### 1

#### “Substantially” means the plan must be across the board

Anderson et al, 5

[Brian Anderson, Becky Collins, Barbara Van Haren & Nissan Bar-Lev, WCASS Research / Special Projects Committee\* Report on: A Conceptual Framework for Developing a 504 School District Policy, http://www.specialed.us/issues-504policy/504.htm]

A substantial limitation is a significant restriction as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.¶ The 504 regulation does not define substantial limitation, and the regulation gives discretion to schools to decide what substantial limitation is. The key here is to be consistent internally and to be consistent with pertinent court decisions.¶ The issue “Does it substantially limit the major life activity?” was clarified by the US Supreme Court decision on January 8th, 2002 , “Toyota v. Williams”. In this labor related case, the Supreme Court noted that to meet the “substantially limit” definition, the disability must occur across the board in multiple environments, not only in one environment or one setting. The implications for school related 504 eligibility decisions are clear: The disability in question must be manifested in all facets of the student’s life, not only in school.

#### Violation – The affirmative chose to limit their affirmative to the tech sector – this violates “substantially increase” prohibitions which implies economy wide prohibitions on anticompetitive business practices

#### prefer:

* DOJ and how evidence in context
* Ground – Core disads like innovation, economy, stocks, etc. are all economy wide; also takes out core counterplans and PICs
* Education – impossible to learn about expanding the scope of core antitrust laws when the aff is really about changing enforcement in one sector not altering the law writ large.
* Effects T – check the affirmative if they shift in the 2ac and make a spillover claim – that’s effects topicality and a voter for fairness, education, aff conditionality, and justifies new arguments in the block and 1NR sandbagging

Prefer competing interps

### 2

#### Tying social change to the trauma of the 1AC requires oppressed groups to identify as defective and powerless while maintaining the western belief that power is a commodity to be fought for in the market of suffering. Tuck and Yang 14

(Eve – Associate Professor of Educational Foundations and Coordinator of Native American Studies @ the State University of New York at New Paltz, and K. Wayne – Assistant Professor in the Ethnic Studies Department @ UC San Diego, “R-Words: Refusing Research”, <https://faculty.newpaltz.edu/evetuck/files/2013/12/Tuck-and-Yang-R-Words_Refusing-Research.pdf>,Date Accessed:5.25.15)//BSpencer

Elsewhere, Eve (Tuck, 2009, 2010) has argued that educational research and much of social science research has been concerned with documenting damage, or empirically substantiating the oppression and pain of Native communities, urban communities, and other disenfranchised communities. Damage-centered researchers may operate, even benevolently, within a theory of change in which harm must be recorded or proven in order to convince an outside adjudicator that reparations are deserved. These reparations presumably take the form of additional resources, settlements, affirmative actions, and other material, political, and sovereign adjustments. Eve has described this theory of change as both colonial and flawed, because it relies upon Western notions of power as scarce and concentrated, and because it requires disenfranchised communities to position themselves as both singularly defective and powerless to make change (2010). Finally, Eve has observed that “won” reparations rarely become reality, and that in many cases, communities are left with a narrative that tells them that they are broken. Similarly, at the center of the analysis in this chapter is a concern with the fixation social science research has exhibited in eliciting pain stories from com- munities that are not White, not wealthy, and not straight. Academe’s demonstrated fascination with telling and retelling narratives of pain is troubling, both for its voyeurism and for its consumptive implacability. Imagining “itself to be a voice, and in some disciplinary iterations, the voice of the colonised” (Simpson, 2007, p. 67, emphasis in the original) is not just a rare historical occurrence in anthropology and related fields. We observe that much of the work of the academy is to reproduce stories of oppression in its own voice. At first, this may read as an intolerant condemnation of the academy, one that refuses to forgive past blunders and see how things have changed in recent decades. However, it is our view that while many individual scholars have chosen to pursue other lines of inquiry than the pain narratives typical of their disciplines, novice researchers emerge from doctoral programs eager to launch pain-based inquiry projects because they believe that such approaches embody what it means to do social science. The collection of pain narratives and the theories of change that champion the value of such narratives are so prevalent in the social sciences that one might surmise that they are indeed what the academy is about. In her examination of the symbolic violence of the academy, bell hooks (1990) portrays the core message from the academy to those on the margins as thus: No need to hear your voice when I can talk about you better than you can speak about yourself. No need to hear your voice. Only tell me about your pain. I want to know your story. And then I will tell it back to you in a new way. Tell it back to you in such a way that it has become mine, my own. Re-writing you I write myself anew. I am still author, authority. I am still colonizer the speaking subject and you are now at the center of my talk. (p. 343) Hooks’s words resonate with our observation of how much of social science research is concerned with providing recognition to the presumed voiceless, a recognition that is enamored with knowing through pain. Further, this passage describes the ways in which the researcher’s voice is constituted by, legitimated by, animated by the voices on the margins. The researcher-self is made anew by telling back the story of the marginalized/subaltern subject. Hooks works to untangle the almost imperceptible differences between forces that silence and forces that seemingly liberate by inviting those on the margins to speak, to tell their stories. Yet the forces that invite those on the margins to speak also say, “Do not speak in a voice of resistance. Only speak from that space in the margin that is a sign of deprivation, a wound, an unfulfilled longing. Only speak your pain” (hooks, 1990, p. 343).

#### A politics of naming pain propagates images of abuse which lock in systems of domination and oppression – recognition of the critique is predicated on the portrayal of the body as violated

**Tuck and Yang 14**

(Eve – Associate Professor of Educational Foundations and Coordinator of Native American Studies @ the State University of New York at New Paltz, and K. Wayne – Assistant Professor in the Ethnic Studies Department @ UC San Diego, “R-Words: Refusing Research”, <https://faculty.newpaltz.edu/evetuck/files/2013/12/Tuck-and-Yang-R-Words_Refusing-Research.pdf>,Date Accessed:5.25.15)//BSpencer

The costs of a politics of recognition that is rooted in naming pain have been critiqued by recent decolonizing and feminist scholars (Hartman, 1997, 2007; Tuck, 2009). In Scenes of Subjection, Sadiya Hartman (1997) discusses how recognizing the personhood of slaves enhanced the power of the Southern slave- owning class. Supplicating narratives of former slaves were deployed effectively by abolitionists, mainly White, well-to-do, Northern women, to generate portraits of abuse that ergo recognize slaves as human (Hartman, 2007). In response, new laws afforded minimal standards of existence, “making personhood coterminous with injury” (Hartman, 1997, p. 93), while simultaneously authorizing necessary violence to suppress slave agency. The slave emerges as a legal person only when seen as criminal or “a violated body in need of limited forms of protection” (p. 55). Recognition “humanizes” the slave, but is predicated upon her or his abjection. You are in pain, therefore you are. “[T]he recognition of humanity require[s] the event of excessive violence, cruelty beyond the limits of the socially tolerable, in order to acknowledge and protect the slave’s person” (p. 55). Furthermore, Hartman describes how slave-as-victim as human accordingly establishes slave-as-agent as criminal. Applying Hartman’s analysis, we note how the agency of Margaret Garner or Nat Turner can only be viewed as outsider violence that humane society must reject while simultaneously upholding the legitimated violence of the state to punish such outsider violence. Hartman asks, “Is it possible that such recognition effectively forecloses agency as the object of punishment . . . Or is this limited conferral of humanity merely a reinscription of subjugation and pained existence?” (p. 55).

#### The academy is the site of social death—the 1AC only feeds into the militarist war-machine that sustains exceptionalist violence while pacifying resistance.

**Occupied UC Berkeley 9**

“The Necrosocial: Civic Life, Social Death, and the UC,” 18 Nov 2009,<https://anticapitalprojects.wordpress.com/2009/11/19/the-necrosocial/>, Date Accessed: 5.25.15)//BSpencer

**Yes, very much a cemetery.** Only here there are no dirges, no prayers, only the repeated testing of our threshold for anxiety, humiliation, and debt. **The classroom just like the workplace just like the university just like the state just like the economy manages our social death**, **translating what we once knew from high school, from work, from our family life into academic parlance, into acceptable forms of social conflict.** **Who knew that behind so much civic life** (electoral campaigns, student body representatives, bureaucratic administrators, public relations officials, Peace and Conflict Studies, ad nauseam) **was so much social death**? What postures we maintain to claim representation, what limits we assume, what desires we dismiss? And in this moment of crisis they ask us to twist ourselves in a way that they can hear. Petitions to Sacramento, phone calls to Congressmen—even the chancellor patronizingly congratulates our September 24th student strike, shaping the meaning and the force of the movement as a movement against the policies of Sacramento. **He expands his institutional authority to encompass the movement. When students begin to hold libraries over night, beginning to take our first baby step as an autonomous movement he reins us in by serendipitously announcing library money. He manages movement**, he kills movement by **funneling it into the electoral process**. **He manages our social death.** He looks forward to these battles on his terrain, to eulogize a proposition, to win this or that—he **and his look forward to exhausting us. He and his look forward to a reproduction of the logic of representative governance, the release valve of the university plunges us into an abyss where ideas are wisps of ether—that is, meaning is ripped from action**. Let’s talk about the fight endlessly, but always only in their managed form: to perpetually deliberate, the endless fleshing-out-of—when we push the boundaries of this form they are quick to reconfigure themselves to contain us: the chancellor’s congratulations, the reopening of the libraries, the managed general assembly—**there is no fight against the administration here, only its own extension.** Each day passes in this way, the administration on the look out to shape student discourse—it happens without pause, we don’t notice nor do we care to. It becomes banal, thoughtless. So much so that we see we are accumulating days: one semester, two, how close to being this or that, how far? This accumulation is our shared history. **This accumulation—every once in a while interrupted, violated by a riot, a wild protest, unforgettable fucking, the overwhelming joy of love, life shattering heartbreak—is a muted, but desirous life. A dead but restless and desirous life.** **The university steals and homogenizes our time yes, our bank accounts also, but it also steals and homogenizes meaning. As much as capital is invested in building a killing apparatus abroad, an incarceration** apparatus in California, it is equally invested here in an apparatus for managing social death**. Social death is, of course, simply the power source, the generator, of civic life with its talk of reform, responsibility, unity**. A ‘life,’ then, which serves merely as the public relations mechanism for death: its garrulous slogans of freedom and democracy designed to obscure the shit and decay in which our feet are planted. **Yes, the university is a graveyard, but it is also a factory: a factory of meaning which produces civic life and at the same time produces social death. A factory which produces the illusion that meaning and reality can be separated; which everywhere reproduces the empty reactionary behavior of students based on the values of life (identity), liberty (electoral politics), and happiness (private property**). Everywhere the same whimsical ideas of the future. Everywhere democracy. Everywhere **discourse to shape our desires and distress in a way acceptable to the electoral state, discourse designed to make our very moments here together into a set of legible and fruitless demands. Totally managed death**. **A machine for administering death, for the proliferation of technologies of death. As elsewhere, things rule. Dead objects rule**. In this sense, it matters little what face one puts on the university—whether Yudof or some other lackey. These are merely the personifications of the rule of the dead, the pools of investments, the buildings, the flows of materials into and out of the physical space of the university—each one the product of some exploitation—which seek to absorb more of our work, more tuition, more energy. **The university is a machine which wants to grow, to accumulate, to expand, to absorb more and more of the living into its peculiar and perverse machinery: high-tech research centers, new stadiums and office complexes. And at this critical juncture the only way it can continue to grow is by more intense exploitation, higher tuition, austerity measures for the departments that fail to pass the test of ‘relevancy**.’ But the ‘irrelevant’ departments also have their place. With their ‘pure’ motives of knowledge for its own sake, they perpetuate the blind inertia of meaning ostensibly detached from its social context. **As the university cultivates its cozy relationship with capital, war and power, these discourses and research programs play their own role, co-opting and containing radical potential. And so we attend lecture after lecture about how ‘discourse’ produces ‘subjects,’ ignoring the most obvious fact that we ourselves are produced by this discourse about discourse which leaves us believing that it is only words which matter, words about words which matter.** The university gladly permits the precautionary **lectures on biopower; on the production of race and gender; on the reification and the fetishization of commodities. A taste of the poison serves well to inoculate us against any confrontational radicalism**. And all the while power weaves the invisible nets which contain and neutralize all thought and action, that bind revolution inside books, lecture halls. **There is no need to speak truth to power when power already speaks the truth. The university is a graveyard**– así es. The graveyard **of liberal good intentions, of meritocracy, opportunity, equality, democracy.** Here the tradition **of all dead generations weighs like a nightmare on the brain of the living.** We graft our flesh, our labor, our debt to the skeletons of this or that social cliché. In seminars and lectures and essays, we pay tribute to the university’s ghosts, the ghosts of all those it has excluded—the immiserated, the incarcerated, the just-plain-fucked. They are summoned forth and banished by a few well-meaning phrases and research programs, given their book titles, their citations. **This is our gothic—we are so morbidly aware, we are so practiced at stomaching horror that the horror is thoughtless.**

#### the 1ac’s call for a ballot is a politics of recognition - this collapses the ability for social change and reproduces structural inequities.

Dr. Adolph L. Reed, Jr, Jr.,Professor of political science @ University of Pennsylvania, specializing in race and American politics., “Django Unchained, or, The Help: How “Cultural Politics” Is Worse Than No Politics at All, and Why,” Nonsite.org (A peer-reviewed quarterly journal of scholarship in the humanities), February 25, 2013, pg. http://tinyurl.com/ce6rwp7)

**Decoupled from its**moorings in a historically specific **political economy**, slavery becomes at bottom a problem of race relations, and, as historian Michael R. West argues forcefully, “**race relations**” **emerged as**and has remained**a discourse that substitutes etiquette for equality.**[**10**](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_10)**¶ This is the context in which we should take account of what “inspiring the young” means** as a justification for those films. In part, the claim to inspire is a simple platitude, more filler than substance. It is, as I’ve already noted, both an excuse for films that are cartoons made for an infantilized, generic market and an assertion of a claim to a particular niche within that market. More insidiously, though, the ease with which “inspiration of youth” rolls out in this context resonates with three related and disturbing themes: 1) underclass ideology’s narratives—now all Americans’ common sense—that link poverty and inequality most crucially to (racialized) cultural inadequacy and psychological damage; 2) the belief that racial inequality stems from prejudice, bad ideas and ignorance, and 3) the cognate of both: **the neoliberal rendering of social justice as**equality of opportunity, with **an aspiration of creating “competitive individual minority agents**who might stand a better fighting chance in the neoliberal rat race rather than a positive alternative vision of a society that eliminates the need to fight constantly against disruptive market whims in the first place.”[11](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_11)¶ This politics seeps through in the chatter about Django Unchained in particular. Erin Aubry Kaplan, in the Los Angeles Times article in which Tarantino asserts his appeal to youth, remarks that the “most disturbing detail [about slavery] is the emotional violence and degradation directed at blacks that effectively keeps them at the bottom of the social order, a place they still occupy today.” Writing on the Institute of the Black World blog, one Dr. Kwa David Whitaker, a 1960s-style cultural nationalist, declaims on Django’s testament to the sources of degradation and “unending servitude [that] has rendered [black Americans] almost incapable of making sound evaluations of our current situations or the kind of steps we must take to improve our condition.”[12](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_12) In its blindness to political economy, this notion of black cultural or psychological damage as either a legacy of slavery or of more indirect recent origin—e.g., urban migration, crack epidemic, matriarchy, babies making babies—comports well with the reduction of slavery and Jim Crow to interpersonal dynamics and bad attitudes. It substitutes a “politics of recognition” and a patter of racial uplift **for politics and underwrites a conflation of political action and therapy**.¶ With respect to the nexus of race and inequality, this discourse supports victim-blaming programs of personal rehabilitation and self-esteem engineering—inspiration—as easily as it does multiculturalist respect for difference, which, by the way, also feeds back to self-esteem engineering and inspiration as nodes within a larger political economy of race relations. Either way, **this**is a **discourse**that**displaces a politics challenging social structures that reproduce inequality with concern for the feelings** and characteristics of individuals and of categories of population statistics reified as singular groups that are equivalent to individuals. This discourse has made it possible (again, but more sanctimoniously this time) to characterize destruction of low-income housing as an uplift strategy for poor people; curtailment of access to public education as “choice”; being cut adrift from essential social**wage protections as “empowerment”; andindividual material success as socially important role modeling.¶ Neoliberalism’s triumph is affirmed**with unselfconscious clarity in the ostensibly leftist defenses of Django Unchained that center on the theme of slaves’ having liberated themselves. Trotskyists, would-be anarchists, and psychobabblingidentitarians have their respective sectarian garnishes: Trotskyists see everywhere the bugbear of “bureaucratism” and mystify “self-activity;” anarchists similarly fetishize direct action and voluntarism and oppose large-scale public institutions on principle, and identitarians romanticize essentialist notions of organic, folkish authenticity under constant threat from institutions. However, all are indistinguishable from the nominally libertarian right in their disdain for government and institutionally based political action, which their common reflex is to disparage as inauthentic or corrupt.¶ The previous year’s version of the socially significant film bearing on race (sort of), BenhZeitlin’s Beasts of the Southern Wild, which also received startlingly positive responses from nominal progressives,[13](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_13) marks the reactionary vector onto which those several interpretive strains converge. It lays out an exoticizing narrative of quaint, closer-to-nature primitives living in an area outside the south Louisiana levee system called the Bathtub, who simply don’t want and actively resist the oppressive intrusions—specifically, medical care and hurricane evacuation, though, in fairness, they also mark their superiority by tut-tutting at the presence of oil refineries—of a civilization that is out of touch with their way of life and is destroying nature to boot. The film validates their spiritually rich if economically impoverished culture and their right to it. (Actually, the Bathtub’s material infrastructure seems to derive mainly from scavenging, which should suggest a problem at the core of this bullshit allegory for all except those who imagine dumpster-diving, back-to-nature-in-the-city squatterism as a politics.) Especially given its setting in south Louisiana and the hype touting the authenticity of its New Orleans-based crew and cast, Beasts most immediately evokes a warm and fuzzy rendition of the retrograde post-Katrina line that those odd people down there wouldn’t evacuate because they’re so intensely committed to place. It also brings to mind Leni Riefenstahl’s post-prison photo essays on the Nilotic groups whose beautiful primitiveness she imagined herself capturing for posterity before they vanished under a superior civilization’s advance.[14](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_14)¶ Beasts of the Southern Wild stands out also as a pure exemplar of the**debasement of**the notion of**a social cause**through absorption into the commercial imperative, the next logical step from fun-run or buy-a-tee-shirt activism. The film’s website,**has a “get involved” link, a ploy clearly intended to generate an affective identification and to define watching and liking the film as a form of social engagement. There’s nothing to “get involved” with** except propagandizing for the film. **But the injunction to get involved pumps the idea that going to see a movie**, and spending money to do so, **is participating in a social movement**. (I happened to be on a flight from Hartford, Connecticut, to Chicago with Oprah’s BFF and my local news anchor, Gayle King, on the premiere weekend of Oprah’s film adaptation of Toni Morrison’s Beloved. Gayle intimated in a stage whisper to the gaggle of gushing Oprah fans seated around her that it was very important to see the film on opening weekend in order to build the all-important box office count. I hadn’t realized theretofore that making yet more money for Oprah ranks as a social responsibility.) In this device Zeitlin repeats a technique employed by Davis Guggenheim’s Waiting for Superman, the corporate school privatization movement’s Triumph of the Will, speaking of Leni Riefenstahl, and its fictional counterpart Daniel Barnz’s Won’t Back Down, that movement’s Birth of a Nation. It is a minor cause for optimism that, to put it mildly, neither of those abominations came anywhere near its predecessor’s commercial or cultural success. ¶ In addition to knee-jerk anti-statism, the objection that the slaves freed themselves, as it shows up in favorable comparison of Django Unchained to Lincoln, stems from a racial pietism that issued from the unholy union of cultural studies and black studies in the university. More than twenty years of “resistance” studies that find again and again, at this point ritualistically, that oppressed people have and express agency have contributed to undermining the idea of politics as a discrete sphere of activity directed toward the outward-looking project of affecting the social order, most effectively through creating, challenging or redefining institutions that anchor collective action with the objective of developing and wielding power. Instead, the notion has been largely evacuated of specific content at all. “Politics” can refer to whatever one wants it to; all that’s required is an act of will in making a claim.¶ The fact that there has been no serious left presence with any political capacity in this country for at least a generation has exacerbated this problem. In the absence of dynamic movements that cohere around affirmative visions for making the society better, on the order of, say, Franklin Roosevelt’s 1944 “Second Bill of Rights,” and that organize and agitate around programs instrumental to pursuit of such visions, what remains is the fossil record of past movements—the still photo legacies of their public events, postures, and outcomes. Over time, the idea that a “left” is defined by commitment to a vision of social transformation and substantive program for realizing it has receded from cultural memory.**Being on the left has become**instead **a posture**, an identity, **utterly disconnected from any specific practical commitments**.¶ Thus star Maggie Gyllenhaal and director Daniel Barnz defended themselves against complaints about their complicity in the hideously anti-union propaganda film Won’t Back Down by adducing their identities as progressives. Gyllenhaal insisted that the movie couldn’t be anti-union because “There’s no world in which I would ever, EVER make an anti-union movie. My parents are left of Trotsky.”[15](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_15)Barnz took a similar tack: “I’m a liberal Democrat, very pro-union, a member of two unions. I marched with my union a couple of years ago when we were on strike.”[16](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_16) And Kathryn Bigelow similarly has countered criticism that her Zero Dark Thirty justifies torture and American militarism more broadly by invoking her identity as “a lifelong pacifist.”[17](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_17)**Being a progressive is now more a matter of how one thinks**about oneself**than what one**stands for or**does in the world**. The best that can be said for that perspective is that it registers acquiescence in defeat. It amounts to an effort to salvage an idea of a left by reformulating it as a sensibility within neoliberalism rather than a challenge to it.¶ Gyllenhaal, Barnz, and Bigelow exemplify the power of ideology as a mechanism that harmonizes the principles one likes to believe one holds with what advances one’s material interests; they also attest to the fact that**the transmutation of leftism into pure self-image exponentially increases the potential power of that function of ideology**. Upton Sinclair’s quip—“It is difficult to get a man to understand something when his salary depends upon his not understanding it”—takes on all the more force when applied not merely to actions or interpretations of an external world but to devoutly savored self-perception as well.¶ That left political imaginations now operates unself-consciously within the practical ontology of neoliberalism is also the most important lesson to be drawn from progressives’ discussion of Django Unchained and, especially, the move to compare it with Lincoln. Jon Wiener, writing in The Nation, renders the following comparisons: “In Spielberg’s film, the leading black female character is a humble seamstress in the White House whose eyes fill with tears of gratitude when Congress votes to abolish slavery. In Tarantino’s film, the leading female character (Kerry Washington) is a defiant slave who has been branded on the face as a punishment for running away, and is forced—by Leonardo DiCaprio—to work as a prostitute. In Spielberg’s film, old white men make history, and black people thank them for giving them their freedom. In Tarantino’s, a black gunslinger goes after the white slavemaster with homicidal vengeance.”[18](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_18)¶ Never mind that, for what it’s worth, Kerry Washington’s character, as she actually appears in the film, is mainly a cipher, a simpering damsel in distress more reminiscent of Fay Wray in the original King Kong than heroines of the blaxploitation era’s eponymous vehicles Coffy or Foxy Brown. More problematically, Wiener’s juxtapositions reproduce the elevation**of private, voluntarist action as a politics**—somehow more truly true or authentic, or at least more appealing emotionally—**over the machinations of government**and institutional actors. That**is a default presumption of the identitarian/culturalist left and is** also a **cornerstone of neoliberalism’s**practical ontology.¶ In an essay on Lincoln published a month earlier, Wiener identifies as the central failing of the film its dedication “to the proposition that Lincoln freed the slaves” and concludes, after considerable meandering and nit-picking ambivalence that brings the term pettifoggery to mind, “slavery died as a result of the actions of former slaves.”[19](http://nonsite.org/editorial/django-unchained-or-the-help-how-cultural-politics-is-worse-than-no-politics-at-all-and-why#foot_19) This either/or construct is both historically false and wrong-headed, and it is especially surprising that a professional historian like Wiener embraces it. The claim that slaves’ actions were responsible for the death of slavery is not only inaccurate; it is a pointless and counterproductive misrepresentation. What purpose is served by denying the significance of the four years of war and actions of the national government of the United States in ending slavery? Besides, it was indeed the Thirteenth Amendment that abolished slavery.¶ Slaves’ mass departure from plantations was self-emancipation, by definition. Their doing so weakened the southern economy and undermined the secessionists’ capacity to fight, and the related infusion of black troops into the Union army provided a tremendous lift both on the battlefield and for northern morale. How does noting that proximity of Union troops greatly emboldened that self-emancipation diminish the import of their actions? But it was nonetheless the Thirteenth Amendment that finally outlawed slavery once and for all in the United States and provided a legal basis for preempting efforts to reinstate it in effect. Moreover, for all the debate concerning Lincoln’s motives, the sincerity of his commitment to emancipation, and his personal views of blacks, and notwithstanding its technical limits with respect to enforceability, the Emancipation Proclamation emboldened black people, slave and free, and encouraged all slavery’s opponents. And, as Wiener notes himself, the proclamation tied the war explicitly to the elimination of slavery as a system. ¶ Firefly, or The Road to Serfdom¶ So why is a tale about a manumitted slave/homicidal black gunslinger more palatable to a contemporary leftoid sensibility than either a similarly cartoonish one about black maids and their white employers or one that thematizes Lincoln’s effort to push the Thirteenth Amendment through the House of Representatives? The answer is, to quote the saccharine 1970s ballad, “Feelings, nothing more than feelings.” Wiener’s juxtapositions reflect the political common sense that gives pride of place to**demonstrations of respect for the “voices**” of the oppressed**and recognition**of their suffering, agency, and accomplishments. That common sense informs the proposition that providing inspiration has social or political significance. But it equally shapes the generic human-interest “message” of films like The Help that represent injustice as an issue of human relations—the alchemy that promises to reconcile social justice and capitalist class power as a win/win for everyone by means of attitude adjustments and deepened mutual understanding.¶ That common sense underwrites the tendency to reduce the past to a storehouse of encouraging post-it messages for the present. It must, because the presumption that the crucial stakes of political action concern recognition and respect for the oppressed’s voices is a presentist view, and mining the past to reinforce it requires anachronism. The large struggles against slavery and Jim Crow were directed toward altering structured patterns of social relations anchored in law and state power, but stories of that sort are incompatible with both global marketing imperatives and the ideological predilections of neoliberalism and its identitarian loyal opposition. One can only shudder at the prospect of how GilloPontecorvo’s 1966 film, The Battle of Algiers, or Costa-Gavras’s State of Siege (1972) would be remade today. (Guy Ritchie’s and Madonna’s execrable 2002 remake of Lina Wertmüller’s 1974 film Swept Away may provide a clue; their abomination completely erases the original film’s complex class and political content and replaces it with a banal—aka “universal”—story of an encounter between an older woman and a younger man, while at the same time meticulously, almost eerily, reproducing, scene by scene, the visual structure of Wertmüller’s film.)¶ Particularly as those messages strive for “universality” as well as inspiration, their least common denominator tends toward the generic story of individual triumph over adversity. But the imagery of the individual overcoming odds to achieve fame, success, or recognition also **maps onto the fantasy of limitless upward mobility**for enterprising and persistent individuals who persevere and remain true to their dreams.**As such, it is neoliberalism’s version of an ideal of social justice**, legitimizing both success and failure as products of individual character. When combined with a multiculturalist rhetoric of “difference” that reifies as autonomous cultures—in effect racializes—what are actually contingent modes of life reproduced by structural inequalities, **this fantasy crowds inequality as a metric of injustice out of the picture entirely**.

#### Privileging experience over institutional deliberation strengthens hegemonic militarism – elites coopt the aff’s justifications to assert their own privileged experiences

**Tonn 05 – Associate Professor of Communication at the University of Maryland, College Park**

(Mari Boor, “Taking Conversation, Dialogue, and Therapy Public,” Rhetoric and Public Affairs 8.3 (2005) 405-430 //Bozzles the Bozz-Dawg Bozz Bozz)

This widespread recognition that access to public deliberative processes and the ballot is a baseline of any genuine democracy points to the most curious irony of the conversation movement: portions of its constituency. Numbering among the most fervid dialogic loyalists have been some feminists and multiculturalists who represent groups historically denied both the right to speak in public and the ballot. Oddly, **some** feminists **who champion**ed the slogan "**The Personal Is Political**" to emphasize ways relational power can oppress tend to **ignore** similar **dangers lurking in the appropriation of** conversation and **dialogue in public deliberation**. Yet the conversational model's **emphasis on empowerment through intimacy can duplicate** the **power networks that** traditionally **excluded females and nonwhites** and gave rise to numerous, sometimes necessarily uncivil, demands for democratic inclusion. Formalized participation structures in deliberative processes obviously cannot ensure the elimination of relational power blocs, but, as Freeman pointed out, **the absence of formal rules leaves relational power unchecked** and potentially capricious. Moreover, the **privileging of** the self, **personal experiences, and individual perspectives** of reality intrinsic in the conversational paradigm **mirrors justifications** once **used by dominant groups** who used their own lives, beliefs, and interests as templates **for hegemonic social premises** to oppress women, the lower class, and people of color. Paradigms infused with the therapeutic language of emotional healing and coping likewise flirt with the type of psychological diagnoses once ascribed to disaffected women. But as Betty Friedan's landmark 1963 The Feminist Mystique argued, the cure for female alienation was neither tranquilizers nor attitude adjustments fostered through psychotherapy but, rather, unrestricted opportunities.102 [End Page 423] The price exacted by promoting approaches to complex public issues—models that cast conventional deliberative processes, including the marshaling of evidence beyond individual subjectivity, as "elitist" or "monologic"—can be steep. **Consider comments** of an aide **to** President George W. **Bush made before** reports concluding **Iraq** harbored no weapons of mass destruction, the primary justification for a U.S.-led war costing thousands of lives. Investigative reporters and other persons sleuthing for hard facts, he claimed, operate "in what we call the reality-based community." Such people "believe that solutions emerge from [the] judicious study of discernible reality." Then baldly flexing the muscle afforded by increasingly popular social-constructionist and poststructuralist models for conflict resolution, he added: "That's not the way the world really works anymore . . . **We're an empire now, and** when we act, **we create our own reality**.And while you're studying that reality—judiciously, as you will—we'll act again, creating other new realities."103 The recent fascination with public conversation and dialogue most likely is a product of frustration with the tone of much public, political discourse. Such concerns are neither new nor completely without merit. Yet, as Burke insightfully pointed out nearly six decades ago, "A perennial embarrassment in liberal apologetics has arisen from its 'surgical' proclivity: its attempt to outlaw a malfunction by outlawing the function." The attempt to eliminate flaws in a process by eliminating the entire process, he writes, "is like trying to eliminate heart disease by eliminating hearts."104 **Because public argument and deliberative processes are the "heart" of** true **democracy, supplanting those models with social and therapeutic conversation and dialogue jeopardizes** the very pulse and lifeblood of **democracy itself**.

#### Our alternative is to refuse the aff’s research - , not as a rejection ,but as a redirection that creates an epistemological shift in perspective that moves away from reportraying victimization and refocuses on the power that instrumentalized the violence in the first place.

**Tuck and Yang 14**

(Eve – Associate Professor of Educational Foundations and Coordinator of Native American Studies @ the State University of New York at New Paltz, and K. Wayne – Assistant Professor in the Ethnic Studies Department @ UC San Diego, “R-Words: Refusing Research”, <https://faculty.newpaltz.edu/evetuck/files/2013/12/Tuck-and-Yang-R-Words_Refusing-Research.pdf>,Date Accessed:5.25.15)//BSpencer

For the purposes of our discussion, the most important insight to draw from Simpson’s article is her emphasis that refusals are not subtractive, but are theo- retically generative (p. 78), expansive. Refusal is not just a “no,” but a redirection to ideas otherwise unacknowledged or unquestioned. Unlike a settler colonial configuration of knowledge that is petulantly exasperated and resentful of limits, a methodology of refusal regards limits on knowledge as productive, as indeed a good thing. To explore how refusal and the installation of limits on settler colonial knowl- edge might be productive, we make a brief detour to the Erased Lynching series (2002–2011) by Los Angeles–based artist Ken Gonzales-Day (see Figure 12.1). Gonzales-Day researched lynching in California and the Southwest and found that the majority of lynch victims were Latinos, American Indians, and Asians. Like lynchings in the South, lynchings in California were events of public spec- tacle, often attended by hundreds, sometimes thousands of festive onlookers. At the lynchings, professional photographers took hours to set up portable studios similar to those used at carnivals; they sold their images frequently as postcards, mementos of public torture and execution to be circulated by U.S. post through- out the nation and the world. Lynching, we must be reminded, was extralegal, yet nearly always required the complicity of law enforcement—either by marshals or sheriffs in the act itself, or by judges and courts in not bothering to prosecute the lynch mob afterward. The photographs immortalize the murder beyond the time and place of the lynching, and in their proliferation, expand a single murder to the general murderability of the non-White body. In this respect, the image of the hanged, mutilated body itself serves a critical function in the maintenance of White supremacy and the spread of racial terror beyond the lynching. The spectacle of the lynching is the medium of terror. Gonzales-Day’s Erased Lynching series reintroduces the photographs of lynch- ing to a contemporary audience, with one critical intervention: The ropes and the lynch victim have been removed from the images. Per Gonzales-Day’s website (n.d.), the series enacted a conceptual gesture intended to direct the viewer’s attention, not upon the lifeless body of lynch victim, but upon the mechanisms of lynching themselves: the crowd, the spectacle, the photographer, and even consider the impact of flash photography upon this dismal past. The perpetrators, if present, remain fully visible, jeering, laughing, or pulling at the air in a deadly pantomime. As such, this series strives to make the invisible visible. The Erased Lynching series yields another context in which we might consider what a social scientist’s refusal stance might comprise. Though indeed centering on the erasure of the former object, refusal need not be thought of as a subtractive methodology. Refusal prompts analysis of the festive spectators regularly back- grounded in favor of wounded bodies, strange fruit, interesting scars. Refusal shifts the gaze from the violated body to the violating instruments—in this case, the lynch mob, which does not disappear when the lynching is over, but continues to live, accumulating land and wealth through the extermination and subordina- tion of the Other. Thus, refusal helps move us from thinking of violence as an event and toward an analysis of it as a structure. Gonzales-Day might have decided to reproduce and redistribute the images as postcards, which, by way of showing up in mundane spaces, might have effec- tively inspired reflection on the spectacle of violence and media of terror. However, in removing the body and the ropes, he installed limits on what the audience can access, and redirected our gaze to the bodies of those who were there to see a murder take place, and to the empty space beneath the branches. Gonzales-Day introduced a new representational territory, one that refuses to play by the rules of the settler colonial gaze, and one that refuses to satisfy the morbid curiosity derived from settler colonialism’s preoccupation with pain. Refusals are needed for narratives and images arising in social science research that rehumiliate when circulated, but also when, in Simpson’s words, “the representation would bite all of us and compromise the representational territory that we have gained for ourselves in the past 100 years” (p. 78). As researcher-narrator, Simpson tells us, “I reached my own limit when the data would not contribute to our sovereignty or complicate the deeply simplified, atrophied representations of Iroquois and other Indigenous peoples that they have been mired within anthropologically” (p. 78). Here Simpson makes clear the ways in which research is not the intervention that is needed—that is, the inter- ventions of furthering sovereignty or countering misrepresentations of Native people as anthropological objects. Considering Erased Lynchings dialogically with On Ethnographic Refusal, we can see how refusal is not a prohibition but a generative form. First, refusal turns the gaze back upon power, specifically the colonial modalities of knowing per- sons as bodies to be differentially counted, violated, saved, and put to work. It makes transparent the metanarrative of knowledge production—its spectatorship for pain and its preoccupation for documenting and ruling over racial difference. Thus, refusal to be made meaningful first and foremost is grounded in a critique of settler colonialism, its construction of Whiteness, and its regimes of represen- tation. Second, refusal generates, expands, champions representational territories that colonial knowledge endeavors to settle, enclose, domesticate. Simpson com- plicates the portrayals of Iroquois, without resorting to reportrayals of anthropo- logical Indians. Gonzales-Day portrays the violations without reportraying the victimizations. Third, refusal is a critical intervention into research and its circu- lar self-defining ethics. The ethical justification for research is defensive and self-encircling—its apparent self-criticism serves to expand its own rights to know, and to defend its violations in the name of “good science.” Refusal chal- lenges the individualizing discourse of IRB consent and “good science” by high- lighting the problems of collective harm, of representational harm, and of knowledge colonization. Fourth, refusal itself could be developed into both method and theory. Simpson presents refusal on the part of the researcher as a type of calculus ethnography. Gonzales-Day deploys refusal as a mode of repre- sentation. Simpson theorizes refusal by the Kahnawake Nation as anticolonial, and rooted in the desire for possibilities outside of colonial logics, not as a reac- tive stance. This final point about refusal connects our conversation back to desire as a counterlogic to settler colonial knowledge. Desire is compellingly depicted in Simpson’s description of a moment in an interview, in which the alternative logics about a “feeling citizenship” are refer- enced. The interviewee states, Citizenship is, as I said, you live there, you grew up there, that is the life that you know—that is who you are. Membership is more of a legislative enactment designed to keep people from obtaining the various benefits that Aboriginals can receive. (p. 76) Simpson describes this counterlogic as “the logic of the present,” one that is witnessed, lived, suffered through, and enjoyed (p. 76). Out of the predicaments, it innovates “tolerance and exceptions and affections” (p. 76). Simpson writes (regarding the Indian Act, or blood quantum), “‘Feeling citizenships’ . . . are structured in the present space of intra-community recognition, affection and care, outside of the logics of colonial and imperial rule” (p. 76). Simpson’s logic of the present dovetails with our discussion on the logics of desire. Collectively, Kahnawake refusals decenter damage narratives; they unset- tle the settler colonial logics of blood and rights; they center desire. By theorizing through desire, Simpson thus theorizes with and as Kahnawake Mohawk. It is important to point out that Simpson does not deploy her tribal identity as a badge of authentic voice, but rather highlights the ethical predica- ments that result from speaking as oneself, as simultaneously part of a collective with internal disputes, vis-à-vis negotiations of various settler colonial logics. Simpson thoughtfully differentiates between the Native researcher philosophi- cally as a kind of privileged position of authenticity, and the Native researcher realistically as one who is beholden to multiple ethical considerations. What is tricky about this position is not only theorizing with, rather than theorizing about, but also theorizing as. To theorize with and as at the same time is a difficult yet fecund positionality—one that rubs against the ethnographic limit at the outset. Theorizing with (and in some of our cases, as) repositions Indigenous people and otherwise researched Others as intellectual subjects rather than anthropological subjects. Thus desire is an “epistemological shift,” not just a methodological shift (Tuck, 2009, p. 419).

### 3

#### Partisan infrastructure passes now—Biden is key.

Greve 9—7—(staff writer). Joan E Greve. 7 September 2021. “Joe Biden to referee Democrats in brewing battle over $3.5tn budget bill”. The Guardian. <https://amp.theguardian.com/us-news/2021/sep/07/biden-democrats-brewing-battle-budget-bill>. Accessed 9/13/21.

Congress will return from its summer recess later this month, and some Democrats are already gearing up for a political fight – with each other.

Democratic lawmakers are looking to pass their $3.5tn spending package, after the House and the Senate approved the blueprint for the budget bill last month. The ambitious legislation encompasses much of Joe Biden’s economic agenda, including proposals to expand access to affordable childcare, invest in climate-related initiatives and broaden Medicare coverage.

But to get the bill passed, Democrats will first need to reach an agreement on the cost of the legislation. Centrist Democrats, including Senators Kyrsten Sinema and Joe Manchin, have expressed concern about the bill’s $3.5tn price tag, while progressives have indicated they will fiercely oppose any attempt to cut funding in the proposal.

With his entire economic agenda hanging in the balance, Biden will need to convince the two fractious wings of his party to come together and pass a comprehensive spending package. And given Democrats’ extremely narrow majorities in both the House and the Senate, there is virtually no room for error.

#### While popular, the plan costs political capital—trades off.

Carstensen 21—(Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law School). Peter C. Carstensen. February 2021. “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST.” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>.

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities.

15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!

16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### The bill solves grid cybersecurity.

Carney 21—(senior policy advisor at Nossaman LLC, former US Representative, former professor of political science at Penn State University). Chris Carney. 8/6/2021. "The US Senate Infrastructure Bill: Securing Our Electrical Grid Through P3s and Grants." <https://www.jdsupra.com/legalnews/the-us-senate-infrastructure-bill-4989100/>.

As we begin to better understand the main components of the Infrastructure Investment and Jobs Act that the US Senate is working to pass this week, it is clear that public-private partnerships ("P3s") are a favored funding mechanism of lawmakers to help offset high costs associated with major infrastructure projects in communities. And while past infrastructure bills have used P3s for more conventional projects, the current bill also calls for P3s to help pay for protecting the US electric grid from cyberattacks. Responding to the increasing number of cyberattacks on our nation’s infrastructure, and given the fragile physical condition of our electrical grid, the Senate included provisions to help state, local and tribal entities harden electrical grids for which they are responsible.

Section 40121, Enhancing Grid Security Through Public-Private Partnerships, calls for not only physical protections of electrical grids, but also for enhancing cyber-resilience. This section seeks to encourage the various federal, state and local regulatory authorities, as well as industry participants to engage in a program that audits and assesses the physical security and cybersecurity of utilities, conducts threat assessments to identify and mitigate vulnerabilities, and provides cybersecurity training to utilities. Further, the section calls for strengthening supply chain security, protecting “defense critical” electrical infrastructure and buttressing against a constant barrage of cyberattacks on the grid. In determining the nature of the partnership arrangement, the size of the utility and the area served will be considered, with priority going to utilities with fewer available resources.

Section 40122 compliments the previous section as it seeks to incentivize testing of cybersecurity products meant to be used in the energy sector, including SCADA systems, and to find ways to mitigate any vulnerabilities identified by the testing. Intended as a voluntary program, utilities would be offered technical assistance and databases of vulnerabilities and best practices would be created. Section 40123 incentivizes investment in advanced cybersecurity technology to strengthen the security and resiliency of grid systems through rate adjustments that would be studied and approved by the Secretary of Energy and other relevant Commissions, Councils and Associations.

Lastly, Section 40124, a long sought-after package of cybersecurity grants for state, local and tribal entities is included in the bill. This section adds language that would enable state, local and tribal bodies to apply for funds to upgrade aging computer equipment and software, particularly related to utilities, as they face growing threats of ransomware, denial of service and other cyberattacks. However, under Section 40126, cybersecurity grants may be tied to meeting various security standards established by the Secretary of Homeland Security, and/or submission of a cybersecurity plan by a grant applicant that shows “maturity” in understanding the cyber threat they face and a sophisticated approach to utilizing the grant.

While the final outcome of the Infrastructure Investment and Jobs Act may still be weeks or months away, inclusion of these provisions not only demonstrates a positive step forward for the application of federal P3s and grants generally, they also show that Congress recognizes the seriousness of the cyber threats our electrical grids face. Hopefully, through judicious application of both public-private partnerships and grants, the nation can quickly secure its infrastructure from cyberattacks.

#### Goes nuclear.

Klare 19—(professor emeritus of peace and world security studies at Hampshire College). Michael Klare. November 2019. “Cyber Battles, Nuclear Outcomes? Dangerous New Pathways to Escalation.” Arms Control Association. <https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation>.

Yet another pathway to escalation could arise from a cascading series of cyberstrikes and counterstrikes against vital national infrastructure rather than on military targets. All major powers, along with Iran and North Korea, have developed and deployed cyberweapons designed to disrupt and destroy major elements of an adversary’s key economic systems, such as power grids, financial systems, and transportation networks. As noted, Russia has infiltrated the U.S. electrical grid, and it is widely believed that the United States has done the same in Russia.12 The Pentagon has also devised a plan known as “Nitro Zeus,” intended to immobilize the entire Iranian economy and so force it to capitulate to U.S. demands or, if that approach failed, to pave the way for a crippling air and missile attack.13

The danger here is that economic attacks of this sort, if undertaken during a period of tension and crisis, could lead to an escalating series of tit-for-tat attacks against ever more vital elements of an adversary’s critical infrastructure, producing widespread chaos and harm and eventually leading one side to initiate kinetic attacks on critical military targets, risking the slippery slope to nuclear conflict. For example, a Russian cyberattack on the U.S. power grid could trigger U.S. attacks on Russian energy and financial systems, causing widespread disorder in both countries and generating an impulse for even more devastating attacks. At some point, such attacks “could lead to major conflict and possibly nuclear war.”14

### 4

#### Plan: The 50 state governments should expand the scope of antitrust law by NCAA

#### Solves the Case.

Harvard Law Review, 6-10-2020, "Antitrust Federalism, Preemption, and Judge-Made Law," <https://harvardlawreview.org/2020/06/antitrust-federalism-preemption-and-judge-made-law/>, Xoxo 7.13.2021.

Both the United States government and the governments of the fifty states use antitrust principles to regulate firms. A collection of federal statutes, first and foremost the Sherman Act, outlaws anticompetitive behavior under federal law. The federal executive branch, through the Federal Trade Commission (FTC) and the Department of Justice’s Antitrust Division (DOJ), enforces the federal statutes. Meanwhile, each state has its own antitrust statutes outlawing anticompetitive behavior. The states’ agencies enforce their own antitrust laws, and they can enforce federal antitrust law as parens patriae for full treble damages thanks to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (Hart-Scott-Rodino). However, when state legislation itself produces anticompetitive effects that seem to violate federal antitrust principles, the state gets a free pass: “[A]nticompetitive restraints are immune from antitrust scrutiny if they are attributable to an act of ‘the State as sovereign.’” Wherever the federal and state governments share regulatory authority, federalism concerns naturally follow. Federalism refers to the division, overlap, and balance of power between the federal and state governments in our federal system. The emergence of a strong national government since the New Deal has turned federalism into a state-centric concept about protecting the states’ role in that balance. This state-centric federalism is partially baked into the Constitution: for example, the Tenth Amendment confirms that the Constitution reserves powers not delegated to the United States for the fifty states, and some scholars have attributed a state-centric view of federalism to the Guarantee Clause. However, when, as with antitrust, the federal and state governments share concurrent regulatory authority, the Constitution alone cannot resolve the federalism-nationalism balancing act. Even when it is not a constitutional hurdle, federalism is still a relevant constitutional value. The Framers embraced federalism for its policy virtues, and contemporary judges and scholars laud federalism for its modern-day policy perks. The Supreme Court often invokes federalism in the form of a presumption that Congress does not lightly intrude on state sovereignty. One example is the Court’s presumption against preemption: a party alleging federal preemption of state law faces a judicial presumption that Congress did not intend to make that choice. That presumption is validated by Congress’s choice to refrain from preempting state law in the antitrust arena: state and federal antitrust laws have coexisted since the federal government’s first steps into the arena in 1890. This congressional restraint is controversial, and likely to grow more so. Some scholars have argued powerfully that Congress should preempt state antitrust laws. These arguments may gain renewed prominence, as antitrust as a whole has recently achieved greater political salience than it has enjoyed in a century. In the state context, attorneys general have increasingly taken antitrust action in high-profile matters the federal government has declined to pursue. In 2019, states opposed the merger between Sprint and T-Mobile, and many began to investigate potential antitrust violations in Big Tech. While some recent, high-profile state antitrust actions have been brought under federal antitrust laws, others have been brought under state law. Moreover, a number of the current state antitrust actions are at the investigatory stage — states could potentially bring federal claims, state claims, or both. Newsworthy state involvement in antitrust policing is bringing attention to the states’ antitrust role more generally, and that attention will likely bring scrutiny to the oddity of America’s competing antitrust systems. This Note argues that, in considering its position within this debate, Congress should grapple with federal antitrust law’s peculiar status as a largely judicially created regulatory regime. Congress should be wary of allowing federal judge-made law to preempt state legislative power. Even when the federal government preempts state legislation, the federalism balance is partially preserved by democratic checks on federal power. Yet, when a nondemocratic branch is making the law, those checks disappear. Moreover, the federal judiciary is a uniquely poor policymaking body; its lack of policymaking chops does not support overriding states’ policy choices. These factors highlight the need for Congress to account for the degree to which current antitrust law is largely judge made. Part I outlines the general landscape of antitrust federalism. It first describes antitrust federalism’s three components and then surveys arguments for and against maintaining one of those components: the coexistence of state and federal antitrust laws. Following this survey, Part II offers a new defense of the current system: federal antitrust law’s judge-made status makes it particularly unsuitable to preemption. Finally, Part III compares antitrust’s judge-made law to other preemptive federal common law, concluding that federal antitrust preemption would be uniquely susceptible to Part II’s criticism.

### Case

#### Extinction outweighs

Bostrom 12 – Director of the Future of Humanity Institute at Oxford

(Nick, “We're Underestimating the Risk of Human Extinction,” interview with Ross Andersen, freelance writer in D.C., 3-6-12, http://www.theatlantic.com/technology/archive/2012/03/were-underestimating-the-risk-of-human-extinction/253821/)

Some have argued that we ought to be directing our resources toward humanity's existing problems, rather than future existential risks, because many of the latter are highly improbable. You have responded by suggesting that existential risk mitigation may in fact be a dominant moral priority over the alleviation of present suffering. Can you explain why? Bostrom: Well suppose you have a moral view that counts future people as being worth as much as present people. You might say that fundamentally it doesn't matter whether someone exists at the current time or at some future time, just as many people think that from a fundamental moral point of view, it doesn't matter where somebody is spatially---somebody isn't automatically worth less because you move them to the moon or to Africa or something. A human life is a human life. If you have that moral point of view that future generations matter in proportion to their population numbers, then you get this very stark implication that existential risk mitigation has a much higher utility than pretty much anything else that you could do. There are so many people that could come into existence in the future if humanity survives this critical period of time---we might live for billions of years, our descendants might colonize billions of solar systems, and there could be billions and billions times more people than exist currently. Therefore, even a very small reduction in the probability of realizing this enormous good will tend to outweigh even immense benefits like eliminating poverty or curing malaria, which would be tremendous under ordinary standards.

#### Debating existential risks is the most important thing debate can do—leads to civic engagement and awareness.

Javorksy 18—Emilia, MD, MPH is a physician-scientist focused on the invention, development and commercialization of new medical therapies. She also leads an Artificial Intelligence in Medicine initiative with The Future Society (TFS) at the Harvard Kennedy School of Government, and is helping to launch a TFS initiative focused on the role of creativity in shaping a positive future. She was a 2012-13 Fulbright-Schuman Scholar to the European Union, is a TEDx speaker, a member of the World Economic Forum's Global Shaper community, and was honored as part of the Forbes 30 Under 30 Class of 2017 in Healthcare., 1-15-2018, ("Why Human Extinction Needs a Marketing Department," <https://www.xconomy.com/boston/2018/01/15/why-human-extinction-needs-a-marketing-department/>)

Experts at Oxford University and elsewhere have estimated that the risk of a global human extinction event this century—or at least of an event that wipes out 10 percent or more of the world’s population— is around 1 in 10. The most probable culprits sending us the way of the dinosaur are mostly anthropogenic risks, meaning those created by humans. These include climate change, nuclear disaster, and more emerging risks such as artificial intelligence gone wrong (by accident or nefarious intent) and bioterrorism. A recent search of the scientific literature through ScienceDirect for “human extinction” returned a demoralizing 157 results, compared to the 1,627 for “dung beetle.” I don’t know about you, but this concerns me. Why is there so little research and action on existential risks (risks capable of rendering humanity extinct)? A big part of the problem is a lack of awareness about the real threats we face and what can be done about them. When asked to estimate the chance of an extinction event in the next 50 years, U.S. adults in surveys reported chances ranging from 1 in 10 million to 1 in 100, certainly not 10 percent. The awareness and engagement issues extend to the academic community as well, where a key bottleneck is a lack of talented people studying existential risks. Developing viable risk mitigation strategies will require widespread civic engagement and concerted research efforts. Consequently, there is an urgent need to improve the communication of the magnitude and importance of existential risks. The first step is getting an audience to pay attention to this issue.

#### High magnitude impacts outweigh, even with low probability.

Bostrom 13—Nick, Philosopher and professor (Oxford), Ph.D. (LSOE), director of The Future of Humanity Institute and the Programme on the Impacts of Future Technology, of course, he’s also the inaugural recipient of “The Eugene R. Gannon Award for the Continued Pursuit of Human Advancement,” “Existential Risk Prevention as Global Priority,” Global Policy, Vol 4, Issue 1, <http://www.existential-risk.org/concept.html>

The maxipok rule 1.1. Existential risk and uncertainty An existential risk is one that threatens the premature extinction of Earth-originating intelligent life or the permanent and drastic destruction of its potential for desirable future development (Bostrom 2002). Although it is often difficult to assess the probability of existential risks, there are many reasons to suppose that the total such risk confronting humanity over the next few centuries is significant. Estimates of 10-20% total existential risk in this century are fairly typical among those who have examined the issue, though inevitably such estimates rely heavily on subjective judgment.1 The most reasonable estimate might be substantially higher or lower. But perhaps the strongest reason for judging the total existential risk within the next few centuries to be significant is the extreme magnitude of the values at stake. Even a small probability of existential catastrophe could be highly practically significant (Bostrom 2003; Matheny 2007; Posner 2004; Weitzman 2009). Humanity has survived what we might call natural existential risks for hundreds of thousands of years; thus it is prima facie unlikely that any of them will do us in within the next hundred.2 This conclusion is buttressed when we analyze specific risks from nature, such as asteroid impacts, supervolcanic eruptions, earthquakes, gamma-ray bursts, and so forth: Empirical impact distributions and scientific models suggest that the likelihood of extinction because of these kinds of risk is extremely small on a time scale of a century or so.3 In contrast, our species is introducing entirely new kinds of existential risk — threats we have no track record of surviving. Our longevity as a species therefore offers no strong prior grounds for confident optimism. Consideration of specific existential-risk scenarios bears out the suspicion that the great bulk of existential risk in the foreseeable future consists of anthropogenic existential risks — that is, those arising from human activity. In particular, most of the biggest existential risks seem to be linked to potential future technological breakthroughs that may radically expand our ability to manipulate the external world or our own biology. As our powers expand, so will the scale of their potential consequences — intended and unintended, positive and negative. For example, there appear to be significant existential risks in some of the advanced forms of biotechnology, molecular nanotechnology, and machine intelligence that might be developed in the decades ahead. The bulk of existential risk over the next century may thus reside in rather speculative scenarios to which we cannot assign precise probabilities through any rigorous statistical or scientific method. But the fact that the probability of some risk is difficult to quantify does not imply that the risk is negligible. Probability can be understood in different senses. Most relevant here is the epistemic sense in which probability is construed as (something like) the credence that an ideally reasonable observer should assign to the risk's materializing based on currently available evidence.4 If something cannot presently be known to be objectively safe, it is risky at least in the subjective sense relevant to decision making. An empty cave is unsafe in just this sense if you cannot tell whether or not it is home to a hungry lion. It would be rational for you to avoid the cave if you reasonably judge that the expected harm of entry outweighs the expected benefit. The uncertainty and error-proneness of our first-order assessments of risk is itself something we must factor into our all-things-considered probability assignments. This factor often dominates in low-probability, high-consequence risks — especially those involving poorly understood natural phenomena, complex social dynamics, or new technology, or that are difficult to assess for other reasons. Suppose that some scientific analysis A indicates that some catastrophe X has an extremely small probability P(X) of occurring. Then the probability that A has some hidden crucial flaw may easily be much greater than P(X).5 Furthermore, the conditional probability of X given that A is crucially flawed, P(X|¬A), may be fairly high. We may then find that most of the risk of X resides in the uncertainty of our scientific assessment that P(X) was small (figure 1) (Ord, Hillerbrand and Sandberg 2010).

#### Death outweighs – ontologically destroys the subject

Paterson 03 – Department of Philosophy, Providence College, Rhode Island

(Craig, “A Life Not Worth Living?”, Studies in Christian Ethics, http://sce.sagepub.com)

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81 In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### Vote neg on presumption – Critique without concrete proposals is doomed to fail

Bryant 12 – Professor of Philosophy at Collin College

(Levi, “Underpants Gnomes: A Critique of the Academic Left,” 11-11-12, <https://larvalsubjects.wordpress.com/2012/11/11/underpants-gnomes-a-critique-of-the-academic-left/>, accessed 6-1-16 //Bozzles the Bozz-Dawg Bozz Bozz)

What I wonder is just what we’re supposed to do even if all of this is true? What, given existing conditions, are we to do if all of this is right? At least green consumerism, conservation, resource management, and things like carbon trading are engaging in activities that are making real differences. From this passage– and maybe the entire text would disabuse me of this conclusion –it sounds like we are to reject all of these interventions because they remain tied to a capitalist model of production that the author (and myself) find abhorrent. The idea seems to be that if we endorse these things we are tainting our hands and would therefore do well to reject them altogether. The problem as I see it is that this is the worst sort of abstraction (in the Marxist sense) and wishful thinking. Within a Marxo-Hegelian context, a thought is abstract when it ignores all of the mediations in which a thing is embedded. For example, I understand a robust tree abstractly when I attribute its robustness, say, to its genetics alone, ignoring the complex relations to its soil, the air, sunshine, rainfall, etc., that also allowed it to grow robustly in this way. This is the sort of critique we’re always leveling against the neoliberals. They are abstract thinkers. In their doxa that individuals are entirely responsible for themselves and that they completely make themselves by pulling themselves up by their bootstraps, neoliberals ignore all the mediations belonging to the social and material context in which human beings develop that play a role in determining the vectors of their life. They ignore, for example, that George W. Bush grew up in a family that was highly connected to the world of business and government and that this gave him opportunities that someone living in a remote region of Alaska in a very different material infrastructure and set of family relations does not have. To think concretely is to engage in a cartography of these mediations, a mapping of these networks, from circumstance to circumstance (what I call an “onto-cartography”). It is to map assemblages, networks, or ecologies in the constitution of entities. Unfortunately, the academic left falls prey to its own form of abstraction. It’s good at carrying out critiques that denounce various social formations, yet very poor at proposing any sort of realistic constructions of alternatives. This because it thinks abstractly in its own way, ignoring how networks, assemblages, structures, or regimes of attraction would have to be remade to create a workable alternative. Here I’m reminded by the “underpants gnomes” depicted in South Park: The underpants gnomes have a plan for achieving profit that goes like this: Phase 1: Collect Underpants Phase 2: ? Phase 3: Profit! They even have a catchy song to go with their work: Well this is sadly how it often is with the academic left. Our plan seems to be as follows: Phase 1: Ultra-Radical Critique Phase 2: ? Phase 3: Revolution and complete social transformation! Our problem is that we seem perpetually stuck at phase 1 without ever explaining what is to be done at phase 2. Often the critiques articulated at phase 1 are right, but there are nonetheless all sorts of problems with those critiques nonetheless. In order to reach phase 3, we have to produce new collectives. In order for new collectives to be produced, people need to be able to hear and understand the critiques developed at phase 1. Yet this is where everything begins to fall apart. Even though these critiques are often right, we express them in ways that only an academic with a PhD in critical theory and post-structural theory can understand. How exactly is Adorno to produce an effect in the world if only PhD’s in the humanities can understand him? Who are these things for? We seem to always ignore these things and then look down our noses with disdain at the Naomi Kleins and David Graebers of the world. To make matters worse, we publish our work in expensive academic journals that only universities can afford, with presses that don’t have a wide distribution, and give our talks at expensive hotels at academic conferences attended only by other academics. Again, who are these things for? Is it an accident that so many activists look away from these things with contempt, thinking their more about an academic industry and tenure, than producing change in the world? If a tree falls in a forest and no one is there to hear it, it doesn’t make a sound! Seriously dudes and dudettes, what are you doing? But finally, and worst of all, us Marxists and anarchists all too often act like assholes. We denounce others, we condemn them, we berate them for not engaging with the questions we want to engage with, and we vilify them when they don’t embrace every bit of the doxa that we endorse. We are every bit as off-putting and unpleasant as the fundamentalist minister or the priest of the inquisition (have people yet understood that Deleuze and Guattari’s Anti-Oedipus was a critique of the French communist party system and the Stalinist party system, and the horrific passions that arise out of parties and identifications in general?). This type of “revolutionary” is the greatest friend of the reactionary and capitalist because they do more to drive people into the embrace of reigning ideology than to undermine reigning ideology. These are the people that keep Rush Limbaugh in business. Well done! But this isn’t where our most serious shortcomings lie. Our most serious shortcomings are to be found at phase 2. We almost never make concrete proposals for how things ought to be restructured, for what new material infrastructures and semiotic fields need to be produced, and when we do, our critique-intoxicated cynics and skeptics immediately jump in with an analysis of all the ways in which these things contain dirty secrets, ugly motives, and are doomed to fail. How, I wonder, are we to do anything at all when we have no concrete proposals? We live on a planet of 6 billion people. These 6 billion people are dependent on a certain network of production and distribution to meet the needs of their consumption. That network of production and distribution does involve the extraction of resources, the production of food, the maintenance of paths of transit and communication, the disposal of waste, the building of shelters, the distribution of medicines, etc., etc., etc. What are your proposals? How will you meet these problems? How will you navigate the existing mediations or semiotic and material features of infrastructure? Marx and Lenin had proposals. Do you? Have you even explored the cartography of the problem? Today we are so intellectually bankrupt on these points that we even have theorists speaking of events and acts and talking about a return to the old socialist party systems, ignoring the horror they generated, their failures, and not even proposing ways of avoiding the repetition of these horrors in a new system of organization. Who among our critical theorists is thinking seriously about how to build a distribution and production system that is responsive to the needs of global consumption, avoiding the problems of planned economy, ie., who is doing this in a way that gets notice in our circles? Who is addressing the problems of micro-fascism that arise with party systems (there’s a reason that it was the Negri & Hardt contingent, not the Badiou contingent that has been the heart of the occupy movement). At least the ecologists are thinking about these things in these terms because, well, they think ecologically. Sadly we need something more, a melding of the ecologists, the Marxists, and the anarchists. We’re not getting it yet though, as far as I can tell. Indeed, folks seem attracted to yet another critical paradigm, Laruelle. I would love, just for a moment, to hear a radical environmentalist talk about his ideal high school that would be academically sound. How would he provide for the energy needs of that school? How would he meet building codes in an environmentally sound way? How would she provide food for the students? What would be her plan for waste disposal? And most importantly, how would she navigate the school board, the state legislature, the federal government, and all the families of these students? What is your plan? What is your alternative? I think there are alternatives. I saw one that approached an alternative in Rotterdam. If you want to make a truly revolutionary contribution, this is where you should start. Why should anyone even bother listening to you if you aren’t proposing real plans? But we haven’t even gotten to that point. Instead we’re like underpants gnomes, saying “revolution is the answer!” without addressing any of the infrastructural questions of just how revolution is to be produced, what alternatives it would offer, and how we would concretely go about building those alternatives. Masturbation. “Underpants gnome” deserves to be a category in critical theory; a sort of synonym for self-congratulatory masturbation. We need less critique not because critique isn’t important or necessary– it is –but because we know the critiques, we know the problems. We’re intoxicated with critique because it’s easy and safe. We best every opponent with critique. We occupy a position of moral superiority with critique. But do we really do anything with critique? What we need today, more than ever, is composition or carpentry. Everyone knows something is wrong. Everyone knows this system is destructive and stacked against them. Even the Tea Party knows something is wrong with the economic system, despite having the wrong economic theory. None of us, however, are proposing alternatives. Instead we prefer to shout and denounce. Good luck with that.

#### Vote negative on presumption – there is zero internal link between voting affirmative and either resolving the violent nature of the debate community or the broader structures of militarism underpinning alliances – autobiography is structurally limited from radical potential

Coughlin 95 – Associate Professor of Law at Vanderbilt Law School

(Anne, “Regulating the Self: Autobiographical Performances in Outsider Scholarship,” 81 Va. L. Rev. 1229)

Although Williams is quick to detect insensitivity and bigotry in remarks made by strangers, colleagues, and friends, her taste for irony fails her when it comes to reflection on her relationship with her readers and the material benefits that her autobiographical performances have earned for her.196 Perhaps Williams should be more inclined to thank, rather than reprimand, her editors for behaving as readers of autobiography invariably do. When we examine this literary faux pas - the incongruity between Williams's condemnation of her editors and the professional benefits their publication secured her - we detect yet another contradiction between the outsiders' use of autobiography and their desire to transform culture radically. Lejeune's characterization of autobiography as a "contract" reminds us that autobiography is a lucrative commodity. In our culture, members of the reading public avidly consume personal stories,197 which surely explains why first-rate law journals and academic presses have been eager to market outsider narratives. No matter how unruly the self that it records, an autobiographical performance transforms that self into a form of "property in a moneyed economy"198 and into a valuable intellectual asset in an academy that requires its members to publish.199 Accordingly, we must be skeptical of the assertion that the outsiders' splendid publication record is itself sufficient evidence of the success of their endeavor.200 Certainly, publication of a best seller may transform its author's life, with the resulting commercial success and academic renown.201 As one critic of autobiography puts it, "failures do not get published."202 While writing a successful autobiography may be momentous for the individual author, this success has a limited impact on culture. Indeed, the transformation of outsider authors into "success stories" subverts outsiders' radical intentions by constituting them as exemplary participants within contemporary culture, willing to market even themselves to literary and academic consumers.203 What good does this transformation do for outsiders who are less fortunate and less articulate than middle-class law professors? 204 Although they style themselves cultural critics, the storytellers generally do not reflect on the meaning of their own commercial success, nor ponder its entanglement with the cultural values they claim to resist. Rather, for the most part, they seem content simply to take advantage of the peculiarly American license, identified by Professor Sacvan Bercovitch, "to have your dissent and make it too."205

**Critique without concrete proposals is doomed to fail**

**Bryant 12** – Professor of Philosophy at Collin College

(Levi, “Underpants Gnomes: A Critique of the Academic Left,” 11-11-12, <https://larvalsubjects.wordpress.com/2012/11/11/underpants-gnomes-a-critique-of-the-academic-left/>, accessed 6-1-16 //Bozzles the Bozz-Dawg Bozz Bozz)

What I wonder is just what we’re supposed to do even if all of this is true? What, given existing conditions, are we to do if all of this is right? At least green consumerism, conservation, resource management, and things like carbon trading are engaging in activities that are making real differences. From this passage– and maybe the entire text would disabuse me of this conclusion –it sounds like we are to reject all of these interventions because they remain tied to a capitalist model of production that the author (and myself) find abhorrent. The idea seems to be that if we endorse these things we are **tainting our hands** and would therefore do well to reject them altogether. The problem as I see it is that this is the **worst sort of abstraction** (in the Marxist sense) and **wishful thinking**. Within a Marxo-Hegelian context, a thought is abstract when it ignores all of the mediations in which a thing is embedded. For example, I understand a robust tree abstractly when I attribute its robustness, say, to its genetics alone, ignoring the complex relations to its soil, the air, sunshine, rainfall, etc., that also allowed it to grow robustly in this way. This is the sort of critique we’re always leveling against the neoliberals. They are abstract thinkers. In their doxa that individuals are entirely responsible for themselves and that they completely make themselves by pulling themselves up by their bootstraps, neoliberals ignore all the mediations belonging to the social and material context in which human beings develop that play a role in determining the vectors of their life. They ignore, for example, that George W. Bush grew up in a family that was highly connected to the world of business and government and that this gave him opportunities that someone living in a remote region of Alaska in a very different material infrastructure and set of family relations does not have. To think concretely is to engage in a cartography of these mediations, a mapping of these networks, from circumstance to circumstance (what I call an “onto-cartography”). It is to map assemblages, networks, or ecologies in the constitution of entities. Unfortunately, the academic left falls prey to its own form of **abstraction**. It’s good at carrying out critiques that denounce various social formations, yet **very poor** at proposing any sort of **realistic constructions of alternatives**. This because it thinks abstractly in its own way, ignoring how networks, assemblages, structures, or regimes of attraction would have to be remade to create a workable alternative. Here I’m reminded by the **“underpants gnomes”** depicted in South Park: The underpants gnomes have a plan for achieving profit that goes like this: **Phase 1: Collect Underpants Phase 2: ? Phase 3: Profit!** They even have a catchy song to go with their work: Well this is sadly how it often is with the academic left. Our plan seems to be as follows: **Phase 1: Ultra-Radical Critique Phase 2: ? Phase 3: Revolution and complete social transformation!** Our problem is that we seem **perpetually stuck at phase 1** without ever explaining what is to be done at phase 2. Often the critiques articulated at phase 1 are right, but there are nonetheless all sorts of problems with those critiques nonetheless. In order to reach phase 3, we have to produce new collectives. In order for new collectives to be produced, people need to be able to hear and understand the critiques developed at phase 1. Yet this is where everything begins to fall apart. Even though these critiques are often right, we express them in ways that only an academic with a PhD in critical theory and post-structural theory can understand. How exactly is Adorno to produce an effect in the world if only PhD’s in the humanities can understand him? Who are these things for? We seem to always ignore these things and then look down our noses with disdain at the Naomi Kleins and David Graebers of the world. To make matters worse, we publish our work in expensive academic journals that only universities can afford, with presses that don’t have a wide distribution, and give our talks at expensive hotels at academic conferences attended only by other academics. Again, who are these things for? Is it an accident that so many activists look away from these things with contempt, thinking their more about an academic industry and tenure, than producing change in the world? If a tree falls in a forest and no one is there to hear it, it doesn’t make a sound! Seriously dudes and dudettes, what are you doing? But finally, and worst of all, us Marxists and anarchists all too often **act like assholes**. We denounce others, we condemn them, we berate them for not engaging with the questions we want to engage with, and we vilify them when they don’t embrace every bit of the doxa that we endorse. We are every bit as off-putting and unpleasant as the fundamentalist minister or the priest of the inquisition (have people yet understood that Deleuze and Guattari’s Anti-Oedipus was a critique of the French communist party system and the Stalinist party system, and the horrific passions that arise out of parties and identifications in general?). This type of “revolutionary” is the **greatest friend of the reactionary and capitalist** because they do more to **drive people into** the **embrace of reigning ideology** than to undermine reigning ideology. These are the people that keep Rush Limbaugh in business. Well done! But this isn’t where our most serious shortcomings lie. Our most serious shortcomings are to be found at phase 2. We almost never make **concrete proposals** for how things ought to be restructured, for what new material infrastructures and semiotic fields need to be produced, and when we do, our **critique-intoxicated cynics** and skeptics immediately jump in with an analysis of all the ways in which these things contain **dirty secrets**, **ugly motives**, and are **doomed to fail**. How, I wonder, are we to do anything at all when we have no concrete proposals? We live on a planet of 6 billion people. These **6 billion people** are dependent on a certain network of production and distribution to meet the needs of their consumption. That network of production and distribution does involve the extraction of resources, the production of food, the maintenance of paths of transit and communication, the disposal of waste, the building of shelters, the distribution of medicines, etc., etc., etc. **What are your proposals?** **How will you meet these problems?** How will you navigate the existing mediations or semiotic and material features of infrastructure? Marx and Lenin had proposals. Do you? Have you even explored the cartography of the problem? Today we are so intellectually bankrupt on these points that we even have theorists speaking of events and acts and talking about a return to the old socialist party systems, ignoring the horror they generated, their failures, and not even proposing ways of avoiding the repetition of these horrors in a new system of organization. Who among our critical theorists is thinking seriously about how to build a distribution and production system that is responsive to the needs of global consumption, avoiding the problems of planned economy, ie., who is doing this in a way that gets notice in our circles? Who is addressing the problems of micro-fascism that arise with party systems (there’s a reason that it was the Negri & Hardt contingent, not the Badiou contingent that has been the heart of the occupy movement). At least the ecologists are thinking about these things in these terms because, well, they think **ecologically**. Sadly we need something more, a melding of the ecologists, the Marxists, and the anarchists. We’re not getting it yet though, as far as I can tell. Indeed, folks seem attracted to yet another critical paradigm, Laruelle. I would love, just for a moment, to hear a radical environmentalist talk about his ideal high school that would be academically sound. How would he provide for the energy needs of that school? How would he meet building codes in an environmentally sound way? How would she provide food for the students? What would be her plan for waste disposal? And most importantly, how would she navigate the school board, the state legislature, the federal government, and all the families of these students? What is your plan? What is your alternative? I think there are alternatives. I saw one that approached an alternative in Rotterdam. If you want to make a truly revolutionary contribution, this is where you should start. Why should anyone even bother listening to you if you aren’t proposing real plans? But we haven’t even gotten to that point. Instead we’re like underpants gnomes, saying “revolution is the answer!” without addressing any of the infrastructural questions of just how revolution is to be produced, what alternatives it would offer, and how we would concretely go about building those alternatives. Masturbation. “Underpants gnome” deserves to be a category in critical theory; a sort of synonym for **self-congratulatory masturbation**. We need **less critique** not because critique isn’t important or necessary– it is –but because **we know the critiques**, we know the problems. We’re **intoxicated with critique** because it’s easy and safe. We best every opponent with critique. We occupy a position of moral superiority with critique. But do we really do anything with critique? **What we need** today, more than ever, is composition or **carpentry**. Everyone knows something is wrong. Everyone knows this system is destructive and stacked against them. Even the Tea Party knows something is wrong with the economic system, despite having the wrong economic theory. None of us, however, are proposing alternatives. Instead we