skin, dark and bushy hair, a flattened nose – were deemed ugly. These preconceptions ingrained the imagined hierarchy at an even deeper level of human consciousness. Such vicious circles can go on for centuries and even millennia, perpetuating an imagined hierarchy that sprang from a chance historical occurrence. Unjust discrimination often gets worse, not better, with time. Money comes to money, and poverty to poverty. Education comes to education, and ignorance to ignorance. Those once victimised by history are likely to be victimised yet again. And those whom history has privileged are more likely to be privileged again. Most **sociopolitical hierarchies lack a logical or biological basis** – they are nothing but the perpetuation of chance events supported by myths. **That is one good reason to study history**. If the division into blacks and whites or Brahmins and Shudras was grounded in biological realities – that is, if Brahmins really had better brains than Shudras – biology would be sufficient for understanding human society. Since the biological distinctions between different groups of Homo sapiens are, in fact, negligible, biology can’t explain the intricacies of Indian society or American racial dynamics. **We can only understand those phenomena by studying the events, circumstances, and power relations that transformed figments of imagination into cruel** – and very real – **social structures**.

**Structural barriers either strip afrofuturism of its revolutionary potential or prove it’s doomed to fail**

**Olukotun 15** – author of the novel *After the Flare*, which won a 2018 Philip K. Dick Special Citation. He is a fellow at Future Tense.

Deji Bryce Olukotun, “Utopian and Dystopian Visions of Afrofuturism,” *Slate*, 30 November 2015, <https://slate.com/technology/2015/11/utopian-and-dystopian-visions-of-afrofuturism.html>

In the dystopian vision, no one on the business end of creative industries—the agents, marketers, publishers, producers—takes risks on creators of color. Artists **might be forced to revert to addressing explicitly black themes**. “We have to write a slave narrative,” Lisa Lucas said, “or a story about civil rights, a retelling of Rosa Parks, some kind of better understanding of what it was like in 1960 or 1830, or what it was like on a slave boat.”

It’s a mistake, too, to think that crowdfunding platforms such as Kickstarter, Indiegogo, and Patreon can solve the problem of structural exclusion. The impressive speculative fiction collection Long Hidden: Speculative Fiction From the Margins of History was created from a Kickstarter campaign. The volunteer-run Tumblr blog We Are Wakanda, which is named for the fictional African kingdom in Marvel’s Black Panther series, publishes an incredible volume of content about black comics and science. Founder Lionel Queen recently launched an Indiegogo campaign to develop a new app to support underrepresented creators. It’s a great idea, well worth supporting, but an Afrofuturism that relies upon crowdfunding to survive is **dystopian**. It means there’s **no sustainable investment**.

Afrofuturism also needs to overcome its geographic myopia. Nnedi Okarafor, one of the most prominent science fiction writers working today, said: “My issue with Afrofuturism is that it has traditionally been **based and rooted far too much in American culture**.” She champions what she calls “Africa-based sci-fi.” Authors such as Fred Strydom, Lauren Beukes, and Sarah Lotz are writing engaging fiction set on the continent. But it’s dangerous to oversimplify this trend. To my knowledge, **not a single black sci-fi writer has been published by a major publishing house in Africa**, and most writers working in Africa-based sci-fi hail from South Africa or Nigeria—not coincidentally, the largest economies on the continent.

There are other threats to Afrofuturism, too. Safe online spaces could become mired in hate and vitriol. The recent controversy surrounding the Hugo Awards—one of the most prestigious awards for science fiction writing—shows that the “administrators of color” whom Lisa Lucas supports tend to be missing from sci-fi culture. In that distasteful example, white authors **attempted to game the voting system to fight against the rise in sci-fi of nontraditional and marginalized voices**, such as LGBTQ authors. (They did not succeed.)

In some ways, the new film Star Wars: The Force Awakens exemplifies both the utopian and dystopian visions of Afrofuturism. The film stars the black British actor John Boyega as Finn, reportedly a major character in the storyline. Boyega can inspire the next generation of black sci-fi actors, but none of the credited writers will become a role model for the next generation of black writers—**they’re all white.**

**AND, the will to create an Afrofuturism immediately legible and digestible to an audience turns the aff – the only radical afrofuturism is that which makes you feel uncomfortable rather than that which tries to create a feel-good politics of affirmation**

-I feel like this links if they articulate the aff like “afrofuturism is good because it gives black people energy or makes us feel better about ourselves”

**Eshun 14** – British-Ghanaian writer and filmmaker and current MA Professor of Art Theory in the Department of Visual Cultures at Goldsmiths College, University of London

Christoph Cox and Kodwo Eshun, “Afrofuturism, Afro-Pessimism and the Politics of Abstraction: A Conversation with Kodwo Eshun,” 2014, <http://faculty.hampshire.edu/ccox/Cox.Interview%20with%20Kodwo%20Eshun.pdf>

KE: Exactly. Hermeticism is a term which signals that desire, just that desire to manufacture almost like cult objects which travel by themselves and which people will cherish on that basis.

CC: Afrofuturism today doesn’t seem very interested in that hermeticism. It seems satisfied with a **set of stock tropes**, largely about space and the alien.

KE: I think you’re absolutely right. The search for tropes, the tropological search for notions of space, notions of extraterritoriality, notions of identification with the alien, all of that is fine, but it doesn’t go far enough. It’s not intriguing enough. The artists that I think have this quality – Frohawk Two Feathers, for example – they’re not such an easy read. **There should be some resistance. The work should push back against you. It shouldn’t be quite so legibly transparent**. And the question of hermeticism is about that. It’s about the work retreating from you when you go towards it.

There’s a curator in the States, Valerie Cassel Oliver, who’s been excavating African-American abstraction. It’s not that it was buried, but for different reasons, certain abstractionists perennially complicate an easy read. Whether it’s Norman Lewis or Fred Eversley, these figures are not racially readable. That’s all it takes. As soon as the work throws up a dimension of optical fugitivity, in other words, **as soon as the work cannot immediately be read** as belonging to what people recognize is African-American legibility, then **suddenly it disappears**, whereas actually it is exactly that work that is most **compelling precisely because it blocks legibility** so you can’t easily read it in terms of the identity of the person who is making it. You have to do more work. You have to think of all the other things that the work might be about, as well as the identity of the artist. So, with people like Charles Gaines, the African-American Fluxus artist Benjamin Patterson, all these artists, the complexity of their work is not an easy read. So, they tend not to be named when we talk about Afrofuturism. But actually, if they’re not Afrofuturists, I don’t know who is.

And then parallel to that of course is the last ten years of what’s called “Afro-Pessimism,” which I find deeply compelling: the writings of Fred Moten, Jared Sexton, Frank Wilderson III, Saidiya Hartman, and behind them Hortense Spillers, Sylvia Winter, Orlando Patterson, Cedric Robinson.12 And then, obviously, in a South African context Achille Mbembe. In all these writers, there’s this profound philosophical question of what Nahum Chandler calls “the problem of the negro for thought.”13 This whole way of thinking also doesn’t seem to have penetrated the overly easy optimism of Afrofuturism in which a search for virtuous objects to be retrieved is somehow this self-congratulatory project. It’s an **easy affirmation**, which hasn’t taken any notice either of Cassel Oliver’s project of abstraction or of the arguments going on inside of Afro-Pessimism. It seems to be totally separate from those; but it’s happening simultaneously. To me, these things need to be brought into alignment with each other in a way that they haven’t been so far.

Afrofuturism for me is **not ipso facto that compelling**. There are a few examples of compelling work. But the vast majority of it still feels me introductory, like a **bid for the mainstream**, which is not interesting. The music I’m listening to now, the new Shabazz Palaces album, Lese Majesty, is probably the most compelling Afrofuturist document for quite a while just because the elaboration of its track titles, which sound like Samuel Delany short stories. And then on the other hand, obviously all the things coming out of Chicago with Rashad and Spinn, before Rashad’s untimely death. And then in the U.K., you’ve got a new alternative R&B with this artist FKA Twigs and another artist called Kelela who are reinventing R&B, stretching it out, distending it. This is where I can see Afrofuturism continuing, but it’s not what immediately comes to mind. Maybe it’s the relief of not having these familiar tropes, the overly familiar tropes of space and extraterritoriality of cyborgs and these very ‘90s tropes. It’s the relief of not having these continually foregrounded. So, there’s a search on my part and on a lot of people’s part for references that go beyond that and a different kind of cathexis.

CC: For you, Afrofuturism is about affect or desire rather than trope or image.

KE: Exactly. Maybe the art world is bound to visual tropes; and so it settles for that. The art world always congratulates itself on its sense of discovery. But a lot of it feels to me like retreading grounds. I’d like to see a rapprochement between Afrofuturism and Afro-Pessimism. I’d like to see the two meet each other head-on. The kind of exorbitant seriousness of Afro-Pessimism and the same exorbitant seriousness of Accelerationism, the kind of Prometheanism of Accelerationism, which is the aspect I really like very much. Ray Brassier’s recent turn to Prometheanism I find totally compelling.14 And then Afro-Pessimism’s struggles with negation and its preference for the ontological, I find all those really, really compelling. And my wish is that both those forces put pressure on Afrofuturism and kind of break it up and disassemble it so that it reforms in unrecognizable shapes, so that, you know, the triumvirate of Sun Ra, Clinton, Perry cannot be easily invoked. That invocation has to be checked. And in that silence, other things can emerge.

I’m just uneasy when Afrofuturist’s becomes so celebratory. It’s like, “What are you celebrating, for Christ’s sake?” There’s actually nothing to celebrate. **They should be full of more seething discontent**. I can see that in Rammellzee, that kind of totalitarian aesthetic. It’s not even dystopian. It’s kind of autocratic, an autocratic desire to rewrite language and therefore code systems and symbol systems. His extreme militarizing .

**Mere imagination is insufficient – liberation only arises from focus on putting ideas into action and explicit commitment to institutional engagement, and static conceptions of the future and apoliticism prevent that**

-this card’s about ecotopianism specifically, but I think the argument is broadly applicable to whatever else people try to say

-the card makes a sort of three-tiered argument: first, utopian visions of the world can’t be static; second, it’s not enough to imagine things because you also have to take steps to revise your visions and put them into action, moving beyond idealism; third, even if they win that they do spill over, their vision is meaningless absent explicit institutional engagement

-the latter part of the card is talking about the process by which their stuff gets coopted in the event that they actually do try to put stuff in action without paying attention to things like the dynamics of capital

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David Pepper, “Tensions and Dilemmas of Ecotopianism,” *Environmental Values*, 2007, [http://sci-hub.tw/https://doi.org/10.3197/096327107X228364](http://sci-hub.tw/https:/doi.org/10.3197/096327107X228364)

In the name of creating a dynamic of social change, progressing towards a radically alternative future, Ecotopianism sometimes produces rigid social blueprints based on principles of ‘equilibrium’ and stasis. But since these implicitly call for no further evolution, such principles are ultimately regressive, especially when grounded in idealistic yearnings for an imagined past of society-nature harmony, rather than in present material realities. Ecotopians may respond to this dilemma by endeavouring to establish progressive, ‘anticipatory’ and transformative material practices in the here and now, but these are often prone to assimilation within existing social arrangements, so may lead us back to the status quo.

The problem of static perfection

A major problem of utopia as the ‘perfect place’ is that it leaves **little room for innovation, change and evolution**. Goodwin and Taylor (1982) suggest that pre-eighteenth century utopias were static because then there was no concept of progress. But in our age a society without developmental capacity is seen as undesirable, because, as Kumar (1987) says, ‘There is no intelligence where there is no change and no need of change’. Kumar refers to how the Eloi of H.G. Wells’s Time Machine live perfectly in harmony with their environment but have lost all intellectual endeavour. In similar vein, Cooper’s (1973) fictional inhabitants of an ecotopia established on a ‘tenth planet’, escaping ecological disaster on earth, have successfully eliminated aggressive instincts, but only by creating a ‘stable’ society which is not evolving. This problem of utopias in general can be compounded in ecotopianism through a predilection for holism, where the ‘view that everything is indissolubly connected has the unacceptably fatalistic consequence that nothing can ever be changed without changing the whole given universe’ (Goodwin and Taylor 1982: 211).

Additionally, radical environmentalism abounds with problematical notions of human wellbeing founded on a natural order that has stabilised around an equilibrium state – a ‘homeostasis’, meaning to ‘keep the same’ (Russell 1991). From the Blueprint for Survival to Gaia theory, there is concern about important ecological ‘laws’ apparently requiring stability and steady state for ecosystems health (see Sale 1985, Devall and Sessions 1985), which by extension demand ‘balance’ and harmony with nature for social wellbeing (Bookchin 1990a). Milbrath et al. (1994: 425) epitomise the environmentalist view that it is ‘perilous for us to perturb those systems’, while Devall and Sessions infer that ‘not do’ should become a guiding social principle.

Unfortunately such sentiments can create what is, for a social change movement, the paradox of ‘**deep dislike of dynamism, uncertainty and change**…ʼ (Bramwell 1994: 177, 205). Indeed, Prugh et al. (2000), among others, have accused ecotopias of demonstrating **static, frozen social structures**, as well as **lacking ‘politics’** and the emergent properties of real human societies. Associated with these accusations are fears of how blueprints of a ‘perfect’ steady state may encourage unhealthy totalitarian repression of deviation and dissent.4

Such criticisms are not always deserved, since at least some ecotopianism does admit a measure of dynamism, uncertainty, change and deviation from static perfection. Callenbach’s (1975) Ecotopia itself contains political dissenters, some disturbingly aggressive war games, urban ghettoes and other ‘imperfect’ features. And Kirkpatrick Sale’s work on bioregionalism does concede that because of the key biological principles of diversity and self-determination ecotopia would be a changing society, likely to contain imperfections. So some bioregions in his ecotopia might not heed values of democracy, equality, freedom, justice, and ‘bioregional standards’. This being so, Sale seeks a system which will work even if not everyone in it is good (more on this problem below).

Again, Bernard and Young’s (1997) review of actual community experiments in sustainable development emphasises the sustainability utopia as imperfect and dynamic. Sustainability in its fullest sense, they say, exists nowhere and may never exist: a **destination not to be reached, but it is the journey itself which is important**. When thus conceived, ecotopian visions **veer away from highly-defined blueprints**, towards constituting merely a ‘navigational compass’ (de Geus 1999). They jettison final and static spatiotemporal utopian forms as unachievable – or, if achieved, still unstable and transitional. This means that utopianism must concentrate on the underlying processes needed to move towards a final state which will remain hypothetical (Harvey 2000). Utopian works that focus on the dialectics of making a new socio-ecological future in worlds which are still ‘messy’ include those of LeGuin (1975), Piercy (1979) and Robinson (1996).

Harvey opposes what he sees as traditional ecotopianismʼs tendency to romanticise an idealised nature, seeing ‘natural laws’ as overly restrictive of human activity. Harvey’s perspective resonates with Marxism’s critique of utopian socialism (Lukes 1984), insisting that ecological utopianism must **reject idealism** and concentrate instead on **transforming into action the material forces working within existing society**, if it is to be truly emancipatory. So ecotopia should reflect the **dialectic between the existing and the desired socio-ecological conditions**, seeking to subvert what exists and creating transgressive spaces and ‘transitional forms’.

As I have suggested, the truth seems to be that ecotopianism swings from one side to another of this materialist-idealist duality. I have shown elsewhere (Pepper 2005) that bioregionalism, and deep ecology in particular, sometimes retreats from the material struggles of the modern world, instead falling back on a romantic future primitivism. Sale (1985: 478), for instance, urges a return to premodernity on grounds that old peoples ‘know the way of nature best’, while Bowers (2003) compiles a list of prerequisites for a sustainable future by looking at the ‘morally coherent and ecologically responsible’ communities of the Apache, Quechua, Inuit, Aboriginal etc. The Planet Drum Foundation, initiated in 1973, holds bioregional congresses featuring ‘earth connecting native American ceremonies’, echoing the tree worship and war game rituals in Callenbach’s novel, and deep ecology invocations to ‘seek inspiration from primal traditions’ (Devall and Sessions 1985: 97) and ‘dance … with the rhythms of our bodies, the rhythms of flowing water, changes in the weather and seasons and the overall processes of life on earth’ (p. 7) needing fewer desires and simpler pleasures.

On the other hand there are examples of ecotopianism seemingly more engaged with the modern world. The seminal Blueprint for Survival (Goldsmith 1972), for instance, gave much space to detailing the transitional processes and forms thought necessary in the journey from what is recognisably today’s world to the unfamiliar world of ecotopia. Indeed, Callenbach (1981) presents a whole volume devoted to transition from the present to ecotopia, seeing this transition as triggered by contemporary processes of ecological degradation that, alongside economic globalisation, produce crises in human welfare. Callenbach draws on a pervasive theme of contemporary America when he suggests that the struggle of small communities against state control and the dislike of ‘ordinary’ people against ‘bigness and greed’ will be significant in provoking ecotopiaʼs emergence. Sale (1985: 179), too, roots his bioregional vision in what he (like many anarchists) claims to be ‘thoroughly expressive of the basic trends of the 20th century’: that is, distrust of bigness, breakdown of the nation state and of the industrial economy. Bioregionalists, he asserts, call for nothing that is not already here today (though whether he or other ecotopians have accurately diagnosed contemporary ‘basic trends’ is of course arguable).

However, when ecotopianism does swing towards the ‘concrete’ and away from abstract fantasising, to engage with the contemporary world, it faces a different sort of dilemma, that of **assimilation into the culture to which it is supposed to run counter**. As such it may **lose transgressive impetus** because it **no longer presents any serious challenge to the status quo.**

Transitional forms and assimilation

This dilemma is of more than academic interest. It is germane to the active involvement of ecotopians in what they consider to be ‘transformative practices’ and ‘transitional forms’, i.e. anticipatory practices in the here and now, reflecting Marx’s idea of ‘immanent critique’ (Hayward 1994). Such practices constitute a familiar liturgy – from local community initiatives for organic farming, micro credit and banking to city farms and neighbourhood schemes for recycling and energy conservation; from worker cooperatives to local employment and trading systems (LETS), from the Mondragon collectives in Spain5 to the Second Economic Model in W. Massachusetts;6 they have all been read, at one time or another, as moving us towards ecological utopia (see for example Douthwaite 1996, Dauncey 1999).

For in ecotopianismʼs characteristically anarchistic analysis, such institutions and practices prefigure the desired society. The analysis reflects Martin Buberʼs contentions that in utopian society there cannot be dissonance between means and ends (so violence or vanguardism, for instance, cannot be countenanced as means to secure a non-violent, non-elitist society), and there should be continuity within revolution . This implies that the method of revolution must be to set up features of the desired society in the here and now.

Ted Trainer (1998) typifies these arguments from a deep green perspective. He stresses how key ecotopian practices and institutions (self sufficiency, small-scale living, localised economies participatory democracy and alternative technologies) already exist in the ‘global ecovillage movement’, a network of intentional communities, city neighbourhoods, producer/community coops and local currencies which constitutes part of the implicit transition strategy of building post-capitalist society in existing society. They are ‘grassroots movements of hope’ (Fournier 2002).

Socialists often reason similarly. Harvey (1996) for instance describes money as the most important expression of spatio-temporality in contemporary society: its social power currently depending on a hegemonic territorial configuration constituting a system of privilege and social control. From this he argues that because LETS have new spatial-temporal characteristics (currencies are invalid outside a local area for instance, see Meeker-Lowry 1996) their adoption enables alternative, non-hegemonic social practices to be established

However the dilemma of such ‘transitional forms’ is that in place of transgressive potential they could as **easily become an accepted element of the status quo** – for reasons detailed in the Marxian critique of utopian socialism. For **inasmuch as their supporters** often **reject conventional politics** – Trainer for instance approvingly describes the global village network as ‘theoryless and apolitical’ – and may underestimate the extent to which contemporary material forces set the terms of mainstream discourse, they often exhibit **false consciousness**. False consciousness imagines that (a) by appealing to reason and ‘common sense’ these transitional forms and practices set an example which the masses will want to follow, and (b) that if they in fact grew to challenge seriously existing power hegemonies, that challenge would not be ruthlessly suppressed.

A potential danger of this lack of realism could be **blindness to the risks of assimilation** into the mainstream culture. Yet we often see how ostensibly ‘transitional’ practices and ‘alternative ‘arrangements can **easily become institutionalised into the status quo**: so that, for instance, some LETS schemes now pay national taxes (Fitzpatrick and Cauldwell 2001); local produce, ‘farmers markets’ and ‘fair trade’ now feature in many supermarkets; what was once regarded as radical technology (i.e. renewables, see Boyle and Harper 1976) becomes a major platform for continuing growth of the major oil companies, etc. Furthermore, inasmuch as they permit their members to survive financially in the context of conventional society, many such ‘alternative’ enterprises decrease the state’s obligation to supply adequate social security arrangements – effectively, some might say, **prolonging the legitimacy of an existing economics which inherently creates social exclusion**. They become, then, **counter-revolutionary**.

An allied danger is that ‘transitional’ form, rather than process, becomes seen as most important. As Carter (1996) reminds us, most ecotopias presume that self-sufficient communes and worker cooperatives intrinsically benefit the environment because of their small scale, potential contribution to quality of life, and imagined concern about local community interaction with environment. Yet this is all highly questionable – small scale is not inherent to coops for instance, and neither do they necessarily exemplify democracy, inclusiveness or environmental concern. Frequently they are veh**icles for alienation through self-exploitation** as they **strive to compete in a capitalist environment**. The anarchist cooperatives in Mondragon have experienced wage hierarchies, a management culture, downsizing and ‘rationalisation’ in order to become successful players in the global economy (Kasmir 1996). Carter insists that form of itself is not crucial, coops being a vessel into which almost any meaning can be poured.

In reality it is the context of potentially ‘transitional’ forms that may be key. As Gare (2000) argues, they must be set within a **culture of non-capitalist values and a clearly radical social change agenda**. This is why Fotopoulos (1998a), in arguing for transitional forms, nonetheless opposes Trainer’s position for its lack of clear goals for systemic change. An **unambiguous programme for** such **change** – ultimately to a stateless moneyless economy, says Fotopoulos – is **necessary** if an ecotopian inclusive democracy is to be established.