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#### First question: Who/What killed Vincent Chin?

Warikoo 17 (Niraj Warikoo, Reporter for the Detroit Free Press, “Vincent Chin murder 35 years later: History repeating itself?,” June 23, 2017, <https://www.freep.com/story/news/2017/06/24/murder-vincent-chin-35-years-ago-remembered-asian-americans/420354001/>)

Thirty-five years ago this week, Gary Koivu visited a Detroit hospital to see his friend Vincent Chin, his head swathed in bandages after being slugged in Highland Park by a man with a baseball bat. "It was very upsetting," recalled Koivu, 61, of Harrison Township, who was 26 at the time of the incident. "I had been friends with him for 20 years. I asked the nurse, How is he doing? What are his chances? She said, he has no chance, she said his brain was dead." A couple of days later, Chin died, 35 years ago Thursday. The tragic death — and subsequent lenient punishment (probation and a $3,000 fine) — outraged Asian Americans in Detroit. They organized, forming new coalitions and the civil rights group American Citizens for Justice, sparking an Asian-American civil rights movement that continues today. On Saturday, a forum will be held at a Chinese-American center in Madison Heights to remember Vincent Chin with a documentary screening, panel discussion with Koivu and the director of Michigan's Civil Rights Dept. and a visit to Chin's grave site in Detroit. Of Chinese descent, Chin was an adopted son of immigrants from China in metro Detroit. The case of Vincent Chin reverberates today amid renewed concern about hate crimes and anti-immigrant sentiment, say Asian-American attorneys in metro Detroit. They point to the shooting death in Kansas in February of an Indian-American man, Srinivas Kuchibhotla, by a suspect who yelled, "Get out of my country" and asked if he was a legal immigrant before shooting him and another Indian American. Federal prosecutors have filed hate crime charges in the case. In Michigan, there was an upswing in hate crimes against minorities after the November election, according to state officials. And Michigan had the highest number of hate crimes post-election in the Midwest, according to the Southern Poverty Law Center. "History seems to be repeating itself," said James Shimoura, a Sylvan Lake attorney of Japanese descent who was active in organizing after the Chin case in the 1980s. "Some always try to find scapegoats for social and economic ills. The target changes, but same issue." The June 1982 incident started after an attacker yelled at Chin: "It's because of you little (expletives) that we're out of work!" and anti-Asian racial slurs denigrating Chinese and Japanese people. In 1982, metro Detroit was going through a recession with many autoworkers out of work as anti-Asian racism, in particular against Japan, began to rise. Auto executives, union leaders and politicians in Michigan made anti-Japanese remarks, creating a climate that made many Asian Americans uneasy. Anyone who looked Japanese in the early 1980s or any Asian American, we all felt like moving targets," said author Helen Zia, who was an unemployed autoworker of Chinese descent living in Detroit at the time of the Vincent Chin killing. "People who drove cars of Japanese models were shot at on the freeway. ... That's the climate I remember 35 years ago." Shimoura said "it was a powder keg" of racial animosity that exploded at a bar Chin was at in Highland Park with friends to celebrate before his upcoming wedding. After a scuffle inside the bar, Ronald Ebens, who worked in the auto industry, and his stepson, Michael Nitz, later chased down Chin, smashing his head with a bat.

#### Second Question: Who/What will they kill next?

Espiritu 93 (Yen Le, Espiritu, Distinguished Professor of Ethnic Studies at UC San Diego, “Asian American Panethnicity,” 1993, Temple University Press) \*inserted quotations marked by brackets

Factors Contributing to Anti-Asian Activities Social scientists continue to debate the etiology of intergroup conflicts. Most of the dialogue has been structured around a confrontation between class-based and race-based theorists. For class-based theorists, economic competition plays the central role in structuring social relations (Bonacich 1972; Cummings 1980). In contrast, race-based theorists insist that unfavorable attitudes toward a racial group cause intergroup conflicts (Allport 1958; Myrdal 1962). As III many cases of racial conflicts, factors that contribute to antiAsian activities include class as well as ideational elements. Economic Competition Resource competition theory posits that self-interest explains public animosity toward immigrants. Especially during economic downturns, the [“]native-born[“] blame immigrants for the nation's problems and regard them as unwanted competitors (Bonacich 1972; Light 1983: ch. 13). Historically, Asians in the United States have borne most of the blame for economic woes (Saxton 1971; Kitano 1980; K. Wong 1985). Recent anti-Asian activities coincided with the deteriorating economic conditions that began after 1975. In a context of high unemployment, climbing inflation, and skyrocketing interest rates, competition between Asians and non-Asians often escalated into intergroup conflicts (California, Governor's Task Force on Civil Rights 1982; Los Angeles County Commission on Human Relations 1984; U.S. Commission on Civil Rights 1986). A 1980 poll conducted in nine cities indicated that 47 percent of the respondents believed that "Indochinese refugees take jobs away from others in my area" I Starr and Roberts 1982). According to a 1989 Los Angeles Times poll, a quarter of the respondents believed that Asian Americans were gaining too much economic power; no other group was similarly described by more than 7 percent IRoderick 1989Q). The mushrooming of Asian businesses across the country has also evoked anti-Asian sentiment, often expressed in efforts to ban Asian-language business signs (Fong 1987; Siao 1989Q). The rapid influx of Asian immigrants to the United States since 1965 further exacerbated the tension between Asians and non-Asians IDesbarats 1985: 522-523). In particular, the growing presence of Korean businesses in black neighborhoods in Baltimore, Philadelphia, Washington, D.C., New York City, and Los Angeles has fueled black anger, at times leading to racial violence II. Kim 1981; Light and Bonacich 1988: ch. 12; Cheng and Espiritu 1989). In addition to actual or alleged domestic economic competition, Asian Americans are resented for the United States' international trade imbalances. A period of economic recession in the United States coincided with a rise of Pacific Rim economies, not only that of Japan but also those of Taiwan, South Korea, Hong Kong, and Singapore. Unable to keep pace with Asian competition, traditional industries such as steel and automobiles experienced severe downturns. American businesses and labor unions, as well as elected officials, blamed the ills of American industry on business competition with Asian countries ISmollar 1983; US. Commission on Civil Rights 1986: 36-37). A prime example is automobile manufacturing: many Americans attributed the unemployment among American automobile workers to the large Japanese share of automobiles sold in the United States IUS. Commission on Civil Rights 1986: 36). A 1982 national poll indicated that 44 percent of the public blamed US. economic problems "almost completely" or "very much'! on Japanese business competition 1M. Woo 1983). Anti-Japanese sentiment appeared on bumper stickers that read "Toyota-Datsun-Honda-and Pearl Harbor" and "Unemployment Made in Japan" IUS. Commission on Civil Rights 1986: 40). Unfortunately, anger against Asian nations is often transferred to Americans of Asian ancestry, who have suffered from a long history of anti-Asian attitudes and behaviors (Los Angeles County Commission on Human Relations 1984: 2; R. Matsui 1984: 63). Attitudinal surveys reveal that anti-Asian sentiments are still alive and well today. In a survey of 2,000 Americans, the Roper Organization (19821 asked respondents to indicate whether each of the fifteen ethnic groups listed has "on balance . .. been a good thing or a bad thing for this couptry." No European group received lower than a 53 percent positive ratingj in contrast; no Asian group received higher than a 47 percent positive rating. Survey results also indicate that many Americans do not welcome Asian immigrants and refugees. According to a 1975 Harris poll, more than 50 percent of the American people thought Southeast Asian refugees should not be allowed to enter the United Statesj only 26 percent favored their entry. Many seemed to share Congressman Burt Talcott's conclusion that, "Damn it, we have too many Orientals" (cited in Rose 1985: 2051. Five years later, public opinion toward the refugees had not changed. A 1980 poll of American attitudes in nine cities revealed that nearly half of those surveyed believed that the Southeast Asian refugees should have settled in other Asian countries (Starr and Roberts 198 I I. This poll also found that over 77 percent of the respondents would disapprove of the marriage of a Southeast Asian refugee into their family and 65 percent would not be willing to have a refugee as a guest in their home (Roberts 1988: 811· Anti-Asian sentiment seemed to be symptomatic of the general anti-immigrant mood beginning in the late 1970s. Poll results indicated that, between 1965 and 1981, the proportion of the US. public favoring a decrease in legal immigration rose sharply (California, Governor's Task Force on Civil Rights 1982 : 521. However, opposition toward immigrants was not directed equally toward all groups. A survey of San Diego County found that 36 percent of the respondents believed Asian immigrants had a negatIve impact on the city, but only 17 percent thought Western European immigrants had a negative impact (Cornelius 1982: 161. Along the same lines, the media decry Japanese ownership of US. property but largely ignore European investment-even though Europeans own the most American real estate.2 In 1985, the British held $44 billion and the Dutch $38 billion in US. real estate. In contrast, the Japanese owned $35 billion in US. real estate in 1988. The disproportionate political and media attention to Japanese ownership suggests "that the professed concern for overseas ownership is a smokescreen for racial animosity toward Asians" (California, Attorney General's Commission 1986: 27-28).

#### Third question: Who/What is the aff cooperating for/against?

Espiritu 93 (Yen Le, Espiritu, Distinguished Professor of Ethnic Studies at UC San Diego, “Asian American Panethnicity,” 1993, Temple University Press)

Research on ethnicity has indicated that external threats intensify group cohesion as members band together in defensive solidarities. The threatened destruction creates a common interest where none may have existed before (Coser 1956; Portes 19841. Most often, a group is sanctioned for its actual or alleged wrongdoing. But a racially defined group can also suffer reprisals because of its externally imposed membership in a larger group. In the Asian American case, group members can suffer sanctions for no behavior of their own, but for the activities of others who resemble them (Light and Bonacich 1988: 3241· Thus anti-Asian activities necessarily lead to protective pan-Asian ethnicity. True, as indicated by the discussion on ethnic "disidentification" in Chapter 2, external threat does not always consolidate groups, but can also disintegrate them. However, it is also true that these early attempts by Asian immigrant groups to "disidentify" themselves from the targeted Asian group often failed. The most notorious case of mistaken identity was the 1982 killing of Vincent Chin, a Chinese American who was beaten to death by two white men who allegedly mistook him for Japanese. The Chin case activated both Chinese and pan-Asian levels of solidarity. To understand the web of reactive solidarities better, this chapter analyzes Asian American organizational responses to anti-Asian activities, particularly their responses to the Chin case. The Chin case is substantively important because many Asian Americans now consider it to be the archetype of anti-Asian violence in this country. It is also theoretically instructive because it sheds light on the pluralism of reactive groups. Anti-Asian Activities Anti-Asian activities in the United States can be traced back to the middle of the nineteenth century. For the most part, Americans meted out sanctions against Asians via the political and legal systems (McKenzie 1928i Ichioka 1988). From the late nineteenth to the early twentieth century, more than six hundred pieces of anti-Asian legislation were enacted, either limiting or excluding persons of Asian ancestry from citizenship, intermarriage, land ownership, employment, and other forms of participation in American life (Japanese American Citizens League 1987 : 65i Chan 1991 : ch. 3). As indicated earlier, the gravest government mistreatment of Asians occurred when Japanese residents and citizens were placed in relocation camps at the beginning of World War II (Daniels 1971). Anti-Asian hostility also took violent turns. In the mid-nineteenth century, whites "were stoning the Chinese in the streets, cutting off their queues, wrecking their shops and laundries" (Dulles 1946: 89). In some instances, such as the Rock Springs Massacre in Wyoming in 1885, these violent outbursts ended in brutal killings. For the most part, these atrocities were legally sanctioned. For example, in 1854, the California Supreme Court ruled that Chinese could not testify against whites. So long as no white person was available to witness on their behalf, any crime perpetrated against the Chinese went unpunished (Dulles 1946). During World War II, the United States Congress began to chip away at the legislative barriers to Asian immigration and citizenship. By the early 1970s, Asian Americans were finally accorded the civil rights long guaranteed to other residents and citizens. But in the late 1970S, reports of rising anti-Asian activities also began to surface. At a congressional hearing on the impact of the new Asian immigration, an Asian American attorney contended that "today we are witnessing a resurgence of anti-Asian sentiment manifest by growing problems of vandalism, physical attack, and on occasion murder" (K. Wong 198 s: 1731· In a statement submitted to the US. Commission on Civil Rights, US. Representative Robert Matsui (19841 warned of the danger of rising anti-Asianism. In a 1988 keynote speech, the founding president of the Asian/ Pacific Bar of California similarly warned, "The danger I see in the next decade is the revitalization of anti-Asian hostility" (Asian Pacific American Coalition 1989al. Because no systematic data on anti-Asian Activities exist, it is difficult to substantiate the claim of rising anti-Asianism. As the US. Commission on Civil Rights (1986: 5) reported, "There is currently no way to determine accurately the level of activity against persons of Asian descent, or whether the number of incidents has increased, decreased, or stayed the same in recent years." On the other hand, rising anti-Asianism has become so alarming that it has entered the public discourse, as evidenced by an increase in the number of articles on anti-Asian violence published not only in the ethnic press but also in major newspapers such as the New York Times, Wall Street Journal, Boston Globe, Washington Post, San Francisco Examiner, and Los Angeles Times (Japanese American Citizens League 1987: 66-671. Federal, state, and local civil rights bodies extended this public discourse by holding official hearings on anti-Asian crimes. At a Los Angeles County hearing, twenty-two persons testified that the "Asian community has been alarmed by an increase anti-Asian vandalism and violence in Los Angeles County and in other parts of the country" (Los Angeles County Commission on Human Relations 19841· These racial incidents ranged from hostile bumper stickers to racial name-calling to physical assaults. In Washington, a state commission reported that Asians in the state had experienced harassment of "very serious proportions" at the hands of "native workers" (Koreatown 19831. In California, the attorney general's Asian and Pacific Islander Advisory Committee concluded that, "in recent years, there has been an intensification of anti-Asian hostility" (California, Attorney General's Asian and Pacific Islander Advisory Committee 1988: 23). At the national level, a multisite study by the U.S. Commission on Civil Rights (1986: 5) concluded that "anti-Asian activity exists in numerous and demographically different communities across the Nation." In the absence of longitudinal data, these studies cannot substantiate the claim of rising violence against Asians; however, they do confirm that anti-Asianism is, indeed, a serious problem.

#### Yellow Peril is an existential threat – American policymaking drives pathological understandings of Asianness that threatens the very health of US Empire – this produces an apocalyptic form of securitization where contact itself becomes the legitimation of exclusion

Man 18. Jessica Man, Master of Arts degree in Asian American Studies, “The Perfect Type of Industry”: 2012 and Apocalyptic Visions of the Asian Century, *UCLA Electronic Theses and Dissertations*, Published 2018-01-01

“Eschaton” (from the Greek éskhaton, “the last”) refers specifically to the events of the end which bring about the future state that apocalypse reveals; the apocalypse is the method through which John delivers his description of the eschaton. An eschatology orders and gives meaning to those events. Whereas an apocalypse is an interpretive system that imputatively reframes an historical narrative, an eschatology selects the events that represent the culmination of that narrative, describing their fruition in teleological terms. John’s apocalypse is an eschatological device. In this way, the Exclusion Act, the Asiatic Barred Zone Act, and other turn-of-the century immigration acts can be understood to constitute a state or state-sanctioned eschatology. Protective and nationalist legislation is always instated to narrow down the possible futures of empire and empire’s end. If American triumphalism is a belief in the inevitable dominance of U.S. government, culture, and ways of life over those of other nations, it must be maintained and driven by an eschatological imaginary that exposes weaknesses in the imperial strategy and thinks about the ways through which the empire could be destroyed. London’s “Unparalleled Invasion” provides an apocalypse that exposes the eschatological nature of the Exclusion Act and how it anticipated the fundamental threat Chinese laborers posed to the American nationstate. The Exclusion Act and all other anti-Asian immigration laws function on, and are justified through, an imagined future predicated on the destructive power of Yellow Peril, validating a specific vision of eschaton and apocalyptically reframing the nature of Asian immigration. Apocalypse necessarily deals with periodicity. Christian theology recognizes several “marks” in its historical record: pre- and post-lapsarian time, ante- and post-diluvian time, pre and post-messianic time, pre- and post-apocalyptic time, and so forth. It also recognizes the nebulous and intractable nature of time – Giorgio Agamben notes in Infancy and History that Christianity “resolutely separates time from the natural movement of the stars to make it an essentially human, interior phenomenon” (95). The Second Epistle of Peter corroborates this observation, famously stating that “with the Lord one day is as a thousand years, and a thousand years as one day” (3:8, ESV). Eschatology therefore must be understood to extrapolate from a specific system of periodizing or marking history, but purposefully leave the actual span of the period it envelops unclear in order to avoid foreclosing itself at a certain date. In a state sanctioned eschatology, the effect is to suspend, extend, and frame the period of imperial life so that the end state of totalized destruction hangs ominously over the present moment, continually presenting a justification for exclusion and border maintenance as nationalist projects of conservation. A state-sanctioned eschatology can be expressed both through law and through cultural production, as Jack London, Robert Heinlein, and Philip F. Nowlan have aptly demonstrated. Alongside London’s “Unparalleled Invasion,” Heinlein’s The War in the Air and Nowlan’s Armageddon 2149 AD present speculative narratives that describe a Sino-American war and an American landscape under Chinese rule. Aris Mousoutzanis makes a critical intervention here in Fin-de-Siècle Fictions, 1890s/1990s by identifying apocalypse as “a form of colonization that is enacted at the interstices of technoscientific and biopolitical discourses, a motif whose early traces may be identified… as ‘reverse colonization’ narratives” (154-155). All three of these texts anticipate Chinese ascendancy and hypothesize about methods of American resistance to invasion, a tradition that has evolved alongside American anxieties about China. Now, in a global economy where China has become not only a source of stigmatized and abjected labor but also a formidable creditor of the United States,American fears have left traditional military invasions behind in favor of anticipating a networked apocalypse, where annihilation can be transmitted through bank transfers, airports, computers, and other points of international contact, including, as always, state borders. During the period of 2007-2009 known as The Great Recession, these anxieties were made explicit in the attribution of global economic recession to Chinese insistence on keeping the value of the renminbi stable instead of allowing it to depreciate alongside the American dollar (Kamrany, 2011). By the end of 2010, China owned about $900 billion of the U.S. debt (“Datablog,” 2011), a number which has appreciated beyond $1 trillion in 2018, rousing concerns that China would simply “buy” America and maintain a fiscal stranglehold with unspoken but surely destructive cultural and political consequences. Military conquest is no longer the primary mediator of relations between East Asia and the United States, although this by no means indicates a demilitarization of the area. The creditor-debtor relationship has subsumed the master-coolie relationship, where the status of “creditor” legitimizes a national ownership and therefore control over the labor force, controlling outward migration for its own nationalist projects. The partial upending of the master-coolie relationship, adding the creditor Chinese to the image of the coolie Chinese, and the creation of a global economic system of financial capital, has largely transferred anxieties about Chinese migrant laborers onto the entanglement of Chinese bankers and investors with the American economy and thus the American future, a disorderly relationship that comes much closer to realizing the threat of the Yellow Peril than anything early 20th century writers imagined. State-sanctioned eschatology has also changed since the days of London and Heinlein to reflect globalization and pathological understandings of how the world has been networked and flattened. Before the Great Recession, there was SARS, a disease that originated in southern China but was transmitted through air travel to 37 countries worldwide, including the United States. The worst of the SARS outbreak lasted for five months and was declared the first pandemic to occur in the 21st century (LeDuc and Barry, 2004), confirming fears about increased globalization and the pathological consequences of movement for networked nations that was once the sole claim of immigration. As early as the 1880s and 1890s, American apocalypticism regarding Asia had begun to incorporate ideas about disease, pathogenesis, contagion, and power quite naturally into its ideas about borders and the body politic. Mousoutzanis points out quite clearly that eugenics, disease, entropy, and imperial time were all closely linked at the turn of the 20th century; the second half of the 19th century saw the rise of the germ theory of disease, the laws of thermodynamics and the theory of the heat death of the universe, and eugenics (71-90). Disease and deformity were treated in literature and in popular discourse as entropic indicators of moral and physical decline that contradicted the triumphalist timeline of Christian empire. Entropy itself was extremely upsetting to eternist concepts of time and human survivability, putting an apocalyptic timer on the existence of the entire universe. Eugenics became popular at the time as a way to manage these indicators of declining society – disease, disability, mental illness, and race – and fight entropy, denying the possibility of the death of the universe and reasserting sociopolitical, cultural, and spiritual hierarchies of ability, race, and gender through legislation, medicinal practice, and border control. The idea of border control as preventative medicine already admits to the porous nature of policed boundaries, which McKeown discusses in great depth in his study of the enforcement of the Exclusion Act. Invasion is a type of pathology that completely obliterates borders through phagocytosis, dissolving any identity based on geographical or organ-based (i.e., state) markers. However, in fiction, this sort of dissolution can actually be a source of positive anticipation, because it aesthetically effaces the settler-colonial country and provides a chance to distill its colonial ethos. Paul Williams observes that “the post-apocalyptic world can be an arena for the replaying of the colonial encounter, frightening in its unintelligibility but alluring in its virgin promise… [it] was the most plausible arena in which imperial adventurism could be restaged” (304-305). A state-sanctioned eschatology can therefore also be understood as a contingency plan for the end and the time beyond the end, and not only as a warning system or a means of avoidance. It is also an understanding that the end of empire is not synonymous with the end of its people, and crucially provides a way to propagate its intrinsic power structures and hegemonic values in hopes that it will one day be reestablished in a different form. Postapocalyptic work that does not deconstruct the interlocking forces of patriarchy, criminality, and racialization must envision the nation and the empire as ideology. One of the best examples of this is from the final scene of Werner Herzog’s Aguirre, the Wrath of God, where the titular character stands on the remains of his ruined colonial expedition and declares: “We will produce history as others produce plays… I, the wrath of God, will marry my own daughter, and with her found the purest dynasty the world has ever seen.” Although the particular material structures of empire and means of asserting imperial ambition may crumble with time, a persistent desire for its renewal and recreation will remain – the superstructure will persevere – if the survivors of the eschaton do not enact a radical shift in the nostalgia and desires they carry through the end times.

#### Historic use of antitrust was signaled as the “cure-all” for an increasing racialized fear of communism in Asia and the Middle East. From Hayek’s preaching of the “competition ideal” to the amendment of the Clayton Act,[[1]](#footnote-1) antitrust was repurposed for combatting the growing Red and Yellow Scare. Even now, Biden preaches

Biden 21 https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/09/remarks-by-president-biden-at-signing-of-an-executive-order-promoting-competition-in-the-american-economy/

Let me close with this: Competition works. We know it works. We’ve seen it works when it exists. Fair competition is was what made America the wealthiest, most innovative nation in history. That’s why people come here to invent things and start new businesses. In the competition against China and other nations of the 21st century, let’s show that American democracy and the American people can truly outcompete anyone. Because I know that just given half a chance, the American people will never, ever, ever let their country down. Imagine if we give everyone a full and fair chance. That’s what this is all about. That’s what I’m about to do.

#### Even the rhetoric of worker-first models get coopted

Biden 21 https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/09/remarks-by-president-biden-at-signing-of-an-executive-order-promoting-competition-in-the-american-economy/

But to keep our country moving, we have to take another step as well — and I know you’re all tired of hearing me during the campaign and since I’m elected President talk about it — and that’s bringing fair competition back to the economy. That’s why today I’m going to be signing shortly an executive order promoting competition to lower price — to lower prices, to increase wages, and to take another critical step toward an economy that works for everybody. The heart of American capitalism is a simple idea: open and fair competition — that means that if your companies want to win your business, they have to go out and they have to up their game; better prices and services; new ideas and products. That competition keeps the economy moving and keeps it growing. Fair competition is why capitalism has been the world’s greatest force for prosperity and growth. By the same token, “competitive economy” means companies must do all they do to do — everything they do to compete for workers: offering higher wages, more flexible hours, better benefits.

#### Movements are growing and connecting at a greater rate than ever for anticolonial futures. The conglomeration of COVID, accelerating racial violence, and economic inequality put us in a unique position to break away from norms that have brought us to this present crisis. Don’t fear contamination, instead reach out and grasp for a new and better future in this round.

Liu 20 (Wen, Assistant Professor of women’s gender and sexuality studies at the University of Albany, “Internationalism Beyond the ‘Yellow Peril’: On the Possibility of Transnational Asian American Solidarity,” 2020, UC Santa Barbara Journal of Transnational American Studies)

In the midst of a global pandemic and social upheavals, how will transnational Asian–Black solidarity take shape? Currently living in Taipei, Taiwan, I am involved in an emergent circle of diasporic Asian radicals who write and organize around the vibrant left-leaning movements in Taiwan and Hong Kong and seek to build international solidarity based on a critique of both US and Chinese imperialism. This new activist milieu that has been described as “transnationally Asian”5 not only rejects Asian American assimilationist politics and the narrow focus of liberal international politics around democracy and human rights, but also actively seeks cross-national and cross-racial points of racial encounters and challenges the orthodox Western leftist takes on social movements that often defer to a reductionist binarism of “capitalism versus communism.” For example, a Hong Kong activist was excluded from participating in a BLM solidarity event hosted by the Sunrise Movement, an American youth–led climate organization, due to some US leftists’ Twitter commentaries that misrepresented Hong Kong’s protests against Beijing’s increasingly harsh conditions of authoritarian control as being funded by the US military. Writers from Lausan, a leftist Hong Kong press, have condemned such mischaracterization of Hong Kong’s ongoing mass movement as merely manipulated by US imperialism and, instead, insisted on the importance of building alliances between Hong Kong’s struggle against authoritarianism and BLM’s vision of police abolition.6 From this single case, one can understand that building transnational solidarity is complex and arduous work, both conceptually and practically. It requires us to maneuver from one ideological trap to another across geopolitical contexts and locally specific historical conditions. While transnational iteration is emancipatory and necessary to achieve a genuine form of Asian–Black solidarity, it must be built on a bidirectional and bifocal analysis instead of merely relying on the US-centric epistemology of what constitutes leftist politics. By seeking transnationalism from the West toward the non-West and not vice versa, it’s easy to fall into the logic of Western “China apologists” or neo-Cold War logic, dismissing the interasian conflicts that also have global ramifications. To put it in another way, as China criminalizes Hong Kong’s fight for fundamental democratic rights and implements mass arrests of young activists under the National Security Laws,7 a progressive Asian American politics must not only be focused on racial relations domestically but challenge multiple forms of Empire beyond the borders of the US. Only through this multidimensional transnational praxis can we begin to see the underlying mechanisms that allow BLM activists from Minneapolis to Seattle to adopt Hong Kong protesters’ strategies against the police. 8 These possibilities for alliance among “transnationally Asian” activists include protesters in Hong Kong and the US using umbrellas and tennis rackets to protect themselves from tear gas, the joint coalition between Taiwanese indigenous organizations and Black Lives Matter Taiwan calling out racism,9 and Singaporeans debating whether to topple their colonial monuments.10 Our current shared struggles against the rapid right-wing turn of global hegemonies do not draw lines between the simple binaries of “East vs. West,” “white vs. Black,” or “authoritarianism vs. democracy,” but underscore the interconnected fights against the militarized police state, neoliberal capitalist order, Han supremacy, and the continued impacts of Euro-American coloniality. The “yellow peril” may have been a useful metaphor describing the shared racialization of the Asian body against white supremacy and US imperialism; the politics of internationalism in the present conditions requires a much more nuanced analysis of interregional geopolitics across the transpacific. The possibility of transnational Asian American solidarity must be situated beyond the framework of “one united race against one empire.” Indeed, the fast growing infection and mortality rates of Covid-19 show that the virus cannot be simply contained by national borders, and our racial critique must also be extended transnationally. When a disease is racialized, it not only exposes the racial inequalities built in the global public health infrastructures but also how mechanisms of national security require the domination of subjects who are deemed to be “outsiders.” Rather than falling into a nationalistic blame game based on the Cold War logic—choosing sides between one empire (the US) and another (China)—the pandemic requires us to engage in the racial justice and antinativist struggles in our different localities as well as hold one another’s movements accountable to an internationalist vision of collective survival.

#### The debate community avoids discussing Anti-Asian racism like the plague…

#### Asian debaters are expected to assume a restrained and calm ethos in round because their emotions are pathologized. When docility is expected, deviant behavior gets marked as too aggressive or unprofessional.

#### China has been a major part of each college resolution for the past three years, but people still can’t pronounce President Xi. Those are the same people who are the first to dock speaker points from Asian debaters for vocal inflections, tonal shifts, and accents that dance past white ears. Furthermore, every core neg argument the past four years outlined in topic papers have included iterations of Chinese deterrence that demonstrate a consistent and desired effort to make Sinophobia a stable and predictable research item.

#### As a communicative activity, debate must be held accountable for implicit, and asymmetric rhetorical protocols that maintain orientalist logics that predetermine what conversations are noted as valuable.

#### Our questions are many and our stories unheard – the final question is: who/what will you notice?

Tsing 15 (Tsing, Anna, *The Mushroom at the End of the World*, Professor of anthropology at the University of Santa Cruz and recipient of the Huxley Memorial Medal of the Royal Anthropological Institute, Princeton University Press, 2015)

To listen to and tell a rush of stories is a method. And why not make the strong claim and call it a science, an addition to knowledge? Its research object is contaminated diversity; its unit of analysis is the indeterminate encounter. To learn anything we must revitalize arts of noticing and include ethnography and natural history. But we have a problem with scale. A rush of stories cannot be neatly summed up. Its scales do not nest neatly; they draw attention to interrupting geographies and tempos. These interruptions elicit more stories. This is the rush of stories’ power as a science. Yet it is just these interruptions that step out of the bounds of most modern science, which demands the possibility for infinite expansion without changing the research framework. Arts of noticing are considered archaic because they are unable to “scale up” in this way. The ability to make one’s research framework apply to greater scales, without changing the research questions, has become a hallmark of modern knowledge. To have any hope of thinking with mushrooms, we must get outside this expectation. In this spirit, I lead a foray into mushroom forests as “anti-plantations.” The expectation of scaling up is not limited to science. Progress itself has often been defined by its ability to make projects expand without changing their framing assumptions. This quality is “scalability.” The term is a bit confusing, because it could be interpreted to mean “able to be discussed in terms of scale.” Both scalable and nonscalable projects, however, can be discussed in relation to scale. When Fernand Braudel explained history’s “long durée” or Niels Bohr showed us the quantum atom, these were not projects of scalability, although they each revolutionized thinking about scale. Scalability, in contrast, is the ability of a project to change scales smoothly without any change in project frames. A scalable business, for example, does not change its organization as it expands. This is possible only if business relations are not transformative, changing the business as new relations are added. Similarly, a scalable research project admits only data that already fit the research frame. Scalability requires that project elements be oblivious to the indeterminacies of encounter; that’s how they allow smooth expansion. Thus, too, scalability banishes meaningful diversity, that is, diversity that might change things. Scalability is not an ordinary feature of nature. Making projects scalable takes a lot of work. Even after that work, there will still be interactions between scalable and nonscalable project elements. Yet, despite the contributions of thinkers such as Braudel and Bohr, the connection between scaling up and the advancement of humanity has been so strong that scalable elements receive the lion’s share of attention. The nonscalable becomes an impediment. It is time to turn attention to the nonscalable, not only as objects for description but also as incitements to theory. A theory of nonscalability might begin in the work it takes to create scalability—and the messes it makes. One vantage point might be that early and influential icon for this work: the European colonial plantation. In their sixteenth- and seventeenth-century sugarcane plantations in Brazil, for example, Portuguese planters stumbled on a formula for smooth expansion. They crafted self-contained, interchangeable project elements, as follows: exterminate local people and plants; prepare now empty, unclaimed land; and bring in exotic and isolated labor and crops for production. This landscape model of scalability became an inspiration for later industrialization and modernization. The sharp contrast between this model and the matsutake forests that form the subject of this book is a useful platform from which to build a critical distance from scalability.

## 2

#### CP Text: Istadus unidos ukampirus jan masi pashna.

#### J’ani amuyu

Belcourt 17 (Billy-Ray Belcourt is from Driftpile Cree First Nation. He is a PhD student in the Department of English and Film Studies at the University of Alberta. “The Optics of the Language: How Joi T. Arcand Looks with Words.” 8-29-17. <https://canadianart.ca/features/optics-language-joi-t-arcand-looks-words/> //shree)

What did Bushby see? In his formulation, “one” brings into focus a sinister optic, where “optic” is the lens or filter by which one looks and from this looking ropes what is seen into an encounter humming with all sorts of potential. Bushby’s is an optic that mediates the interpellative call “one” seeks to enact—it is a part of the grammar of settler horror. “One” is thus a modality by which we, the ante-Canada, those of us who bear that which is prior to and beneath Canada, are racialized and roped into a representational field where all things, like trailer hitches, can be put to violent use. We cannot survive in the visual register of “one.” Words are worldly; not just in the sense that they proliferate and float up into the sky and become cloud-like. Words world too. Words like “one” incubate death-worlds (see Achille Mbembe’s 2003 essay “Necropolitics”) inside which those of us who look like Kentner are made to inhabit modes of enfleshment that fix the stares of the grim reapers of the present. On the other hand, some of us recruit words in the name of something like freedom. We might call this duality the double-bind of enunciation. How do we refuse a savage call to being with a more spacious one? Joi T. Arcand is a photo-based artist and industrial sculptor from Muskeg Lake Cree Nation, and she knows that words, that letter forms, shapes and glyphs, “change the visual landscape,” that they are how we go about practicing new ways of looking. Words are emotional architectures, and Arcand calls hers “Future Earth.” In her 2015 book The Argonauts, Maggie Nelson tends to a debate about whether words do or do not potentiate. She takes up a claim of a partner’s that words do nothing but nominalize, and what is left unnamed is subject to a host of horrors. Nelson, however, holds out more hope for words; she contends that they are “good enough,” that how one speaks makes all of the difference and that words can, following Deleuze, incite “the outline of a becoming.” Bushby’s angered vocalization of a genre of non-being—where “one” is the refusal of a name and the humanity that comes with it—is evidence of the terrible mechanics of language. But, it is in opposition to this linguistic state of killability, this metaphysics and rhetoric of coloniality, that Arcand articulates a grammar of subjectivity vis-à-vis the time and space of a native future. Here on Future Earth is a series of photographs that Arcand produced in 2010. In a phone interview, Arcand explained to me that this is where her photo-based practice and her interest in textuality synched. Arcand wants us to think about these photographs as documents of “an alternative present,” of a future that is within arm’s reach. For this series, Arcand manipulated signs and replaced their slogans and names with Cree syllabics. By doing this, Arcand images something of a present beside itself and therefore loops us into a new mode of perception, one that enables us to attune to the rogue possibilities bubbling up in the thick ordinariness of everyday life. Arcand wanted to see things “where they weren’t.” Hers is not a utopian elsewhere we need to map out via an ethos of discovery. Rather, Arcand straddles the threshold of radical hope. She asks us to orient ourselves to the world as if we were out to document or to think back on a future past. That is, Arcand rendered these photographs with a pink hue and a thick, round border, tapping into what she calls “the signifiers of nostalgia.” Importantly, these signifiers are inextricably bound to the charisma of words, to the emotional life of the syllabics. The syllabics are what enunciate; they potentiate a performance of world-making that does not belong to the mise-en-scene of settlement. It is this mise-en-scene of settlement that Arcand conjures to then obliterate, which is to say that her photographs evince a prairie world that is crowded with meaning, meaning that belongs differently to the logic of terra nullius (that a place exists without history or politics prior to European settlement) and to myths of Indian savagery and degeneracy. It is against this system of signs that Arcand opens the prairies up to radical resignification. It is where we build a future atop the decayed remains of coloniality. Perhaps Here on Future Earth visually captures the tempos of “Indian time,” which is always a scene of errant temporality. Indian time is less about the absence of rhythm and more about an inability to fix or to analytically hold up the rhythmic as a mode of feral movement itself. Words like “one” are spun such that they stomp us into the rut of social death. But: Indian time evinces an otherwise kinetics. In Here on Future Earth, this kinetics is energized by the textual, by the stories that they tell, and their visual culture. The modified signs exploit our ability to look; that we see them and conceptualize them as out of place or untimely is how we transport ourselves to a different time, to a place governed by Indian time. The syllabics themselves map a visual field. This is what Arcand calls “the optics of the language.” It is around these words that sociality orbits. This thematic persists in Arcand’s latest project, a set of large neon signs that light up Cree words like keyam. For Arcand, all of her engagements with the Cree language are partly elegiac. She is mourning language loss, but puts this negative affect to rebellious use to signify a world-to-come. Like the syllabics in Here on Future Earth, the bright signs prop up affective structures for a time and place where our relations to Cree are not always-already bound up in performances of grief. In one sign, Arcand translates the English phrase “I don’t have the words” into Cree. “I don’t have the words” is a paradoxical speech act; it uses words to announce their absence. These signs are installed in gallery spaces where Arcand’s work is commissioned; one was recently installed at the second gesture of the Wood Land School at the SBC Gallery of Contemporary Art in Montreal, another outside the Walter Phillips Gallery in Banff. These signs interrupt the visual terrain of the gallery, as if welcoming onlookers to a new world, to a new geographic form. The signs something like kinship around a common wordlessness in the service of a new world-making praxis. These photographs and signs, then, are all relics of a future past. They emerge from something of an anthropological interest in a future-in-the-present, in the affects of Indian time. Arcand thus writes the world wrong so that she can write it anew.

## Case

### 1NC DA—Self-Determination

#### The aff’s analysis of corporations ignores the importance of Native acquisitions that are critical to growth and self-determination. Their homogenization bankrupts natives at the alter of socialism.

Sweeping critiques of capitalism always ignore the specificity of tribal sovereignty through casino gaming.

Cattelino 11 (Jessica R. ““One Hamburger at a Time” Revisiting the State-Society Divide with the Seminole Tribe of Florida and Hard Rock International” Current Anthropology Volume 52, Number S3 Supplement to April 2011 Corporate Lives: New Perspectives on the Social Life of the Corporate Form: Edited by Damani J. Partridge, Marina Welker, and Rebecca Hardin)

This article examines Florida Seminole corporations and tribal government gaming together as a case study of the production of the state-society divide. In 2007, the Seminole Tribe of Florida acquired Hard Rock International, a major corporation with cafés, hotels, and casinos around the globe. This $965-million deal, which remains the largest purchase of a corporation by an indigenous nation, created a media storm and extended Seminoles' geographical and financial reach far beyond reservation borders. Like Seminole casino gaming, which is possible only because of tribal sovereignty, the Hard Rock deal called attention to the fuzzy boundaries of indigenous corporate and national forms. This has been the case insofar as Seminoles' governmental statues as a sovereign undergirds some of their economic activities while impeding others. Seminole corporations and tribal gaming show the project of differentiating economy from government and family to be a cultural and historical one that creates distinct yet broadly relevant dilemmas for indigenous peoples in the United States.

On December 6, 2006, the Seminole Tribe of Florida shocked the business world by announcing an agreement to acquire Hard Rock International, a multinational corporation, for approximately $965 million. Yet this was not the first groundbreaking business news to come from Seminole country: in December 1979, Seminoles opened Hollywood Seminole Bingo, the first tribally run high-stakes bingo hall in Native North America. That act launched a rapid transition from endemic poverty to economic comfort on Seminoles' (population approximately 3,500) six South Florida reservations, and it paved the way for other tribal nations to follow suit in what would become a tribal gaming revolution. Indeed, when I phoned to learn more about the Hard Rock acquisition from tribal counsel Jim Shore, the first Seminole to become a lawyer, he mentioned having encouraged press release drafters to compare the deal with bingo's launch. Both instances, he said, showed the Seminole Tribe to be a “pioneer” in business (December 12, 2006, interview).1

In one respect, acquiring Hard Rock was a very different proposition than opening Hollywood Seminole Bingo: the latter was a governmental operation on reservation lands that was permissible because of and protected by tribal sovereignty. As sovereigns, American Indian nations have the right to operate and regulate reservation economic activities, which are not taxable by other sovereigns such as states or the federal government. By contrast, Hard Rock would remain a wholly owned private corporation subject to taxation and regulation just like any other company. Still, what brings together these two forms of economic organization and what also ties them to the earlier 1957 adoption of a charter to form a Seminole economic development corporation is that each marked an innovation in the relationship between governance and economy for American Indian tribal nations.

This article examines Seminoles' ownership of Hard Rock as a case study in the blurry boundaries between indigenous corporate and national forms and as a broader exploration of the analytical and political stakes of efforts to segregate the economic sphere from government and family. This work extends previous ethnographic fieldwork (12 months in 2000–2001 and numerous shorter periods thereafter) on Seminole gaming and sovereignty conducted on the Tribe's six rural and urban reservations with tribal council permission (Cattelino 2008). Seminole Hard Rock raises classic questions of how and with what effects law, social theory, and popular ideology draw—and struggle over—distinctions between state and society, with uneven consequences for different populations and peoples. These questions, which apply broadly to the social scientific study of corporations, go back at least to Karl Polanyi's (2001 [1944]) historical and cross-cultural (Polanyi 1957) examinations of the institutions that shape economic processes and political scientist Timothy Mitchell's (1999, 2002) explorations of how the seemingly autonomous sphere of “the economy” emerged through political and representational processes inseparable from the nation-state and colonialism. Yet the wide scope and historical depth of these issues do not obviate analysis of the cultural specificity of Seminole economic organization. To the contrary, the seemingly exceptional characteristics of indigenous corporations bring to the fore matters of culture, kinship, and local governance that too often are ignored in the study of corporations. Seminoles' acquisition of Hard Rock shows the project of differentiating economy, government, and family to be a cultural and historical one that creates dilemmas for indigenous peoples in the United States, peoples whose governmental status often undergirds their economic activities.

John and Jean Comaroff (2009) recently wrote about the global salience of what they call “Ethnicity, Inc.” It is a process, they argue, that entails a dialectic: “One element of that process lies in the incorporation of identity, the rendering of ethnicized populations into corporations of one kind or another; the second, in the creeping commodification of their cultural products and practices” (21). That is, ethnicity and the corporation merge when groups consolidate by virtue of their business projects (they cite American Indian tribal gaming by groups that previously were not federally recognized) or when ethnic groups such as San in South Africa market their culture. In this dialectic between the incorporation of identity and the commodification of culture, they further argue, each seeks to complete itself in the other (Comaroff and Comaroff 2009:116). For American Indians, the corporate form has been available and utilized for governance ever since the modern business corporation became widespread in the early twentieth century. Indigenous corporations have taken many twists and turns, some of which better fit the Comaroff model than others. As such, a historical and ethnographic perspective is required. As we shall see, federal-government-promoted indigenous incorporation sometimes erodes traditional tribal governments and at other times reinforces and restructures them. Indigenous-initiated corporations, on the other hand, generally are the by-product of sovereignty assertions. Tribal sovereignty sometimes has afforded American Indians the space to experiment with corporate forms that reinforce social and cultural ties in different ways from the examples cited by Comaroff and Comaroff. At the same time, tribal corporations' need to be interpretable to outside economic actors (such as credit rating agencies and investors) encourages the practical and ideological separation of business from politics, culture, and family. The modernist project of separating economic spheres from political ones is vast, and Seminole corporations contribute to its social scientific analysis an example of the real-time production of the state-society divide.

#### Native casinos decrease mortality by 22 per 100K through improving economic outcomes.

Evans & Topoleski 02 (William N. Evans and Julie H. Topoleski, September 2002. Keough-Hesburge Professor of Economics in the Department of Economics at the University of Notre Dame; and Congressional Budget Office. “THE SOCIAL AND ECONOMIC IMPACT OF NATIVE AMERICAN CASINOS,” National Bureau of Economic Research, http://www.nber.org/papers/w9198.pdf.)

In the final two columns of Table 10, we report results from models using the mortality rate as the dependent variable. In both counties with a casino and counties within 50 miles of a casino, we see statistically insignificant declines in mortality for the first three years after a casino opens. By four or more years after a casino opens, however, mortality has fallen by 22 per 100,000 in a county with a casino and an amount half that in counties near a casino. These results are 2.3 and one percent of sample medians in counties that experience a casino opening, respectively. These results can be driven by changes in economic activity, but this is probably not the whole story. Above, we showed that four years after a casino opens in a county, employment to adults ratio increases by 3.8 percent and here, we find mortality falls by 2.3, so for the mortality change to be drive solely by a change in jobs, the implied mortality/jobs elasticity must be -0.60.

#### Reject any link turns

Fremstad & Stegman 15 (Shawn Fremstad and Erik Stegman, 1/21/2015.  Senior Fellow with the Center for American Progress and a Senior Research Associate with the Center for Economic and Policy Research; and an expert in American Indian and Alaska Native policy at the Center for American Progress. “Of Stereotypes and Slack Reporting Standards: The Economist’s Claim that Native American Gaming Leads to “Sloth”,” Talk Poverty, http://talkpoverty.org/2015/01/21/economist-sloth-native-american/.)

In his [extensive research](http://press.uchicago.edu/ucp/books/book/chicago/W/bo3633527.html), Princeton political scientist Martin Gilens shows how “racial stereotypes have played a central role in generating opposition” to economic security programs in the United States. As Gilens notes, “In particular, the centuries-old stereotype of blacks as lazy remains credible for large numbers of white Americans.” Gilens concludes “racial distortions in the media’s coverage of poverty are largely responsible for public misperceptions of the poor.”

Gilens’ book was published in 1999. In our view, media coverage of poverty has improved since then. This is probably due to increased diversity in the new media and as well as a better understanding—as a result of the work of Gilens, [Shanto Iyengar](http://www.communicationcache.com/uploads/1/0/8/8/10887248/framing_responsibility_for_political_issues-_the_case_of_poverty.pdf), and [others](http://www.press.umich.edu/pdf/9780472068319-ch5.pdf)—of how distorted media representations can negatively affect public perception of policy issues.

But an [article](http://www.economist.com/news/united-states/21639547-how-cash-casinos-makes-native-americans-poorer-slots-and-sloth) in this week’s The Economist is a reminder that we haven’t put the bad old days of racially distorted coverage of poverty beyond us. The article claims “cash from casinos makes Native Americans poorer.” According to the author, a particular problem is that tribes distribute part of the revenues directly to members—typically known as “per capita payments”—which encourages “sloth.” The article is accompanied by a photograph of an American Indian man in front of a slot machine, a grin on his face and his arm pumped in the air.

Given research like Gilens’ and the long history of stereotyping American Indians as lazy, The Economist should have been particularly careful to ensure that it had solid evidence to back up its claim. In lieu of such evidence, The Economist relied on a few anecdotes and a single article by a private attorney published in a student-run law review.

We took a closer look at the law review article that The Economist relied on and were not impressed. It purportedly shows that poverty was more likely to increase in certain Pacific Northwest tribes that distributed part of their gambling revenues to members than in those that did not. But there were only seven tribes (out of a total of 17 that the article focused on) that did not distribute gaming revenues directly to members. The total reported decline in poverty among these seven tribes amounted to only 364 people. The study contained no controls for any of the many factors that affect poverty rates, nor did it take into account size differences in the tribes, differences in the size and structure of the per capita payments, or other relevant factors. In short, the study is absolutely useless in terms of providing meaningful evidence to support The Economist’s claim.

Even worse, The Economist failed to mention the existence [of rigorous, peer-reviewed research](http://www.jrf.org.uk/publications/does-money-affect-childrens-outcomes) contradicting the article’s thesis. Unlike the single paper cited in the article, this research uses methodologies designed to isolate the causal effects of per capita payments and generally finds that they have positive effects on poverty and other indicators of children’s well-being. For example, [research](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2891175/) by William Copeland and Elizabeth Costello, both professors at Duke University, uses longitudinal data that tracks both American Indian and non-American Indian children in western North Carolina. After the introduction of a per capita payment for American Indian families, they documented “an overall improvement in the outcomes of the American Indian children while those of the non-[American] Indian children … remained mostly stable.” Strikingly, educational outcomes for American Indian children “converged to that of the non-[American] Indians,” and the arrest rate of American Indian children fell below that of non-American Indians.

Similarly, in research using the same data set published in the Journal of the American Medical Association, Costello and her colleagues found that poverty declined among American Indian families after the introduction of per capita payments and also led to improvements in children’s behavioral health.

In addition to research that examines per capita payments, there is a larger body of rigorous research looking at the overall effect of gaming on poverty, employment, and other indicators of well-being. On balance, this research finds positive effects. For example, University of Maryland economists William Evans and Julie Topoleski [compared outcomes](http://core.kmi.open.ac.uk/download/pdf/6645837.pdf) in tribes that opened casinos with those that did not.  Among tribes that opened casinos, Evans and Topoleski found increases in population and employment, declines in poverty, and some improvements in health. Similarly, Barbara Wolfe and her colleagues [found](http://rwjscholars.pophealth.wisc.edu/docs/Wolfe-et-al-The-Incom-and-Health-Effects-of-Tribal-Casino-Gaming-on-American-Indians-D.pdf) that being a member of a gaming tribe “leads to higher income, fewer risky health behaviors, better physical health, and perhaps increased access to healthy care.”

#### US Antitrust isn’t a domestic attitude, it’s an international structure that coerces and condemns other nations into a continual state structural adjustment. Competition bleeds outward and mutates developing nations into a deformed image of Empire that will never be cared for.

Waked 16 (Dina I. Waked, Assistant Professor of Law at Sciences Po Law School, “Adoption of Antitrust Laws in Developing Countries: Reasons and Challenges,” 2016, Journal of Law Economics and Policy, Vol. 12.2)

The unprecedented spread of antitrust laws in the 1990s raises the question of why did developing countries adopt competition laws in the 1990s and not before? Further, why did so many of them suddenly become interested in competition law adoption? There is no simple answer, except to say that competition laws were not considered an important addition to their arsenal of laws up until the 1990s. One reason was that many countries had provisions either in their penal codes, civil codes, or commercial legislations dealing with competition law issues before formally adopting legislation that is solely concerned with competition matters.8 This made them less interested in adopting particular laws dealing with competition, seeing that they had general provisions in other legislation dealing with the same issues. Then why did so many suddenly become interested in these kind of laws in the 1990s? It is simplistic to argue, yet probably true, that many countries were entering trade agreements in the 1990s that made the adoption of competition law a prerequisite to the implementation of the trade deals.9 These treaties were either trade agreements creating free trade zones or part of structural programs that intended to open up the developing world economies and facilitated the entry of foreign entities that considered a competition law a necessity and guarantee for their work abroad, in particularly in a developing country. More generally, the 1990s are considered the era where developing world countries started to put an end to their former protectionist policies that were either inspired by communist or socialist regimes or simply by efforts to industrialize and strengthen national champions and local producers. The 1990s introduced the new era of international trade, encouraging foreign direct investment, and membership in regional trade agreements or the World Trade Organization (WTO). With the emergence of many of these structural changes, open door policies and participation in world trade relations, competition laws were suddenly prescribed as necessities to fa-cilitate much of the impending changes.10 It is important to understand the role played by the WTO and other international organizations in encouraging and often requiring new members to adopt these laws in order to understand the surge in the developing world.11 Similarly, the role played by the EU in encouraging new members and trade partners to adopt competition law is even more straightforward.12 Adopting these laws seemed to many as the missing link to assure growth and development.13 Therefore, one could argue that one of the main factors that led to the widespread adoption of competition laws across developing countries is the push exercised by supranational bodies. Another factor is the overwhelming evidence these international bodies were presenting to developing countries illustrating a positive relationship between adopting a competition law and development. Competition laws appeared to be the missing link needed to usher in prosperity and growth. The pressure by international bodies and the development hopes that adopting competition laws carried are discussed in more detail next. A. The Push by International Bodies to Adopt Competition Laws International and supranational bodies have considered competition laws essential for economic reforms. Ever since competition laws were discussed as part of the agenda of the negotiations to establish an International Trade Organization (ITO) after World War II, competition laws were considered a vital requirement for needed reforms. The General Agreement on Tariffs and Trade (GATT) upheld the rhetoric of the ITO and included competition issues and restrictive business practices in a “best endeavor” clause.14 However, the GATT did not require the adoption of specific provisions dealing with the treatment of private restrictive business practices (RBPs).15 Therefore, the members of the WTO could freely adopt their own national competition laws so long as they did not infringe the principle of nondiscrimination.16 The General Council of the WTO created a Working Group in April 1997 on the Interaction Between Trade and Competition Policy. This Working Group strongly called on developing countries to adopt competition rules in the face of the global merger wave underway and the structural changes taking place within the developing countries as a result of their liberalization and free trade policies.17 The WTO's focus on competition law adoption is due to the widely believed interaction between competition policies and the expansion of free trade.18 Effective free trade policies require, next to the withdrawal of trade barriers, the elimination of obstacles originating from private restraints resulting from abuse of dominance, monopolization, import and export cartels, horizontal and vertical restraints, and other issues considered to be competition law violations.19 To achieve these results, the WTO urged developing countries to adopt competition rules, often US or EC type competition policies, while encouraging for time lags in the introduction of these different aspects of competition rules to be able to efficiently implement them. One can explain the WTO’s continuous attempt to influence, encourage, and facilitate the adoption of competition legislation in developing countries by its aspirations towards harmonizing competition laws to one day usher in universal competition policies under its umbrella.20 The WTO is repeatedly encouraging agreements on core antitrust principles as a first step towards the achievement of this goal.21 When developing countries adopt rules similar to those in more developed countries, the attempt at harmonization seems more realistic and at the same time the effects of global anticompetitive conduct with relation to trade can be better tackled. If laws adopted in developing countries were fundamentally different from those in the advanced world, the ability of the developed countries to protect their interests from anti-competitive practices in developing countries would be limited. Thereby, not only would similar competition laws encourage more effective free trade, but would also give a sense of security for FDIs and MNCs working in developed countries. One can also argue that it would give the host developing country more teeth to prosecute prohibitive conduct emanating from local or foreign entities, and to challenge harmful global mergers. The WTO is not alone in encouraging competition law adoption across the developing world. Several international financial institutions consider a competition policy dimension when evaluating country risk necessary for lending purposes.22 For example, the International Monetary Fund (IMF) and the International Development Association (IDA) look at a country’s competition policy when assessing the situation of borrower countries before deciding to allocate the funds needed.23 A classic example is the case of Indonesia, where the country was required by the IMF to adopt a competition law in return for rescue money.24 It is worth noting that the first conditionality appeared in a World Bank industrial sector adjustment loan to Argentina in 1991.25Also, the United Nations and the OECD played a role in pushing for the adoption of competition laws across developing countries. Both institutions have adopted and promoted non-legally enforceable “codes of conduct” to prevent anticompetitive practices.26 The United Nations has also set up, under the rubric of the United Nations Commission for Trade and Development (UNCTAD) and the United National Economic and Social Commission for Western Asia (UNESCWA), several projects and initiatives that assist developing countries in the design and implementation of their competition policies.27 The increased interest of international and supranational bodies with regard to encouraging adoption of competition laws in the developing world originated in the wave of neoliberal reforms as part of the Washington consensus, which resulted in privatization and liberalization across developing countries. Some of the goals of these reforms were to put an end to government monopolies and governmental intervention in the economy through liberalizations and privatizations. However, the result of the wave of privatization was that government monopolies were simply replaced by private monopolies yielding the same anti-competitive effects.28 For the past two decades or more, the World Bank Group and other development organizations have encouraged developing and emerging market economies to adopt pro-competition measures such as trade and investment liberalization, privatization, and economic deregulation. These initiatives have been aimed primarily at reducing public sector policy-based barriers to entry, regulatory costs, and delays that unnecessarily constrain private sector economic activity . . . . They are, however, insufficient— they are complementary to but do not substitute for an effective competition law-policy. They do not address the private sector restrictive business practices that can significantly impede competition. Unchecked, anticompetitive practices by dominant and politically connected firms and vested interest groups can capture or significantly reduce the benefits that accrue from competition . . . . Competition does not arise or sustain itself automatically. The competitive process needs to be maintained, protected, and promoted to strengthen the development of a sound market economy. 29 Similar rhetoric was reproduced over and over, not only by these international organizations, but also by lawyers, economists, and policy makers. The result was that adopting competition rules became a priority on the agenda of economic growth in many less developed countries, who pushed forward with the help or pressure of various supranational institutions. Some countries, however, resisted the push to adopt competition laws and continued to prefer concentration to competition. They, thereby, had less of a drive to adopt competition laws based on their own initiatives. Others felt the need to adopt competition laws and to drive their markets towards the perfect competition ideal. Part of this desire was their belief in the rhetoric presented to them, but also due to the increased cross-border influences of anti-competitive practices,30 especially their import of cartel-affected goods.31 Trading partners have also requested the adoption of antitrust laws as a condition for signing free trade agreements.32 For example, the EU has been extremely active in the process of spreading its competition law to developing countries. This is to the extent where “some argue that today the EC competition law is the dominant model of competition law in the world.”33 Treaties, such as the Accession Agreements signed by Eastern European countries to join the EU34 or the Euro-Mediterranean partnership agreements signed by various non-European Mediterranean countries and the EU, oblige the signatories to adopt competition laws modeled on Article 101 (formally 81) and 102 (formally 82) of the Treaty on the Functioning of the European Union (TFEU).35 One of the studies on the adoption competition laws across countries suggests that “the impetus for adopting antitrust laws appears related to the imposed guidelines of supranational bodies, in particular the requirements of the European Union.”36 One reason why the EU has been actively involved in shaping the competition laws of developing countries could be the fact that the EU is an important trading partner and, therefore, it is eager to trade with countries that have similar laws. Another reason could be its race with the US on issues relating to harmonization of competition rules, whereby its influence on the competition laws of developing countries is an attempt to diffuse its laws, which could push the balance in its favor when negotiations on harmonized rules are underway. It is also worth noting that the EU is not the sole entity to require the adoption of competition laws in its bilateral trade agreements with developing countries. Many Free Trade Agreements have endorsed similar requirements, where parties to these agreements are required to have a domestic antitrust regime in place as one of the main conditions before entering into the agreement.37 Other bilateral and regional free trade agreements have also included chapters on competition policy.38 Finally, several nongovernmental organizations have also advocated the adoption of these laws and promoted assistance to countries in their implementation phases.39B. Development Hopes Associated with Adopting Competition Laws Development hopes have been crucial in the spread of competition laws. The direct impact of adopting competition laws on prosperity, economic growth, and development is often the reason furnished by these international institutions for developing countries to adopt these laws. The heightened interest in competition law adoption “suggests competition law is widely seen as a desirable and worthwhile economic policy.”40 Competition policy has often been regarded as a building block of economic development. A paper of the WTO Working Group described that: The specific benefits that have been attributed to such policy include promoting an efficient allocation of resources, preventing/addressing excessive concentration levels and resulting structural rigidities, addressing anti-competitive practices of enterprises . . . enhancing an economy’s ability to attract foreign investment and to maximize the benefits of such investment, reinforcing the benefits of privatization and regulatory reform initiating and establishing a focal point for the advocacy of pro-competitive reforms and a competition culture.41 The United Nations has also advocated, on many instances, that competition policy is a key ingredient for growth and development of nations.42 The same position has been taken by the OECD. One of its publications based on a survey of OECD members and non-members asserts that: There are strong links between competition policy and numerous basic pillars of economic development. . . . There is persuasive evidence from all over the world confirming that rising levels of competition have been unambiguously associated with increased economic growth, productivity, investment and increased average living standards.43 These kinds of assumptions are often backed by empirical studies showing that adopting competition laws lead to higher competition intensi-ties,44 which is automatically read to mean higher growth levels. The microeconomic fields of industrial organization and endogenous growth present ample material to show how competition is positively associated with growth. For example, one study argued that competition rules help sustain two of the fundamental ingredients of “economic growth: namely competitive markets and a sound legal system.”45 Another study stressed the fact that the adoption of competition policy is “positively correlated with the intensity of competition.”46 A further empirical study using multi-country regression analysis to explore the correlation between competition and growth rates found a “strong correlation between the effectiveness of competition policy and growth.”47 This study also illustrated that the effect of competition on growth is more than that of “trade liberalisation, institutional quality, and a general favourable policy environment.”48 This, however, was found to be predominantly true for Far Eastern countries and less so for other developing countries.49 Other proponents of the relationship between adopting competition laws and development argue that competition rules are a precondition to the implementation of successful privatization, especially if the goal of privatization is not the substitution of government monopolies by private ones.50 Similarly, another study concluded that liberalization alone does not lead to development since “non-tariff barriers to trade will replace tariffs that trade liberalization removes because of the political power of rent-seeking special interest groups.”51 Some also suggest that having competition legislation will deter corruption in transition economies, where “government bodies have tremendous power to affect the competitive process when they issue licenses, permits, franchises, and subsidies.”52 When these economies adopt competition laws some of the powers of government officials might be curbed and their responsiveness to bribes in order to facilitate illicit economic privileges might be reduced. This is assuming that the enforcers of the competition laws will not themselves be susceptible to bribes to avoid antitrust enforcement. Moreover, competition policy is considered essential for developing countries as a tool to increase foreign direct investment (FDI), which is considered essential for growth.53 Adopting antitrust laws creates a more transparent framework that increases investors’ reliance on the economy and reduces transaction costs.54 These are only some of the studies testing the relationship between competition law and development. It is important to note that most of the above-mentioned studies either test the correlation between adopting competition laws and development or between a proxy called “effectiveness of anti-monopoly policy”55 and development. This is drastically different from studying the relationship between enforcing the competition laws and development. The latter should be the measure used to ascertain whether competition laws lead to development or not. Studying enforcement instead of adoption will not necessarily lead to the same conclusions. Regardless, developing countries have found the promises of development and growth associated with the adoption of competition laws too hard to ignore. International organizations and academic studies presenting the positive relationship between competition laws and development were made readily available to developing countries. The studies have shown persuasive conclusions that developing countries eagerly accepted. At the same time, these nations encountered numerous challenges, some structurally due their own positions as developing countries and some related to the discourse that competition laws lead to development and growth. Both of these challenges are discussed next. III. THE OTHER SIDE OF THE COIN: CHALLENGES TO ANTITRUST ADOPTION This section addresses some of the recurrent challenges articulated in adopting a competition law. Some of these challenges are due to the idiosyncratic nature of developing countries, yet others are more general critiques to the merits of competition laws. A. Limited Resources Need Not Be Wasted on a Costly Competition Regime Developing countries face numerous challenges with regard to adopting and enforcing competition rules. At the outset, enacting competition legislation was not always considered a priority on their reform agendas. This is due to the high costs and low returns associated with adopting these rules compared to other reform-oriented policies, such as removing trade restrictions. One of the common arguments is that trade liberalization yields far greater prosperity than adopting laws that attack restraints of trade. The advocates of trade liberalization, as a substitute for antitrust, argue that the mere removal of trade obstacles, such as tariffs and barriers to entry, will effectively discipline domestic producers in transition economies.56 They support the notion that “[f]ree trade is, consequently, the best antitrust policy.”57 Also, the argument that “[f]ree trade stimulates wealth creation and development, and in a small country it makes antitrust concerns largely irrelevant,”58 has been made to caution against adoption competition laws. Another argument in favor of trade liberalization is that the limited public resources of transition economies would produce better outcomes if invested in initiatives improving the flow of goods. For example, improvement in infrastructure would give consumers access to an increased number of sellers.59 Similarly, it is argued that economic policy and competition law enforcement divert the scarce resources away from more important priorities on the path to reform and development. The famous quote from one of the fierce opponents to imposing competition laws on transition economies, Paul Godek, is worth noting: “[e]xporting antitrust to Eastern Europe is like giving a silk tie to a starving man. It is superfluous; a starving man has much more immediate needs. And if the tie is knotted too tightly, he will not be able to eat what little there is available to him.”60 B. Plenty of Reforms to Accommodate a Competition Enforcement Apparatus Are Needed Related to the criticism of spending scarce resources on adopting and enforcing competition laws is the claim that developing countries need also acquire, reform, or implement administrative apparatuses, effective judiciary and appeal systems, independent investigating authorities, and expertise.61 Most developing countries lack the aforementioned necessities to enforce antitrust laws. To improve the chances of effective antitrust implementation, developing countries need serious reforms in these areas. These are all costly endeavors that would deplete their resources further. In addition to these challenges, developing countries face further obstacles to competition enforcement due to the lack of data collection, which is especially necessary to define market shares. This is evident by the lack of effective “Statistics Offices” in public administrations that provide this information.62 The weakness of professional associations and consumer groups are also considered challenges that stand in the way of creating awareness and a competition culture that are essential to facilitate the smooth spread and implementation of these laws.63 Given these drawbacks in developing economies, what is ultimately feared is that the enforcement authority to be set up will not be able to apply the competition rules. It will lack the necessary funding, technical staff, and supporting environment to effectively enforce the law. It is also often argued, that in a developing country, an administrative body will often lack the necessary independence that is arguably critical for antitrust enforcement.64 C. Corruption, Government Intervention and Crony Capitalism Hamper Effective Competition Policy One of the critical challenges that face developing countries is the already high level of government interference in the economy, which is by default increased further when a competition law is adopted and enforced. The government intervention includes government-erected barriers to enter or exit the market,65 government monopolies, the various forms of subsidies granted by governments to loss-making enterprises,66 and government politicization of the administrative authorities in force of applying and enforcing the law. In most developing countries, governments play an active role in regulating and setting bureaucratic measures to be followed by firms to enter or exit the market, resulting in many instances in rigid barriers that cannot be surpassed. This in turn leads to rent-seeking behavior, cronyism, corruption, and favoritism.67 Adopting a competition law is arguably adding another layer of bureaucratic red tape that needs to be surpassed for firms to operate effectively. Similarly, this criticism amounts to the fear that competition policy will be a tool to provide disguised government control and hamper the growth of the often-fragile private sector. Developing countries also portray a unique political economy, where often government interests and those of the business elite are one and the same.68 This casts serious doubt on whether competition law enforcement will not be selectively used to create further obstacles to those players that are not part of this favored club. It may only entrench the powers of the incumbent firms and those that pay the highest rewards to the government apparatus.69 It is often argued that developing economies are enmeshed in a “Kafkaesque maze of control”70 where large family owners use their influence to limit competition and obtain finances from the government to alter the game in their favor.71 The poorly functioning capital markets in many developing countries furthers the concentrated ownership of the local elite even more. The fear is that incumbent firms use their rents to pay for such selective and biased enforcement, which can often not be matched by new entrants and small firms who want a piece of the pie.72 Incumbent firms want to maintain the status quo and resist any potential changes that might lower their influence and position in the market.73 Given this political economy “[a]ntitrust policies affected by political considerations may, however, come with a large price tag attached.”74 One of which is that “interest groups will follow their incentives and shift resources into monopolization through government protection. Lobbying the government for protection may be highly substitutable for organizing cartels.”75 In other words, producers and incumbents will now invest their rents in lobbying the government to continue their monopoly positions. Rodriguez and Williams argue that “the gain to interest groups of establishing cartels or price-fixing schemes are outweighed by simply soliciting preferential treatment from the state.”76 This implies that “antitrust may cause inefficiencies that are worse than the allocative losses that it is designed to defend against.”77 Such bureaucratic capture is assumed to make enforcers not able to serve the public interest.78 Nonetheless, arguments using interest group theory to qualify antitrust enforcement are not without their own critiques.79 Adding high levels of corruption to the mix, it is predictable that empowering the governments in developing countries with a competition law will lead to even more corruption spent to alter the game in the favor of the local elite and friends of the government at the expense of overall welfare. Such political and bureaucratic resistance is arguably among the main problems facing developing countries in terms of implementing their competition laws and creating a competition culture.8

1. Maurice Stucke and Ariel Ezrachi, “The Rise, Fall, and Rebirth of the U.S. Antitrust Movement,” December 15, 2017 [↑](#footnote-ref-1)