# 1NC

## OFF

### 1NC

T: USFG

#### Affs should defend hypothetical implementation of antitrust law in alignment with the rez.

#### “Resolved” requires law

WP 64, (Words and Phrases, 1964, Permanent Edition)

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### “USFG” means any of the three branches

US Code 88, 42 U.S. Code § 4914, “Development of low-noise-emission products,” <https://www.law.cornell.edu/uscode/text/42/4914>)

(2) The term “Federal Government” includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

#### “Core antitrust laws” are the Sherman, Clayon, and FTC Acts

Kimmel & Fanchiang 20, \*Senior Counsel at Crowell & Moring, LLP in Washington, D.C., twenty years of experience as an antitrust lawyer, Ph.D. in economics from the University of California at Berkeley \*\*associate in Crowell & Moring’s Irvine, CA office and a member of the firm’s antitrust and commercial litigation groups (Lisa Kimmel \*\*Eric Fanchiang, 2020, “Antitrust and Intellectual Property Licensing,” in 2020 Licensing Update, Wolters Kluwer Legal & Regulatory U.S., https://www.crowell.com/files/20200401-Licensing-Update-Chapter-13.pdf

U.S. antitrust law is defined by federal and state statutes, as interpreted by the courts. The core federal statutes are the Sherman Act,1 passed by Congress in 1890, and the Federal Trade Commission2 and Clayton Acts,3 both passed in 1914. The United States Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC” or “Commission”) (together the “agencies”) share enforcement of most areas of federal antitrust law but with some differences in the scope of their authority. The FTC has sole authority to enforce Section 5 of FTC Act, which prohibits (1) unfair methods of competition and (2) unfair or deceptive acts or practices. The FTC almost always pursues claims for anticompetitive conduct as unfair methods of competition and reserves charges of unfair or deceptive acts or practices for consumer protection violations. Though the FTC's authority to challenge unfair methods of competition goes beyond conduct prohibited by the Sherman and Clayton Acts, in practice the FTC brings most unfair methods of competition cases under the same standards that courts apply to Sherman Act claims. The most prominent exception is the invitation to collude offense, which falls outside the scope of the Sherman Act (if the invitation is not accepted, there is no agreement). The FTC challenges invitations to collude as so-called “standalone” violations of Section 5.4 The DOJ has sole authority to pursue criminal violations of the antitrust laws. Most states have their own state antitrust and unfair competition statutes. State law follows federal law to some extent, though as discussed below, may differ from federal law in meaningful ways that vary state to state. State attorneys general and private parties can also typically file suit to enforce both federal and state antitrust law.

#### Vote neg:

#### 1 ⁠— fairness ⁠— a limited and predictable topic defines prep and research, while preventing the aff from skirting clash, moving to the fringes, and picking true arguments, which wrecks neg ground; this outweighs because debate’s a game ⁠— competition encourages research practices and innovation, which is a prerequisite to participation

#### 2 ⁠— clash ⁠— open subjects cause monopolization of the moral high ground, which denies a role for the neg and prevents second level understanding and turns case

Grossberg 15, Morris Davis Distinguished Professor University of North Carolina at Chapel Hill (Lawrence Grossberg, 2015, “We All Want to Change the World THE PARADOX OF THE U.S. LEFT A POLEMIC,” <http://www.lwbooks.co.uk/ebooks/we_all_want_to_change_the_world.pdf>)

I will, in the following description, focus on the situation in the human sciences (rather than the hard sciences), where the explosion of publication creates an ever-expanding circle in which there is always too much to read—too many positions, too many arguments, too much contradictory evidence—so that scholars have to rely on either the author's stature or theoretical and/or political agreement. It has become almost impossible to read everything one must read, everything necessary to legitimate, at least in traditional terms, the claim of academic expertise or scholarship. In fact, given this situation (and its consequences as I will describe below), the most surprising thing is how much good work continues to be produced. This situation has serious consequences: First, one's expertise becomes defined in increasingly narrow terms, resulting in the proliferation of sub-fields.9

[footnote 9 beings]

For example, one might point to security studies, surveillance studies, transition studies, game studies, code studies, hip-hop studies, horror studies, etc.

[footnote 9 ends]

And while each of them is valuable for their interdisciplinary efforts around a new empirical field, they all too often act as if the questions (and the realities they interrogate) are new; unfortunately, they rarely say anything new or surprising, anything that has not been said elsewhere. They frequently simply re-discover in their own empirical "pocket" universe what others have said previously in other fields. For example, all sorts of technologically defined sub-fields rediscover the rather old assumption that media audiences are active. This is partly because, within each subfield, one gets the impression of witnessing endless redistributions of a highly circumscribed set of citations and authors, under a series of ever-changing terms to describe their fields or positions. So, academics create ever shrinking circles in which authors cite a few theoretically and politically compatible works, and then follow the footnotes, all of which ultimately lead back to the original authors, creating an endlessly self-referential closed system of citations, a numbingly predictable, circular tissue of references. Second, one is less likely to read work that appears tangential but may nevertheless be absolutely decisive to produc[e]ing truly interesting and insightful research. Asking significant questions should demand that one makes reference to all sorts of concepts and questions which would lead one to follow other unexpected traditions and lines of research, since any investigation (e.g., around questions of participation, publics, or leadership, to use only a few examples that have irked me recently) is likely to open up to an entire history of problematization, of conversations and debates, but who can afford the time and energy anymore. Third, one tends to read only the most recent work since so much is being published—in various media—so rapidly that there is little time to go back and read. Fourth, one tends to select one's sources according to criteria that have more to do with theoretical and political sympathies than with an understanding of research as a conversation with difference. One reads selectively, finding those ideas that are already in line with what one assumes one already knows, and one establishes a body of near-sacred texts; fifth, one selects topics that are au courant, partly because there is less scaffolding that one has to build upon and partly because one's work is more likely to gain visibility and impact. Sixth, complexity goes out the door as one increasingly "sees the world in a grain of sand." One can no longer be satisfied claiming to have discovered merely a new piece of a complex puzzle or even an interesting redeployment of an older practice or structure, because such claims do not bring fame and glory—either to oneself or the university. Instead, one has to have discovered the leading edge, the new key or essence. One good but relatively small idea is expanded into a metonym for the entire economy, culture or society. Instead of seeking new discursive forms to embody complexity, uncertainty and humility, one goes with elegance, hyperbole and the ever receding new.

#### Policy debates over antitrust are valuable

Waller & Morse 20, \*John Paul Stevens Chair in Competition Law; Professor and Director, Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law \*\*J.D. Expected 2021, Loyola University Chicago School of Law (\*Spencer Weber Waller \*\*Jacob Morse, 7-26-2020, "The Political Face of Antitrust," Brooklyn Journal of Corporate, Financial, and Commercial Law, https://ssrn.com/abstract=3660946)

IV. Antitrust in Civil Society

Competition issues are also part of the general civic discourse separate from the campaign rhetoric and legislative proposals offered by politicians. This is also a significant sign that antitrust has begun to be an important source of small “p” politics that engages substantial segments of the public at large. One example is the increased number of non-technical books intended for a lay audience that deal with the role of antitrust in a healthy economy and democracy. Recent and forthcoming books dealing with these themes include Tim Wu’s “The Curse of Bigness,”109 Matt Stoller’s “Goliath,”110 Maurice Stucke and Ariel Ezrachi’s “Competition Overdose,”111 Zephyr Teachout’s “Break ‘em Up,”112 and David Dayan’s “Monopolized.”113 On the academic side, there are a plethora of government and NGO studies of competition policy on digital competition114 and new works are flourishing which explore the broader ramifications of antitrust and competition in society.115 Long form and more mass-market journalism have also taken up the mantle of exploring the role of antitrust and competition policy. Such diverse magazines as The Atlantic,116 Time, 117 New Republic,118 American Prospect,119 Rolling Stone,120 New York Times magazine,121 Variety,122 National Review, 123 Foreign Policy,124 and other policy and opinion magazines have all run recent stories or profiles of individuals involved in antitrust issues. Before the COVID-19 pandemic effectively monopolized press coverage in the United States, there were thirty-three antitrust related stories on the front page of the New York Times or the front page of its business section over a three-month period in late 2019. 125 A majority of the stories focused on tech giants such as Apple, Microsoft, Google, Amazon, and Facebook.126 In addition, the New York Times also covered stories about mergers, merger policy, local issues such as the Chicago taxi market, and various smaller industries.127 This is separate from coverage during the same period of campaign issues and candidate statements relating to the field. A similar increase in coverage during this same period can be observed anecdotally in more business-oriented publications like Forbes, Barron’s, Wired, and the Wall Street Journal; general newspapers like USA Today, Washington Post, and Huffington Post; more local newspapers; as well as radio and television.128 Web pages and social media accounts on these issues have similarly proliferated on all ideological perspectives.129 Lobbying and public policy groups are growing in number and influence. Beyond the traditional trade associations and general think tanks there are now a number of active groups with antitrust as a large part of their focus. These include the Open Markets Institute, 130 American Antitrust Institute, 131 Anti-Monopoly Fund,132 Institute for Self-Reliance,133 Public Citizen,134 Public Knowledge,135 Demos, 136 and the International Center for Law and Economics.137 At the more technical legal end of the debate, antitrust is similarly flourishing as a field. One sees increased law school hiring in the field for the first time in decades. Academic institutes and centers abound with a wide variety of perspectives ranging from libertarian to enforcement oriented.138 Most major antitrust cases now feature multiple amicus briefs from legal and economic experts on both sides of an issue both in the Supreme Court or the Courts of Appeals.139 Conclusion Antitrust has always been political in nature. Antitrust law provides broad legal commands dealing with how governments and private individuals can challenge different types of market behavior. In this way, antitrust has not changed. Antitrust will never take the place of sports, the Dow Jones index, or the weather for conversation at the breakfast table, but it has become a meaningful part of the political and policy debate for candidates, the legislature, and important segments of civil society. What has changed, however, is the degree that antitrust has reentered the political arena. Once mostly the domain of technocrats, antitrust issues have been proposed and debated by Presidential candidates, political parties, legislators, pundits, journalists, lobby groups, and voters alike. There are also a flurry of serious proposals and investigations that would make significant changes to the current system if adopted. This is all to the good. Even if none of the current proposals come to fruition, the antitrust debate is part of a broader engagement with political economy issues dealing with fundamental concerns such as economic concentration, globalization, income inequality, social and racial justice, and even recently the proper response to the COVID-19 emergency. The many proposals, initiatives, and pressure groups represent at a minimum the return of antitrust as part of the progressive agenda.

## Case

### 1NC---Offense

#### Antitrust is good---two impacts:

#### 1---Health consolidation spikes health care costs and drastically lowers quality of care---antitrust is reverse causal

Numerof 20, PhD @ Bryn Mawr, internationally recognized consultant and author with over 25 years of experience in the field of strategy development and execution, business model design, and market analysis (Rita, “Covid-Induced Hospital Consolidation: What Are The Impacts On Consumers, And Potentially The President,” *Forbes*, <https://www.forbes.com/sites/ritanumerof/2020/11/11/covid-induced-hospital-consolidation-what-are-the-impacts-on-consumers-and-potentially-the-president/?sh=692d6fc94da0>)

Covid-19 has initiated yet another wave: A wave of hospital mergers and acquisitions that will have devastating consequences for public health if industry doesn’t soon execute an about-face. Whether because they’re on the brink of bankruptcy and have subscribed to the half-truth that size is protective, or because they think they can score some good deals and believe scale and success are synonymous, the financial fallout of Covid-19 has caused many hospital executives to make consolidation a core part of their future plans. With the intent of increasing care quality and decreasing consumer costs despite these challenging times, the merger between Shannon Medical Center and Community Hospital and partnership between Intermountain and Sanford Health are just two examples. There are multiple reasons why consumers absolutely cannot afford for industry to bulk up in an effort to weather this storm. The first is that the positive efforts executives claim consolidation will help them accomplish often prove to be futile. Research shows that wherever market concentration is high, there are also higher prices for both consumers and the employers who provide their healthcare coverage. In the absence of competition, costs increase and quality deteriorates. That’s the opposite of progress. Second, generally speaking, the union of two institutions with operational shortcomings only creates one larger institution with even more operational shortcomings! That’s not progress either. Third, Covid-induced consolidation will only make future progress many times more difficult. The larger an organization is, the more it will struggle to rapidly adapt to healthcare disruptions like we’re seeing today. Retail giants like Walmart, Walgreens, Amazon and CVS are pivoting to cater to healthcare consumer demands for affordability and accessibility. Right now, they’re still a blip on the radar relative to mainstream healthcare delivery, but they are looking to eventually corner the market and drive the industry forward. And as they continue down this path, consolidated healthcare systems will be left behind, potentially at the expense of the consumers in that area. The potential impact of continued consolidation on rural patients is especially concerning. Rural communities may have a limited number of the big-box retailers mentioned above. And the unfortunate fact of the matter is that when a larger hospital or health system purchases a smaller, rural hospital, it’s usually only a matter of time before the purchasing system realizes that unless they drastically pare down and reconfigure operations, the acquired hospital will never be profitable. Many eventually decide to close up shop, in some instances reducing or even eliminating rural patients’ options for care delivery. In the absolute worst-case scenario, this is exactly the reality all consumers could face if consolidation continues at its current pace. In theory and if left unchecked, all of the hospitals in the United States could be owned by only a handful of mammoth systems that then lack incentive to continually deliver quality services at lower total cost of care.

#### Health care antitrust is a premier vehicle for social change and solves the disproportionate racial impact of rising health costs.

Kritter 21, University of California, Berkeley, School of Law, (Dani, March 2021, “Antitrust as Antiracist”, <https://www.californialawreview.org/antitrust-as-antiracist/>)

The [federal antitrust laws](https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws)—three statutes enacted over a century ago—are in the spotlight. The year 2020 brought a [new reckoning with corporate power](https://www.theguardian.com/technology/2020/dec/18/google-facebook-antitrust-lawsuits-big-tech) and a [resurgent interest in using antitrust law](https://newrepublic.com/article/160646/biden-antitrust-blueprint-monopoly-busting) as a force for populist change. The “hipster antitrust” movement argues that the focus of antitrust policy should not be limited to market power and consumer welfare. Rather, antitrust can and should be a remedy for a suite of societal ills, from workers’ rights to campaign finance and income inequality. The year 2020 also marked an awakening to [racial injustice](https://news.berkeley.edu/2020/09/22/racial-justice-in-america-a-deeper-look/) in America. The deaths of George Floyd, Breonna Taylor, and Ahmaud Arbery sparked nationwide outrage and demands to reform institutions built on systemic racism. Yet the recent plans for [antitrust reform](https://www.jdsupra.com/legalnews/117th-congress-takes-early-steps-6904745/)—which primarily focus on monopolies in tech—ignore the fact that the antitrust status quo perpetuates [racial injustice](https://theappeal.org/how-antitrust-perpetuates-structural-racism/). But it doesn’t have to be this way. This blog identifies consolidation in healthcare and vertical restraints in franchising as two examples of how lax antitrust enforcement has disproportionately harmed people of color. It also argues that by dusting off existing antitrust tools, antitrust enforcement can be [antiracist](https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist). Background: The Antitrust Toolbox Congress enacted the federal antitrust laws to check the power of massive corporations run amuck. These laws—the Sherman Act, the Federal Trade Commission (FTC) Act, and the Clayton Act—were originally designed to control corporate power, protect individual economic freedom, and ensure a fair and equal society. But beginning in the 1970s when Robert Bork published the still-influential “[Antitrust Paradox](https://www.washingtonpost.com/news/wonk/wp/2012/12/20/antitrust-was-defined-by-robert-bork-i-cannot-overstate-his-influence/),” courts slowly narrowed the focus of antitrust law to protecting consumer welfare. Today, antitrust enforcement prioritizes preventing the anticompetitive acquisition, exercise, or maintenance of market power that threatens consumer welfare and competition—a much narrower goal than its populist origins. Dusting Off the Tools Recent years have seen [bipartisan](https://www.axios.com/exclusive-poll-shows-bipartisan-support-for-tech-antitrust-action-c3794ff5-120d-44d8-bac1-58b033efbd8a.html) interest in reining in powerful corporations with more aggressive antitrust enforcement. One of the few agency voices calling for an antiracist approach to antitrust is Rebecca Slaughter, the acting chair of the FTC. Slaughter [has recently spoken out](https://www.ftc.gov/system/files/documents/public_statements/1583714/slaughter_remarks_at_gcr_interactive_women_in_antitrust.pdf) about using antitrust enforcement to “right the wrongs of systemic racism.” She challenges what she views to be a faulty premise of antitrust law: “that antitrust can and should be value-neutral, and therefore social justice problems like racism do not have a role in antitrust enforcement.” Slaughter argues that antitrust has never been and never will be value-neutral. Antitrust addresses market structures, and racism is entrenched in the historic and current market structures in the United States. When agencies make decisions about how to deploy antitrust tools, they can choose whether to reinforce these structural inequities or to dismantle them. Healthcare and franchising are two examples of how a shift in antitrust enforcement from “value-neutral” to antiracist can break down market structures that perpetuate racial injustice. Honing in on Healthcare Monopolies Consolidation in the healthcare industry is a driving force behind the sky-high cost of medical care and pharmaceutical drugs. Due to a wave of healthcare mergers, most hospital markets in the United States are dominated by a single corporate entity. The lack of competition means the dominant hospital is free to exercise market power by raising prices and restricting output. [Recent studies](https://www.nytimes.com/2020/09/18/health/covid-hospitals-medicare-rates.html) of prices for hospital and outpatient treatment report that healthcare mergers have resulted in large networks charging private insurers 2.5 to 3 times more than Medicare rates for the same patient care. These rising costs lead to higher insurance premiums paid by employers and individuals. Artificially inflated healthcare costs disproportionately burden people of color and create a barrier to accessing quality care. Black families spend a greater share of their household income on health care premiums and out-of-pocket costs than the average American family. And of the thirty million [uninsured](https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2020/02/19/there-are-clear-race-based-inequalities-in-health-insurance-and-health-outcomes/) individuals in the United States, half are people of color. The [COVID-19 pandemic](https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/index.html) has put this health inequity in sharp focus: racial and ethnic minority groups are more likely to contract the virus, get severely ill, and die from coronavirus infections. What can antitrust do? First, antitrust merger review can be antiracist. Mergers between competitors are scrutinized under Section 7 of the Clayton Act, which prohibits mergers that may substantially lessen competition or create a monopoly. When determining whether a merger lessens competition, the FTC, Department of Justice (DOJ), and courts consider the likelihood of anticompetitive effects. An antiracist application of the Clayton Act would consider racially disparate outcomes like health care costs, insurance premiums, and the quality of care provided as anticompetitive effects. Business practices that perpetuate systemic racism are anticompetitive because they exclude people of color from full participation in the market. And this exclusion is expensive: a study by Citigroup estimates that discrimination cost the U.S. economy [$16 trillion](https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/09/23/916022472/cost-of-racism-u-s-economy-lost-16-trillion-because-of-discrimination-bank-says) since 2000. Moreover, there is precedent for applying a broad conception of anticompetitive effects in merger review. In [Brown Shoe Co. Inc. v. United States](https://www.nytimes.com/2019/06/20/technology/tech-giants-antitrust-law.html), the Supreme Court held that a meager 7.2 percent combined market share of two merging shoe manufacturers was unhealthy market concentration under the Clayton Act. Chief Justice Earl Warren acknowledged that concentration in the shoe industry might offer some efficiencies and lower prices for consumers, but “the protection of viable, small, locally owned businesses” was a priority. Therefore, agencies can and should argue that mergers that reinforce racial inequity substantially lessen competition. Second, antitrust enforcement actions can hone in on industries like healthcare where the anticompetitive effects are acutely felt by people of color. As California attorney general from 2011 to 2017, [Vice President Kamala Harris](https://www.nytimes.com/2020/10/06/health/kamala-harris-health-care.html) prioritized taking on healthcare prices through antitrust. Her investigation laid the groundwork for California’s suit against [Sutter Health](https://www.nytimes.com/2019/10/03/health/sutter-hospitals-medical-bills.html) for using its market power to raise prices and extort better deals from insurers, which resulted in a $575 million settlement. The DOJ and FTC should follow in California and Vice President Harris’s footsteps and crack down on healthcare, utilizing an antiracist approach.

#### 2--- The disappearance of antitrust law from public discourse has cemented corporate power.

David Dayen 15, author of *Monopolized: Life in the Age of Corporate Power (2020)* and *Chain of Title: How Three Ordinary Americans Uncovered Wall Street's Great Foreclosure Fraud*, “Bring Back Antitrust,” The American Prospect, Vol. 26, No. 4, Fall 2015, lexis.

In 1964, historian Richard Hofstadter gave a speech at the University of California, Berkeley, titled "What Happened to the Antitrust Movement?" He wondered why anti-monopoly sentiment ceased to become the subject of public agitation. "Once the United States had an antitrust movement without antitrust prosecutions," Hofstadter said. "In our time, there have been antitrust prosecutions without an antitrust movement."

Now we have lost both the movement and the prosecutions. When we talk about banks that are too big to fail, we're talking about antitrust. When we talk about the high cost of health care, we're talking about antitrust. So many of our key domestic issues are fundamentally questions about whether we should tolerate monopolies, or dismantle them. But this formulation-a centerpiece of public debate in the last robberbaron era between the 1880s and 1910s-has all but disappeared from popular discourse.

Can anti-monopoly sentiment be revived? When New York's Working Families Party first recruited Zephyr Teachout to run for governor, she said she would only do it if she could talk about monopolies. "They polled it, and they were correct that nobody knew what I was talking about," Teachout says. But when she eventually ran an insurgent campaign against incumbent Andrew Cuomo, she was determined to talk about it anyway.

"The minute you got past the sound-bite level, people responded to the concentration of power," Teachout says. They did campaign events at places where people paid their cable bills, using the pending Comcast-Time Warner merger, eventually abandoned, as the hook. She engaged farmers in upstate New York about monopsony power, and discussed Amazon and big banks on the stump. And it resonated. After only one month of campaigning, Teachout won 35 percent of the vote, with particular strength in upstate counties where farming issues were prominent.

"The Tea Party talks to people and says, 'You're out of power because government is taking it away from you,"' Teachout says. "Far too often, Democrats say, 'You're wrong, you're not out of power.' That's dissonant with our lived experience. You're out of power ... because your priorities don't matter and JPMorgan's do."

Beyond Teachout, you can see through the haze the stirrings of a grassroots antitrust agenda. The greatest anti-monopoly victory of the modern age, the Federal Communications Commission's net-neutrality rules, owed much to a smart, tech-savvy movement that leveraged big protest platforms. Web-native activists fought for the decentralized power of the Internet, without gatekeepers collecting tolls along the way. And they made the connection to things like the Comcast-Time Warner merger, which failed amid public outcry.

"After this existential threat to the Web, you see the same groups becoming interested in the deep history of anti-monopoly laws," Teachout says. "It's kind of an exciting intellectual moment, a fusion between old-school farmers who have been complaining for 30 years and new net-neutrality dreamers."

Monopolists have long used technological advances to consolidate power, from Gilded Age tycoons leveraging control of railroads and telegraphs to Amazon using its first-mover status in e-commerce to squeeze book producers, or Google harvesting traffic to their market-leading search engine to serve ads. It's easy to translate the need for a neutral platform for websites into the same need for book sales or car ride-sharing.

The European Union, in fact, did file formal antitrust charges against Google, accusing it of forcing search engine users into its own shopping platforms, and bundling Android phones with their own apps, to prevent competitors from performing the same functions. The FTC shut down its own investigation into Google over the same concerns in 2013. But an inadvertent disclosure revealed that the agency's Bureau of Competition recommended bringing a lawsuit, arguing that Google's conduct "has resulted-and will result-in real harm to consumers and to innovation in the online search and advertising markets." The political leadership ignored the recommendation.

The next administration must show "leadership that has a certain intellectual curiosity," says Maurice Stucke, pointing to the Google case as a missed opportunity. An alteration in posture would make enforcement far more vigorous, and bringing more cases will give litigators more experience and confidence to negotiate the judicial barriers. The American Antitrust Institute plans to create a transition document for the incoming administration, as they did for the Obama transition.

But at a time of political disempowerment, teaching about the dangers of monopolies and how we have the laws on the books to fight them, and creating upward pressure to do it, offers great potential for a paradigm shift. Connecting Senator Elizabeth Warren's fight against a rigged financial system and Al Franken's fight against media concentration can spark broader political energy.

You could see this potential in Washington, D.C., where in August, the city's Public Service Commission rejected a merger between energy firms Exelon and Pepco, citing "more active participation by parties and interested persons than any other proceeding in the Commission's more than a century of operations." Activists argued a giant Exelon conglomerate would fail to devote resources to the city's clean-energy goals, connecting anti-monopolization with fighting climate change.

There are a lot of reasons for runaway monopolies: an intellectual hijacking by Chicago-school conservative economists, the over-financialization of the economy, a failure of federal antitrust enforcement. But perhaps the biggest reason is that antitrust policy has become divorced from politics, confined to specialized lawyers and mathematicians instead of citizens and activists. Without grassroots momentum, politicians and enforcement agencies can safely ignore the issue. That's the challenge for a small band of academics, think-tank fellows, and activists: to make monopolies a vital issue again, connecting with the severe economic anxiety Americans feel.

#### Ignoring the potential impact of reforms and presuming a pessimistic stance causes defeatism

Lemann 20, joined The New Yorker as a staff writer in 1999 and has written the Letter from Washington and the Wayward Press columns for the magazine, was a national correspondent, writing about politics, education, business, social policy, and other topics, previously was a writer and editor at the Washington Monthly, Texas Monthly, and the Washington Post, served as the dean of Columbia University’s Graduate School of Journalism (2003-2013), where he is now a faculty member, author of “The Promised Land: The Great Black Migration and How It Changed America,” “The Big Test: The Secret History of the American Meritocracy,” and “Redemption: The Last Battle of the Civil War,” his most recent book is “Transaction Man: The Rise of the Deal and the Decline of the American Dream” (Nicholas Lemann, 5-25-2020, "Is Capitalism Racist?," New Yorker, https://www.newyorker.com/magazine/2020/05/25/is-capitalism-racist)

Before the Civil War, Southern slaveholders used to claim that their labor system was more humane than “wage slavery” in the factories of the industrializing North. They didn’t win that argument, but the idea took root that the South, during and after slavery, did not have a true capitalist economy. In 1930, twelve Southern writers (all white men) published a collection of essays, titled “I’ll Take My Stand,” that opened with a declaration that they “all tend to support a Southern way of life against what may be called the American or prevailing way; and all as much as agree that the best terms in which to represent the distinction are contained in the phrase, Agrarian versus Industrial.” To believe that the South was economically different didn’t entail being a defender of slavery or segregation; it didn’t even have to mean you were a political conservative. When I was growing up in New Orleans, among the descendants of antebellum sugar and cotton planters, efficiency and industriousness were not highly valued, and all the general social indicia—income, health, education—were much lower than they were in the North. This condition seemed connected to the exploitation and political disempowerment that went along with a racial caste system. It was worse than capitalism, not part of capitalism. But for many years now historians have disputed the old Southern agrarian notions about how the South related to capitalism. This form of revisionism, which has blossomed in the academy and beyond during the past decade or so, takes its inspiration from “Capitalism and Slavery,” published in 1944 by Eric Williams, a young historian who later became the first Prime Minister of an independent Trinidad and Tobago. The book, which argued for the centrality of slavery to the rise of capitalism, was largely ignored for half a century; now its thesis is a starting point for a new generation of scholarship. Large-scale Southern slaveholders are today understood as experts in such business practices as harsh, ever-increasing production quotas for workers and the creation of sophisticated credit instruments. Rather than representing an alternative system to industrial capitalism, American plantations enabled its development, providing the textile mills of Manchester and Birmingham with cotton to be spun into cloth by the new British working class. As Walter Johnson, one of our leading historians of slavery, wrote in 2018, “There was no such thing as capitalism without slavery: the history of Manchester never happened without the history of Mississippi.” The new history of slavery seeks to obliterate the economic and moral distinction between slavery and capitalism, and between the South and the North, by showing them to have been all part of a single system. Inevitably, this view has generated intense arguments, not only about how integral the slave plantation was to the national and global economies but also about whether we should regard the end of slavery as an important breakpoint in American history or merely a rearranging of an oppressive system into an altered but still essentially oppressive form. Critics of the new history of slavery chastise it for downplaying developments like Britain’s abolition of slavery in its colonies and the American Civil War, and for overstating slavery’s importance to the growth of the early American economy, even if the plantation was a particularly ruthless business enterprise. The arguments about slavery imply larger arguments about America. At least among respectable academic historians, the days of triumphant historical accounts of the greatness of the United States are long past. But for some the national enterprise can still be seen as a slow and often interrupted progression toward a more just and democratic society; for others, it amounts to a set of variations on racial hierarchy and economic exploitation. Once slavery is positioned as the foundational institution of American capitalism, the country’s subsequent history can be depicted as an extension of this basic dynamic. This is what Walter Johnson does in his new book, “The Broken Heart of America: St. Louis and the Violent History of the United States” (Basic). The study demonstrates both the power of the model and its limitations. Johnson, who grew up in Missouri, tells us that he was moved to write the book by the events in Ferguson in the summer of 2014—the killing of Michael Brown, an unarmed black teen-ager, by a police officer named Darren Wilson, and the period of local unrest and national attention that followed. In Johnson’s account, Ferguson emerges as the distillation of a vexed history that goes back to the city’s beginnings. Johnson’s earlier work presented slavery as the furthest thing from a “peculiar institution” set apart from the American mainstream; here, he makes a similar case for the centrality of St. Louis. “St. Louis has been the crucible of American history,” he writes. “Much of American history has unfolded from the juncture of empire and anti-Blackness in the city of St. Louis.” Johnson’s guiding concept is “racial capitalism”: racism as a technique for exploiting black people and for fomenting the hostility of working-class whites toward blacks, so as to enable white capitalists to extract value from everyone else. For his purposes, St. Louis is a case study in the pervasiveness and the longevity of racism outside the formal boundaries of slavery. As he wrote in an earlier essay, “The history of racial capitalism, it must be emphasized, is a history of wages as well as whips, of factories as well as plantations, of whiteness as well as blackness, of ‘freedom’ as well as slavery.” A small French outpost situated just below the confluence of the Missouri and Mississippi Rivers, St. Louis became part of the United States in 1803, owing to the Louisiana Purchase. Thomas Jefferson soon put in motion the Lewis and Clark expedition, which set off from St. Louis, in 1804. In Johnson’s account, St. Louis in its early decades becomes the staging area for the brutal taking of the American West. For blinkered whites like William Clark, the complicated realities of the West were “subordinated to a racially fundamentalist understanding of the world (red, white, and black) and the politics of white settler imperialism and ethnic cleansing.” The Missouri Compromise, in 1820, admitted Missouri to the Union as a slave state, and, Johnson points out, Missouri’s new constitution restricted the rights of black people, preventing free blacks from settling in the state. A parade of men (most of them, in Johnson’s telling, closely connected to St. Louis) who were long presented to schoolchildren as the heroes of American history are revealed to be anything but. The iniquities of Jefferson and of Lewis and Clark are a mere prologue to those of Andrew Jackson, “the nation’s most prominent Indian hater”; John C. Frémont, the explorer and the first Presidential candidate of the Republican Party, who “was an imperialist and, by any modern standard, a war criminal”; and Ulysses S. Grant, whose essential military technique was “murderous fury.” Abraham Lincoln comes off no better. He began his career as a “settler militiaman,” and, for the rest of his life, “remained committed to ethnic cleansing.” Lincoln developed a winning political platform for the Republicans in which slavery was opposed mainly because it competed with the economic interests of white farmers and laborers; Lincoln’s first priority was to deliver a whites-only frontier to the “white supremacist, imperialist, and removalist” Republican base. Horace Greeley’s Liberal Republican movement, following the Civil War, was based on a “white nationalist” ideology whose “predictable result” was genocide. At the World’s Fair of 1904, hosted by St. Louis, Johnson finds a literal exhibit of this enduring legacy: an elaborate celebration of the centennial of the Louisiana Purchase that was “designed to domesticate the restive immigrant workers of St. Louis by turning them into white people,” and to insure white workers’ “proper alignment with the course of freedom-through-capitalism and imperial progress.” Such racial capitalism led to the city’s most notorious incident of racial violence before Ferguson, the East St. Louis massacre of 1917, which left dozens of black people dead and thousands more displaced, and which was sparked by the hiring of black replacement workers during an aluminum-ore processors’ strike. “The white workers of East St. Louis kept on somehow believing that the city belonged to them rather than their corporate overlords,” Johnson writes. “They believed it with such force and passion, such a sense of beleaguered entitlement, that when the time came, they would prove more than willing to kill for it.” And this massacre, Johnson says, “forecast” a series of violent post-First World War incidents in other American cities. Indeed, as Johnson moves through the twentieth century, he consistently treats what are often taken to be national trends as toxic gifts from St. Louis. In the early years of the century, St. Louis voters passed one of the country’s first public referendums to institute residential segregation. Later, the city made copious use of restrictive covenants that barred black home buyers from white neighborhoods; the 1948 Supreme Court opinion that declared restrictive covenants legally unenforceable—a decision that was widely ignored—originated in St. Louis. Harland Bartholomew, the St. Louis version of mid-century urban master planners like Robert Moses, used his “malign genius” to become “the segregation and suburbanization czar of the United States.” The bulldozing of black neighborhoods that looked to whites like slums (such as the one where the Gateway Arch now stands) and their partial replacement by high-rise public-housing projects, aggressive policing, mass incarceration, and the use of business-friendly, community-unfriendly tax abatements to revitalize older cities—all this, in Johnson’s telling, was pioneered in St Louis. Racial capitalists conquered the West; racial capitalists waged the Civil War; racial capitalists industrialized St. Louis, and then deindustrialized it, at every step exploiting black people just as brutally as slaveholders did. It’s a big, all-explanatory theory that is serviced by the tone of Johnson’s account, which is forcefully didactic at every moment. “The Broken Heart of America” is a history populated by good guys and bad guys—many more of the latter. Johnson doesn’t hesitate to use terms that didn’t exist at the time to describe the motivations of historical actors: “genocide,” “settler colonialism,” “ethnic cleansing”—terms given a honed edge by being relieved of historical specificity. Even one of the few entities he approves of, an “urban guerrilla” organization called action, which staged public demonstrations to protest, for example, the lack of black construction workers hired to build the Gateway Arch, in the mid-nineteen-sixties, is reprimanded for being “racist, sexist, and heteronormative” in its embrace of the view “that a male breadwinner was the keystone figure of healthy Black family life.” Johnson’s propensity for pasting condemnatory labels on his characters displays a concern that, without his firm guidance, readers may not draw the proper conclusions from the material he is presenting. He is disinclined to describe any situation as ambiguous. In the case of Michael Brown, Johnson doesn’t hesitate to call it a murder. Darren Wilson, he suggests, stopped Brown for jaywalking, and then, “after a short scuffle in the street, Brown ran away. When Wilson shot him, several witnesses later asserted, Brown had his hands raised in the air.” Johnson is polite about the Obama Justice Department’s 2015 report on the Ferguson police department’s systemic racial bias, but only in the endnotes does he mention the Justice Department’s second, simultaneously issued report, on the incident itself, which concluded that the facts of the case didn’t warrant federal prosecution. Giving particular weight to witnesses whose testimony was consistent with the forensic evidence, investigators concluded that Wilson heard of a robbery at a local market, that Brown reached into Wilson’s car and tussled with him, and that Brown was approaching Wilson when he was fatally shot. (Many of these points are intensely in dispute.) Without addressing the specifics, Johnson writes that the report “is, at best, a legalistic restatement of the extraordinary latitude provided police officers who shoot unarmed people in the United States and, at worst, a complete misunderstanding of the full circumstances surrounding the shooting.” In the craft of history, tendentiousness is an ever-present temptation; Johnson is as insistently moralizing in his way as previous generations of romantic, heroic historians of the West were in theirs. A story centered on a transhistorical force of oppression—spotlighting St. Louis as the capital of racial capitalism—offers an all-encompassing explanation but doesn’t leave much room for racism untethered from capitalism or capitalism untethered from racism. Other scholars have found different ways of explaining the same parlous present-day conditions in distressed black neighborhoods. James Forman, Jr., in “Locking Up Our Own” (2017), showed how a series of late-twentieth-century policing and sentencing techniques, widely endorsed by tough-on-crime public officials, black and white, wound up putting many more black people in prison and making things worse in black communities. In “The Origins of the Urban Crisis” (1996), a work centered on postwar Detroit, the historian Thomas Sugrue insisted on an approach to urban history that took into account a range of factors, including not obviously racial ones like deindustrialization; in its introduction, he wrote, “The coincidence and mutual reinforcement of race, economics, and politics in a particular historical moment, the period from the 1940s to the 1960s, set the stage for the fiscal, social, and economic crises that confront urban America.” The implication of these books is that significant policy changes would help black communities. They have that in common with many previous books about urban black America in the twentieth century, including the greatest of them all, St. Clair Drake and Horace Cayton’s “Black Metropolis,” from 1945. Johnson, impatient with such particularity, always goes both smaller, in the sense of depicting St. Louis as a fulcrum of history, and bigger, in the sense of making racial capitalism an eternal, all-powerful force, floating free of any specific time or place. The idea that racism can be connected to capitalism has been around for a long time; the question is how the connection works, and whether the two are inextricable. Martin Luther King, Jr., in his great speech on the steps of the Alabama statehouse at the conclusion of the Selma-to-Montgomery march, in 1965, said, “The segregation of the races was really a political stratagem employed by the emerging Bourbon interests in the South to keep the southern masses divided and southern labor the cheapest in the land.” King was at that moment pushing for the passage of the Voting Rights Act and other civil-rights legislation, so he had a reason to locate the nexus of race and capitalism specifically in the Southern Jim Crow system. Within a year, he was leading demonstrations against slumlords in hyper-segregated Chicago, and advocating new forms of national legislation, like the Fair Housing Act. In 2018, more than ninety per cent of African-American voters in Missouri cast their ballots against Josh Hawley, the victorious Republican candidate for the U.S. Senate; Hawley now presents himself as a critic of global capitalism without ever mentioning race. It’s possible to be anti-capitalist without being anti-racist, and anti-racist without being anti-capitalist. Johnson might say that both positions are deluded, but they have appeared regularly in our country’s history. Through it all, black neighborhoods, especially poor black neighborhoods, still bear the weight of a malign history. Reading “The Broken Heart of America” inevitably prompts the question of how what’s broken might be repaired. Does a politically charged history come with a politics for the here and now? Historically, Johnson doesn’t find many people to admire. Among whites, the main exceptions are a few Communists and radically inclined labor organizers. He takes a dim view, too, of mainstream black organizations like the N.A.A.C.P. and the Urban League. Liberal politicians hardly attract his notice, except when, as in the case of Lincoln, their reputations require revising downward. But after laying out a relentlessly bleak history he ends, jarringly, on a hopeful note. During the unrest following Michael Brown’s death, he tells us, “the disinherited of St. Louis rose again to take control of their history.” Since then, a number of activists—Johnson provides thumbnail sketches of them—have launched efforts in poor black neighborhoods meant to reverse, or at least resist, the pernicious workings of racial capitalism. Today, Johnson writes, “I have never been to a more amazing, hopeful place in my life.” Underlying his stated optimism is an implicit conviction that it wouldn’t do much good to look for help from the larger society; the victims of oppression must find a way forward by themselves. As a child in the Jim Crow South during the civil-rights era, growing up in a conservative white milieu, I often overheard bitter adult conversations about the hypocrisy of white liberals in the North. Were they really any better than Southern segregationists, to go by their lived behavior? Walter Johnson, coming from the left, offers a good deal of empirical support for opinions like that. ~~His~~ [their] account discourages us from drawing much hope from past events like the passage of the Thirteenth Amendment, the major civil-rights victories of the sixties, or the election of Barack Obama as President; the regime of racial capitalism, in [their opinion] ~~his vision~~, always manages to reconstitute[s] itself. Broader reforms that aimed, at least, to smooth the roughest edges of capitalism—like the regulation of business excesses or the creation of Social Security and Medicaid—are, we gather, no match for white supremacy. Democratic politics, especially in a country with a racial history like ours, is necessarily messy, impure, and capable of producing no more than partial victories, and, even then, only when pushed hard by political movements. But deflating and deriding the progress it has made in the past and the promise it might hold for the future invites the hazards of defeatism. It distracts from the kinds of economic, educational, and criminal-justice reforms that mainstream progressives hope to enact. These are the tools we have at hand. It would be a shame not to use them.

#### Institutional action is key ⁠— only strategic and practical strategies that approach an ending racial capitalism

Greer & Rice 20, \*began his career in the Columbia Heights and Shaw neighborhoods in Washington, DC, organizing youth and tenants to fight back against the economic forces rapidly gentrifying that community, in his leadership roles in national organizations he has become a national policy expert on the causes and the policy solutions to close racial wealth gap, Bachelor’s Degree in Social Work from the University of St. Thomas, a Master’s in Public Policy from George Mason University, and is currently working on an Executive Education Certificate in Nonprofit Leadership from Harvard University’s Kennedy School \*\*founder of Liberation in a Generation, prior, she was the Director of State & Local Policy at Prosperity, she built strong advocacy partnerships with organizations in the field and advanced dozens of policies in nearly half the states in the nation, Master’s in City Planning from MIT, where she researched the integration of individual development accounts into community development services, B.A. in architecture from Washington University in St. Louis (\*Jeremie Greer \*\*Solana Rice, 6-18-2020, “The Rise & Fall of Racial Capitalism,” Forge Organizing, https://forgeorganizing.org/article/rise-fall-racial-capitalism)

This edition of The Forge explores racial capitalism. Black, Latinx, Asian, Pacific Islander, and Indigenous people collectively have had a proverbial boot on our neck since the “founding” of this country. Recent images of police murder and violence are graphic depictions of racist systems and institutions. This is to say nothing of the disproportionate number of coronavirus cases and deaths within communities of color. But deep inequalities were there long before the pandemic or the economic destruction left in its wake. All of our nation’s racial disparities have economic underpinnings. The confluence of our health crisis, our impending depression, and our upcoming election means that we cannot look away from the system of racial capitalism that brought us to this moment. As Arundhati Roy suggests, this pandemic is a portal moment, and we must ask ourselves: What are we taking into this next phase? Our answer: a Liberation Economy. Yes, white supremacy is alive and well, and it will not end unless basic truths about our economy are recognized: that racism is profitable, that racism creates wealth for the elite, and that racism is to blame for the difficult economic conditions of people of color. The framework of racial capitalism captures this undeniable truth by exposing the ways that the economic systems of the United States have been racialized by design since their inception. Historic examples of racial capitalism include removing Native people from their land through theft and genocide; enslaving African people for worker and reproductive labor; and exploiting and underpaying immigrant laborers, whether it’s the Chinese railroad workers building the Transcontinental Railroad in the 1860s or the farmworkers from Mexico and Central America working the land. This historic economic foundation leads to what we, at Liberation in a Generation, call our current Oppression Economy — an economy that uses the racist tools of theft, exclusion, and exploitation to drive wealth to the elite while suppressing and vanquishing the economic well-being of people of color.

Racism is at the root of our economic problems

An economy that oppresses people of color must no longer be tolerated. We must focus on the root causes of our pain: racism and white supremacy. These root causes can be baked into the design of many economic or political systems, including socialism and communism. It is the profitability of racism that makes the U.S. brand of capitalism so cruel. The truth is, as Andrew Young, Martin Luther King, Jr., and Robert Reich have all said in some form, the U.S. economy has multiple systems at work: benevolent socialism for the wealthy and harsh capitalism for the rest of us. Our government has shown the capability to protect the economic well-being of its citizens. It has simply chosen not to for people of color. Before the pandemic, this administration passed a tax relief package that resulted in a windfall to corporations and an average boost to White families by $2,020. Black households, on the other hand, have only seen $840 dollars and LatinX households $970 from that $1.9 trillion bill. We continued to see exclusion carried out through the pandemic response. Undocumented immigrants and their families were excluded from Unemployment Insurance and direct stimulus payments, despite many being taxpayers.

Liberation Economy

We must find a path that is radical in its vision and practical in its strategic and tactical approach to winning transformative structural change. We should aim for an economy that is free from exclusion, exploitation, and theft. We envision what we call a Liberation Economy — an economy that provides for people’s basic needs, safety, and security, that adequately compensates people of color for their labor, and that provides a sense of belonging. It is a long way from where we are, but, by attuning to all the ways racism and capitalism intersect, we’ll be in the best position to effect bold policy changes to realize this Liberation Economy in a generation’s time. You can learn more about our vision for a Liberation Economy in this short explainer from Jeremie Greer. As our friends at Groundwork Collaborative say, you are the economy. No matter what the economists say about increasing Gross Domestic Product (GDP), stock prices, corporate tax rates, or government regulation, your work, your purchases, your debts, and your savings are what fuel the vibrancy of the U.S. economy. It is the responsibility of our democratically-elected government, at all levels, to ensure that people of color receive our fair share of the wealth produced by the largest economy in human history. Our governments determine the rules by which our wealth is distributed or hoarded. That means that not only do your financial decisions have power, but your vote, your energy, your passion, your organizing, and your activism will create the power to shape our economic conditions and rules. Your ability to organize and mobilize in your community for bold, national change is the superpower we need to win liberation in a generation.

### 1NC---AT: Method

**Assuming that certain identities are beholden to certain arguments leads to a homogenization of difference, a form of petty sovereignty that legitimizes the university’s multicultural homogenization tendencies**

Viego 7, professor of ethnic studies at Duke (Antonio Viego, *Dead Subjects*, pp. 70-71)

When Chow writes, ‘‘the level at which the ethnic person is expected to come to resemble what is recognizably ethnic . . . to resemble and replicate the very banal preconceptions that have been appended to them, a process in which they are expected to objectify themselves in accordance with the already seen and thus to authenticate the familiar imaginings of them as ethnics’’ to diagnose a contemporary dilemma for ethnic-racialized subjects in the United States, how can we not hear in it the same charge and diagnosis in Lacan’s critique above: ‘‘But to reduce one’s function to one’s difference is to give in to a mirage that is internal to the function itself, a mirage that grounds the function in this difference’’? If the culture of assimilation in North America has changed somewhat in the time between Lacan’s remarks and Chow’s, it is with respect to what is to be assimilated. Instead of the 1950s edict ‘‘turn white or disappear,’’ it’s more like ‘‘turn mottled or disappear’’ at the beginning of the twenty-ﬁrst century in the United States. According to both Lacan’s and Chow’s diagnoses, these coercive assimilatory imperatives operate on the condition that the subject be confused with the ego and that whatever conﬂicts present themselves are to be remedied with the strengthening of the ego. If Lacan can be said to link the confusion of the subject with the ego in ego-psychological theory—the sine qua non, according to him, of the distortion of Freudian theory—to certain North American assimilatory imperatives with which the ego psychologists had to contend, then we can say that Chow illustrates the outcome of this confusion—of the subject with the ego—in a contemporary situation as the price to be paid for ethnic-racialized subjects to be legible subjects in the United States. In the passage from ‘‘The Freudian Thing,’’ we also have what qualiﬁes as a commentary on the ‘‘privileged marginal,’’ to use John Champagne’s resonant term: ‘‘privileged members of cultural minorities whose disciplinary role is to contain the threat of a much more radical deployment of difference that might destabilize homogeneous intellectual culture.” The “privileged marginal” I have in mind, depending on the particular vicissitudes of his experience in an institution where he has been entrusted with the task of disseminating the knowledge of cultural differences—for example, as a representative of Latino studies—will have, no doubt, been coerced or compelled to reduce his function to his difference. He sells out. He needs the job. He is a diversity manager of souls? A manager of diversiﬁed souls? A diversiﬁer of managed souls? Prior to his involvement in the university’s elaboration of the discourses on multi- culturalism and diversity, what will be deﬁned as ‘‘diversity’’ will have already been subjected to a kind of management, so that diversity, now inoculated, can be dispersed and dispensed safely. The concern with safety comes from the desire to safeguard the university from any real transformation in the politics of knowledge production that a more infectious, more generatively noxious, unsafe notion of diversity might compel. How might the ‘‘privileged marginal’’ subject craft more transgressive uses of her difference, to which her function has been reduced, given that the dictates of ‘‘coercive mimeticism’’ have already worked her over in lending her pedagogical authority to begin with? Lacan might be said to have at least once referred to something like multiculturalism: ‘‘With our jouissance going off the track, only the Other is able to mark its position, but only insofar as we are separated from this Other. Whence certain fantasies—unheard of before the melting pot. Leaving the Other to his own mode of jouissance, that would only be possible by not imposing our own on him, by not thinking of him as underdeveloped.” Dylan Evans’s gloss on this passage is revealing: “But as soon as we are forced to have recourse to the Other in order to mark the position of our own jouissance . . . a curious paradox results. On the one hand, we need to preserve the jouissance of the Other in order to be able to deﬁne our own; but on the other hand, we seek to destroy that Other enjoyment because we suspect it may be more superabundant than our own.’’ We are left with a vicious Imaginary a-dynamic: on the one hand, a ruthless refusal to grant psychical complexity to ethnic-racialized subjects, which is to say, the refusal of the lack that generates desire and the subject’s incalculability that springs from the human subject’s inscription in language, coupled with the weird generosity— the compensatory psychical act of those in power—that offers a pure, riotous Beingness followed by a kind of disgust and shame for the ethnic-racialized subject’s perceived unbounded pleasure, which, in turn, necessitates strategies to circumscribe and destroy those very lives.

#### Their Anarchy Fails; our ev cites case studies

<<case studies: Occupy, English Housing Cooperatives, Social Centres, and international law>>

Tamblyn 19, Associate Professor of the Common Law (Nathan Tamblyn, 4-30-2019, "The Common Ground of Law and Anarchism," Liverpool Law Review, pp. 65-78, https://link.springer.com/article/10.1007/s10991-019-09223-1)

Anarchist Case Studies

1. In 2011 there was a worldwide protest movement called Occupy, for example with makeshift camps at Wall Street in New York and outside St Paul’s Cathedral in London. There were perhaps hundreds of people who camped, and thousands more who participated in the demonstrations. All this occurred during the aftermath of a global financial crisis largely caused by reckless banking practices which saw the imposition of austerity measures by governments even while the banks were bailed out with public money. The movement had a number of major themes, including protest against stark wealth inequality, undemocratic institutions which represent the interests of the privileged few, and environmental degradation.Footnote21

The Occupy camps tended to be run on anarchist principles.Footnote22 Decisions were made, and censured meted out, only at the General Assembly. This moved to a system of super-majority voting, seemingly in order to be able to reach any decision at all, the unanimity of consensus proving unachievable. Censure could include denial of access to camp facilities. People who were disruptive or difficult might be shunned or systematically ignored—or more ominously:Footnote23

[T]here has to be some way to get rid of them – though usually this has to happen outside the meeting.

There are a number of criticisms we can make here.

First, if decisions are to be taken by the General Assembly, then removing members by a procedure outside that structure, for lawyers, immediately sets alarm bells ringing, not least for a lack of due process.Footnote24 Further, although the point is left unsaid, it is difficult to see how this expulsion is achieved if not by force. As Newman says, anarchists cannot rest assured that having removed law they have not created a different form of domination.Footnote25

Second, we might object that the General Assembly was itself a dominating power. After all, it was seemingly the General Assembly which gave itself the power to act as sovereign. There may well be people who refused to grant it that power, or to legitimise it by participating in its original self-constitution. As Wilson says, anarchism must resist becoming what is has so relentlessly critiqued, recreating its own forms of absolutist or dogmatic politics.Footnote26

Even those who did participate in the General Assembly are still entitled to call foul. Now, in response to that assertion, Chartier seems to suggest that an anarchist who participates in a process of rule-making or dispute resolution cannot later withdraw their consent if the end result is adverse to them. He says that the regime can enforce its decision against such a person ‘without aggression’.Footnote27 This is unpersuasive. For a start, a rule or process might turn out to be misapplied or misinterpreted, and there is no reason to assume that an initially willing participant consented to that. Further, the person might simply change their mind about the merits of the rule or the process. In that regard, consent is an on-going state of affairs, and when it ends, it ends. Just because someone consented at the beginning, it does not follow that they cannot withdraw that consent, or that they are bound to all things subsequently. (This is, for example, a very important point when it comes to sexual offences.)

Third, when moving to super-majority voting, what is supposed to happen to the minority? A frequent response is that a disappointed minority might secede to form their own community. However, that choice only works if the minority have somewhere else to go. What is more, there is no necessary reason why the minority should leave, rather than the majority; it takes matters no further forward simply to say that there are more of the majority without an explanation for why numbers should matter. Also, if the minority refuse to leave, once again we are confronted with the question of whether they can be forced to leave, or if they stay, whether they can be forced to conform their behaviour. In other words, super-majority voting does not eliminate the spectre of force being used against the unwilling.

Further, Halling suggests that if a community secedes from an anarchist federation, it would still have to share its natural resources.Footnote28 After all, the anarchist abhors private property, summed up in the aphorism ‘Property is theft!’Footnote29 This is because ownership is seen as another hierarchical relationship. However, if the seceding community refuses to share, we are back once more to the question of whether it can be forced. Further, to the extent that the seceding community must share its resources, presumably it is also entitled to share in the natural resources of the original community, at which point it looks less and less like a secession after all. The difficulties of sharing can be thrown into sharper relief with the following thought experiment. Along comes an invading force. What is the anarchist society to do? If they truly believe in consensus, then the anarchist could not fight the invaders without the consent of the invaders. Nor could the anarchist simply say that they are defending their freedom. Yes, the anarchist might value their freedom, but the invader might not, and if the anarchist simply says that freedom does matter after all, and that they are right, and uses force to uphold that claim, that is the same pattern of behaviour for which the anarchist criticises the law. Similarly, without risking moral hypocrisy, the anarchist community cannot say that consensus is morally essential, but only to their society, which otherwise may freely dominate others.

1. Our second case study is taken from research on English housing cooperatives. Typically, a housing cooperative might be where residents in houses are members of an organisation which collectively owns or manages the houses. Residents might pay rent to the organisation to fund the provision or up-keep of the houses. Through its members, the organisation will formulate its own rules, and in this way residents retain a democratic control over the organisation and thus the terms on which housing is provided.Footnote30 Great store is put on individual equality, but not all cooperatives need be overtly anarchist. Nevertheless, they face similar challenges when it comes to resolving disputes.

Henry recounts an example from one cooperative where those who did not pay their rent were subjected to unannounced visits by a group of people, the purpose being to collect the rent through the technique of ‘invading members’ privacy and subjecting them to intimidation’.Footnote31 Again, this sounds like coercion. After all, censure which does not coerce will not assist in upholding a rule which a party has not previously been persuaded to abide by. Indeed, there was also talk of seemingly forcible expulsions from the cooperative. Even then, Henry notes, that system was ‘sufficiently stressful and insufficiently rewarding’ that the cooperative switched to the use of state law as the ultimate sanction, because it was predictable, effective, rational and objective, and so not derailed by emotions and personal relations.

1. Finchett-Maddock provides another case study on a collective in a social centre. Social centres are communally run buildings which might be occupied as a squat or rented or owned. They tend to be run on a voluntary and democratic basis, founded upon anarchist principles, and they provide a range of services or facilities, such as a library, or in this case, bicycle repair by a group of people:Footnote32

There was one scenario where an individual had stolen £1700 from the bike repair shop money, claiming that it was rightfully [theirs] ~~his~~ as ~~he~~ had given his time without having been paid (although the whole ethos there is around voluntarism and mutual aid). They were in a quandary as whether to punish him through their own collective parameters, or have the state law involved – which would mean the taking of a crime reference number in order to get the money back somehow. Thus, there was the moral and the legal dilemma of (a) trying to right the situation within their means; and (b) needing the money to be reported in some way as they obviously needed it. The reason of course is that an anarchist view sees no role for prisons or the police and therefore they were arbitrary and yet necessary. The eye for an eye feeling that he encountered he portrayed as more masculine revenge, and the collective are pretty balanced, and therefore all that was done was that they named and shamed him in an article on Indymedia. There are a number of interesting points we might note about this incident. First is the notion that the accused had ‘stolen’ money. This implies property, and the claim that the money was proper to the collective, rather than the accused. Again this sits awkwardly with the anarchist creed that property is theft. Second, the collective ‘named and shamed’ the accused. Admittedly it is a non-violent response. However, there is no suggestion that the accused consented to this. No justification is offered as to why the collective were entitled unilaterally to impose their preferred outcome and tarnish his reputation, nor was there any due process to test whether the collective’s assessment of the situation was correct. Third, the collective never recovered the money. The victims went without. The only sure way of recovery was acknowledged to be recourse to the police. Perhaps this is less of a problem for £1700. However, in other circumstances, the amount stolen might be greater, or the problem might not be theft but physical or sexual violence—as occurred in some Occupy camps.Footnote33 Naming and shaming will not likely prevent repeat incidents of violence. It may be true to principle for a non-violent consensus-seeking anarchist that they suffer whatever gets done to them if they cannot convince the other party to agree to their point of view. However, a persistent submission would seem to risk denying a person’s dignity, even agency. Indeed, if the correct response to any conflict is to yield, the result is the anarchist living under the rule of another’s domination after all. Instead of recourse to state law, Rothbard proposes an anarchic vision of society without a centralised system of justice. Instead, he suggests a system of private courts and enforcement agencies, which succeed or not according to market forces.Footnote34 However, this is no less repressive than state law when the person on the receiving end does not recognise the authority or rules of those private companies.

1. A final case study might be international law, that is, those rules which govern the relationship between nation states. Some authors point to this as an actual example of an anarchist legal system, on the basis that there is no world government to enforce international law against errant states.Footnote35 In other words, these are rules which have not been imposed upon states, but have been agreed or recognised by them in their horizontal dealings with each other. The claim is that most states obey most agreed rules of international law most of the time.Footnote36 This may well be true—and it might similarly be said that most anarchists behave well in their communities, and most citizens in a society governed by the rule of law are happy with that state of affairs. However, that is the easy part; if there are only a few disagreements, the difficult question is how to resolve them. What is noticeable about international relations is how often states revert to force or the threat of force after all, whether through economic sanctions designed to coerce (for example, against Iran or Russia or North Korea),Footnote37 or outright military intervention (for example, in Afghanistan or Iraq or Libya or Syria or Crimea).

To summarise, what these case studies reveal is that the peaceful anarchist has not yet identified a system for resolving disputes successfully, nor a system which eliminates altogether the occurrence of one side unilaterally imposing its solution supported by some form of intimidation or threat of force. Perhaps the use of force is relegated to a matter of last resort, but the same could be said of the law as well. To the extent that both anarchy and the law have resort to force, anarchy cannot claim to be superior to the law in that regard. So let us take a different tack and say something now in defence of law, because anarchists might be surprised to find familiar values being instantiated here.

### 1NC---AT: Revolution

#### The state can be utilized for abolition of anti-blackness ⁠— the alt’s rejection of law shuts down the most realistic possibilities for ending the world

Akbar 18, Assistant Professor, Moritz College of Law (Amna Akbar, 7-25-2018, “Toward a Radical Imagination of Law,” Public Law and Legal Theory Working Paper Series, No. 426)

Around the same time, I had begun teaching a law and social movements seminar. We studied the Black Panthers and Young Lords, Len Holt, Assata Shakur, and Ella Baker. I worried my students found the questions faced by these movements to be abstract and faraway. I wanted them to understand that contemporary movements struggled with questions similar to those in the texts we labored over. That’s how an organizer found himself surrounded by future lawyers. Hayes, along with his comrades in the contemporary Black liberation and immigrant justice movements, confronted many of the same strategic and tactical choices every day. As I had hoped, his presence transformed our conversation. Our intellectual distance from the texts vanished, and our lively conversation ended with a question: What is the proper role of lawyers within the movement? After a short pause, Hayes praised the technical chops and procedural expertise lawyers bring to the table. But that is not enough, he said. “Most lawyers see a problem and think, ‘How can I fix this law?’” This view is too narrow: it obscures the stakes and concedes to status quo arrangements. “The role of the law is to protect the state,” Hayes reasoned. “Lawyers must work with movements to imagine with us the kind of state we want to live in. Only from there can we work together to think about the laws we need.”2 In conversations with intellectuals and organizers around the country, I realized the Movement for Black Lives (M4BL or Movement)3—the larger movement configuration in which the chapter based Black Lives Matter network functions—was having a far richer and more imaginative conversation about law reform than lawyers and law faculty. The Movement for Black Lives was situating their critique in Black history and intellectual traditions, and their imagination of alternate futures in Black freedom movements. Their critique was more expansive at the same time as it was more grounded, and their imagination more radical.4 Legal scholars often assume the movement’s fight is over policing: indictments for police killings, independent prosecutors to investigate police shootings, better training and supervision for police, more diverse police forces, and so on.5 But, as Hayes suggested, the most imaginative voices within contemporary racial justice movements are fighting for much more than body cameras and police convictions.6 The movement is focused on shifting power into Black and other marginalized communities;7 shrinking the space of governance now reserved for policing, surveillance, and mass incarceration; and fundamentally transforming the relationship among state, market, and society.8 Movement actors have made policy proposals and engaged in law reform campaigns at the same time they have prominently contested law and politics as usual.9 In the few years after Ferguson police officer Darren Wilson’s killing of Michael Brown, there were shutdowns of bridges and highways; die-ins at courthouses and statehouses; occupations of police stations, police unions, and universities; arrests and curfews; tear gas and riot gear.10 But the movement’s highprofile campaigns have not been waged by lawyers or via litigation.11 Indeed, the movement has largely refrained from fighting to strengthen preexisting rights or demanding legal recognition of new ones.12 The focus is not on investing even-handedness to law or the police, not on restoring criminal justice to some imaginary constitutional or pre-raced status quo, and not on increasing resources for community policing.13 But it would be wrong to think the movement has given up on law. The movement is not attempting to operate outside of law, but rather to reimagine its possibilities within a broader attempt to reimagine the state. Law is fundamental to what movement actors are fighting against and for.14 To illustrate how the movement approach reorients traditional criminal law reform conversations, I examine the 2016 policy platform of the Movement for Black Lives, “A Vision for Black Lives: Policy Demands for Black Power, Freedom, and Justice” (the Vision).15 I put the Vision in conversation with the Ferguson and Baltimore reports by the Department of Justice16—which represent more traditional liberal approaches to criminal law reform. The Vision and the DOJ reports offer some of the most damning critiques of policing in recent memory, but differ fundamentally in their analysis and conclusions. The contrast reflects the limitations of liberal law reform at the same time that it opens up a more imaginative set of possibilities about reorganizing the very structure of our society. By studying the convergences and divergences between these texts, this Article highlights how radical social movements reimagine the very same social problems with which significant bodies of legal scholarship engage. The Vision and DOJ reports offer alternate conceptualizations of the problem of policing and the appropriate approach to law reform. Reflective of liberal law reform projects on police, the DOJ reports identify policing as a fundamental tool of law and order that serves the collective interests of society, and locate the problems of police in a failure to adhere to constitutional law. As a corrective, the DOJ reports advocate for investing more resources in police: more trainings, better supervision, community policing. In contrast, the Vision identifies policing as a historical and violent force in Black communities, underpinning a system of racial capitalism and limiting the possibilities of Black life. As such, policing as we now know it cannot be fixed. Thus, the Vision’s reimagination of policing—rooted in Black history and Black intellectual traditions—transforms mainstream approaches to reform. In forwarding a decarceral agenda rooted in an abolitionist imagination, the Vision demands shrinking the large footprint of policing, surveillance, and incarceration, and shifting resources into social programs in Black communities: housing, health care, jobs, and schools. The Vision focuses on building power in Black communities, and fundamentally transforming the relationships among state, market, and society. In so doing, the movement offers transformative, affirmative visions for change designed to address the structures of inequality—something legal scholarship has lacked for far too long. The DOJ reports document the problems endemic to policing. While presenting a critical view of Ferguson’s and Baltimore’s police departments, the reports are committed to the legal status quo, to a mode of governance that relies on criminal law enforcement to deal with a broad set of deep-seated social problems, and to rules and authorities that are historically and functionally oppressive. As a result, the reports double down on traditional reforms that reinvest in law and police.17 This approach cedes more legitimacy—not to mention more resources—to the police and the legal frameworks in which they operate without a meaningful consideration of alternatives. Of course, the reports emerge from a particular time and social location: a prosecutorial agency, the Civil Rights Division, embedded within the executive branch during the Obama administration.18 As with any social location, there are possibilities, pressures, and constraints on what the DOJ may say or do as a law enforcement agency under a particular administration. But framed in a different understanding, accountable to different constituencies, the DOJ could have taken an approach to reform more aligned with the Vision, suggesting a realignment of resources from policing to the underlying social problems stemming from structural inequality in Ferguson and Baltimore. The additional importance of the DOJ reports lies in how they reflect how legal institutions—and, in turn, law scholarship— approach long-standing structural problems while firmly committed to the status quo and restoring legitimacy thereto. In this way, the DOJ reports expose a central dilemma of liberal law reform projects, caught between a commitment to the rule of law and status quo arrangements on the one hand, and the desire for substantive justice and social, economic, and political transformation on the other.19 But our political moment is defined by crisis and polarization, with insurgencies on the left and right calling for reform, transformation, and even revolution.20 Amid the electoral triumph of Trump, protest and people-of-color-led anti-capitalist movements have surged in activity.21 These radical movements mark the revival of anti-capitalist racial justice politics in the United States in a way that we have not seen since the civil rights, Black power, and Chicano movements of the 1960s and 1970s. Contemporary racial justice movements are not simply arguing the state has created a fundamentally unequal criminal legal system. They are identifying policing, jail, and prison as the primary mode of governing Black, poor, and other communities of color in the United States, and pointing to law as the scaffolding. They are working to build another state—another world even—organized differently than the one we have inherited. They are aiming to use the law as a tool to build that alternative future. We can ignore their deep critiques and visionary alternatives, or we can embrace the possibilities of a more searching inquiry. This is a moment calling for a radical imagination, where the scale of deep critique is matched with a scale of grand vision.22 While many progressive and left legal scholars reach for meaningful change, most of us lack alternative frameworks.23 Like the DOJ reports, even when the scale of our critique is large, our visions for change are often too small. We have focused on a narrow picture of law and law reform while sidestepping questions about the structure of the society, the state, and the market. These movements make these questions central to their work.24 They do not have it all worked out. But they are making powerful sketches of much-needed alternative frameworks. Imagining with social movements seeking to transform the state would invest law scholarship in a project of reconstruction and transformation.25 For radical racial justice movements, the primary commitment is not to law, its legitimacy, rationality, or stability: It is to people.26 The motivations are to protest an enduring set of social structures rooted in European and settler colonialism and the Atlantic slave trade; to fight for transformative change, justice, and liberation; and to invest in a redistributive and transformative project, one demanding a more equal distribution of resources and life chances,27 with a focus on the most intersectionally marginalized people.28

#### The 1ac fails, re-inscribes state power, and causes mass violence

Flaherty 5, USC BA in International Relations, researcher in political affairs, activist and organic farmer in New Zealand (Kevin Flaherty, 2005, “Militant Electronic Piracy: Non-Violent Insurgency Tactics Against the American Corporate State,” Cryptogon, <http://cryptogon.com/docs/pirate_insurgency.html>)

\*ACS: American Corporate State

THE NATURE OF ARMED INSURGENCY AGAINST THE ACS

Any violent insurgency against the ACS is sure to fail and will only serve to enhance the state's power. The major flaw of violent insurgencies, both cell based (Weathermen Underground, Black Panthers, Aryan Nations etc.) and leaderless (Earth Liberation Front, People for the Ethical Treatment of Animals, etc.) is that they are attempting to attack the system using the same tactics the ACS has already mastered: terror and psychological operations. The ACS attained primacy through the effective application of terror and psychological operations. Therefore, it has far more skill and experience in the use of these tactics than any upstart could ever hope to attain.4 This makes the ACS impervious to traditional insurgency tactics.

- Political Activism and the ACS Counterinsurgency Apparatus

The ACS employs a full time counterinsurgency infrastructure with resources that are unimaginable to most would be insurgents. Quite simply, violent insurgents have no idea of just how powerful the foe actually is. Violent insurgents typically start out as peaceful, idealistic, political activists. Whether or not political activists know it, even with very mundane levels of political activity, they are engaging in low intensity conflict with the ACS.

The U.S. military classifies political activism as “low intensity conflict.” The scale of warfare (in terms of intensity) begins with individuals distributing anti-government handbills and public gatherings with anti-government/anti-corporate themes. In the middle of the conflict intensity scale are what the military refers to as Operations Other than War; an example would be the situation the U.S. is facing in Iraq. At the upper right hand side of the graph is global thermonuclear war. What is important to remember is that the military is concerned with ALL points along this scale because they represent different types of threats to the ACS.

Making distinctions between civilian law enforcement and military forces, and foreign and domestic intelligence services is no longer necessary. After September 11, 2001, all national security assets would be brought to bare against any U.S. insurgency movement. Additionally, the U.S. military established NORTHCOM which designated the U.S. as an active military operational area. Crimes involving the loss of corporate profits will increasingly be treated as acts of terrorism and could garner anything from a local law enforcement response to activation of regular military forces.

Most of what is commonly referred to as “political activism” is viewed by the corporate state's counterinsurgency apparatus as a useful and necessary component of political control.

Letters-to-the-editor...

Calls-to-elected-representatives...

Waving banners...

“Third” party political activities...

Taking beatings, rubber bullets and tear gas from riot police in free speech zones...

Political activism amounts to an utterly useless waste of time, in terms of tangible power, which is all the ACS understands. Political activism is a cruel guise that is sold to people who are dissatisfied, but who have no concept of the nature of tangible power. Counterinsurgency teams routinely monitor these activities, attend the meetings, join the groups and take on leadership roles in the organizations.

It's only a matter of time before some individuals determine that political activism is a honeypot that accomplishes nothing and wastes their time. The corporate state knows that some small percentage of the peaceful, idealistic, political activists will eventually figure out the game. At this point, the clued-in activists will probably do one of two things; drop out or move to escalate the struggle in other ways.

If the clued-in activist drops ~~his~~ or her political activities, the ACS wins.

But what if the clued-in activist refuses to give up the struggle? Feeling powerless, desperation could set in and these individuals might become increasingly radicalized. Because the corporate state's counterinsurgency operatives have infiltrated most political activism groups, the radicalized members will be easily identified, monitored and eventually compromised/turned, arrested or executed. The ACS wins again.

- ACS Full-Spectrum PSYOP Dominance

The ACS wields the most powerful weapon of political control the world has ever seen: the mass media. This is the corporate state's trump card against leaderless resistance movements which are impossible to infiltrate and compromise by counter-insurgency teams. The appearance of legitimacy is all that matters in a low intensity conflict, and the ACS, with the corporate media running continuous propaganda and perception management campaigns, represents the final solution to what the public will view as legitimate.5

All anti-corporate/anti-government political activism will be portrayed by the ACS as ~~lunatic~~ muckraking and a potential hotbed of terrorism. All violent insurgency activities will be portrayed as terrorist acts. (Some criminal activity is now considered terrorism by the ACS.) The behavior of the ACS will be represented as just, measured and prudent, regardless of the ghastly nature of its atrocities. The general population will be bombarded with images, sound bites and articles about the threats posed by the “terrorists.” In other words, the population, rather then fearing the state and its continuous cryptofascist operations and more overt international war crimes and economic exploitation, will come to view the insurgents as a threat and the ACS as their savior. The ACS can punctuate the point by unleashing false flag terror incidents on the population while conveniently blaming any organization it wishes, including other states.6 The general population will respond by supporting: foreign wars, the diminution of individual rights, and legislation and funding that adds to the power of the corporate state.

Some simple analogies might help to clarify the realities facing an armed insurgency in the United States.

Could a 5 year old beat a university mathematics professor in a mathematics contest?

Could an ape beat a grand champion at chess?

Could a high school basketball team beat the Los Angeles Lakersat basketball?

Could an armed insurgency overthrow the American Corporate State?

The obvious answer to all of these questions is: NO.

#### Wrecks organizing, which causes inequality and exploitation

Sherman 6, Professor of History, Director of the MA Program in History at Wright State University (John W. Sherman, “Review: Comparing Failed Revolutions: Recent Studies on Colombia, El Salvador, and Chiapas,” Latin American Research Review, Vol. 42, No. 2, pp. 260-268)

Revolution in Latin America has been marked by failure. In the post- World War II era only two revolutionary regimes have made it into power, and one of these (in Nicaragua) was voted out of office after little more than a decade. The other, in Cuba, has survived because it has refused to grant its citizens full political rights or hold free elections. Although consequently enduring, the Cuban revolution is hardly a success story. Its political legacy has been authoritarianism; its eco- nomic legacy, poverty. If the revolutionary project is about an egalitarian quest for social justice, then what is striking to any rational observer is its pragmatic bankruptcy.

Despite the obvious, much of academe continues to celebrate the tradition of armed revolt in Latin America. The reasons for this are not easily explained. Certainly one factor is that, within Latin America, a university student-infused subculture of film, popular literature, rock music and gimmickry has romanticized revolution. Within the United States, graduate students and professors studying the region invari- ably discover U.S. complicity in political violence and economic exploitation. Finding this morally repugnant, they embrace the 'right' of the oppressed to find justice through a collective violence of their own. As David Stoll has hypothesized in his controversial study of Rigoberta Menchui, embracing the revolutionary cause of the oppressed fulfills, for many North American academics, a moral need.1

The overwhelming majority of revolutionary movements in the post- war era have been crushed by the State. Employing an ever-increasing arsenal of sophisticated surveillance and intelligence technology, military and security apparatuses have easily outgunned and dismantled insurgencies in nearly all urban settings. Rural insurgencies have proven more resilient, but since the mid-1980s even these have greatly waned. The resource curve for the powers-that-be has been particularly striking since the early 1980s, when hefty increases in funding under Ronald Reagan helped bring on-line a host of new technologies-digital-based, satellite-interfaced surveillance systems, path-breaking communications interception, and highly proficient night-vision and detection equip- ment, among them. If successful revolution was made difficult with the advent of better transportation infrastructure and communications in the late nineteenth century, today it is all but impossible. Even rural insurgencies can now be fairly easily snuffed out, especially when the State has no qualms about exterminating part of the civilian populace in the process. Torture, too, is integral to information-gathering-for the simple fact that it works. Finally, the power of mass media, espe- cially the statistical analysis of polling data coupled with television, has equipped the State with a level of refined propaganda that could have made Josef Goebbels blush.

There is, in the contemporary age, a revolutionary dialectic. When insurgent forces rouse a populace with promises of liberation and carry out their first acts of redemptive violence, they invariably trigger a massive retaliatory strike on the part of the State (which often employs at this juncture unsavory characters and allows for acts of sadism). This, in turn, produces a revolutionary surge, as the populace is alienated by the initial bloodletting and aligns with the revolutionaries in a quest for self- defense and empowerment. The problem, of course, is that modern revolutionaries have neither the military resources nor the organizational sophistication to arm an entire populace. Finding themselves at the mercy of a brutal military, with no options, civilians will inevitably swing back into line with those in power as their only means of survival. As they do so, the authorities will reign in the most unsavory and sadistic, even while employing selective violence to eradicate the revolutionaries themselves. In the midst of this counterrevolutionary project the organized political Left is invariably annihilated, leaving a country even more vulnerable to political manipulation and economic exploitation than it was before the revolution began. In this way, failing insurgencies are actually beneficial to North Americans and others who have money in a world of tremendous economic disparity.

This dialectic has been played out in various degrees in Colombia, El Salvador, and Chiapas-three places where insurrections have failed in recent decades. Analysis of an emerging body of historical and political scholarship, however, suggests that both the dialectic and the inherent shortcomings of revolution in the modern age are still not fully appreciated.

#### White supremacists coopt the alt

Culp & BondGraham 14, \*teaches Media History and Theory in the MA Program in Aesthetics and Politics and the School of Critical Studies at CalArts \*\*The Oaklandside News Editor, former investigative reporter covering police and prosecutorial misconduct, reported on gun violence for The Guardian (Andrew Culp, Darwin BondGraham, 5-29-2014, "Left Gun Nuts," CounterPunch, https://www.counterpunch.org/2014/05/29/left-gun-nuts/)

The more radical variant of this argument is that “the people” need guns to wage an eventual revolution and liberate themselves from the shackles of the state and corporate America. Gun control need not dampen the spirit of those still hoping for a revolution, even if such a revolution is highly unlikely to happen in our lifetimes. What stands in the way of such leftist dreams are the vast majority of current gun owners. Over-represented among current gun owners are white reactionary men, the types who regularly expresses their desire to shoot on sight the “Muslim socialist” president of the United States, and who “muster” along the U.S.-Mexico boarder with their weaponry to defend the nation against “alien” immigrants. As it stands, toxic gun culture would coopt any new American revolution with a lethal cocktail of supercharged masculinity, racism, and provincialism fantasized about in post-apocalyptic scenes. If the United States ever comes to another civil war, the first thing to die under a barrage of lead will be our hope for a more just and democratic society; guns would empower warlords with petty political agendas, not egalitarian-minded freedom fighters. The most likely cultural shift away from reactionary gun ownership will not happen in cooperation with the Right and their politics, but against it. Gun control is the best place to start. Disarming the Right will do more to advance goals toward a revolutionary democratic transformation of America than trying to beat the Right-wingers (and the U.S. government!) in an arms race. Of course Left insurrectionists who advocate the right to bear arms are more focused on the U.S. Government as the singular impediment to their variant of utopia. This dream is sadly a classic example of radical posturing done in the name of some distant hypothetical moment, and it ignores the actual harm that guns cause each and every day. In the real world, guns kill upwards of 30,000 Americans every year, virtually all of these deaths serving absolutely no political purpose in the fight for a more democratic society. Most of these deaths are just tragic accidents or suicides, many of which would not end in death if guns were not in the mix. Left fantasies about armed struggle are the same half-baked ideas as those held by the secessionist Right. What varies for Leftists is the template of decolonial struggles; yet a leftist revolution in the United States would not kick out a small minority of foreign occupiers, as happened in India and Vietnam, but would be a fight amongst settler colonialists for political authority. This is why the worn “Zapatistas defense” touted by the radical left is a bad analogy for the United States context – the Zapatistas started a peasant rebellion that kicked outsiders off their landbase, a task for which wooden cutouts of guns turned out to be more effective than the real thing.

#### Causes global conflict and reifies the system they “reject”

Lawson 11, Associate Professor, International Relations, London School of Economics and Political Science (Dr. George Lawson, September 2011, “Halliday's Revenge: Revolutions and International Relations,” International Affairs, Vol. 87, No. 5, pp. 1069-1071, JSTOR)

\*edited for OCR errors and language differential

\*AT: Halliday

Third, Halliday took seriously the major claim of revolutionaries: that because the international system (whether understood as capitalist, imperialist or a mixture of the two) was the fundamental source of their oppression, the legitimacy of revolutions rested on establishing a novel, more emancipatory system in its place. As a result, revolutionary states saw their struggles not as contained within the limits of state borders, but as transcending existing boundaries. Marx and Engels, for example, thought that communism could not exist 'as a local event. The prole-tariat can only exist on the world-historical plane, just as communism, its activity, can only have a world-historical existence.'10 Lenin makes this point starkly: 'global class, global party, global revolution' ( Weltklasse , Weltpartei, Weltrevolution).11 And Che Guevara turned it into a battle-cry of anti-imperialism in his 'Message to the People of the World': How close and bright would the future appear if two, three, many Vietnams flowered on the face of the globe . . . what difference do the dangers to a human being or people matter when what is at stake is the destiny of humanity. Our every action is a battle cry against imperialism and a call for the unity of the peoples . . . Wherever death may surprise us, let it be welcome.12 The centrality of international oppression to the analysis of revolutionaries, Halliday argued, meant that revolutionary movements ran counter to the ground rules of international order (sovereignty, international law and diplomacy), proclaiming ideals of 'universal society' and world revolution. Revolutions challenged international order in a number of ways, ranging from disrupting existing patterns of trade and alliances to questioning underlying rules, norms and principles. To take one example, the challenge of the Bolshevik Revolution was at once short term (prompting the withdrawal of Russian forces from the First World War), medium term (in the provision of support for allied states) and long term (in the establishment of a systemic alternative to market democracy). As Halliday argued, revolutionary states forced Great Powers to act by challenging their credibility as Great Powers. In other words, in order to justify their position at the apex of the international system, Great Powers were required to quell revolutions.13 As such, counter-revolution was not an instrumental reaction to moments of revolutionary upheaval, but a process hard-wired into the fundamentals of international relations itself.14 The fourth international component of revolution lay, for Halliday, in its close association with war. As Stephen Walt notes, revolutions intensify the prospect of war in three ways.15 First, revolutions provide a window of opportunity for states to improve their position vis-a-vis other states, for example by seizing territory, attacking a state previously protected by the old regime, or generating conflict between the revolutionary state and its rivals. In particular, because revolutionary regimes are beset by civil strife and elite fracture, other states may seize the chance to attack the revolutionary regime. Second, this 'window of opportunity' generates 'spirals of suspicion' as the uncertainty produced by the revolution heightens levels of insecurity that, in turn, raise perceptions of threat.16 Finally, revolutionary states seek to export their revolution, both as a way of shoring up their fragile position at home and because of their ideological commitment to an alternative international order. Concomitantly, counter-revolutionary states assume both that revolution will spread unless it is 'strangled in its crib', and that revolution will be relatively easy to reverse.17 This 'perverse combination' of insecurity and overconfidence heightens the prospects of interstate conflict.18 By increasing uncertainty and fear, by altering capabilities and by raising threat perceptions, revolutionary states begin a process which, quite often, leads to war. For Halliday, therefore, revolutions are always international events: revolutions have international causes, revolutionaries seek to export their revolution abroad, and revolutions share a close relationship with both counter-revolution and war. In this sense, revolutionary states exhibit a particular form of 'revolutionary sovereignty', one which legitimizes domestic [autocracy] autarchy and international intervention simultaneously. However, as Halliday recognized, the effects of revolutions on the international system are uneven. Hence, while the Bolshevik Revolution ushered in over 80 years of conflict between state socialism and market democracy, it is difficult to see many large-scale ramifications that arose from the Mexican or Ethiopian revolutions. At the same time, there is a paradox at the heart of the relationship between revolutionary states and the international system: revolutionary states must establish relations with other states and coexist with the system's rules, laws and institutions, even while professing to reject these practices. As such, pressures to conform provide a counterweight to claims of self-reliance and international contestation. Despite challenging existing patterns of interaction and hierarchy, revolutionary states play their part in reproducing regimes governing trade, alliance formation and security. Indeed, the often tenuous nature of revolutionary regimes, besieged from without and within by counter-revolutionary forces, means that they take claims to domestic sovereignty and state security seriously. As such, they often serve to strengthen the very states system that they seek to undermine. Although this is some way short of domesti-cation or 'socialization, in order to function as states revolutionary states give up many of their revolutionary aims.19

Halliday did not merely see revolution as an important topic for IR; he also thought that IR had much to offer sociological and historical accounts of revolution. First, international factors (defeat in war, the vicissitudes of the market and shifting alliance structures) often precipitated and prompted revolutionary crisis. Second, international actors played a major role in encouraging revolutions via arms, aid and the power of example. Finally, revolutionary foreign policies were committed to the export of revolution, albeit with mixed success. As such, IR scholarship aided the general study of revolution by making apparent its modular features: the 'period of grace' offered to revolutionary regimes as foreign powers assessed its challenge; 'active confrontation' as this challenge was met by counter- revolution and war; and finally, long-term 'accommodation' as both sides of the conflict took part in symbiotic, if unequal, exchanges.20 The history of international relations also demonstrated that, for all the 'voluntarist delusions' of revolutionaries from Trotsky to Guevara, the particular contexts in which revolutions emerged meant that emulation was, at best, a remote possibility.21

# 2NC

## Framework

### AT: W/M ⁠— 2NC

#### They link. The 1ac McKenzie evidence advocates for expanded use of carceral punishment and for “jailing” offenders for life

1AC Mckenzie 19 (https://sammckenziejr.medium.com/how-the-business-of-whiteness-is-the-ultimate-antitrust-violation-3d5ec1f28ae5)

The other day, I listened to my Alexa device echo back the attorney general confirmation hearing for William Barr. I heard a senator lob preschool questions at William Barr about tech companies and antitrust regulations.

Based on the senator’s leading questions, the senator believes antitrust laws are necessary to prevent companies from becoming too powerful and eliminating competition. Apparently, that’s bad for business owners, and it’s bad for the public.

As I heard the questions and answers, my face balled up and I thought, “Isn’t that what white supremacy does in America?”

The answer is yes and here are a few ways it happens:

Deals with white suppliers

Anticompetitive deals between companies and suppliers, that reduce or end competition, can increase monopolies.

In the past, America’s immigration laws created white and wanton deals with countries to maintain white majorities in America.

Those racist compacts allowed millions of white Europeans to come to a racist America while excluding other nations.

As America’s white majority declines, it’s no surprise the current battle with immigration is about the market share of whiteness in America with certain countries as the preferred suppliers.

The mergers of whiteness

Mergers by large corporations can create a monopoly too.

In the past, as whiteness merged with European immigrants, the united state of whiteness benefited by eliminating competition from Black people and people of color.

White racism enacted against Black people made it easier for new European immigrants to enter the workforce and the middle and upper classes of society.

White America exists — in its fixed and rigged position — because white America instituted, reinforced, expanded, and reiterated white supremacy through slavery, discriminatory laws, the Homestead Act, the G.I. Bill, the New Deal, and a bad host of other inhospitable policies and practices.

White supremacy has unjustly enriched white people — even poor whites relative to their counterparts — based on the merger of whiteness.

The cost of the merger of whiteness to Black people from stolen income and opportunities must be many trillions of dollars.

Price discrimination against Black people

Price discrimination involves charging different prices to different consumers.

With price discrimination, the value of a service changes depending on the buyer, and it can be illegal.

If you’re Black in America, you are more likely to die earlier, go to jail, suffer greater health disparities, make less money, and be the target of discrimination and hate crimes.

The unnecessary, disproportionate, and discriminatory price of life that Black people pay in America is exorbitant because of white supremacy.

Barriers to entry for Black people

When companies create barriers to enter the market, they can violate antitrust laws. The barriers make it impossible or unduly difficult for other companies to start and compete.

Today, the structural barriers of whiteness make it harder for Black and Brown people to compete and achieve at every level.

Those barriers include the need for multiple college degrees that do not pay off themselves.

Those barriers include hand-me-down wealth that automatically passes ill-gotten gains and material privilege to generations of white people.

Those barriers also include social and professional networks engineered and serviced by white supremacy that white employees use to get their white friends a job.

Remedies and Regulation

The word “trust” can refer to property or big business. Way back in the 90s, legal scholar Cheryl Harris described whiteness as property with all the benefits and entitlements of property ownership held by white people.

If whiteness is property, as Harris said, then whiteness is a monopoly — that’s inherently discriminatory in a white-supremacist society — and it violates the principles of antitrust laws too.

Strangely, the same Justice Department that investigates and prosecutes antitrust violations supposedly does the same with cases of discrimination.

The antitrust laws aren’t perfect; officials can underutilize and misuse them. For example, the Trump administration and his Republican accomplices want to misuse antitrust laws to punish companies they think silence “conservative voices.”

Meanwhile, white supremacy — as a conglomerate of cruelty with workers and workings — is the biggest antitrust violation in American history that continues to silence voices.

The principle of fair competition within antitrust laws should apply everywhere. If the Justice Department had eyes on every industry of white supremacy, as it does on antitrust violations, that would be better.

To overhaul the state of the union, the disparate impact principle has to be retroactive, and it must forever reign over every part of American life with militant enforcement.

The stimulated economy of white supremacy roars like a well-oiled machine. America is not a meritocracy; a white monopoly runs America.

The business of whiteness has to stop passing go and running the board. Jail it, and its outcomes for life.

In its place, set free the business of humanity that all Americans can trust.

### AT: “You Get Ground”

#### Climate-focused infrastructure funding will pass now

Collinson 10-29-2021, analyst @ CNN (Stephen, “Democrats fight one another in Washington as Americans struggle,” *CNN*, <https://www.cnn.com/2021/10/29/politics/congress-spending-bill-president-joe-biden-italy-g20-democrats/index.html>)

Changing millions of lives

There is no doubt that if it passes, the social spending package, which makes housing, education, health care and home care more affordable, has the potential to change millions of lives. The climate proposals could unleash a new green economy as well as help save the planet. And Biden will probably eventually get his Washington victory lap. His domestic policy chief Susan Rice told CNN's Anderson Cooper Thursday the White House was "very confident" a framework accepted by House progressives would be the basis of the spending bill that would now be able to pass both chambers. The two holdout moderate Democrats, Joe Manchin of West Virginia and Kyrsten Sinema of Arizona, are yet to publicly and unreservedly endorse the framework. The question now, after another missed deadline, is when the situation will change. In the last few days, the spectacle of Democrats ditching multi-billion dollar programs and hurriedly trying to come up with new ways to fund the bill has left an impression of chaos that hardly enhances the reputation of one of the biggest social spending bills in generations. The longer the impasse lingers, the greater the risk that moderate Senate Democrats will get cold feet. Or that progressives will sour on a framework for a deal that cuts out many of their favorite programs, including paid family leave and free community college. Biden's departure for the G20 summit in Italy and the UN climate conference in Scotland was set by Democratic leaders as the latest deadline to pass the infrastructure and spending bills. On Thursday, it also became the latest must-pass date to be missed, reflecting a growing habit for the White House to set deadlines that are not met and frazzle the President's credibility. As a result of the latest miss, Biden showed up in Rome looking like a President who cannot get his own house in order before he meets world leaders to reaffirm US leadership. Biden had particularly wanted climate programs in the spending bill sent to his desk before he left, to pressure other nations to make significant cuts to carbon emissions at the climate summit. Progressives believe that the social spending bill, which offers universal pre-school, home health care for the sick and the elderly and $500 billion in spending to combat climate change, is a once-in-a-generation chance to overhaul the economy to alleviate the burden on working Americans.

#### They said the aff was unpopular AND we get a link

#### Passage solves climate change

Meyer 10-28-2021, staff writer at The Atlantic. He is the author of the newsletter The Weekly Planet, and a co-founder of the COVID Tracking Project at The Atlantic. (Robinson, “Biden’s Amazing, Disappointing Climate Triumph,” *The Atlantic*, <https://www.theatlantic.com/science/archive/2021/10/whats-actually-joe-bidens-new-climate-proposal/620543/>)

In order to mean anything for climate change, President Joe Biden’s signature spending package has to pass. And, at least right now, no guarantee exists that it will. Earlier today, the White House announced a new framework “agreement” for the ambitious package, which it has been negotiating in some capacity since March 31. The framework is composed not of policies that Manchin and Simena, the Senate’s two linchpin Democratic votes, have agreed to, exactly, but of policies that they have yet to reject. Biden has seemingly announced the deal not because of a big breakthrough in negotiations, but because he needed to have something in hand before he flew to Europe to meet with Pope Francis and to speak at the United Nations climate conference in Glasgow, Scotland. Yet if the deal resembles the final bill, it promises that whatever does pass (if anything does) might be worth celebrating. It will not mark total victory: Manchin’s cancellation of a crucial clean-electricity program, Democrats’ slim one-vote Senate majority, and the surfeit of veto points in Congress foreclosed that possibility. But it will mark a turning point in the federal government’s approach to climate change, and it will prepare the country’s physical, technological, and—surprisingly—its industrial landscape for a future closer to what the rest of the world expects. Notable, at the very least, is its size: $555 billion for climate change. Biden, remember, initially proposed that the entire package cost $3.5 trillion; Manchin and Sinema have since whittled that down to $1.75 trillion. (The White House contends that the package officially costs nothing, since its spending will be, against the advice of economists, entirely balanced with new taxes and other revenue, but no verb yet exists in English to convey those subtleties.) But even as the bill’s overall spending has been cut in half, its amount of climate spending has barely budged, moving from $600 billion to $555 billion. The bill has lost key climate policies along the way, such as the Clean Electricity Program, and the Senate has shown itself as unable as ever to straight-up mandate reductions in carbon pollution. But the spending once allotted to those programs has been shifted to surviving climate policies and directed into new ones. To have the bill lose 50 percent of its overall spending but only 4 percent of its climate spending shows that the Democratic Party, despite significant internal constraints, has prioritized aggressive action on climate change. Now, is that aggressive action enough? As ever with climate change, answering that question to satisfaction would require Ph.D.s in mechanical engineering, world history, and moral philosophy. The United States is responsible for a quarter of all greenhouse-gas emissions since 1751, which is slightly more than Europe and twice as much as China. It still emits more than 10 percent of global climate pollution each year, and it is the world’s largest producer of oil and natural gas. More important, it has nudged, prodded, and sometimes pile-drove the rest of the world into accepting a vision of modern affluence—of development itself—that drips with oil. So what might be enough is for the United States to zero out its pollution within five years, leading the rest of the world to a prosperous and more sustainable future. That is the kind of action that would likely avert 1.5 degrees Celsius of global average temperature rise by 2040, the threshold beyond which experts say some devastating consequences are inevitable. But such a collapse in carbon intensity may not be physically possible without gripping poverty, and it is certainly politically impossible in our current democratic system. As such, the Biden administration has committed to cut American climate pollution in half by 2030 compared with its all-time high. To skip over some vagaries of energy modeling, suffice it to say: With luck, this bill will probably get us close to that goal. Here is how. At the core of the package is a robust set of tax credits that will touch nearly every part of the real economy. Although tax credit is a dirty word in policy making—signaling a love for filing forms in triplicate and unnecessary complexity—these programs have been simplified by lawmakers to directly pay out cash to consumers and businesses. A quick tour of these subsidies may help bring their sheer scope into focus. Let’s start with the power sector. If someone builds a new solar, wind, geothermal, or otherwise zero-carbon power plant, they will qualify for a 30 percent investment subsidy. That is, the government will cover nearly a third of their cost. If the materials in their new plant were made in the United States, the government will cover 40 percent of their cost. Should a renewable developer decline that assistance, they still can access a separate subsidy of $25 for each megawatt-hour of zero-carbon electricity that their power plant generates—and that subsidy increases too for American-made plants. Nuclear-power plants will also enjoy a new production subsidy. These are only the beginning. The bill will establish a subsidy of up to 30 percent for new high-voltage transmission lines and grid-level energy storage, two technologies crucial for moving cheap renewable electricity around the country and saving it up throughout the day to tap during the night. (That subsidy—are you getting the hang of this?—also increases for U.S.-made products.) For the first time ever, the bill will also establish a large bounty—it could be as much as $180 a ton—for anyone who removes carbon dioxide directly from the air. Then there are the subsidies for consumers. Electric cars, light-duty trucks, and motorcycles will qualify for a new tax credit, available at the point of sale, of up to $7,500. If the vehicle was assembled in the U.S. with an American-made battery, it can qualify for up to $12,500 of tax credits. There is a new baseline $2,000 subsidy for buyers of used electric vehicles. And a slew of appliance purchases aimed at phasing fossil fuels out of people’s homes—such as rooftop solar panels, electric water heaters, and heat pumps—will also qualify for new subsidies. Keep reading. The new framework devotes far more money to decarbonizing the country’s industrial sector than any previous version of the legislation. Directing money this way makes a lot of sense: The industrial sector is responsible for nearly 30 percent of American greenhouse-gas pollution, but analysts expect that it will become the dirtiest part of the American economy by the mid-2020s. Industry also faces some of the biggest outstanding technical questions about decarbonization: Very few firms, for instance, have figured out how to make zero-carbon steel, cement, or concrete. Industrial decarbonization also provides the clearest opening for the United States to compete globally: It is arguably the one part of the future, zero-carbon economy that neither China nor Europe has locked down yet. The bill tries to address these industrial problems on both the supply and demand sides. It promises to help factories retool and retrofit their processes in lower- or zero-carbon ways and to help companies calculate the embodied carbon of their products, with the aim of reducing it. It will pay power plants and industrial facilities to capture carbon dioxide from their operations—at a price, $85 a ton, now generous enough to make it advantageous for many cement facilities to try, Jesse Jenkins, an engineering professor at Princeton University, told me. It creates a new and surprisingly lucrative program for generating low-carbon green hydrogen, which is expected to be an important fossil-fuel substitute in high-temperature industrial processes such as refining and steelmaking. Keep reading! It also devotes $5 billion to a broad program meant to establish climate-friendly industries, or remake factories that already exist, in towns and regions dependent on carbon-intense manufacturing. And it creates a new tax on oil and gas companies that penalizes them for emitting the super-pollutant methane during their drilling operations, while subsidizing the technology that will help them stay below the bill’s threshold for punishment. And—one more!—the bill opens an entirely new $4 billion fund that will turn the government into a buyer of first resort for that low-carbon steel, concrete, and other industrial materials. Such a technique helps ensure that early-stage companies can find demand for their products before an industry fully develops; it was once used to get the American semiconductor industry off the ground.

#### Fossil fuel emissions disproportionately affect Black communities.

Johnson and Stokes 7/13/2020 – “Our racist fossil fuel energy system. The fossil fuel economy is killing Black Americans.” – Nikayla Jefferson is a member of the Sunrise Movement in San Diego. Leah C. Stokes is an assistant professor of political science at the University of California, Santa Barbara. – https://www.bostonglobe.com/2020/07/13/opinion/our-racist-fossil-fuel-energy-system/

American society is rife with racial inequities. Black people are 2.5 times more likely to be killed by police and five times more likely to be incarcerated than whites. But it’s not just the US criminal justice system that’s a problem: Our fossil fuel energy system is fundamentally racist. If you want to run a society on fossil fuels, you’re going to need sacrifice zones — places where the air is thick with pollution and where climate impacts can be ignored. The last time someone counted, 68 percent of Black Americans lived within 30 miles of a coal-fired plant. Many of these facilities, particularly across the South, are more expensive to run than is clean energy. Yet utilities like Southern Company keep their super polluting, uneconomic coal-fired plants open, no matter the costs for Black communities, simply because it’s in their financial interest. These decisions shorten Black lives. Research shows that white communities are exporting their pollution into Black backyards. As a result, Black children have asthma rates that are twice as high as white children. We’ve seen the consequences of this pollution burden in stark terms during the COVID-19 pandemic — it’s a key contributor to Black Americans’ higher death rate. The more scientists look, the more evidence they find: Our fossil fuel economy is killing Black Americans every day. New research shows that pregnant Black women are twice as likely to have stillborn babies than white mothers because of their unequal exposure to air pollution and heat waves. Climate change is already hitting Black communities the hardest. As we recently wrote in a report for Stacey Abrams’s think tank, Southern Economic Advancement Project, communities across the Southeast are on the front lines of flooding, sea-level rise, hurricanes, and heat waves. The scientific evidence is overwhelming: Pollution, climate impacts, and police violence all fall hardest on Black communities.

#### marked

But scientific facts have never stopped fossil fuel companies from denying the truth. Faced with increasing attention on racial justice, one fossil fuel company decided once again to lie to the public. As one report revealed, Chevron responded to the growing movement for racial justice by funding a PR campaign that claimed, “White environmentalists are hurting black communities by pushing radical climate policies that would strip them of fossil fuel jobs.” They advanced a false argument that addressing our fossil fuel pollution would “bring particular harm to minority communities.” As Harvard professor Naomi Oreskes responded: “There’s no socially acceptable language to describe how despicable this is.” In California, another fossil fuel company tried to take advantage of the fight for racial injustice to protect dirty energy. As Emily Aitken reported, a marketing firm linked to SoCalGas circulated fake reports that the NAACP opposed a plan for clean energy. This is the exact same tactic that fossil fuel companies used to try to block federal climate policy back in 2009. Make no mistake: Fossil fuel companies need to tell lies about the costs that their dirty infrastructure imposes on Black communities. Because if we understood the truth, and if we valued Black lives, there will be nowhere for the fossil fuel plants to go. And that wouldn’t just be a good thing for Black communities. It would also help Indigenous peoples, Latinx communities, and white Americans too. This is because the Movement for Black Lives is part of a long tradition of protecting all lives on this planet. At the first Earth Day in 1970, Wilbur Thomas, a Black environmental justice leader, spoke out about the racist policies driving pollution into Black communities. Today, support for climate action is higher among Black Americans, who are also more supportive of a Green New Deal. Ending the fossil fuel era would save Black lives. And it would also save Americans from all walks of life who are sick of breathing dirty air, fleeing wildfires, and hunkering down for the latest hurricane. It’s time to face facts. If Americans are sincere that Black lives matter, the fossil fuel era must end. Just as we cannot accept a world where Black Americans’ final words at the hands of the police are “I can’t breathe,” we cannot accept a world where our fossil fuel dependence poisons Black communities, so that every day across our country, Black Americans can’t breathe.

### AT: C/I

#### Defining the USFG as an assemblage does not mean that it does not require government action ⁠— it just means the government is composed of a variety of parts that assemble together to make up the government.

Vanhanen 10 , Janne Vanhanen PhD in Philosophy from Univ of Helsinki, ENCOUNTERS WITH THE VIRTUAL The Experience of Art in Gilles Deleuze’s Philosophy , https://helda.helsinki.fi/bitstream/handle/10138/19376/encounte.pdf?sequence=1

To characterise the mode of being of the assemblage, Deleuze and Guattari distinguish two axes in it: material and expressive components, and processes that can be either stabilising (territorializing) or destabilising (deterritorializing). The material and expressive components can be roughly categorised as falling under the axis between “machinic assemblage of bodies” (affective materiality) and “collective assemblage of enunciation” (language, semiotics, “incorporeal transformations”).371 This can be schematised as follows: ASSEMBLAGE Material components (“states of bodies”) Territorializing processes Deterritorializing processes Expressive components (“incorporeal transformations”) An assemblage is, then, “an intermingling of bodies”, material and semiotic, which undergoes processes of strengthening or disassembling its current identity.372 An archetypal example of an assemblage would, thus, seem to be a social formation of some kind, such as a political party or an institution of state.373 These clearly consist of material conditions (workers, material assets, et cetera) and expressive components (rules and regulations, statements, symbolisations, et cetera) and they undergo phases of stabilisation and change. A forceful instance of this is the juridical system. It is composed of buildings, clerks, officials and judges, as well as semiotic components such as laws, conducts and practices. It effects corporeal transformations, producing prisoners and enclosing them in special quarters and, in addition, incorporeal transformations such as declaring people guilty or not guilty. Yet, despite the examples traversing the social field, it must be kept in mind that Deleuze and Guattari nominate every single thing as an assemblage. The world is constituted of affects: parts within parts, affecting one another. Phenomena-as-assemblages exist as “boxes” within boxes, or a set of Russian dolls, qualified according to spatio-temporal scale and perspective. There are components great and small, mountains and molecules, and likewise assemblages. I am an assemblage of myriads of parts: physico-chemical, biological, cultural, technical. The parts I consist of are assemblages, too, on their respective levels. The hands that I type this text with consist of formations of flesh, sinew, bones, nerves, arteries and so forth. They have an individual history as “my” hands, and a structural history of the assemblage of human hand evolving through generations of ancestors, as the hand is a deterritorialized paw. My fingertips, pressing the keys, are made of biological cells, which, in turn, consist of molecules which are aggregates of atoms. We can continue into the sub-atomic level and never encounter the foundational stratum of reality which would act as a strictly determining foundation for the “higher” levels.374 Likewise, there are many assemblages of which I am a part of. My family, my university department, my neighbourhood, my nationality, humankind, the whole animal kingdom, planetary organic matter, Earth, the stellar system, Milky Way, the local system of galaxies and so forth into massive scale cosmic structures. At any level of consideration we are dealing with populations, 375 not species, and with relations of parts to a (relative) whole. And, as mentioned above, there is also the question of emergence where different entities and attributes emerge not causally but statistically out of smaller-scale parts, without the larger-scale entities being reducible to their constitutive parts, as well as the wider assemblages affecting their components. As DeLanda phrases it, the world is composed of “nested” sets of individuals of different spatial and temporal scales.376

#### Do not meet their own interpretation ⁠— they do not act through the government as an assemblage; a government as an assemblage means it is an enduring institutional structure with the power to effect all of its parts ⁠— they only act through individual parts which is not acting as an assemblage

Vanhanen 10 , Janne Vanhanen PhD in Philosophy from Univ of Helsinki, ENCOUNTERS WITH THE VIRTUAL The Experience of Art in Gilles Deleuze’s Philosophy , https://helda.helsinki.fi/bitstream/handle/10138/19376/encounte.pdf?sequence=1

The fact that everything is an assemblage does not mean that anything can become one: there are some criteria to ascertain that a certain assemblage is a real and functioning entity and not merely a random aggregate of parts. First, an assemblage has to possess the power to affect its constituent parts.377 The ability to do this functions as the criterion of the assemblage’s reality. In theory, any two – or more – entities can be viewed as belonging to a same assemblage, but only those instances of co-existence which bring about a change in their parts can be considered as really forming an assemblage. For instance, I might concoct a relation between myself, the dark side of the moon and every phonograph record released in June 1958. Clearly, those parts listed are not affected by any super-individual unifying assemblage, however strongly I wished to believe in it. There has to be consistency for the assemblage to remain over time as the parts are able to reproduce the assemblage in repetition or retention. Then again, the assemblage of my university department is very much real, according to the effects it can have on me, my colleagues, my office furniture, my computer, et cetera. The appearance of emergent properties is the second criterion for assemblages.378 To continue the example of a university department, it can bring forth effects that its constituent parts cannot evoke in isolation. Likewise, the department fulfils the third feature of an assemblage, that of redundant causation. A university department is not the “sum” of the histories of its parts. In a way, a significant number of its sub-individual parts are interchangeable, and this is the reason for the power of its continuity through the years. Professors, lecturers, students and administrative staff can come and go, yet the department stays. Yet, the Simondonian point of the relationality of individuation must be brought up as a reminder: the department can, in turn, function as a sub-individual part in another assemblage, such as the university faculty or a certain professional sector.

# 1NR

## Case

### 1NR---Antitrust

### 1NR---AT: Revolution

#### Their analytic of a race war is bad and fixes identities around rubrics of antagonisms

Saul **Newman and** Michael P. **Levine 2006** --Saul Newman is a British political theorist and central post-anarchist thinker. Michael P. Levine is Professor of Philosophy at the University of Western Australia.(<https://www.jstor.org/stable/pdf/41802327.pdf?refreqid=excelsior%3A0bd0f7c0469462ca09e95562d89cde14> “War, Politics and Race: Reflections on Violence in the 'War on Terror'”)

One of the advantages of Foucault's account is that it shows the way that the sovereign state of exception, rather than simply being a formal, conceptual relationship, intersects with different social and cultural forces. Indeed, as Foucault shows, the historico-political dis- course of war is also a discourse of race: the idea that war is at the basis of society, and that there is no neutral ground or universal epistemological position, springs from the idea that history is simply the recording of conflict between warring social groups or 'races’.27 According to Foucault, this metaphorical struggle is articulated in different forms: from warring Germanic tribes, to the resentments of the Saxons against their Norman conquerors, to the opposition of the French nobility to the monarchy. Moreover, as the principles of war become increasingly incorporated into the structures of sovereignty and the state, the idea of 'race war' starts to crop up in the discourse of nineteenth century nationalist movements, in the socialist idea of class struggle, eventually finding its ultimate and most perverse form in Nazi State racism: It will become the discourse of a battle that has to be waged not between races, but by a race that is portrayed as the one true race, the race that holds the power and is entitled to define the norm, against those who deviate from that norm. 28 Nazi Racism is an extreme example of what happens when the notion of race combines with the discourse of war and becomes inte- grated into the mechanisms of sovereign power. Thus, as Agamben also shows, the Nazi State was able to decide on the exception by exercising an unmitigated power over the lives of millions confined in the camps and exterminated on the basis of perceived racial differ- ences. Indeed, Foucault argues that it was precisely the discourse of war that enabled Nazism to mark out divisions in the social field between Aryan and Jew, Slav or Gypsy. In other words, the Nazi State saw itself as being engaged in a permanent state of war against the internal contaminants which threatened the purity and integrity of the German nation. However, as Foucault also shows, the idea of the race war also permeates other forms of nationalism, in which a particular group or 'nation' lays claim to a certain territory or even to a certain set of values and principles. Indeed, as Andrew Neal suggests, the importance of Foucault's seminars on war lies in showing the way that modern racism itself is closely bound up with and indeed has its ori- gins in, the union between sovereignty and a collective subjectivity defined through the nation state.29 What allows nationalist discourse to function is the designation of an enemy which threatens the integrity of the nation or offends its ideals, an enemy with which soci- ety is at war and from which society must be defended. Can we not see this nationalist and ultimately racist discourse in operation today? Increasingly 'the Muslim' is constructed as the enemy, the outsider to whom our culture and 'democratic values' are entirely alien and from which we must defend ourselves. As Neal points out, nationalism can appear in the form of the particular, nar- row identity and also as a 'universal' set of ideals and aspirations: 'The "enemy" does not simply pose a threat to " our way of life" but frequently comes to offend the liberal universalistic ideas that come to be expressed within national cultural and political space.'30 We can see these two articulations of nationalism operating in the 'war on terror': the desire to defend the integrity of our nation, our 'way of life'; but also universalistic claims to liberal and democratic values which we in the West see as our gift (or to use Bush's language, God's gift) to the rest of the world. What ultimately underpins and unites these two faces of nationalism is the need for the figure of the enemy, occupied in this case by the Muslim. In other words, despite the protestations and reassurances of those who fight the 'war on terror' that it has nothing to do with racism, that it is not a war against Mus- lims but simply a 'war against fundamentalism, extremism and intol- erance etc', we have to realize that this a veiled form of racism, one that is made possible by a historical conjuncture of war, sovereignty and politics. Foucault has charted the transformations from what was once an anti-State discourse of race war into a form of state racism and nation- alism: 'At this point, the racist thematic is no longer a moment in the struggle between one social group and another; it will promote the global strategy of social conservatisms.'31 This enigmatic phrase - the promotion of a global strategy of social conservatisms - seems to speak directly to our contemporary situation. Does it not evoke the strange resurgence of (neo)conservative ideologies around the world today in the wake of September 1 1, the disturbing climate of preju- dice, intolerance, violence, paranoia and virulent nationalism and racism that has been unleashed at a global level? One of the symp- toms of the convergence of politics with war, and the eclipse of poli- tics as an autonomous domain, has been modes of identification that seem to be emerging once again around antagonistic social groups or 'nations': we are seeing a kind of communitarianisation of the polit- ical and social space, in which people are once again identifying themselves according to their community, cultural/ethnic background or religion, an identity that they see as increasingly threatened by those who are different. The rise of anti-immigrant racism, particu- larly in Europe, might be seen in these terms: here, racist discourses have moved from extremist groups on the margins of politics to the centre of mainstream public opinion, focussing on those immigrants and outsiders who have 'come to our country yet do not share our values and remain intolerant of our ways'. So the point here is that the discourse of race war, that which posits a violent and constant antag- onism between social groups, has become fully incorporated into the mechanisms of the state, and is rearticulated in different forms of racism and intolerance: that which is now directed towards society's 'enemies' in whichever form they may appear. So it is not only that warfare reflects, to a great extent, racial prejudices, but also that racism itself is animated, intensified - indeed, made possible - by the logic and discourse of war.

#### No race war – calling it a implies black people are aggressors in combat – that’s wrong and justifies antiblack violence

Blay 16 (Zeba, Senior Culture Writer, HuffPost, “No, We Are Not In The Midst Of A Race War” 7/8/16 https://www.huffpost.com/entry/no-we-are-not-in-the-midst-of-a-race-war\_n\_577fb9b5e4b0344d514ee8a1)

The New York Post front page for Friday features a photo of the slain cops with a headline that reads, in large, bold letters: CIVIL WAR. The words might as well be “RACE WAR.” It’s a dangerous implication, one that feeds into the idea that the state of race relations in America will only be rectified by violence, and nothing else. And that just isn’t true. The incendiary, tasteless headline doesn’t exist in a vacuum, of course. It echoes the sentiments of real people, people who are taking to their social media accounts to condemn the Black Lives Matter movement for the deaths of these cops, to blame them for inciting violence and continuing the “war on police.” But as Washington Post writer Radley Balko points out, there is no actual war on cops: “So far, 2015 is on pace to see 35 felonious killings of police officers. If that pace holds, this year would end with the second lowest number of murdered cops in decades.” The word “war” used to describe what’s happening in America right now could have unpredictable and unsafe ramifications. Black people asking not to be shot for simply existing is not “war.” Black people assembling to protest their senseless killing is not “war.” There may be rage involved, fury, but to stand up for ones rights is not an act of violence ― it’s an act of revolution against an oppressive system. “War” implies opposing sides. “War” implies separate aggressors coming to blows so that only one may reign supreme. And “war” on the cover of the New York Post, or in an angry Facebook post by someone condemning black people for the officers’ deaths, implies that in the end only one side can actually remain. That is terrifying. That is un-American. And to use that word is to potentially incite only more violence and misunderstanding. What happened in Dallas is not OK. It is not acceptable. It is a true tragedy in its own right. It is representative of the deep wounds and the work that must be done to save the soul of this country. But it is not a declaration of “war.” It does not speak for Trayvon Martin, or Michael Brown, or Tamir Rice, or Sandra Bland, or Alton Sterling, or Philando Castile, or countless others. To insinuate that it does is to miss the point entirely. To insinuate that black people are actually rooting for the deaths of police officers is downright vile. These attacks should not be used as justification to condemn black people for speaking out against police brutality. That does nothing to heal those wounds ― it merely deepens them.

#### Using “race war” language to argue for Black militancy means white nationalists will see the AFF as an impending threat to the survival of their race – and *they’ll preemptively strike* – empirically proven

Michael E. **Miller 19**, M.A. in journalism and Latin American studies @ NYU, “‘The War of Races’: How a hateful ideology echoes through American history”, <https://www.washingtonpost.com/history/2019/12/27/war-races-how-hateful-ideology-echoes-through-american-history/>

**Race war** largely faded from the national conversation during the civil rights era, when leaders like [Martin Luther **King** Jr.](https://www.washingtonpost.com/news/retropolis/wp/2018/03/30/who-killed-martin-luther-king-jr-his-family-believes-james-earl-ray-was-framed/?tid=lk_inline_manual_67) were at pains to **portray their efforts as peaceful**, Kendi and Breen said. At the same time, **white supremacy became less mainstream.** After many of those civil rights leaders were assassinated, however, **the rise of the more militant Black Power movement** prompted white supremacists to **again warn of** — and in some cases, **try to spark** — **a race war.** “You have **black activists** who were very clear that their opposition was to white racism,” Kendi said of the Black Power movement. “The defense from those who **did not want** to interrogate white racism was to say that these black groups were attacking white people and **thereby launching a race war**.”

#### Their use of the concept is bad – “race war” framing has been entirely coopted by white supremacists – AND, had its origins in white fears of slave revolt – the aff *fulfills Nazi fantasies*

ADL 20 – Anti-Defamation League, an NGO whose mission is to stop anti-Semitic violence, and to secure justice and fair treatment to all, “White Supremacists Embrace “Race War””, https://www.adl.org/blog/white-supremacists-embrace-race-war

The concept of “race war” is gaining popularity among white supremacists. In July, 2019, police officers responding to a [racist graffiti incident](https://www.baltimoresun.com/maryland/baltimore-county/ph-ca-at-crime-0710-story.html) in Baltimore County, Maryland, encountered swastikas, as well as a phrase new to them: “Race War Now.” In New York, [the DMV canceled](https://www.nydailynews.com/news/ny-pol-rozic-license-plate-nazi-schmieder-dmv-20181101-story.html;) a Queens resident’s vanity license plate in November 2018; the plate read “GTKRWN,” an acronym for “Gas the Kikes, Race War Now.” In Washington state, local authorities used the state’s “red flag” laws in October 2019 to temporarily seize the weapons of Kaleb Cole, a member of the white supremacist group Atomwaffen, whom prosecutors claimed was “[preparing for a race war](https://www.nytimes.com/2019/10/17/us/atomwaffen-kaleb-cole.html).” Some neo-Nazi groups, such as [Atomwaffen](https://www.adl.org/resources/backgrounders/atomwaffen-division-awd) and [Feuerkrieg Division](https://www.adl.org/resources/backgrounders/feuerkrieg-division-fkd), claim their very purpose is to prepare for “race war.” Other white supremacists repeatedly reference it on podcasts or on white supremacist discussion forums such as Stormfront. The latter has featured a variety of race war-themed topics in recent years, including “They Want a Race War, Don’t They?,” “Blacks won’t win the race war,” and “When the Race War is Escalating, What Side Will You Be On?” White supremacists also use a variety of slogans to evoke “race war.” In addition to “[Race War Now](https://www.adl.org/education/references/hate-symbols/gtkrwn),” other examples include “[Rahowa](https://www.adl.org/education/references/hate-symbols/rahowa)” (an acronym for “Racial Holy War”) and “[Day of the Rope](https://www.adl.org/education/references/hate-symbols/day-of-the-rope).” “I’m not the type of person to show up at rallies or brawls,” claimed one white supremacist on the white supremacist Iron March forum in 2017, “[but where] we have a RaHoWa or some shit, I’m going to be a n----r’s worst nightmare.” Another white supremacist, William Fears, exhorted other extremists at the “Unite the Right” rally in Charlottesville, Virginia, in August 2017 to “[Shoot! Fire the first shot in the race war](https://www.vice.com/en_ca/article/d3aq8a/exclusive-a-us-marine-used-the-neo-nazi-site-iron-march-to-recruit-for-a-race-war).” One prominent white supremacist, Greg Johnson, observed on his website in April 2019 that a portion of the white supremacist movement “is rife with fantasies of race war, lone wolf attacks on non-whites, and heroic last stands that end in a hail of police bullets.” Conceptualizing “Race War” When white supremacists use the term “race war,” they typically don’t use it to describe racial violence in a narrow or specific sense but rather to signify a large-scale, almost apocalyptic clash between races, pitting whites against African-Americans, Hispanics, Jews and other minorities in an existential struggle. Concepts of “race war” have a long history in the United States, originating in fears of mass “servile insurrection” or slave revolt in antebellum America. During and after the Civil War, many Americans, convinced or fearful that whites and emancipated blacks could not peacefully coexist, warned of the prospect of race war. Ohio Congressman Chilton White, for example, opposed the [arming of black troops during the Civil War,](https://books.google.com/books?id=zVHe0Gk2sH0C&pg=PA93&lpg=PA93&dq=%E2%80%9Cin+a+war+between+the+white+and+the+black+races.%E2%80%9D&source=bl&ots=4z6lWCENYg&sig=ACfU3U2gd2d2wF6wDQ4sNW4F54Y7-X_e4w&hl=en&sa=X&ved=2ahUKEwiMvvabgujmAhXFVs0KHWXDA6MQ6AEwAHoECAEQAQ#v=onepage&q=%E2%80%9Cin%20a%20war%20between%20the%20white%20and%20the%20black%20races.%E2%80%9D&f=false) claiming it would end “in a war between the white and the black races.” Late nineteenth-century author Henry Whitcomb Holley [warned of the possibility of “race war,](https://books.google.com/books?id=sUAgAAAAMAAJ&pg=PA24&dq=%22henry+whitcomb+holley%22+%22race+war%22&hl=en&newbks=1&newbks_redir=0&sa=X&ved=2ahUKEwj3keK8gujmAhVNCs0KHe2GBj0Q6AEwAHoECAAQAg#v=onepage&q=%22henry%20whitcomb%20holley%22%20%22race%20war%22&f=false) just so soon as the intelligence of the negro becomes sufficiently acute to grasp the situation.” Typically, 19th century figures warning of “race war” claimed such a conflict would result in the “extermination” of the black race, although [some raised the prospect of a white defeat.](https://c/Users/ReavesJ/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/OTUQKITW/Appendix%20to%20the%20Congressional%20Globe:%20The%20Debates%20and%20Proceedings%20of%20the%20Third%20Session%20of%20the%20Thirty-Seventh%20Congress,%20p.%2093;%20Henry%20Whitcomb%20Holley,%20The%20Race%20Problem%20and%20Other%20Critiques,%20Buffalo%20(Charles%20Wells%20Moulton,%201891),%2024.%20%20On%20the%20subject%20generally,%20see%20Kay%20Wright%20Lewis,%20A%20Curse%20Upon%20the%20Nation:%20Race,%20Freedom,%20and%20Extermination%20in%20America%20and%20the%20Atlantic%20World,%20Athens,%20Georgia%20(University%20of%20Georgia%20Press,%202017).) Today, discussions of “race war” are no longer mainstream and are largely constrained to white supremacist discourse. Not all large-scale conflicts envisioned by white supremacists are necessarily race wars, however. Some white supremacists focus on a white revolution to put people with white supremacist ideas in control of the government; they could then create a white-dominated nation or remove non-whites. Others have sought a white separatist conflict to carve a white bastion from part of the United States. But for many white supremacists, a large-scale war between the races is likely or even inevitable. White supremacists discuss race war in several different ways: 1) Passive preparation. For some white supremacists, preparing for a future race war is action enough. Believing that Jews and non-whites will inevitably bring about a race war, they advocate preparedness, storing weapons and supplies and making plans to survive and win the inevitable conflict. 2) Closing window of opportunity. Some argue that if a race war were to break out today, whites would prevail, but that window of opportunity is closing rapidly as the country’s non-white population grows. Because of this, such advocates claim, whites should initiate a race war now, while the balance of power is still with the white race. Waiting until later, or until non-whites initiated a race war themselves, would mean whites would be unlikely to prevail. 3) Embracing “race war.” The most radical white supremacist approach to “race war” is to eagerly embrace the idea, believing whites would win and be able to remake society as they wish. In recent years, this attitude has become enmeshed with [white supremacist accelerationism](https://www.adl.org/blog/white-supremacists-embrace-accelerationism). Accelerationists see modern society and its institutions as irredeemable and argue that it must be destroyed in order to create a new white-dominated or whites-only community. Anything that hastens society’s collapse—from lone wolf terror attacks to a full-fledged race war—is desirable.

### 1NR---AT: Snitching DA

### 1NR---AT: Method

#### Using antitrust is best; it avoids DAs to the perm and alt

Tamblyn 19, Associate Professor of the Common Law (Nathan Tamblyn, 4-30-2019, "The Common Ground of Law and Anarchism," Liverpool Law Review, pp. 65-78, https://link.springer.com/article/10.1007/s10991-019-09223-1)

Conclusion

Peaceful anarchists are critical of the law because ultimately the law is prepared to impose its solutions by force, against the consent of the unwilling. Instead, such an anarchist prefers to see decisions reached by consensus. However, the supremacy given to consensus fails to acknowledge that there are bases other than consent which might legitimise an institution like law, and, perhaps more importantly, that the need for consensus can give rise to a number of theoretical problems likely to hinder agreement at all, resist progressive change, and generate further disputes with those who wish to leave. The case studies show that these problems do arise in practice, with anarchist communities moving to majority voting simply to reach any decision at all, and disputes ultimately resolved by the unilateral imposition of a solution and resort to the threat of force after all. Thus anarchism cannot escape the criticisms it makes of the law. Its alternative [strategy] ~~vision~~ is not morally superior—which is also to say that the law is not morally inferior in this regard to anarchism. Meanwhile, the law offers a usefulness even to anarchists as it seeks to coordinate diverse activities, and to demarcate the boundaries of behaviour consistent with the promotion of autonomy. As it does so, the nature of law as an institution and practice instantiates certain values. It defines a sphere of liberty as it prescribes which behaviour will not attract interference. It instantiates dignity, in treating people as rational agents, and fairness, by tying blame to what was proscribed in advance. Also, the common law’s process of dispute resolution formally accepts the equality of both parties in a procedure which has strong democratic tendencies. These are all values which align with the anarchist cause. In the second case study, the group of anarchists did resort to the law to resolve their disputes over the payment of rent. They discovered for themselves the usefulness of the law. In the third case study, the group of anarchists desisted from invoking the aid of the law, fearing it would compromise their principles. However, the reasons discussed above suggest that it need not have been a betrayal of their values to invoke the law to resolve the disagreement between the parties. The law might have been useful for them too. None of this is to suggest that anarchists must accept the current law as perfect. They can continue to agitate for improvements. The rule of law itself is strengthened by continued scrutiny and reform. Anarchism and the law need not be antithetical. If anarchism acknowledges the similarity of values, then it can use the law to guide behaviour and resolve disputes as anarchism strives towards it objectives. If the law acknowledges the similarity of values, it can view anarchism, not as a slide towards disorder, but as a critical lens for a constructive scrutiny that helps to keep the law honest, so that the law might realise its inherent values more truthfully.

#### Retooling the law solves the worst excesses of their impact

Tamblyn 19, Associate Professor of the Common Law (Nathan Tamblyn, 4-30-2019, "The Common Ground of Law and Anarchism," Liverpool Law Review, pp. 65-78, https://link.springer.com/article/10.1007/s10991-019-09223-1)

Values Inherent in the Law—and Anarchism

Earlier we discussed the suggestion that even a community of saints (or saintly anarchists) might require law to coordinate their activities so that they do not unintentionally frustrate each other. We can take that point further by making reference to autonomy. Anarchism puts great store by autonomy. We could ask why autonomy matters. I have always found Mill persuasive: it allows for experiments in living, which enables the rest of us to learn from others’ mistakes or discoveries; and it promotes personal fulfilment, as we exercise our own faculties to give voice to the individual configuration of life within each of us, at the same time making human society and culture so much more appealing for its colourful diversity.Footnote38 Nevertheless, Mill accepted that there were limits on autonomy, to the extent that it caused harm to others. Indeed, there is an argument here from logical consistency: if autonomy does matter, then it should be promoted but only to the point where autonomy is itself threatened. All told, we might want the law to coordinate our diverse activities, and to demarcate the boundaries of behaviour consistent with the promotion of (anarchism-endorsed) autonomy.Footnote39 According to Aquinas, to achieve such goals, the law would need to influence our behaviour, and this means that the law would need to be promulgated, and possible to comply with.Footnote40 Fuller expands on these requirements: laws must also be general, not retroactive, clear, without contradiction, reasonably constant over time, with congruence between the rule and its official application.Footnote41 Fuller calls these principles of legality the ‘inner morality of law’. Some authors object to this label on the basis that immoral law is still compatible with these procedural requirements.Footnote42 However, while of course we want our law to be substantively good, there is no point if it is not also procedurally effective. What is more, even law which is substantively bad will be constrained to a certain extent if it abides by the procedural requirements of law, that is, if it is to count as law at all, rather than, for example, the sort of random stream of demands and punishments associated with a reign of terror. Simmonds says that laws give people an indication of how to avoid interference.Footnote43 This is because, to the extent that laws say ‘do this and be punished’, they necessarily also indicate when punishment will not occur. In this way, they give people spheres of freedom (from interference). Thus, he says, they embody the virtue of liberty. This may be a distinct virtue from substantive justice, but no less valuable for that. I suggest that there are other virtues to acknowledge and add to the account. First, the law embodies the virtue of fairness. Laws are moral preconditions to blaming someone: for example, it is not usually fair to blame or punish someone for acting in a way which was not proscribed at the time. We do evaluate systems, not only on the substantive justice of their laws, but on how fair their processes are. Second, the law achieves its coordinating effects, not like some people train dogs, by rubbing their noses in it. Rather, it achieves coordination by directing people how to behave, and in this regard it treats people as rational agents, with a minimum of dignity. Third, the common law has a strongly democratic tendency. It aspires to give both parties a fair hearing before an independent judge. An anarchist might object that the judge holds a hierarchical position of superiority—although that is not a problem where both parties are happy to defer to an arbiter in order to resolve their dispute. However, even with a reluctant litigant, the judge’s decision is still informed and shaped by the submissions of the parties. The law can change that very day if necessary, in response to the pleas of the parties, and the law has indeed undergone such seismic shifts as individual cases mark the starting point of new doctrines. More usually, the outcome is sought to be located within a framework of consistency with previous decisions.Footnote44 The outcomes of those other cases were similarly shaped by the litigants themselves, so that, after a thousand years, we have a body of law shaped case by case by those participating in it, and continually evolving as times and circumstances require. Thus we have virtues of liberty, fairness, dignity, and democratic participation. These virtues might only be minimally realised in any given legal system, but nevertheless they are guaranteed as the inescapable consequence of using law at all. Further, as the law improves, so these virtues can only grow. Anyone who values these virtues can have confidence in using the law, because they are inherent within the nature of law itself. They are also compatible with the anarchist cause which stands for liberty and equality, freedom from domination, and for democratic participation. I do not deny that the substantive law could be improved upon, and that access to the courts could be fairer, and that we might want a more diverse body of participants. There is a sizeable body of literature which subjects the law to a realist or critical scrutiny: for example, that law promotes the interests of the powerful and legitimates injustice;Footnote45 that it sustains racial discrimination even when purporting to emancipate;Footnote46 that abstract rights authorize the male experience of the world to the subjugation of women;Footnote47 or that judges decide cases by unspoken or unacknowledged premises or biases as much as by legal principles.Footnote48 Perhaps such criticisms might also be made of anarchist institutions like a general assembly. However, to the extent that these criticisms of the law can be acknowledged and addressed—even further highlighted through anarchist scrutiny—nevertheless there are lawyers committed to reform of the legal system to make it more inclusive and open. Indeed, not all critics repudiate law as a potential vehicle for radical change. And in the same way that anarchism aspires towards freedom and equality, despite the possible pitfalls that attend any human endeavour, so too law can, by its nature, make aspirational promises of liberty and fairness.

A final anarchist criticism of the law is that it is prospective; it outlaws behaviour ahead of time:Footnote49

[A] response to interpersonal conflict cannot be reasonably articulated before the conflict has arisen – only afterwards and after it has not been resolved to the mutual satisfaction of the persons involved… A retrospective response, I believe, allows and indeed encourages a creative flexibility in considering aspects of conflicts not anticipated ahead of time. It fosters tolerance of ambiguity, acknowledgment of alternative meanings (and reality systems), and respect for diversity. It bypasses a self-destructive prophecy implicit in the prospective legal principle, that conflicts over rights are inherent – universal to social life. It avoids the vicious cycle that can be generated by persistent official evidence that people are incompetent, incapable of resolving their own problems, incapable of responsibility, and therefore must be ruled, managed and appropriated by those with superior rights. It recognizes that experiences of personal conflict are essential to creative assessment and change. It means that we must restore life and the settlement of disputes to a direct face to face and collective process This seems to reject the virtues discussed above: on this vision, people are censured after the event, without knowing in advance that their behaviour is objectionable, and without being able to plan to avoid such censure. This does not seem fair, nor does it appear to promote liberty. Nevertheless, the common law does also have a significant retrospective element. People get on with things, and if a dispute arises, they settle it themselves, and if not, then the matter gets put before the court, which resolves the problem based upon the nuances of the circumstances of the particular case. Over a thousand years a repository of resolutions has been built up. These provide ideas for solving current problems, and so also a prospective guide to avoiding conflict. Consistency where possible is thought desirable on the basis that it is fair to treat like cases alike, but with a readiness to depart from precedent when that is called for, because these circumstances are different or simply because times have changed. Thus the common law has both a prospective element, setting out in advance in general terms how to behave to avoid censure, and also a retrospective element, considering how the general law might be applied, if at all, in the novel circumstances of this particular case. We might say that it seeks a compromise between, on the one hand, the virtues of liberty and fairness, and on the other, the need for flexibility to deliver a fitting and human response in the circumstances of individual litigants.

#### Finish here

to precisely an attempt to explain social phenomena on the basis of psychological accounts? Moreover, one often has the impression, in looking at passages such as those cited above, of a given conceptual template (indeed, a formula) imposed on one after another historical context by way of an “explanation” of racism, despite the huge variation in socio-historical and cultural factors. This one-size-fits-all type of explanation seems particularly ill-suited to Lacanian psychoanalysis which claims, after all, to be a science of the particular (Verhaege, 2002).

#### Biases are flexible ⁠— institutional changes and coalitions break down racism

Cikara & Van Bavel 15, \*Assistant Professor of Psychology and Director of the Intergroup Neuroscience Lab at Harvard University, her research examines the conditions under which groups and individuals are denied social value, agency, and empathy \*\*Assistant Professor of Psychology and Director of the Social Perception and Evaluation Laboratory at New York University (Mina Cikara; Jay Van Bavel, 6-2-2015, “The Flexibility of Racial Bias: Research suggests that racism is not hard wired, offering hope on one of America’s enduring problems,” <https://www.scientificamerican.com/article/the-flexibility-of-racial-bias/>)

The city of Baltimore was rocked by protests and riots over the death of Freddie Gray, a 25-year-old African American man who died in police custody. Tragically, Gray’s death was only one of a recent in a series of racially-charged, often violent, incidents. On April 4th, Walter Scott was fatally shot by a police officer after fleeing from a routine traffic stop. On March 8th, Sigma Alpha Epsilon fraternity members were caught on camera gleefully chanting, “There Will Never Be A N\*\*\*\*\* In SAE.” On March 1st, a homeless Black man was shot in broad daylight by a Los Angeles police officer. And these are not isolated incidents, of course. Institutional and systemic racism reinforce discrimination in countless situations, including hiring, sentencing, housing, and even mortgage lending. It would be easy to see in all this powerful evidence that racism is a permanent fixture in America’s social fabric and even, perhaps, an inevitable aspect of human nature. Indeed, the mere act of labeling others according to their age, gender, or race is a reflexive habit of the human mind. Social categories, like race, impact our thinking quickly, often outside of our awareness. Extensive research has found that these implicit racial biases—negative thoughts and feelings about people from other races—are automatic, pervasive, and difficult to suppress. Neuroscientists have also explored racial prejudice by exposing people to images of faces while scanning their brains in fMRI machines. Early studies found that when people viewed faces of another race, the amount of activity in the amygdala—a small brain structure associated with experiencing emotions, including fear—was associated with individual differences on implicit measures of racial bias. This work has led many to conclude that racial biases might be part of a primitive—and possibly hard-wired—neural fear response to racial out-groups. There is little question that categories such as race, gender, and age play a major role in shaping the biases and stereotypes that people bring to bear in their judgments of others. However, research has shown that how people categorize themselves may be just as fundamental to understanding prejudice as how they categorize others. When people categorize themselves as part of a group, their self-concept shifts from the individual (“I”) to the collective level (“us”). People form groups rapidly and favor members of their own group even when groups are formed on arbitrary grounds, such as the simple flip of a coin. These findings highlight the remarkable ease with which humans form coalitions. Recent research confirms that coalition-based preferences trump race-based preferences. For example, both Democrats and Republicans favor the resumes of those affiliated with their political party much more than they favor those who share their race. These coalition-based preferences remain powerful even in the absence of the animosity present in electoral politics. Our research has shown that the simple act of placing people on a mixed-race team can diminish their automatic racial bias. In a series of experiments, White participants who were randomly placed on a mixed-race team—the Tigers or Lions—showed little evidence of implicit racial bias. Merely belonging to a mixed-race team trigged positive automatic associations

with all of the members of their own group, irrespective of race. Being a part of one of these seemingly trivial mixed-race groups produced similar effects on brain activity—the amygdala responded to team membership rather than race. Taken together, these studies indicate that momentary changes in group membership can override the influence of race on the way we see, think about, and feel toward people who are different from ourselves. Although these coalition-based distinctions might be the most basic building block of bias, they say little about the other factors that cause group conflict. Why do some groups get ignored while others get attacked? Whenever we encounter a new person or group we are motivated to answer two questions as quickly as possible: “is this person a friend or foe?” and “are they capable of enacting their intentions toward me?” In other words, once we have determined that someone is a member of an out-group, we need to determine what kind? The nature of the relations between groups—are we cooperative, competitive, or neither?—and their relative status—do you have access to resources?—largely determine the course of intergroup interactions. Groups that are seen as competitive with one’s interests, and capable of enacting their nasty intentions, are much more likely to be targets of hostility than more benevolent (e.g., elderly) or powerless (e.g., homeless) groups. This is one reason why sports rivalries have such psychological potency. For instance, fans of the Boston Red Sox are more likely to feel pleasure, and exhibit reward-related neural responses, at the misfortunes of the archrival New York Yankees than other baseball teams (and vice versa)—especially in the midst of a tight playoff race. (How much fans take pleasure in the misfortunes of their rivals is also linked to how likely they would be to harm fans from the other team.) Just as a particular person’s group membership can be flexible, so too are the relations between groups. Groups that have previously had cordial relations may become rivals (and vice versa). Indeed, psychological and biological responses to out-group members can change, depending on whether or not that out-group is perceived as threatening. For example, people exhibit greater pleasure—they smile—in response to the misfortunes of stereotypically competitive groups (e.g., investment bankers); however, this malicious pleasure is reduced when you provide participants with counter-stereotypic information (e.g., “investment bankers are working with small companies to help them weather the economic downturn). Competition between “us” and “them” can even distort our judgments of distance, making threatening out-groups seem much closer than they really are. These distorted perceptions can serve to amplify intergroup discrimination: the more different and distant “they” are, the easier it is to disrespect and harm them. Thus, not all out-groups are treated the same: some elicit indifference whereas others become targets of antipathy. Stereotypically threatening groups are especially likely to be targeted with violence, but those stereotypes can be tempered with other information. If perceptions of intergroup relations can be changed, individuals may overcome hostility toward perceived foes and become more responsive to one another’s grievances. The flexible nature of both group membership and intergroup relations offers reason to be cautiously optimistic about the potential for greater cooperation among groups in conflict (be they black versus white or citizens versus police). One strategy is to bring multiple groups together around a common goal. For example, during the fiercely contested 2008 Democratic presidential primary process, Hillary Clinton and Barack Obama supporters gave more money to strangers who supported the same primary candidate (compared to the rival candidate). Two months later, after the Democratic National Convention, the supporters of both candidates coalesced around the party nominee—Barack Obama—and this bias disappeared. In fact, merely creating a sense of cohesion between two competitive groups can increase empathy for the suffering of our rivals. These sorts of strategies can help reduce aggression toward hostile out-groups, which is critical for creating more opportunities for constructive dialogue addressing greater social injustices. Of course, instilling a sense of common identity and cooperation is extremely difficult in entrenched intergroup conflicts, but when it happens, the benefits are obvious. Consider how the community leaders in New York City and Ferguson responded differently to protests against police brutality—in NYC political leaders expressed grief and concern over police brutality and moved quickly to make policy changes in policing, whereas the leaders and police in Ferguson responded with high-tech military vehicles and riot gear. In the first case, multiple groups came together with a common goal—to increase the safety of everyone in the community; in the latter case, the actions of the police likely reinforced the “us” and “them” distinctions. Tragically, these types of conflicts continue to roil the country. Understanding the psychology and neuroscience of social identity and intergroup relations cannot undo the effects of systemic racism and discriminatory practices; however, it can offer insights into the psychological processes responsible for escalating the tension between, for example, civilians and police officers. Even in cases where it isn’t possible to create a common identity among groups in conflict, it may be possible to blur the boundaries between groups. In one recent experiment, we sorted participants into groups—red versus blue team—competing for a cash prize. Half of the participants were randomly assigned to see a picture of a segregated social network of all the players, in which red dots clustered together, blue dots clustered together, and the two clusters were separated by white space. The other half of the participants saw an integrated social network in which the red and blue dots were mixed together in one large cluster. Participants who thought the two teams were interconnected with one another reported greater empathy for the out-group players compared to those who had seen the segregated network. Thus, reminding people that individuals could be connected to one another despite being from different groups may be another way to build trust and understanding among them. A mere month before Freddie Gray died in police custody, President Obama addressed the nation on the 50th anniversary of Bloody Sunday in Selma: “We do a disservice to the cause of justice by intimating that bias and discrimination are immutable, or that racial division is inherent to America. To deny…progress – our progress – would be to rob us of our own agency; our responsibility to do what we can to make America better." The president was saying that we, as a society, have a responsibility to reduce prejudice and discrimination. These recent findings from psychology and neuroscience indicate that we, as individuals, possess this capacity. Of course this capacity is not sufficient to usher in racial equality or peace. Even when the level of prejudice against particular out-groups decreases, it does not imply that the level of institutional discrimination against these or other groups will necessarily improve. Ultimately, only collective action and institutional evolution can address systemic racism. The science is clear on one thing, though: individual bias and discrimination are changeable. Race-based prejudice and discrimination, in particular, are created and reinforced by many social factors, but they are not inevitable consequences of our biology. Perhaps understanding how coalitional thinking impacts intergroup relations will make it easier for us to affect real social change going forward.