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#### Labor focus is a liberal discourse of inclusion that conceals the singularity of Black fungibility.

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For the past few weeks a convergence of social media discussions on reparations, Shona Jackson’s book Creole Indigeneity: Between Myth and Nation in the Caribbean, and her recent post “Humanity beyond the Regime of Labor,” as well as my own thinking about Black Studies’ engagement with Conquest have all compelled me to think critically about the issue of Black labor.[1] I would like to take a moment to focus on the conceptual limits of labor as an epistemic frame for thinking about Blackness (as bodies and discourse) and its relationship to settler colonialism. I am particularly concerned about the ways that Black labor may crowd out Black fungibility as a conceptual frame for thinking about Blackness within settler colonial discourses.

While many scholars who understand themselves as humanists have long ago conceded that strict or heavy-handed Marxian (political economic) analyses are generally impoverished and wanting; labor as an analytic persists. Indeed, labor as a discourse, or what Shona Jackson would call a “metaphysics” and “ontoepistemology”—a way of living and a way of articulating this mode of living— still haunts our critical theories (Jackson, 2012, p. 217).[2] This is particularly true as scholars undertake the difficult work of understanding and naming how racialized people are situated within White settler colonial states. Configuring People of Color into the calculus of settler colonial relations is onerous and in fact laborious. It is especially difficult when trying to conceptualize the unique location of Blackness. I commend scholars for taking on this task.

In order to do this cumbersome work, scholars tend to rely on the tried and true rubric of labor. Labor becomes the site and mode of incorporating non-Black and non-Indigenous people into settler colonial relations in White settler nation-states. People of Color scholars often rehearse histories of arrival as populations of coerced labor as a way of explaining their presence, as well as distance or proximity to the category of the Settler. Labor also becomes a liberal discourse that allows immigrants and migrants to narrate the terms of their belonging and citizenship within White settler colonial states. In this way, labor functions as another discourse of inclusion. Recently, Jamilah Martin in response to Ta-Nehisi Coates’ article “The Case for Reparations” made a similar and astute point in her blog post “On Reparations: Resisting Inclusion and Co-optation” that reparations work as a discourse of inclusion within the project of American Democracy within the “U.S. anti-Black settler-imperial state.” While the integrationist project of reparations may be a liberal project of inclusion, it also relies on a “teleology of modern labor” (Jackson 2012, p. 147). It holds out hope for Black inclusion into a human family of laborers/workers. Yet, despite the claim of the Black laborer as “subject”, embedded within the metaphysics of labor, the bill H.R. 40 (otherwise known as the Reparations Bill) has not gained traction.

H.R. 40’s lack of success partially speaks to the inability of Blackness to become fully legible through human categories like the laborer/worker. Further, it evinces the ways that laborer and worker do not explain the ontological state of Blackness. In Red, White and Black, Wilderson attends to the ways that Afropessimists “have gone considerable lengths to show that, point of fact, slavery is and connotes an ontological status for blackness; and that the constituent elements of slavery are not exploitation and alienation but accumulation and fungibility (Wilderson 2010, 14). The “alienation” and “exploitation” that the human worker experiences through labor are contingent conditions resulting from human conflicts.

Many people can and have occupied these temporary and conditional abased human coordinates. White, Asian and South Asian, Latina/o and Middle Eastern indentured and other kinds of laborers have long inhabited White settler territories and nation-states and, as laborers, immigrants and migrants have all helped build the settler nation. Black laboring bodies have even been used to build the settler nation. However, Black labor is just one kind of use within an open, violent and infinite repertoire of practices of making Black flesh fungible.

One way that I have explained fungibility to my undergraduate students in my course “Gender and Sexuality in the African Diaspora,” is to think about the slave owner Madame Delphine LaLaurie’s use of enslaved bodies in the FX television series, American Horror Story: Coven. LaLaurie uses Black flesh to meet uses and desires beyond those of labor and profit. She runs a torture chamber in order to satisfy lusts that include and exceed the sexual. In one episode, she murders and then uses the blood of an enslaved newborn child as an elixir that wards off the aging process. One gets a sense that the possibilities for Black flesh are unending under her ownership.

The infinite possibilities for fungible Black flesh mark a fundamental distinction between fungible slave bodies and non-Black (exploited) laboring bodies. Further, Black bodies cannot effectively be incorporated into the human category of laborers. If Black laboring bodies were incorporated into the category; “laborer” would have no meaning as a human condition. Blackness is constituted by a fungibility and accumulation that must exist outside the edge and boundary of the laborer-as-human. If there were no Black fungible and accumulable bodies there could be no “wage laborer” that cohered into a proletariat.

While labor as a discourse may work for non-Black and non-Native people of color as a way of interpellating themselves within settler colonial relations, it does not explain Black presence, Black labor or Black use in White settler nation-states. Theories that attempt to triangulate Blackness into the Settler/Native antagonism in White settler states do so by positing Blackness as the labor force that helps make the settler landscape possible.[3] It is true that Black labor literally tills, fences in and cultivates the settler’s land. However, this singular analysis both obscures the issue of Black fungibility and reduces Blackness to a mere tool of settlement rather than a constitutive element of settler colonialism’s conceptual order.

Fungibility represents a key analytic for thinking about Blackness and settler colonialism in White settler nation-states. Black fungible bodies are the conceptual and discursive fodder through which the Settler-Master can even begin to imagine or “think” spatial expansion (King, 2013). The space making practices of settler colonialism require the production of Black flesh as a fungible form of property, not just as a form of labor. In Scenes of Subjection, Saidiya Hartman argues that the enslaved embody the abstract “interchangeability and replaceability” that is endemic to the commodity (Hartman, 1997, p. 21). Beyond, the captive body’s use as labor, the Black body has a figurative and metaphorical value that extends into the realm of the discursive and symbolic. What Hartman names as the “figurative capacities of blackness,” allows the Settler-Master to conceptualize Blackness as the ultimate sign for expansion and unending space within the symbolic economy of settlement (Hartman, 1997, p. 7; and King, forthcoming). Blackness is much more than labor within both slavery’s and settler colonialism’s imaginaries.

Like Hartman, I argue that Blackness’ figurative capacity and interchangeability has a life—or afterlife—within the discursive and spatial projects of settler colonial expansion (King, forthcoming). Settler colonialism requires a symbol of infinite flux in order to animate and imagine its spatial project (King, 2013). In my dissertation, In the Clearing, I argue that Jennifer Morgan’s book Laboring Women: Women and Reproduction in New World Slavery, configures Black women as spatial agents who are [symbolically] essential to the settlement of land during the colonial period in the coastal regions of the South and the West Indies. In fact, the Black female body must be discursively constructed in order to make it possible to even conceive of planting settlements during the “first generations of settlement and slave ownership” in South Carolina and Barbados (Morgan, 2004). Morgan argues that 18th century settlement required particular symbolic constructions and particular uses of the Black female body (Morgan, 2004, p. 26).[4]

Black fungibility represents this space of discursive and conceptual possibility for settler colonial imaginaries. Black fungible bodies work beyond the metrics and “metaphysics of labor” in White settler colonial states (Jackson, 2012, p. 215). Labor becomes a limiting frame for conceptualizing Blackness on White settler colonial terrain. Reimagining Blackness and theorizing anti-Black racism on unusual landscapes requires that we rethink the usefulness of convenient and orthodox epistemic frames. We must venture beyond labor and its limits in order to think about settler colonialism’s anti-Black modalities. Fungibility and other frames deserve our attention as we continue to think about anti-Black racism, Native genocide and the US settler-slave (e)state.

#### Black subordination is the stage for class conflict---working class coalitions are violent interest convergence that paves the way for movement fragmentation.

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To be sure, the pivotal political-economic role of slavery in fuelling national and global capital accumulation is not new. A plethora of scholars throughout the twentieth century, though with differing emphases, have shown how nineteenthcentury capitalism was inextricably dependent on Black slave labour. As Du Bois argues, ‘Black labor became the foundation stone not only of the Southern social structure, but of Northern manufacture and commerce, of the English factory system, of European commerce, of buying and selling on a world-wide scale.’58 Yet, revisiting the ways racial slavery and capitalism were linked remains important given the tendency in certain strands of Marxism to categorise slavery as pre-capitalist because the slave was not ‘free’ and the liberal freedom of the worker is taken to be the sine qua non of capitalism.59 In opposition to this tendency, the anti-Black relation reveals the ways slavery, as a mode of racialised expropriation, anchors the ‘unfree’ end of the labour spectrum and, like the colonial relation though in a radically different way, forms a precondition for the exploitation of normative wage-labour.

Looking at racial slavery solely through the lens of productive labour, however, fails to capture the ‘libidinal economy’60 of slavery. That is, the specificity of slavery as a regime of violence, domination and accumulation, including but not limited to the ways gendered, sexual and reproductive labour enabled and was conscripted to capital accumulation.61 Rather than bracketing the libidinal economy from the political economy, the anti-Black relation offers a dialectical reading of these constitutive aspects of racial slavery withoutreducing gratuitous anti-Black violencesolelyto a function of capital**.** Saidiya Hartman, for instance, troubles Du Bois’s and C. L. R James’s use of the category ‘worker’ to represent the slave, arguing that this move ‘obscures as much as it reveals’.62 In demonstrating how Black women’s labour exceeds the figure of the Black worker as conceptualised by two exemplars of Cedric Robinson’s Black radical tradition, Hartman at once draws attention to the ‘presumptive masculinism’ of this tradition, while simultaneously deepening this tradition’s insights.63 We can build on Hartman’s insights to connect two interconnected levels of gendered, racialised expropriation at the heart of racial slavery: the labour of the slave as a worker and the gendered labour of social and biological reproduction.64 In the context of the capitalist world-system, these two layers of political-economic and gendered, reproductive expropriation congealed in the institution of chattel slavery, accumulating profit for not only planters and slave owners, but also a vast intercontinental network of merchants, financiers, industrialists, states and corporations. In a direct sense, capital’s exploitation of wage-labour in the North and in Europe was premised on the expropriation of Black slave labour, including the reproductive capacities of Black women.

At the same time, the Black slave, by being confined to the ‘unfree’ end of the labour spectrum, gives stability and meaning to the ‘free’ white male proletariat. Here, the role of racial slavery in the social order troubles any simplistic binary between the political and libidinal economies of anti-Blackness. Expanding on Du Bois’s insight about the ‘public and psychological wage’, a compensatory set of privileges extended to poor whites in lieu of their status as ‘not Black’, scholars such as David Roediger and Joel Olson have argued that the ‘wages of whiteness’ helped consolidate a white cross-class alliance.65 This class collaboration between capitalists and a significant segment of white workers is the foundation of the white supremacist racial order, ensuring the undisturbed accumulation of capital in and through the preservation of Black subordination. White supremacy, in other words, stabilised the inherently exploitative system of American capitalism by [obstructing] ~~retarding~~ the development of a strong interracial working-class movement. Drawing on Du Bois’s Black Reconstruction, Olson states,

Du Bois shows that racial oppression is a form of social control that perpetuates class relations. The white working class serves as a buffer control stratum between capitalists and the rest of the working class, facilitating social stability by holding down Black workers. But Du Bois shows that race does more than exclude, divide, degrade, and repress. It is also a productive form of power that accumulates humans into particular groups in order to produce relations of docility-utility. It does this through a peculiar arrangement of class relations, which are secured through various privileges granted to members of the dominant race. This cross-class alliance between the capitalist class and a section of the working class is the genesis of the American racial order.66

What is especially insightful about Olson’s analysis of anti-Black racial domination, emerging from his reading of Du Bois, is that race is not simply exclusionary, divisive and repressive. Rather, race is also productive, generating a web of social relations that manages the contradictions between capitalist society and egalitarian visions of a democratic order.67 Resting on the structural relegation of enslaved (and free) Black populations to the bottom of the social order, the historical effect of this white cross-class collaboration is that it has provided stability for American democracy ‘by reconciling political equality with economic exploitation through a system of racial privilege and subordination that deflects attention from class, gender, and other grievances’.68

The expropriation of Black labour is a key motive force structuring Black subordination. I use the term expropriation to emphasise the distinction between capital’s extraction of surplus value from Black labour and capital’s subjection of ‘free’ wage-labour. Even with the transition from slavery to wage-labour following the Civil War, it remains necessary to avoid collapsing anti-Black domination as simply a product of capitalist exploitation.69 This is because racism, and antiBlack racism in particular, remains productive of the American social order in a way that the concept of ‘capital relation’, by itself, cannot capture. Two important clarifications are necessary here. First, the argument I am making is not transhistorical. The relations between race, labour, capital accumulation and resistance are mutable and variable across time. However, I am suggesting that there are certain historical continuities in the ways white supremacy and identification with whiteness have fractured working-class struggles across the history of American capitalism.70 Second, in connecting the libidinal economy of slavery and anti-Blackness to political economy, I am not arguing that white supremacy is merely an extension of capital’s logic. While the psychic and material effects of gratuitous anti-Black violence do indeed reinforce and reproduce capitalism, the framework of the libidinal economy affords insight into how ‘white sadism’, ‘white enjoyment’ and the pleasures derived from this violence more generally exceeds the grid of political economy.71

#### Black abjection is the root cause of capitalism---AND even if class struggle preceded slavery, fungibility shapes contemporary markets

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W. E. B. Du Bois suggested the white worker’s choice and the black slave’s absence of choice were important components of the capitalistic distinction between blackness and whiteness. Du Bois argued white workers always held out hope that “they themselves might also become planters by saving money, by investment, by the power of good luck.”71 Black slaves come into existence not as exploited, which is to say “free” to sell their labor (choice), but expropriated in ways that mirror the extraction of natural resources.72 Another way to say this is that the slave, much like the tree or cattle, for Frank Wilderson,73 is the ground on which human capitalist exploitation stands. Julia Ott’s comprehensive review of research on slave capital bears this out: the transatlantic slave trade and slave-based Southern US commodity production created modern capitalism, financing transformations in technology, industry, and economy more thoroughly than any other capital input.74

Ian Baucom explains the connection between the objecthood of black slave bodies and the economic rationality of finance.75 According to Baucom, it was the transatlantic slave trade that birthed the modern financial calculation of value through insurance on slaves. The value of slave bodies as chattel, which could, if circumstances demanded, be cast overboard from a slave ship facing turbulent seas, was guaranteed in advance for the owners of slave ships by insurance policies. The calculation of the cost of that insurance was a foundational form of what Baucom variously terms “actuarial historicism” or “theoretical realism,” which are forms of rationality that “ground value in the loss of the singular and the invention of the average.”76 In other words, insurance on slave bodies evacuated their singularity more completely even than enslavement, rendering them placeholders of value, which could be converted into paper money either through exchange or through the exercise of an insurance contract once they were cast overboard. For Baucom, the modern credit economy and finance capitalism itself are founded on the reification of speculative values that the insured transatlantic trade in black slaves inaugurated. In his formulation, it is the white slave trader or actuary who can see through the “thingliness” of the objects of slavery to calculate their speculative value, embodying the “speculative culture of finance capital” that has much in common with the economic rationality invoked in the calculation of the abstract cost of “free” checking accounts, despite their very real lived costs for poor customers.77

These dynamics did not end with slavery. The twentieth century is rich with examples of outerdetermined black objecthood within capitalism.78 The 1939 Federal Housing Authority Underwriting Manual that served as both guide and tool for suburbanization in the US not only ratified the practice of “redlining” whereby neighborhoods of black families were drawn out of mortgage lending, but actually directed homeowners to use racial covenants to prevent black people from moving into their neighborhoods.79 Both redlining and racial covenants acted on black homeowners and potential buyers, making them objects to be circumscribed and excluded. They also prevented black people from becoming privileged subjects of the American mortgage boom, which was built and protected for those consumers who fit within the racialized subject position of homo economicus.

#### Extinction discourse is violence that subsumes Black suffering into a monolithic conception of human collectivity.

Douglass 21, assistant professor of gender, sexuality, and feminist studies at Duke University. (Patrice D., March 2021, “Unnatural Causes: Racial Taxonomies, Pandemic, and Social Contagion”, *Prism: Theory and Modern Chinese Literature*, 18:1, pg. 262-263, https://doi.org/10.1215/25783491-8922273)

In “Blackness and the Pitfalls of Anthropocene Ethics,” Axelle Karera interrogates discourses of disaster and crisis in relation to perceptions of ecological disaster. Karera contends that analyses of the immense of disaster are predicated on an insistence on collectivity that is bolstered by racial erasure. Thus, the discussion of the Anthropocene by many theorists presupposes a Human or ecological teleological progression, together with threats of demise that ahistorically subsume Blackness into a collective form of being that is central to Black suffering. Karera argues that, “insofar as the constant recognition of our existential interdependency cannot substantially challenge the many forms of segregations on the steady rise in our current times, it seems to me that assuming the inevitability of our ontological entanglement may need some re-thinking.”24 After citing the work of Fred Moten in relation to what she calls “relationality’s inability to maintain its ethical currency when faced with the extended rupture blackness sustains on ethics,” Karera continues, “In other words, relationality is inherently not only a position that the black cannot afford or even claim. The structure of relationality is essentially the condition for the possibility of their enslavement. I wonder, therefore, whether our naïve reliance on a type of inherent co-dependence has recently done more harm than good—that is to say, has instead worked to obstruct the very possibility of a positive transformation of our ethical sensibilities.”25 According to Karera, the linking of structural relationality to the conditions of slavery is key. For Blackness, segregation, interdependency, and slavery are relational rather than legally imposed. As such, the interdependence thesis (that we are all in this together) overshadows how the social structuring of Black life and death makes the collective “we” a structurally impossible equivalency, despite the affective and emotional desire for such to be true. Integration also constitutes a problem of relationality or the lack thereof. More to the point, the constitution of “we” is a form of violence that makes the particularities of Black suffering indiscernible under the auspices of equal rights and liberties in private and public spaces. In this respect, Hartman contends that “a slippage between race and status can be detected in the uncertain identi­fi­cation of the source of black degradation,” where the locus of suf­fering is frequently underscored because of the insistence on perceiving the problem as the lack of relational congruency across races with respect to specific phenomenon like global sickness.26 Rather, the conditions of suf­fering must be scaled outward, rather than inward with a narrow focus on pandemic and disease, to address the ethical stakes at the heart of Black death. Thus, employing Karera’s “positive transformation of our ethical sensibilities” to address the conditions of Gatewood’s death requires an acknowledgment of negligence on the part of Beaumont Hospital, together with a cognitive mapping of how care, protection, and safety as conceptual frameworks isolate Blackness as an excisable contagion that is subjected to gratuitous violence that so often leads to spectacularized or muted death. By muted death, I mean forms of death produced by anti-Blackness that go unseen, unaccounted for, or unknown.

**Plan focus is a smokescreen.**

Sexton 10, Professor of African American Studies and Film and Media Studies at the University of California, Irvine. (Jared, “African American Studies”, published in *A Concise Companion to American Studies*, pg. 220-221, Blackwell Publishing Ltd)

The latter task – the trenchant interrogation of racial blackness and/in the formulations of modernity and its leitmotif of freedom – was advanced immeasurably by Professors Lindon Barrett, Denise Ferreira da Silva, and Ronald Judy, each in their own way. Yet, as Wilderson again makes plain in his Red, White, and Black (2009), the grand and anxious question of freedom is preceded, logically and ontologically, by a perhaps more confounding question: what does it mean to suffer? To address such a query sufficiently is to disregard the official impatience that envelopes it. Of course, this sentiment of expediency plays to an understandably popular urgency that emanates from the severity of everyday life for the vast majority of black people and the attendant status anxiety of the so-called new black middle class. However, black creative intellectuals have done less and less talking about our pain of late and probably a bit too much posturing about our plans. If anything, we have a surplus of plans! What we do not have is a language – much less a political culture – that adequately articulates both the variance and commonality of our positions and our predicaments. African American Studies is perhaps more inarticulate about the dimensions and details of black suffering today, in an era marked by transnationalism and multi-racialism, than it has been at any other historical juncture. I am speaking here of suffering in its fullest sense: not only as pain, which everyone experiences – say, the pain of alienation and exploitation – but also as that which blacks must bear, uniquely and singularly, that which we must stand and stand alone (see Sexton 2007).

The proposal and invitation continues:

The yield of this gathering will be to assemble leading scholars alongside emergent voices in the field of African American Studies in order to reflect critically upon the mutual implication of a proliferate and diverse racial formation with the living legacies of the black radical tradition in the age of American empire. The symposium seeks to depart from prevailing frameworks for comparative ethnic studies – that is, discerning how the respective experiences of blacks and other people of color are similar or dissimilar and what have been their historic interactions – to consider how the matrix of enslavement, which is to say the invention of “propertized human being” (Harris 1993), has not only shaped myriad forms of oppression and marginalization, but has compromised their modes of resistance and [their] claims to independence as well. If there is an overarching objective here, it is to properly illuminate what might be termed the obscurity of black suffering, to rescue it from the murky backwaters of persistent invisibility as well as the high-definition distortions of glaring and fascinated light.

Proper illumination is a catchy byline, an instance of wishful thinking, if ever there was one. But can we not speak of it more charitably, perhaps as a stratagem? Or as a spur that exercises the limits of our thinking?

In her ground-breaking Scenes of Subjection, Saidiya Hartman calls our attention to the ease with which scenes of spectacular violence against the black body – what she terms “inaugural moment[s] in the formation of the enslaved” – are reiterated in discourses both academic and popular, “the casualness,” she writes, “with which they are circulated, and the consequences of this routine display of the slave’s ravaged body”:

Rather than inciting indignation, too often they immure us to pain by virtue of their familiarity – the oft-repeated or restored character of these accounts and our distance from them are signaled by the theatrical language usually resorted to in describing these instances – and especially because they reinforce the spectacular character of black suffering. [. . .] At issue here is the precariousness of empathy and the uncertain line between witness and spectator. Only more obscene than the brutality unleashed at the whipping post is the demand that this suffering be materialized and evidenced by the display of the tortured body or endless recitations of the ghastly and terrible. In light of this, how does one give expression to these outrages without exacerbating the indifference to suffering that is the consequence of the benumbing spectacle or contend with narcissistic identification that obliterates the other or the prurience that too often is the response of such displays. (Hartman 1997: 4)

To put it bluntly, how does one engage with black suffering at all without simply erasing it – refusing it, absorbing it, appropriating it – in the very same gesture? Hartman’s inventive response to what might appear, at first glance, to be a rhetorical question or a cruel joke (that is, making a case with evidence that is, strictly speaking, inadmissible) is to move away from the expected “invocations of the shocking and the terrible” and to look, alternately, at “scenes in which terror can hardly be discerned,” “the terror of the mundane and quotidian,” what she phrases appositely as “the diffusion of terror.” What she finds, if calling it a “finding” is not immediately to betray it, is the recapitulation – the repetition and summation – of this spectacular primal scene across the entirety of the social text of racial slavery and its aftermath. That is to say, it is never the case that this terror is not present. It saturates the field of encounter. It is ubiquitous and yet it is, perhaps for the same reason, barely discernible. One wonders thus: how might the discussion of this dispersed, ambient terror become any more compelling than that which is condensed and acute? The point being not that blacks enter the wrong evidence or pursue the wrong argument, but rather that they are disallowed from entering evidence or building arguments in the first place, barred, as it were, from bringing charges and levying claims of grievance or injury as such. Again, what does it mean to suffer, in this way? This “challenge,” as Hartman modestly calls it, of giving expression to the inexpressible is taken up again in Fred Moten’s remarkable text, In the Break. In fact, it is the discrepancy between subjection and objection that launches the accomplishment of a project opened and closed around the impossibility and the inevitability of “the resistance of the object” (Moten 2003: 1). That, at least, is how it sounds to me. What is disquieting and provocative in this exchange is what I take to be a certain turning away from the implications of Hartman’s precarious distinction between witness and spectator, a positional instability that is not mitigated by transpositions in the sonic register, nor, for that matter, in the performance arts more generally (Barrett 1999; Weheliye 2005).

#### The alternative is to reject the aff in favor of marronage---that creates spaces of common place-based resistance for Black and Indigenous communities and ends capitalism.

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As acknowledged in the literature above, unorthodox value systems and modes of production are often present within Black-led cooperatives. Through collective community-building initiatives by groups like Cooperation Jackson and Cooperative Community of New West Jackson, Jackson has risen as a promising place for the incubation and application of economic, spatial, and political alternatives. Applying the analytic of marronage to discussions of commoning can contribute timely, place-based contributions to the study of cooperatives and the commons. Thinking of the commons, particularly of urban commons, through a lens of marronage may help residents and organizers in selecting and acquiring common property as well as in recreating modes of living beyond and before the (re)imposition of capital. Though communities are adept at determining their needs, as efforts such as D-Town Farms and the CCNWJ indicate, making academic resources, concepts, and methods available to collective and cooperative practices may lead to any number of fruitful and unforeseen outcomes. Finally, as residents and researchers are not immune to the trappings of spatial imaginaries based in logics of individual ownership (see Wright and Herman, 2018), an analytic of marronage has the potential to influence the spatial imaginaries of residents and researchers, alike, so that more of us come to view landscapes of marronage as more than blank slates for capitalist development but as the future of innumerable publics.

7. Conclusion

Analyses of racial capitalism are necessary in the drive to create alternatives to capitalism. If diverse economies hope to address phenomena like urban decay, gentrification, and environmental degradation, they must first recognize that notions of racial difference make such arrangements possible. Urban disinvestment, the repurposing of urban space, and the treatment of spaces as empty contribute directly to the reproduction of capitalist modes of production. In the context of North America, these mechanisms of accumulation occur precisely because the communities most affected by them remain subordinated to logics of conquest. The afterlives of settler colonialism and chattel slavery inform the realities of present-day capitalism, as the displacement and spatial fixing of Indigenous and Black populations—central to the initial rise of global capitalism—continue to be central characteristics of capital accumulation. Creating alternatives to capitalism thus means first recognizing how conquest continues to structure capitalist modes of production.

In the examples given above, Black and Indigenous communities provide clear analyses of the logics and concrete economic factors that oppress them. In recognizing how economic abandonment and intentional disinvestment from city spaces serve to reproduce capitalism and oppress their communities, Black communities in Detroit and Jackson and Indigenous communities in Winnipeg and Minneapolis offer a grounded theory of racial capitalism. These communal analyses explore particular manifestations of present-day capitalism, uncovering how capital accumulation takes place via the oppression of racialized populations. More importantly, these communities push beyond a diagnosis of oppressive dynamics and create place-specific alternatives to the expressions of capitalism they encounter. The establishment of public housing in Winnipeg and Minneapolis and the cultivation of commons through practices of marronage in Detroit and Jackson both entail alternatives to the forms of capitalism that displace the Indigenous and Black communities present in those cities. These communities, then, employ an analysis of racial capitalism to enact diverse economies.

Literature on diverse economies and actual, material creations of alternatives to capitalism can look to examples like those described above as they try to envision and implement economies that do not reproduce capitalist modes of production. Winnipeg, Minneapolis, Detroit, and Jackson are hardly the only locations in which capitalism has taken hold, and different locations will have to wage their own struggles against the specific forms of capitalism they face. Nonetheless, the movements described in this paper offer an important blueprint for how analysis and praxis can walk hand in hand. To create futures not dominated by capitalism requires both an honest assessment of the workings of racial capitalism and the ability to create alternatives to such arrangements. Looking to examples like those above are a starting point from which we can take both of these steps.

## Case

### 1NC---Turn

#### The plan locks in inequality by banning black firms when black-owned businesses are just getting off the ground.

Perry 21, senior fellow at the Brookings Institution interviewed by NPR's Lulu Garcia-Navarro. (Black Entrepreneurship Booms During Pandemic, May 30, 2021, <https://www.npr.org/2021/05/30/1001684802/black-entrepreneurship-booms-during-pandemic>

LULU GARCIA-NAVARRO, HOST: This pandemic has warped the economy, but mass layoffs at the beginning led to a boom in entrepreneurship. In Black communities across the country, startups are sprouting. Sinceray Douglas (ph), for example, started a cleaning and organizing business in Minneapolis. SINCERAY DOUGLAS: I had been working for a bank for over five years. And due to COVID, my hours had been cut. And I am a single mother, and it's hard. I have four children total, you know? So I will say, hey, since I have a joy in cleaning, why not start a cleaning business to help out others as well as help out myself? And I just feel so much pride in it, and I feel amazing. CARMEN AFOR: My name is Carmen Tufor (ph), and I currently live in Lorton, Va. I moved to the state about 10 years ago from Ghana with my mom and my two brothers, and then my dad was with me, but he passed away of COVID. My dad passing away was a wake-up call that I have to do something. So I created the telemedicine app that connect patients and doctor together. My dad would be proud of me for launching this business. JAQUIN MADDOX: I just want to try to put as much happiness into this cold, dark world that I can. My name is Jaquin Maddox (ph), and I am in Denver, Colo. I am an event planner for weddings, social and corporate events. I was planning for the future, trying to build generational wealth for my daughter and my three grandsons. And as a Black woman, I feel like I'm a part of history, a movement that has not happened in the history of this country. GARCIA-NAVARRO: Joining us now from New Orleans is Andre Perry. He's a senior fellow at the Brookings Institution. Welcome to the program. ANDRE PERRY: Hey, thanks for having me. GARCIA-NAVARRO: What is driving this surge in entrepreneurship in Black communities across the country? PERRY: Well, on its face, Black people are driving entrepreneurialism. The lack of businesses in the Black community really reflects a lack of investment. And so we see a lot of stimulus funds going into communities not necessarily tied to uplifting entrepreneurialism, but Black people are taking advantage of this opportunity. So it is somewhat taking lemons and making lemonade. But there's always been an entrepreneurial spirit in the Black community. GARCIA-NAVARRO: I think what I also hear you saying is that people turned entrepreneurial out of necessity because the job market during this pandemic really hurt the Black community more. I mean, they lost jobs, and they had to find something else to do. PERRY: Yes. Remember when people started to talk about how we're recovering so well, and they used an unemployment rate in the aggregate, and they said, hey, look; we're at 8%, and things are improving. But when you looked at the Black unemployment rate, it was going in the wrong direction. And let's be clear; Black people are also dying at two to three times the rate as their white counterparts. And so we need services. We need things in the hood that will help alleviate the pain and suffering in our communities. And so we're starting businesses in health care. We're starting transportation services. We're meeting the needs when the overall labor market has denied us. GARCIA-NAVARRO: Are those the kinds of businesses that people are opening, businesses that actually sort of are catering to vacuums created by the pandemic? PERRY: The No. 1 business sector for Black Americans in terms of starting firms is in health care. Home health firms, nursing assistance and other health professionals, contact tracers to folks working on vaccine distribution - most of the entrepreneurial activity was in health care. GARCIA-NAVARRO: The National Bureau of Economic Research found that a lot of this is happening in middle-income Black neighborhoods. Why is that significant? PERRY: Remember; most people start companies using the equity in their homes. That's also the reason why homeownership is so important. It's also the reason why the value of our homes must be at market rates. And so because there's more wealth in middle-income neighborhoods, they're converting that wealth into firms. GARCIA-NAVARRO: I mean, the desire to build generational wealth was a big motivator for the entrepreneurs we spoke with. And in reality, I would like to ask you, will these startups, though, lead to long-term wealth when we are looking at people catering to what eventually is something that's going to not be there, which is the pandemic? PERRY: Well, the growth in entrepreneurialism shouldn't be a result of happenstance. We need to invest in Black businesses beyond this pandemic. A lot of the relief funds, a lot of the recovery funds are going to be one-time shots of cash in the systems. And so it's incumbent upon the federal government, corporations with all this talk of Black Lives Matter and the racial uprising, that they start to invest in Black businesses for the long term. And that means the economy expands, there's more revenue, there's more productivity. The entire country improves as a result. GARCIA-NAVARRO: A century has passed since the Tulsa race massacre. And listening to you talk about Black entrepreneurship, I mean, we must remember that that destroyed so many lives and livelihoods. The area was called Black Wall Street that was razed, after all. Now that we see Black communities seizing new opportunities for capital and business, do you think this moment could be a turning point? And what should we learn from this? PERRY: I think it is a turning point because one of the lessons of this pandemic is that when our neighbors are sick, we are then vulnerable. And that is true economically as well. We talk about memorialized Black Wall Street, the Greenwood district in Tulsa, because of the anniversary. But there was a Tulsa in cities all across the country. And let's be clear; in the beginning of the pandemic, when the CARES Act rolled out and the Payroll Protection Program rolled out, many Black businesses could not participate in it because it did not allow for sole proprietorships to participate, and 95% of Black businesses are sole proprietorships, compared to 78% of white firms. And so we got to remove those dregs of racism. We must be vigilant and make sure that there's not these deliberate attempts to throttle our growth.

### 1NC---Turn

#### Antitrust laws greenlight criminal law enforcement.

Shughart 8, PhD in Economics, Professor in Public Choice at Utah State University (William, “Regulation and Antitrust,” in *Readings in Public Choice and Constitutional Political Economy*, Ch 25)

The stated goals of antitrust policy are much the same as those of regulatory policy. It too attempts to influence the pricing and output decisions of private business firms. But enforcement of the antitrust laws proceeds by indirect means rather than by way of the hands-on price and entry controls normally associated with public regulation. Stripped to their essentials, the antitrust laws declare private monopolies to be illegal. Law enforcement is then carried out on a number of fronts, including preventing monopolies from being created in the first place through the merger of former competitors or the orchestration of collusive agreements among them, requiring the dissolution of large firms that have attained monopoly positions in the past, and limiting the use of certain business practices thought to facilitate the acquisition or exercise of market power.

#### The aff is greenwashing that coopts socialist critiques of environmental extraction to vastly expand the punitive dragnet.

Mazurek et al. 20, \*Jordan E., doctoral student in the School of Social Policy, Sociology and Social Research (SSPSSR) at the University of Kent in Canterbury. \*\*Justin Piché, Associate Professor in the Department of Criminology and Director of the Carceral Studies Research Collective at the University of Ottawa in Ottawa, Ontario. \*\*\*Judah Schept, Associate Professor in the School of Justice Studies in the College of Justice and Safety at Eastern Kentucky University. (“’Greening’ Injustice: Penal reform, carceral expansion and greenwashing”, *Routledge International Handbook of Green Criminology*, pg. 260, Routledge)

As imprisonment remains a dominant social practice and political expression of neoliberal states, progressive reformers and abolitionists must ask themselves whether new ‘green’ jails and prisons contribute to the betterment of prisoners and the environment in which such facilities are located, or if such projects are instances of ‘greenwashing’ that co-opt discourses of ecological justice movements (Brisman and South 2014) as a means of caging more human beings, while normalising the idea that both carceral and neoliberal relations are necessary and can be made sustainable. Put differently, Graham and White (2015: 860) argue that the movement towards ‘greening justice’ holds considerable potential to contribute to veritable penal reform, whereby ‘true sustainability hinges upon the impetus to decarcerate, diminish in size and de-commission, restricting the use of confinement as a genuine last resort’. They also warn, however, that there is potential that this could also result in ‘justifying penal expansionism’ (Graham and White 2015: 860).

In what follows, we take up the call issued by Jewkes and Moran (2015: 466) ‘to address the paradox at the heart of the green prison … that rather than challenging the hegemony of incarceration, advocates of green prisons are arguably perpetuating and legitimising the expanding penal estate’. We do so by exploring the emergence of ‘green’ jail and prison infrastructure projects in Canada and the United States. More specifically, we examine how claims concerning the sustainability of facility construction and operations have contributed to the establishment of new and bigger institutions designed to deprive people of their liberty. In addition, by examining the marketing materials of the agencies promoting green initiatives in ‘criminal justice’, we demonstrate that, at least in some cases, neither sustainability nor prison reform are primary or even normative goals. Rather, the ‘green’ components of these initiatives are driven by their ability to cut state or municipal costs. In so doing, we argue that—at least in the cases we have explored—future claims with respect to ‘greening justice’ should be met with great scepticism given their role in legitimating carceral expansion and emerging penal reforms that fail to challenge the persistence of human caging. Importantly, we explore an understudied dimension of the literature, engaging critically with the emergence of ‘green imprisonment’ by turning our attention to organisers that are taking the fight to those who seek to build new jails and prisons, in part through the campaigns that point to the social and ecological toxicity of such facilities. Before doing so, however, we begin the chapter with a review of some of the key claims found in the emerging literature on ‘greening justice’, which we subsequently challenge. Our ultimate point is rather simple: there is no greener approach to incarceration than not having jails and prisons in the first place.

#### Carceral systems subject their targets to punitive psychological warfare, bodily invasion, and neglect, anchored in a history of enslavement that can’t be recuperated for progressive ends.

Rodríguez 10, Professor at the University of California, Riverside. (Dylan, Summer 2010, “The Disorientation of the Teaching Act: Abolition as Pedagogical Position”, *The Radical Teacher*, No. 88, pg. 7-8, https://www.jstor.org/stable/10.5406/radicalteacher.1.88.0007)

The global U.S. prison regime has no precedent or peer and has become a primary condition of schooling, education, and pedagogy in every possible site. Aside from its sheer accumulation of captive bodies (more than 2.5 million, if one includes children, military captives, undocumented migrants, and the mentally ill/disordered),1 the prison has become central to the (re)production and (re)invention of a robust and historically dynamic white supremacist state: at its farthest institutional reaches, the prison has developed a capacity to organize and disrupt the most taken-for-granted features of everyday social life, including “family,” “community,” “school,” and individual social identities. Students, teachers, and administrators of all kinds have come to conceptualize “freedom,” “safety,” and “peace” as a relatively direct outcome of state-conducted domestic war (wars on crime, drugs, gangs, immigrants, terror, etc.), legitimated police violence, and large-scale, punitive imprisonment.

In what follows, I attempt to offer the outlines of a critical analysis and schematic social theory that might be useful to two overlapping, urgent tasks of the radical teacher: 1) to better understand how the prison, along with the relations of power and normalized state violence that the prison inhabits/produces, form the everyday condition of possibility for the teaching act; and 2) to engage a historically situated abolitionist praxis that is, in this moment, primarily pedagogical.

A working conception of the “prison regime” offers a useful tool of critical social analysis as well as a theoretical framework for contextualizing critical, radical, and perhaps abolitionist pedagogies. In subtle distinction from the criminological, social scientific, and common sense understandings of “criminal justice,” “prisons/ jails,” and the “correctional system,” the notion of a prison regime focuses on three interrelated technologies and processes that are dynamically produced at the site of imprisonment: first, the prison regime encompasses the material arrangements of institutional power that create informal (and often nominally illegal) routines and protocols of militarized physiological domination over human beings held captive by the state. This domination privileges a historical anti-black state violence that is particularly traceable to the latter stages of continental racial chattel slavery and its immediate epochal aftermath in “post-emancipation” white supremacy and juridical racial segregation/apartheid—a privileging that is directly reflected in the actual demography of the imprisoned population, composed of a Black majority. The institutional elaborations of this white supremacist and anti-black carceral state create an overarching system of physiological domination that subsumes differently racialized subjects (including whites) into institutional routines (strip searching and regular bodily invasion, legally sanctioned torture, ad hoc assassination, routinized medical neglect) that revise while sustaining the everyday practices of genocidal racial slavery. While there are multiple variations on this regime of physiological dominance—including (Latino/a, Muslim, and Arab) immigrant detention, extra-territorial military prisons, and asylums—it is crucial to recognize that the genealogy of the prison’s systemic violence is anchored in the normalized Black genocide of U.S. and New World nation-building.2

### 1NC---Turn

#### They read her UCLA Law review as calling for a per se ban on firms. They completely misread her article. In an interview about the article she explains what she meant in the article they quote and explicitly rejects banning firms.

#### Interview with Sanjukta Paul 20

Coordination Beyond the Corporation with Sanjukta Paul Posted May 18, 2020 by Scott Ferguson, Maxximilian Seijo, William Saas Monthly Review Essays https://mronline.org/2020/05/18/coordination-beyond-the-corporation-with-sanjukta-paul/ Money on the Left EpisodesFeatured

In this episode, Maxx and Scott speak with legal scholar Sanjukta Paul about imagining alternative and more just forms of economic association in ways that denaturalize the 20th-century monopolistic firm. The key, Paul argues, is to reveal and contest the public “coordination rights” that legally structure all economic activity. Sanjukta Paul is Assistant Professor of Law at Wayne State University. Her current research and writing involves the intersection of antitrust law and labor policy. She is currently writing a book tentatively titled, Solidarity in the Shadow of Antitrust: Labor & the Legal Idea of Competition, which will be published by Cambridge University Press. Her scholarly work has appeared in the UCLA Law Review; Law & Contemporary Problems; The Berkeley Journal of Employment & Labor Law; and The Cambridge Handbook of U.S. Labor Law. See here for the important paper we discuss in this episode, “Antitrust as an Allocator of Coordination Rights” (UCLA Law Review, Vol. 67, No. 2, 2020). Transcript The following was transcribed by Richard Farrell and has been lightly edited for clarity. Scott Ferguson: Sanjukta Paul, welcome to Money on the Left. Sanjukta Paul: Thank you, I’m so happy to be here. Scott Ferguson: Maybe to begin you can tell our listeners a little bit about your personal background and your scholarly training and influences. Sanjukta Paul: Sure. One of the things I’m working on now that we’re gonna be talking about is that I really come to these questions about antitrust law and their intersection with labor from a practiced background in labor and civil rights, including time as a lawyer working pretty closely with organizing campaigns in various ways. That is an influence on me personally, even though I was not an organizer. I have learned a lot from organizers who I have worked closely with over the years. And then, more specifically, through the organizing campaign I was involved with right before I entered academia–I was doing a fellowship at UCLA law school and they worked closely with Noah Zatz who teaches there–but just before doing that, I was working on an organizing campaign of port truck drivers in Los Angeles who, since the time when trucking deregulation took place in the late 70s, early 80s, have been classified as independent contractors and also work in an industry that is in many ways characterized by destructive competition between their immediate employers and by very powerful buyers of very powerful customers, namely the big box stores and now Amazon. And the way that the antitrust question came up in that context was actually not something I was working on directly as the lawyer, but as a background condition for the whole organizing campaign. Before my time in the late 90s and the early 2000s, there were a number of what are called wildcat strikes in the labor movement. These are labor actions that are pretty spontaneous and initiated by workers. That took place around the country and a number of them centered in the Miami area, but also in Southern California and around the L.A. Long Beach ports, which is the largest port complex in North America and also handles the highest volume of goods. Those actions by workers were met with antitrust prosecutions by private entities, by the sort of public-private hybrid entities that many of the work complexes actually are, and it also included an investigation of worker leaders by the FTC–the Federal Trade Commission itself. And so, what sort of happened in the wake of that was there were some labor organizations involved, but they were really following the lead of the workers at that point and those actions were, just to be clear, in response to temporary spikes in fuel prices, which made it so that independent truck drivers weren’t making money at all on trips. And so, they engaged in collective walk offs and things like that. This is what they were faced with. Many of them, particularly in Southern California, were immigrants and working class men. There were a large number of immigrants from Central America who were bringing traditions of labor solidarity with them, which I think is part of the reason for those spontaneous actions. So that was how I got interested in antitrust law. Because I was doing other stuff when I was working on this from 2011 to 2013 and thereafter in other capacities while I was at UCLA, until I moved to Detroit where I live now. But when I got to UCLA, it was sort of like, you have to pick a research topic: What am I gonna research for the next couple of years? I really wanted to understand how it could be that individual truck drivers can be sued under antitrust law for engaging in collective action to make a living wage and to feed their families. That was personally how I came to these questions. And then I went down this rabbit hole that sort of opened up into a subterranean cave, which I’m still like poking my head up here and there as well. Maybe to add one more thing, I also encountered people coming to this question in other ways–people coming to the question of viewing antitrust as an affirmative tool to address corporate power, which of course, I’m invested in that project now as well. Scott Ferguson: Just to clarify something for our audience: being not in the law space or only an interloper, when I first started wading into your work, the first thing that struck me was, when I hear antitrust, I think of 19th century monopolies and breaking them up, right? And then what you’re describing here with a deregulated trucking industry and wildcat strikes and what is keeping them back is it’s antitrust law that is being used against not big monopolies, but against the workers who are trying to minimally organize. And that’s so, from an ignoramus point of view, counterintuitive. Sanjukta Paul: Well, I don’t think it’s ignoramus at all! It’s more accurate about what is actually happening in antitrust law today. But in any case, that is exactly what caused me to pursue this, and I’m sure that is what we’re going to be talking about for the rest of this time, but briefly, I think it absolutely is counterintuitive. I think it absolutely is not what legislators intended. And in a deeper sense, this is what I’ve become convinced of in the last couple of years of working on this stuff. It’s not just that they didn’t want this to “apply to labor.” That’s not the way to look at it. The way that the whole language of labor exemption and the question of does antitrust apply to labor or not, the way that question gets framed and the reason it gets framed that way is if you presume that the whole purpose of antitrust law is just to promote economic competition. And I do not think that’s true and do not think what legislators intended either. I think that, instead, what legislators were looking to do, and this is certainly an interpretation as opposed to something they said in these words, but it’s also what antitrust functionally does today, which is to allocate economic coordination rights. Just to capture that intuition about competition, I think that includes the goal of promoting healthy business rivalry where appropriate. I think that is something that legislators certainly had in mind. But because you raised the question about 19th century trusts and monopolies, and that obviously raises the question of what legislative intent was, I think that legislators were concerned about a lack of competition where the trusts were concerned–in other words, where competition had been displaced by concentrated coordination rights, which is exactly what the trusts and early corporations were. So, they did not see a problem with dispersed coordination rights. In other words, it’s not just workers. And of course at that time, industrial workers were emerging as a class but had not fully emerged. It was also farmers, of which there were many more small farmers at the time, and also small producers and small proprietors of various kinds. And again we have to remember that apart from the landscape as we look at it now, over the course of the 19th century, starting in many ways with the transformation of the labor relationship and then continuing to what is really like the novel legal invention of the modern business corporation, you also had a concentration of coordination rights in the production process. It’s anachronistic to look back and say, “Were workers exempted or not?” Well, first of all, we didn’t have the modern employment relationship in the way that we do now. In fact, the early labor movement, for example, as embodied in the Knights of Labor, was contesting the modern employment relationship itself, which is basically modeled on a master-servant relationship. We associate it with, since the 1930s, what I would call countervailing coordination rights through affirmative labor law. But that’s not what it entailed at the beginning. It entailed this right for the master to tell the servant what to do and extending that to the production process where previously most material production in the US had been–I’m generalizing a little bit here–done through the workshop mode of production modeled on traditional guild relationships. Although we didn’t really have formal guilds so much in this country, you still had the master, but it was like a master, journeyman, and apprentice. That was an arrangement which, most of the time, involved a much greater dispersal of coordination rights around production itself. Among others who have written on this, Christopher Tomlin is a really great labor scholar and historian as well. Again, I’m using this language of coordination rights to make sense of all these things across changing law and economic circumstances, but that’s fundamentally the case. Like journeymen had the ability to make rules to impact the production process. And taking that dispersal of coordination rights away, for people who want to use this language, is what capitalism is all about. It’s about concentrating those coordination rights in a few people. Yes, it’s also about having these big machines now. That became as important as the skill intensive labor in many cases. But I think it’s really interesting what the Knights of Labor leaders said at the time, which is: “We’re not luddites. We’re not against the technological improvements. We’re not against factories per se. What we want is to co-govern the factories.” And so, what that would mean in this language is a dispersal of coordination rights in the process of production. And I think, effectively, we conflated in certain ways the technological shift to factories with the shift in the legal allocation of coordination rights, just as we do today. In the gig economy, we tend to sometimes conflate technological changes, like “Oh, there’s an app to do this now!” Scott Ferguson: Yeah, so it’s inevitable. Sanjukta Paul: Yeah, and there’s two different things going on. There’s a change in technology– like maybe there’s an app instead of a dispatcher or something else. Fine, that’s one change. But any change that accompanies that in the allocation of economic coordination rights is analytically separate. You can argue for or argue against it, but it’s not entailed by a factory or an app. In fact, I think there’s a real parallel here. I think that it is to the advantage of the people who are benefiting from the concentration of coordination rights to characterize those two things as all of one piece and to run them together. Maxximilian Seijo: If I can pause there, we started this conversation off at quite the clip, and I appreciate all the detail and how we’ve already got into it, but if we can take perhaps a more bird’s eye view of this allegorical cave that we’re all working in and feeling our way around and that you feel your way around in your work. Can we maybe start to outline the way your approach breaks with the dominant so-called “Law and Economics” school that has played such an important role in shaping the neoliberal era as well? The legal studies approach that you’ve been performing and showing for us is known as the “Law and Political Economy” movement. And if you could contrast those two for our listeners, I think it could be interesting to then link up some of these more specific concepts that you’ve been talking about so far. Sanjukta Paul: Sure, although I don’t really want to speak for Law and Political Economy as a whole. This is obviously a project and there’s people who are in charge that aren’t me. I do definitely associate myself with it. I also associate myself with “Legal Realism,” or however we want to label that. Chronologically skipping ahead a bit in the way these things have been conceptualized, the Law and Economics movement is absolutely the dominant school or paradigm in antitrust law today, and as you said, impacts law and policy thinking so much more broadly, which is one of the reasons I think antitrust is an interesting place to excavate into this subterranean cave because that subterranean cave sends up chutes in other policy areas as well. That’s why I think it’s important and valuable to deconstruct it here. So, how I would gloss it is–and many people who are dear to this will contest this and say that no, it doesn’t entail this and there’s other ways–I would say that fundamentally and globally what this paradigm has done is that it has naturalized some certain legal allocations of coordination rights and put them beyond discussion. And then we discuss the rest of the contested coordination rights purely on a frame of whether they promote competition or not. And then, but secondarily, there’s these two other norms involved: economic efficiency, which I’m sure we’ll talk about more because it’s not a very concrete concept, and also consumer welfare. Just to put those aside for a moment and keep things as simple as possible, even if you were to take those aside, what you’re already doing is just naturalizing certain forms of economic coordination, notably coordination that takes place inside single firms or corporations, which I think is contrary to the intent of the anti-monopoly movement and legislative intent in antitrust law. It is also contrary to the entire world view of things in that 19th century milieu that we were talking about of what most people thought, whether they were left or right. I don’t think that naturalization had taken place yet. So that stuff gets naturalized and becomes sort of invisible. Then, we just talk about the forms of economic coordination that are not invisible and those, of course, include labor coordination in the form of labor unions, but they also include all kinds of other unconventional forms of economic coordination, as well as looser coordination between smaller actors of various types of co-operatives. And those are evaluated primarily under this norm of promoting competition, which of course just viewed on its face, anything that has economic coordination is a suppression of competition. And so, there’s automatically this kind of suspectness of anything that isn’t in that favored naturalized side of things. And then you have these supplementary norms of efficiency and consumer welfare, which have been constructed and conditioned in ways that I think systematically disfavor workers and smaller actors. But again, from that bird’s eye view, that’s what Law and Economics does. Importantly, Law and Economics didn’t start these things. I think that’s really important to say. Robert Bork, I think, is a really interesting figure and at various points was really honest about what he was doing. In a way, the people who have inherited that tradition don’t always pay attention to those moments where he’s telling us what he’s doing. In his famous books that he wrote in the 1970s that had this big influence on antitrust law, he says I’m not inventing this deference to intra-firm coordination, it was already there. And he’s right, it was already there. I think that it really started in the Lochner era, which is the period of time that immediately followed the passage of the Sherman Act, which is the first federal [antitrust] statute in 1890. This [Lochner moment] is when judges really misconstrued antitrust law, and I think they took it in a direction that was not at all what legislators intended. In the bigger picture of that Lochner era of the allocation of coordination rights, there was already a foundational allocation of coordination rights that took place, which was really done by judges in certain important decisions. The way that I would put it is that I see 1970s Law and Economics–which obviously was being worked on before the 1970s–I see that movement as picking up on and retrenching those fundamental categories of economic coordination that were favored in the Lochner era but now clothing them in the language of this social science of neoclassical economics, or at least purporting to. In a way, the judges in the Lochner era were actually in certain ways more honest in that commentators at that time might just say things like, “Well, the people who know what they’re doing should run society.” Obviously, that’s the people in the corporate boardrooms and not immigrant workers in the factories. This is not stated in any judicial decision but you get close to it in some of the commentary. Of course, you have nothing like that in contemporary Law and Economics. It’s more sanitized. And I’m making no claims about what particular people believe. I don’t think any particular person has to believe any of that for the paradigm to work. But I think that the value judgments about how we’re going to allocate economic coordination rights are just on a further remove. You have to do this additional level of excavation, and they’re still there. It’s not just that this is historically how it happened. Logically, they’re required. But ultimately, the claim that I would want to make is that a lot of the key conclusions that law and economics is taken to be–and that Bork’s work and others that have this economic analysis of antitrust law generally–are these independent conclusions of social science that are in fact embedded and hidden legal assumptions in the premises that cannot be derived from some independent reference. Maxximilian Seijo: As we move into the Legal Realism side, in contrast to this naturalized Neoclassical Law and Economics framework, which has a longer history, I think it could be useful if, in defining and describing your approach, we could start with a relatively basic definition of what coordination rights are in the first place because at some level it’s intuitive what they are, but also at another, it could be useful to specifically suggest the break with competition and efficiency that you’re making as a product of your Legal Realist approach. Scott Ferguson: Can I follow up here? Is it the case that you are borrowing this term from elsewhere, or is this your term? And what kind of work is that term doing for you? Sanjukta Paul: Okay, well it is my term. I don’t really want to say it’s my term, but no, I didn’t borrow it from somewhere else. I’ll try to summarize. Yes, it really comes from a Legal Realist approach, and again I can situate that a little bit in terms of intellectual history. The Legal Realists were–and you could say that Oliver Wendell Holmes was a proto-legal realist in certain ways, although he was writing a little bit earlier–but the legal realists really come into being around the same time that the Lochner era is just fully getting going and is a response to the what’s often called the laissez-faire approach of Lochner era jurisprudence, which embeds all these unstated assumptions just as Law and Economics does now. And so, I think Legal Realism at the time was excavating those assumptions just as I’m trying to do with our legal language today. And so, to explain that frame, what I would suggest is that antitrust law, and in fact law itself, is always allocating coordination rights, so this isn’t a normative claim I’m making where I’m saying that antitrust law should allocate coordination rights instead of promoting competition. My point is that you can say that you’re promoting competition, and this is the point of the excavation particularly in that UCLA paper, which I know you looked at, but whatever the stated justifications are–competition, economic efficiency, and consumer welfare–fundamentally what you’re doing is you’re allocating economic coordination rights for any given instance of economic coordination, whether that is coordination in production or whatever else. Most paradigmatically, we can look at coordination on prices because that’s something that is so often clearly illegal in the circumstances where it is illegal, but it’s not always illegal. That’s maybe the best way for me to illustrate it. Actually, let me say the general claim first and then the specific claim. The general claim would be that for any instance of economic coordination, antitrust law is always either saying that it’s permitted or not. It is making that judgment and doing so in contingent ways according to particular normative criteria, which we are able to look at and decide on others if we wish to democratically as a society. That’s the general claim. And then the specific claim that helps to hopefully make that a little bit more vivid is that, if you take price coordination, which is something that is going to raise orange flags, if not red flags, under antitrust law, if you look at how that’s treated. For example, let’s go back to those independent truck drivers. If they’re engaging in direct horizontal price coordination on the prices they charged customers–they’re not working for a firm, they’re doing that either directly or they’re doing that amongst each other in working for a trucking firm–either way, that is what raises the antitrust issue. And then, on the other hand, if that exact same group of truck drivers hold everything constant, the number of drivers in the overall market, it’s the same market share, those same number of drivers are working for a trucking company that employs them and extracts profits and also manages their work and tells them what to do, then now that firm can set prices across those truck drivers for the services they perform and there’s zero antitrust problem. And we just take this to be paradigmatic. This is what I call the “firm exemption” to antitrust law, not because I think firms shouldn’t be able to set prices, but because I am trying to make visible something that is naturalized so that we can more clearly examine these criteria for allocating coordination rights. Just to add to that example a little bit, with employment under our current regime, under at least the New Deal regime, which of course, is not being properly enforced and there’s lots of holes and it’s extremely problematic, but in theory, those truck drivers would have countervailing coordination rights. They would be permitted to form a union that would basically engage in coordination now, not directly with customers, but with respect to their bargains with the trucking company. And so, not only have those countervailing coordination rights been undermined systematically as you both know over the last few decades even for people who are statutory employees, but also you now have with most of those truck drivers that I was talking about in the beginning and most truck drivers in general are not employees, they’re considered independent contractors. This alone should be mind boggling to us because there’s really two points. One point is that we have allocated coordination rights to the categories of the firm and to employment, and that was done sort of implicitly but in certain ways more visibly in the decades right after the Sherman Act. And we have denied coordination rights to looser coordination, which eventually includes workers beyond the bounds of employment. But not only is it an issue that the independent contractor truck drivers can be sued under antitrust for engaging in coordination that intuitively we all, as we started this conversation, think they should be permitted to do if we think about the original purpose of antitrust law. Not only that, but it should also strike us as weird and worth thinking about that the firm still gets to set prices across that group of truck drivers who, by definition according to the theory of the firm of Ronald Coase, are not inside the firm. If you’re an independent contractor, by definition, you’re not inside the firm, so they’re now setting prices beyond the firm. So, whatever justifications exist in law and economics for having this firm exemption that’s been naturalized certainly shouldn’t apply there. And then you go further from that. Then, we go to things like franchising and subcontracting, where prices are set by lead firms, by these more dominant firms, for smaller economic actors in their orbits–not just independent contractor workers, but also just smaller actors as such. And so, we can have that normative conversation, but my point is to just say, “Hey, let’s look at this.” Because certainly at the level of independent contractor firms, we almost don’t even see it. And it took me a couple of years to actually see that, frankly. I first just saw the truck driver problem because it is so naturalized. Like, firms set prices, yeah, that’s what they do. But what do you mean that there’s coordination within firms? Does that make sense? Scott Ferguson: Yeah, absolutely. I feel like I could go in several directions from here. One thing I want to do is put some of your meta-assumptions into my own language and see if they resonate with you and if you feel like we’re communicating well here. So, you’ve talked about the way that Law and Economics appeals to Neoclassical economics in this Bork tradition and it naturalizes things. Maybe to speak to what’s between the lines here, is that one of the key ways that it naturalizes is that it imagines something it calls a market and something it calls a firm and something it calls employees or workers, and thus the economic is somehow prior to law or governance. Sanjukta Paul: Yeah, that’s a great way to put it. Scott Ferguson: And that coordination has its own kind of autonomous logics. And then law comes later and governance comes later to correct what should be always already functioning well. Does that make sense? Sanjukta Paul: Yeah, I think so. If I could just try to elaborate on what you said in a helpful way. Yes, I think there’s two points. To take the second thing you said first, I think that is absolutely right. To me, one of the main normative implications of this way of approaching things is that, even in the kind of progressive left conversations about what antitrust and labor law should do, there’s this idea of like, “Okay, so there’s market power and we want to try to correct for that. We want balanced market power.” But that exactly suggests that this market power arises in a vacuum if you allow the market to do whatever it will do without law. And that’s totally not the case. Any and all market power relies upon and is created by law, and in particular, by these prior legal allocations of coordination rights that are often invisible. And so, the point of making them visible is ultimately so that we can openly contest them and debate about them instead of not debating about them and just assuming them. But to put it into this language, the point of doing so is to show how law always constructs markets, which is absolutely a legal realist view. It’s also absolutely a Law and Political Economy view. So, I suppose this approach is really trying to expose how that’s happening. Specifically, just so that it’s not too abstract, corporate law, employment law, and antitrust law–and the negative spaces of those–are three areas that construct what’s conventionally considered to be the pre-legal intervention space of like what happens inside–not that people don’t study that. I’m not saying people don’t study that. But in that conventional law and economics view of the market, those are somehow held constant or given in some way, when in fact, we could totally change those rules. We could construct firms however we want. They certainly don’t have to be constructed to maximize shareholder value and with the concentrations of coordination rights that happened within firms that mirror what I was saying about the 19th century and that process that happened. That allocation of coordination rights is largely a function of both corporate law, employment law, and agency law to some extent. So, all of those things should be up for discussion, and that doesn’t yet prove that what we have is bad. It just shows that’s part of the picture. And also, it flips the script as we like to say on that idea of law intervening to correct and to protect the powerless from the powerful. No, law is creating the powerful in the first place. So it’s not a corrective after the fact to say that if we do choose to have a more balanced allocation of coordination rights and to have a more democratic society in general, including in the economy, that it’s not changing some state of nature, it’s changing something that law created in the first place. Scott Ferguson: Right. Two of the things I’d like to highlight: what I appreciate so much about the work that your conception and term coordination rights performs, especially from a Modern Monetary Theory point of view, is it insists that public legal mediation is primary, as we’ve been saying, but also that coordination is irreducible to the so-called “market.” What we call a market, we usually think of it in rather contracted narrow terms. And you’re talking about all kinds of social and economic coordination for production and distribution. And so, it’s not just that law conditions the market. It’s that the market isn’t what it purports to be, and what political economy actually is is irreducible to this thing called the market. Sanjukta Paul: I think I follow 80% of that, but what do you mean by “irreducible to”? Scott Ferguson: Well, what I mean is not reducible to. Is that what you’re asking? Sanjukta Paul: I think so. I think what you mean maybe is it is not reducible to the Neoclassical conception of the market? Maxximilian Seijo: Maybe this can be helpful. I was trying to think about the way we can analogize the conception of law and economics, the Neoclassical conception, with how Neoclassicism and Classicism broadly thinks about money. And it seems to me what you’re suggesting, Sanjukta, is that Law and Economics is reliant upon a barter theory of coordination where, what you’re suggesting, is a thoroughly, always-already entrenched legal theory of coordination that is constantly creating these structures of economic coordination and production and relation, and to maybe put it in Scott’s terms, that are irreducible to this concept that we call a market, which comes after a state of nature. Is that sort of what you’re suggesting? Sanjukta Paul: Or that is a state of nature? Scott Ferguson: Yeah. Sanjukta Paul: I mean, yes. I just don’t think that there is a market as the state of nature, and I don’t think I’m alone in thinking that, clearly. That was like the point of Regal Realism, right? And so, when we say it that way it looks very simple, but I think this is another way into that. You’re holding some forms of coordination constant at all times. You have to be in order to have a Neoclassical model at all. You just are, and I don’t think that if you talk to a smart Neoclassical economist about this that they would really deny it. Although, I don’t know what they would do. But that is what you’re fundamentally doing. And if you do question that, they sort of have to say something like, “Well, the firm is a singularity. It’s just beyond the analysis.” If they’re honest, they would say that. But the fact is, if you change those categories of coordination, if you change these things that those models are holding constant, or I would say even more accurately, are holding constant and varying without necessarily being that clear about what they’re varying, then you see how those models are fundamentally dependent upon what are ultimately legal assumptions about what forms of coordination are permitted and what aren’t. Scott Ferguson: One thing I was thinking about when revisiting your work this time is you describe the Bork era firm as this pretty severely hierarchical relationship. And because I’m not in law, in the readings that I’ve done around political economy in the neoliberal era, there’s so much rhetoric about the big, multinational firm–we know that story–but there’s so much rhetoric about flexibility, horizontality, and networking. And I wonder: where does that fit? It feels like there’s some friction there. Where does Borkian discourse and legal decisions and that world of neoliberal management meet? Sanjukta Paul: Yeah, that’s a great question. Let me let me refine what my claim actually is about Bork. I’m not really making a claim about what the firm was actually doing in the 1970s at all. I’m not making an empirical, factual claim–except in a very limited instance that I’ll bracket for the moment. What I’m claiming is that Bork, and ultimately the argument that goes back to Coase and the firm exemption of antitrust law, does assume hierarchy. It fundamentally assumes that. It has to. That’s the argument for why firms are sometimes more efficient than contracts. That’s the Coase-ian idea of why there are firms in the first place, why there are these little command economies in the middle of what’s supposed to be a free market. And Bork picks up on that. Logically, if you excavate that, it’s not a claim about what firms were actually doing in the 1970s. It’s a claim about what the assumptions of Law and Economics embeds and then magnifies. That is sort of like a premise. This hierarchy is, in some situations, more operationally efficient because it saves on transaction costs that you would have if you were contracting for these services out in the market. But I absolutely agree with you that there’s all kinds of tension with that assumption. I will say what I think the biggest tension is, which is that one phenomenon that’s happened at least accompanying if not a direct consequence of what you’re calling neoliberal management theory, is the growth of independent contracting. That’s been very much sold on grounds of flexibility and whatnot. And yet it tends to only be flexible in one direction by denying workers these countervailing coordination rights that they are entitled to under New Deal labor law, which are the things that actually provide flexibility to workers, or at least some modicum of it. So, it actually takes that away. I think in many ways, it intensifies hierarchy rather than eliminating it, even though it’s sold on the basis of eliminating hierarchy. So, that’s one point. But then, secondly, I also think it’s contradictory on its own terms. With the truck driver cartel, the truck driver firm with employment, and the truck driver firm with independent contracting is that, even if you take out all those issues about how you’re still doing hierarchy and we know that is the case because you have independent contractors, and even if you take out all those empirical questions about whether this is actually operationally efficient, it’s still true that on your own terms, you’ve now taken away the justification for having this firm exemption to antitrust law in the first place. The implicit assumption is that, at that point firms are not different in any way from the market transaction, as a law and econ person would claim, then the market transactions that they’re saying should be subject to antitrust prohibitions on coordination, are merely engaging in direct contracts with the people who are performing services that are essential to your business. So even on those terms alone, what are the efficiencies now that are supposedly the basis for the firm? Maxximilian Seijo: I want to take these insights and make them specific for our moment. We’re talking about independent contractors in the neoliberal era, and there’s perhaps not a more paradigmatic example than Uber and Uber drivers. Perhaps to say it this way, given these tensions, what should we be doing and how should we be thinking about Uber drivers and reforming the way we legally classify them in their coordination rights? Sanjukta Paul: In a way, Uber drivers are like the trickiest place for me to answer that question because I think there’s a strong argument that, given the amount of hierarchy and control that actually exists in that relationship, they should just be employees under traditional labor law. And then that would solve the problem under the current categories of coordination. And there are efforts to do that, which I support. And so, I don’t want to take away from those in any way. Just to extrapolate from that and maybe broaden it, even if that weren’t true, even if there was just enough flexibility on the drivers’ side to escape what the legal definition of employment is, what I would say–and this would broaden from Uber drivers to other small players–what we should do is reallocate economic coordination rights from where they have been concentrated, which is in these big, powerful firms, of which Uber is a perfect example, where Uber enjoys these coordination rights across a market that it completely controls. It sets the prices that Uber drivers charge, even though it claims that Uber drivers are independent businesses. It’s engaging in these novel forms of economic coordination rights and meanwhile, we’re just sort of assuming that the Uber drivers themselves and on other platforms as well should not be able to horizontally coordinate because of antitrust law. And so, I would say with antitrust law, the point ultimately is not to just have this intellectual realization, but to recognize that we’re already allocating coordination rights in all of these ways that are naturalized. Once we recognize that, I would propose reallocating them from more powerful actors to less powerful ones precisely in line with the original legislative purpose–so dispersed economic coordination rights. And then, of course, people can argue with me about that. I’m sure many people will disagree, but that would be my proposal. Something related to what you said before, Scott, when you were talking about some of the commonalities with MMT and the recognition of the public nature of this allocation, which I think is really important, is that I don’t see that as a carte blanche. It’s not just that we’re allocating economic coordination rights to large firms and then that’s bad. It’s that one of the problems with doing that and naturalizing it, is that we don’t recognize it as a public function at all. And so, we assume that the coordination that they’re engaging in is private. I really should have said this before. This is like the second piece to it. So, not only do we not see it and not debate over it, but we also don’t recognize that it’s public. That’s why you have this very strong assumption that runs through most conventional thinking on these topics still, which is that the firm is like a private contractarian affair. It’s a private arrangement and anything that you do to “regulate” that is an intervention into a private arrangement. Once you recognize that the firm is receiving this privilege from the law, which by the way, I’m not saying we should take away. I think firms are fine. But I both think that they’re getting a privilege that should have duties and responsibilities that are concomitant with that. And specifically, this really dovetails with the whole revival of thinking of the corporation as a franchise of the state, which definitely overlaps with MMT in terms of banking as I understand it. But once you recognize that, you recognize the fundamentally public nature of economic activity, frankly. And you recognize that the public has a role in all of it. Coming back to your point about the Uber drivers, the proposal doesn’t end with “let’s reallocate them.” Yes, that’s very important, because it is in line with the democratic purposes of antitrust law. But it’s not a carte blanche, just like it’s not with firms. I think that there should be criteria and some forms of public oversight. If we’re going to essentially legalize certain forms of cartels, which I think we should do, because I think that’s ultimately more democratic and will help encourage worker co-operatives and other more democratic forms of coordination, then there should also be accountability. We should recognize that there’s a public dimension to that, just as we should bring that public dimension into serve this existing naturalized category of coordination of the firm in the corporation. Maxximilian Seijo: It seems like then, if we’re coming at this question from that primordial coordination allocation, if we want to call it that, the sense that law is always in the process of coordinating and producing cartels, and we really have to own that and exert oversight agency over the process to ensure… Sanjukta Paul: Sorry to interrupt, it’s always in the context of constructing, authorizing, and not authorizing economic coordination, whether we call them cartels, corporations, or franchises. Maxximilian Seijo: Yes, that’s a good way to put it because it includes the negative. It seems like there’s a tension with some more traditional views of antitrust that sees size and scale itself as the enemy? Sanjukta Paul: Okay, here’s how I want to answer that question. I want to say, that project of first recognizing that there’s constantly this allocation of coordination rights going on, and by allocation, I mean to capture the positive and the negative–the economic coordination that’s being authorized and the economic coordination that’s not being authorised. So, that is an analytical move. And then, if you have established that, then the next step is to say, now that we see that this is what’s going, what the fundamental analytical question in antitrust should be is: what are the criteria according to which the law should allocate coordination rights? I don’t know if I said that straight up prior in those conversations. I think it’s important to say. And that question, transitions from the analytic to the normative and the political. That’s where I would put the size and scale stuff. I’m not avoiding your question. So, on the question of what are the criteria according to which we should allocate coordination rights, well, one option is size and scale, but I don’t see the focus on size and scale as directly in opposition to the allocation of coordination rights approach. It’s one of the potential criteria that could then arise. Does that make sense? For other people, that’s like one set of criteria out there. It’s like, “Bigness is the big thing and that’s what we should be concerned about.” Another set of criteria is really focused on operational efficiency, or at least purports to be. That’s kind of the Borkian group. One could say that it’s not really that way. Really what it is interested in is just authorizing concentrations of power, but regardless, that’s what it purports to be. Another set of considerations could be about just wanting the lowest consumer prices no matter what. Another set of criteria could be like, we want to promote economic democracy and we want dispersed economic coordination rights. Obviously, I’m sympathetic to that. Just to be clear about how I would answer the normative question–which I’m really not trying to avoid, I just want to situate where I think it fits–how I would answer the question of how we should allocate coordination rights is that we should do so according to the norms of of greater economic democracy, which I interpret as dispersing rather than concentrating economic coordination rights, and that we should articulate clear rules of fair competition, which to some extent can be reduced to the dispersing of coordination rights but not entirely. It’s going to potentially include some additional things. Now, people are obviously not necessarily having this debate on exactly these terms when they’re debating on Twitte,r or wherever. But in the focus on size and scale, I’m happy to have that be a criterion, because I think that among many others, it can be a proxy for greater democracy, for the dispersal of coordination rights, and those things. There’s a lot of people who would necessarily disagree with this, but there are sectors and economic functions where that’s not feasible. And so, in there and in general, we should work to promote a democratic allocation of coordination rights in whatever the arrangement is, whether that arrangement itself is large or small, or there’s a bunch of them or one of them or whatever. And I completely agree with you that implicitly there’s this allocation of coordination rights that’s happening within whatever the thing is that you’re targeting as big or small, that is at least as important as the issue of size and scale itself. So I guess that’s how I would start to answer that. And then, the other thing that I feel like was implicit in your question, and which I am very happy to address, is that I don’t see, what hopefully will become a little bit more of an affirmative or normative picture of anti-monopoly, as standing outside left and right. That makes no sense to me at all. I see it as fundamentally a left project. Maybe there are right versions of anti-monopoly. That’s fine. I don’t associate myself with that in any way. I see this as being allied with other specific left projects, including socialist projects, which in the 19th century, it was not so clear where anti-monopolism ends and socialism picks up because, fundamentally, socialism was also contesting that concentration of coordination rights in production. I absolutely think we should be addressing corporate power. And when you take a step back and look at this through this allocation of economic coordination rights framework, part of what you see is the public nature of all of it, and that hopefully makes space for public economic coordination itself. I should have said that more explicitly before. That should make space for direct public economic coordination where that’s appropriate in all kinds of ways–public provisioning, public price coordination where appropriate–all of that should absolutely be on the table. Conversely though, without naming too many names or anything, I sometimes feel like there’s this unnecessary, which I don’t mean to say that if everyone just understood things that it would dissolve all disagreement, that’s not what I’m thing at all, but I’m saying that sometimes the terms of debate around this topic seem to be just off on both sides. Conversely to what I think you were kind of asking about, there can also be a little bit of a resistance among other left projects to anti-monopoly precisely because it is seen as something that is trying to reinstitute some fictive free market or something. And I just fundamentally don’t think that’s what anti-monopoly is about. Obviously that’s partly an analytical project and partly saying, “Hey, there’s a historical precedent and a legal precedent reviewing it as something very different.” It is definitely not trying to reinstitute a fictive free market. It is friendly with other left traditions. Scott Ferguson: Yeah, I think that there’s a nice way in what you’re doing with coordination rights as a framework and as a way of setting out the conditions of possibility versus the various specific cases and specific areas of contestation that we could be talking about. It reminds me of certain MMT rhetoric, right, where it doesn’t make any sense. We always laugh when people say, “Well, has MMT ever been tried?” Or “Are you going to go do MMT now?” It’s the same thing with coordination rights: “Are you going to try out some coordination rights?” Sanjukta Paul: Exactly! Exactly, exactly, exactly. That’s actually a really helpful analogy. Not claiming that I know all about MMT, but from what I understand about it, there’s this analytical part of the project that’s just describing what is already going on and that is saying whatever criteria you use and whether you’re honest or up front about them or not, this is already what’s happening. And then in recognizing that, we can shift through that recognition and reexamination. Scott Ferguson: Maybe we can close: Are there specific lessons in your work for dealing with what we’re all living through right now, globally, with the virus outbreak and the economic collapse that’s coming with it? Have you given much thought to that as you’re preparing to take your classes online and do 1000 other things? Sanjukta Paul: Of course, I’ve started to have those thoughts. I think it’s clearly true for your guys’ work in terms of the move to public provisioning. Two things that I would say, and I would not frame it in those grand terms at all, perhaps in a less direct way than is happening for public spending and public provisioning, there’s a way in which all kinds of what had been law and economics orthodoxies in the policy world are being thrown into the light and to some extent discarded. It’s kinda crazy how it started happening almost just like that. In a little bit closer to the space that I work in, direct public price coordination is on the table. So, in that sense, I think it’s really an opportunity for everyone to clearly see the contingency of these legal rules that we take for granted in economic coordination. And then, this is a really open thing to explore, like would more democratic allocation of coordination rights make us more resilient at times like this? I don’t know. I strongly suspect that the answer is yes. But yeah, I’ve been thinking about that for sure. Scott Ferguson: Yeah, I have just one [more] closing comment. Clearly, we focus on different areas and your work is not the same as MMT. But I will say, from our perspective, we’re interested in money and what money is and what money does. What I would say is that money is not just fiscal policy. It’s not just congressional appropriation. It’s not just monetary policy. Money is coordination rights. To me, in the question of money and the question of political economy, the concept of coordination rights kind of sums it up. And fiscal policy or monetary policy are themselves just coordinations. Sanjukta Paul: Yeah, that’s really neat. Maxximilian Seijo: I wanted to bring it back to the allegory that we have been thematizing throughout this, which is the cave, it seems like in your answer to what preliminarily the Coronavirus can teach us is that we’re sort of letting the sun illuminate the cave a little bit and it throws all these concealed forms in into the light and we can perhaps see a bit more agency. Sanjukta Paul: I love that. I really, really love that. Scott Ferguson: Or maybe it’s happening. The dire nature of the situation is forcing it upon us where we have to reckon with our actual conditions of coordination and possibility rather than the bullshit ones that have been force fed to us for years and years. Sanjukta Paul: Yes, yes, yes. Love it. Maxximilian Seijo: Well, Sanjukta, thank you so much for coming on Money on the Left. Sanjukta Paul: Thank you so much. I really enjoyed this.

### 1NC---Solvency---Courts

#### Courts circumvent.

Newman 19, University of Miami School of Law professor and a former attorney with the U.S. Department of Justice Antitrust Division. (John, 4-5-2019, "What Democratic Contenders Are Missing in the Race to Revive Antitrust", *Atlantic*, https://www.theatlantic.com/ideas/archive/2019/04/what-2020-democratic-candidates-miss-about-antitrust/586135/)

But the federal courts represent a massive stumbling block for any progressive antitrust movement. Reformers have identified two paths forward; both lead eventually to the court system. The first is relatively moderate: appoint regulators who will actually enforce the laws already on the books. Warren’s plan rests in part on this straightforward idea. The second, more audacious path requires congressional action to amend and strengthen our current laws. Warren’s call for a new ban on technology companies’ buying and selling via their own platforms falls into this category. Klobuchar has also proposed new antitrust legislation that would make it easier to block harmful mergers and acquisitions. But no matter its content, enforcing a law requires persuading a judge. When it comes to U.S. antitrust laws, federal judges—not Congress, and not regulatory agencies—are the ultimate arbiters. The Department of Justice Antitrust Division, one of our two public enforcement agencies, files all its cases in federal courts. And although the Federal Trade Commission (the other) can decide cases internally, the inevitable appeals eventually end up in court as well. No matter how strongly worded a law may be, ideologically driven judges can usually find a way around enforcing it. The cyclical history of U.S. antitrust law is proof that judges wield nearly limitless institutional power in this area. Soon after Congress passed the Sherman Act in 1890, a conservative Supreme Court began to chip away at its effectiveness. Congress reacted in 1914 with the Clayton Act, which sought to ban anticompetitive mergers. In 1936, at the height of the New Deal era, Congress passed the Robinson-Patman Act, which prohibits price discrimination (charging different prices to different buyers for the same product). These laws were actively enforced for decades. But starting in the late 1970s, conservative judges began to erode the Clayton Act. Today, megamergers among competitors such as Bayer and Monsanto barely raise eyebrows. So-called vertical mergers, which combine suppliers and their customers, are now all but immune from antitrust enforcement—see the DOJ’s failed challenge to AT&T and Time Warner’s recent tie-up. Under the business-friendly Roberts Court, the Robinson-Patman Act has similarly been eviscerated. By the 2000s, the ideas of the conservative Chicago School had become mainstream in antitrust circles. Robinson-Patman, a law intended to protect small businesses, was an easy target for Chicago School critics narrowly focused on efficiency and low consumer prices. Their attacks found a receptive audience in the federal judiciary. Among insiders, Robinson-Patman is now known as “zombie law.” It remains on the books, but regulators no longer bother trying to enforce it. If Democrats want to change antitrust law, they will first and foremost need to change the judges who apply it. Yet none of the 2020 contenders championing antitrust reform have even mentioned the possibility of appointing progressive antitrust thinkers to the bench. Conservatives, on the other hand, have long recognized the centrality of antitrust to broader questions about the apportionment of power in society. In his seminal work, The Antitrust Paradox, Robert Bork called antitrust a “microcosm in which larger movements of our society are reflected.” Battles fought in this arena, Bork wrote, “are likely to affect the outcome of parallel struggles in others.” Strong antitrust enforcement keeps powerful monopolies in check. Toothless antitrust allows the unlimited accumulation of corporate power. Recognizing the high stakes, the Republican Party has gone to great lengths to appoint conservative antitrust experts to the federal judiciary. Bork was an antitrust professor at Yale Law School before becoming an appellate judge in 1982.\* Frank Easterbrook practiced and taught antitrust before donning the black robe in 1985. Douglas Ginsburg served as the head of the Justice Department’s Antitrust Division before he became a federal judge in 1986. None of the three managed to join the Supreme Court, but not for lack of trying. Reagan nominated both Bork and Ginsburg to serve as justices, though Ginsburg withdrew and Bork was famously rejected after a contentious Senate hearing. And whom did the GOP select as its very first U.S. Supreme Court nominee during the Trump Administration? None other than Neil Gorsuch, who practiced antitrust law for more than a decade before joining the Tenth Circuit. Even as a judge, Gorsuch continued to teach a law-school course on antitrust until his confirmation to the Supreme Court in 2017. Once upon a time, progressives demonstrated similar concern about judicial treatment of antitrust laws. Justice Stephen Breyer, for example, served as special assistant to the head of the DOJ Antitrust Division before his judicial appointment by President Jimmy Carter. Earlier still, Justice John Paul Stevens was an antitrust lawyer, scholar, and professor before his appointment to the bench. Today’s Democratic 2020 hopefuls seem to have forgotten the lessons of history. Their antitrust proposals focus exclusively on appointing the right regulators and amending our current statutes. These are right-minded ideas, but they overlook the central role judges play in our political system. There is an old saying in the legal community: “Hard cases make bad law.” That may be true, but it is just as often the case that bad judges make bad law. Real antitrust reform will require more than regulatory and legislative tweaks; it will require the right judges.

### 1NC---AT Movements

#### Antitrust interventions don’t instigate movements---they coopt them.

Crane 18, the Frederick Paul Furth, Sr. Professor of Law, University of Michigan. (Daniel A., 9-27-2018, “Antitrust’s Unconventional Politics,” *Virginia Law Review*, Vol. 104, https://www.virginialawreview.org/articles/antitrusts-unconventional-politics/)

A final reason that the politics of antitrust sometimes confound conventional left–right divides has to do with the pragmatic sense that some regulatory interventions may be necessary to preserve capitalism politically, and that antitrust may be the least objectionable one. This “antitrust or else” perspective has characterized the politics of antitrust from the beginning.

The conventional view that Congress intended the Sherman Act to seriously undermine the trusts is balderdash. According to Professor Merle Fainsod and Lincoln Gordon of Harvard University, “[T]he Republican Party, in control of the 51st Congress, was ‘itself dominated at the time by many of the very industrial magnates most vulnerable to real antitrust legislation.’”[87] A more realistic view is that the 51st Congress passed the Sherman Act to avert more radical reforms. Speaking on the Senate floor in 1890, Senator John Sherman warned his brethren, many of whom were controlled by the trusts, that Congress “must heed [the public’s] appeal or be ready for the socialist, the communist, and the nihilist.”[88] Sherman thus conceived of his eponymous antitrust statute as politically necessary to diffuse more radical political movements—as a sort of Band-Aid on capitalism.

The idea that antitrust legislation and enforcement are necessary accommodations to public demand has a long pedigree in both conservative and more progressive circles. Writing in 1914, William Howard Taft described the Sherman Act as “a step taken by Congress to meet what the public had found to be a growing and intolerable evil.”[89] Notably, Taft did not own the public’s concern himself, nor did he attribute such a concern to Congress. Similarly, Theodore Roosevelt was relatively unconcerned with the trusts personally, but he “saw the trust problem as something that must be dealt with on the political level; public concern about it was too urgent to be ignored [90]

Beyond the concern that, absent antitrust, capitalism itself might succumb to reformist pressures, there is a more modest possibility that, absent antitrust, political pressures would lead to overregulation. Antitrust and administrative regulation are conventionally viewed as alternatives to address market failures. From the Reagan Administration to the Financial Crisis of 2008, the overall arc of American law involved simultaneous deregulation and relaxation of antitrust enforcement. If popular dissatisfaction with the economic status quo grows, demand might grow to pull either the regulatory or antitrust lever. Those ideologically committed to a light governmental hand on the market might prefer the antitrust alternative.

It is hard to judge at any given moment how much political support for antitrust intervention is motivated by genuine concern over monopoly and competition, and how much of it derives from the fact that, in the face of popular demand for a governmental cure to a perceived evil, it is often easier to delegate the solution to antitrust than to propose a regulatory solution. From the Sherman Act forward, however, it is certain that antitrust has often been deployed as a foil to more interventionist forms of regulation. The ideological and political implications of that move are complex and not neatly housed in left–right categories.

Conclusion

Antitrust is back on the menu. Given the ebb-and-flow patterns of antitrust enforcement in American history, that should come as no surprise. Nor should it be surprising that the pressures for enhanced antitrust enforcement are coming from both wings of the political spectrum, as is the defense of the incumbent consumer welfare regime. Despite the appearance of a conventional left–right divide over antitrust enforcement since the 1970s, in broader historical perspective the ideological lines over monopoly and competition are far less determined.

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#### Asserting that nonblack people should adopt “double consciousness” and see the world through the perspectives of black bodies is pornotroping.

Leong 16, PhD UC Irvine - Assistant Professor, English, University of Utah - Assistant Professor, Environmental Humanities Graduate Program, University of Utah (Diana, “The Mattering of Black Lives: Octavia Butler’s Hyperempathy and the Promise of the New Materialisms”, *Catalyst: Feminism, Theory, Technoscience*, 2(2), 1-35)

In her seminal essay, “Mama’s Baby, Papa’s Maybe: An American Grammar Book,” Spillers (2003) presents a concept of flesh as the material-semiotic inheritance of Africans in the diaspora, and of black women specifically. She “make[s] a distinction in this case between ‘body’ and ‘flesh’ and impose[s] that distinction as the central one between captive and liberated subject-positions...before the ‘body’ there is the ‘flesh,’ that zero degree of social conceptualization that does not escape concealment under the brush of discourse, or the reflexes of iconography” (p.206). Unlike the socially legible and historically-given “body,” the material conditions of captive and ungendered “flesh” cannot be altered by either the symbolic—“the brush of discourse”—or the imaginary—“the reflexes of iconography.” Flesh instead serves as a structuring dynamic for the coherence of both registers, and as such, must be eternally reproduced. This repetition-without-a-difference may appear through “various symbolic substitutions,” but in effect, these substitutions “repeat the initiating moments” that mark the captive body as flesh (p. 207).

As a scene of negation, black flesh is also available for pornotroping as a first order process of racialization, where “race is constituted by a repeated sadistic white pleasure in black female suffering” (Nash, 2014, p. 52). During their incarceration, Acorn community members are fitted with electronic devices called “slave collars” that deliver painful shocks or “lashes” to the nervous system. After she is collared, Lauren discovers that her hyperempathy subjects her to both the pain of her fellow captives and the pornotropic pleasure of her captors; she writes, “there are a few men…who lash until they have orgasms. Our screams and convulsions and pleas and sobs are what these men need to feel sexually satisfied. I know of three who seem to need to lash someone to get sexual pleasure. Most often, they lash a woman, then rape her” (Butler, 1998, p. 233). In these scenes, the relationships between consent, pleasure, and sentiment collapse as Lauren is forced to reenact the crisis of will and desire that characterize the female slave’s existence.14

While all hyperempaths, regardless of race, would experience a similar crisis under these conditions, black women are assured neither a restoration of their will and desire nor a discernible “end” to the crisis. Lauren needs neither the condition of hyperempathy nor the slave collar to bear the “marks of the cultural text” of slavery (Spillers, 2003, p. 207). Despite the episodic nature of hyperempathy, black women’s fleshly existence remains a structural vulnerability to violence, a condition that is also a “grammar”—an unconscious system of rules—that marks black women as the “zero degree of social conceptualization” (Spillers, 2003, p. 206). As such, black female flesh is the quintessentially productive site of modernity’s symbolic order, where the value and meaning of our conceptual categories are both challenged or renewed. Lauren performs this function in the novels, as her unavoidable reductions to flesh guide Earthseed’s development into a global movement. In this context, Lauren’s black life, or the blackness of her life, matters, but only in its ambivalent capacity to make all lives matter.

The Movement for Black Lives

The approach to life promoted under Earthseed’s banner responds to our desires for new modes of existence appropriate for the Anthropocene. For Lauren, embracing change enables notions of self and community capable of navigating complex socioeconomic forces and their differential embodiment. In Earthseed, “god is a process or a combination of processes, not an entity. It is not conscious at all…. God can be directed, focused, speeded, slowed, shaped. All things change, but all things need not change in all ways” (Butler, 1998, p. 46). Moreover, change is not driven simply or only by the dialectics of historical progress. The chapters in both Sower and Talents open with epigraphs from Earthseed’s doctrinal text, The Book of the Living. Modeled after the aphoristic style of the Tao, these epigraphs acknowledge the potential of political, economic, and social structures to affect and be affected by all matter: “We have lived before/We will live again/We will be silk,/Stone,/Mind,/Star,/We will be scattered,/Gathered,/ Molded,/Probed./We will live,/And we will serve Life” (Butler, 1998, p. 60). The confluence of silk, stone, mind, and star rejects the idea that the active properties of “life” are confined to the human or organic, constituting what Weheliye calls a “radically different political imaginary,” where “suffering appears as utopian erudition” that “[summons] forms of human emancipation that can be imagined but not (yet) described” (Butler, 1998, pp. 126-127). The destiny of Earthseed to “take root amongst the stars” is precisely this imagined yet indescribable emancipation (Butler, 1998, p. 46). Once the starships leave Earth at the end of Talents, humanity becomes Earth-seed, open to possibilities that we cannot predict or control as we spread to worlds unknown.

Visions like these suggest, among other things, that oppressive conditions do not exhaust the variabilities of life, and that the transvaluation of the organic body and human being can encourage comprehensive ethical bearings. Then again, perceiving hyperempathy and Earthseed as means to “liberate...assemblages of life, thought, and politics from the tradition of the oppressed” requires us to detach pornotroping from the sexually violent production of racial difference (Weheliye, 2014, p. 137). The celebrated material body thus betrays a desire to harness the radical potential of black flesh without paying the social and historical costs of being black. In the new materialist formulation, pornotroping is revised as a radical interruption in the order of things, one that produces a material body without race.

Certainly, in black women’s “absence from a subject position,” Spillers does locate the potential for a sui generis naming that claims the “insurgent ground” outside of “dominant symbolic activity” (p. 229). The difficulty here is that the monstrous female “with the potential to ‘name’” emerges out of the specific histories of black women (Spillers, 2003, p. 209). This is not to say that a capacity for life does not exist in other conditions of oppression, or that pornotroping is a structural totality from which nothing escapes. However, in order to confront effectively the consequences of the Anthropocene, we first need to reckon with our political and libidinal investments in black flesh. This would require us to address how the entanglements of blackness, matter, and the human make only certain forms of matter both legible and desirable. To be clear, my objective is not to reject wholesale the new materialisms. Their attempts to offer a broader theorization of matter and being are appropriate and necessary for our techno-scientific age. Indeed, a planetary crisis requires a more expansive philosophy. What I am suggesting instead is that challenges to human exceptionalism should proceed through a critique of race, or we risk reorganizing old privileges (“All Lives”) under new standards of being (“Matter”).

#### Globalization hinges on black abjection AND a-spatiality.

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Colonial ethics reverberate in the present

The increasing globalization of capital and spatial marginalization of “superfluous” populations is fundamentally tied to the negation of Black life and assumptions of Black nonbeing. The treatment of Black lives as the embodied absence of value, or, “the very condition of existence and the determination of value,” underpins Black non-being and the assumed lack of Black cartographic capacity in the dominant spatial imaginary, making global capitalism possible (Ferreira da Silva, 2017: 1). The interconnected nature of capitalism and race is a well-worn topic. Scholars have theorized race as an ideological outgrowth of the economy (Hall, 1996); as an apparatus used to facilitate flows of people and commodities (Lowe, 2015); as a central component of capitalist maturation (James, 1989); and as a phenomenon necessary for the establishment of the world system (Robinson, 2000), among countless other approaches. Geographers, too, have unpacked the ways in which regimes of capitalism employ racialized concepts to reproduce. Geographic interrogations of racial capitalism have analyzed the role of racist assumptions in implementing neoliberal reforms in the wake of a natural disaster (Derickson, 2014); the manipulation of racial distinction to prevent labor organizing (Wilson, 2000); how resistance to Black landownership underpinned early 20th-century industrial agriculture (Williams, 2017); the role of capitalism in perpetuating environmental racism (Pulido, 2017); and the centrality of plantation relations to numerous variations of capitalism (Woods, 1998). Nonetheless, we must push further to explicate the ways in which capitalism is actually dependent on anti-Blackness to realize itself, instead of understanding anti-Black racism as a secondary effect of the economy or a phenomenon that emerges periodically. That is to say, reflections on the interlinked nature of race and capitalism must move beyond an assumption of economic causality and grapple with the ways in which anti-Blackness is actually an always-present precondition for capital accumulation. In explicating anti-Blackness, we draw on an Afro-Pessimist framework, as Afro-Pessimism makes distinct claims about the nature of Blackness in the modern world. An Afro-Pessimist analysis of antiBlackness does not treat anti-Black racism as a contingent phenomenon (Wilderson, 2011: 3–4) but rather as a global, ever-present factor that exists as the basis “for expansion and unending space within the symbolic economy of settlement” (King, 2014). Such an approach forces us to recognize how anti-Blackness punctuates the modern epoch by identifying the underlying logics that inform concrete manifestations of anti-Black racism around the world. In this way, Afro-Pessimism adds new dimensions to already-existing work on the connections between anti-Blackness and political economy by recognizing that, while capitalism exploits all of the world’s populations, it does not dominate all of them in the same way. With regard to the question of space, anti-Blackness helps us understand how the afterlife of slavery (Hartman, 2007: 6) leads to Black populations being conceptually unable to legitimately create space, thereby leaving locations associated with Blackness open to the presumably “rational” agendas of dominant spatial actors. Black populations, then, serve as the guarantor of capitalism’s need to constantly find new spaces of accumulation. In this section, we offer an explanation of how capitalism relies on anti-Blackness by foregrounding anti-Blackness as a phenomena with its own internal logics and concrete expressions. Capitalism is rooted in violent forms of captivity and murder unleashed on indigenous and Afro-descendant populations the world over (Ferreira da Silva, 2004; James, 1989; Rodney, 1972; Williams, 2014; Wynter, 1995). At its origin and in its contemporary manifestations, then, capitalism is systemically related to slavery and its various global permutations (Robinson, 2000: 313–314). The assumption that Black populations lack both humanity and “space, that is ethno- or politico-geography,” defines the treatment of enslaved Black peoples. Today, the assumed a-spatiality that defined conditions of chattel slavery continues to imprint the socio-spatial relations that reproduce global capital (Robinson, 2000: 81, 200). Black populations are deemed a-spatial as a result of the fact that modern notions of space and practices of spatial production are rooted in specific relations of power (Massey, 2005: 64, 100–101). These power relations are themselves organized around logics that have particular historical roots (Santos, 2008: 21). In the colonial epoch, chattel slavery—the social, legal, and political reduction of Africans to the status of nonhumans—produced the figure of the Black, which had a nullified spatial capacity (Wilderson, 2010: 279), was disavowed as a human being (Ferreira da Silva, 2015: 91), and was a priori structurally prevented from enacting “rational” spatial expressions (Santos, 2009: 24). Locations associated with Black populations became wholly “unhallowed” spaces, which would never receive recognition as legitimately occupied (Wynter, 1976: 81). This is not to suggest that Black peoples were or are understood as not physically present. Black bodies are certainly recognized as existing in exteriority (Raffestin, 2012: 129). Still, this recognition of physical presence does not signify that Black populations’ are understood as establishing legible space. Despite physical presence, Black populations nonetheless remain rendered “ungeographic” in dominant understandings of space (McKittrick, 2006: x). Hence, the geographic locations in which Black populations reside are treated as open to the varied agendas espoused by dominant spatial actors. Capitalism’s new rounds of accumulation require access to spaces that previously had different relations to capitalist practices. The assumed a-spatiality of Black populations often leads to purveyors of capitalism treating locations inhabited by Black people as available for emerging modes of accumulation. Put another way, spaces that were once marginal or peripheral to the perpetuation of capital accumulation become sites of appropriation precisely because the (Black) populations occupying them receive no recognition as viable spatial actors. The spaces necessary for new forms of accumulation are thus conceptually open because of this assumed a-spatiality and subsequently physically opened via the spatial removal and dispersal of Black residents. This dispersal entails violent actions that are a priori legitimate because of the assumed lack of Black spatial agency. In other words, new spaces of “investment have been mapped onto previous racial and colonial (imperial) discourses and practices” evidencing an inextricable relationship between anti-Black notions of space, capitalism’s logic of perpetual expansion, and the acceptable subordination of Black physical presence (Chakravartty and Silva, 2012: 368). This is what Frank Wilderson terms the “deterritorialisation of Black space” (2003: 238) that is necessary for accumulating capital vis-a`-vis emerging political economic practices. Katherine McKittrick similarly notes that Black geographies are cast as “the lands of no one” and “emptied out of life” in order that “suitable capitalist life-support systems” be put into place and globally propagated (McKittrick, 2013: 7). A number of present-day practices demonstrate the reliance of capital on this notion of empty, lifeless, Blackened spaces, such as capital disinvestment, white flight, gentrification, urban renewal, incarceration, and policing. These spatial arrangements identify Black peoples as inhuman and locations associated with Black populations as lacking a legitimate form of occupation and usage. Such assumptions contribute to the subordination of Black populations and spaces to dominant notions of “appropriate” uses of space, while “illegitimate” spaces of Blackness remain under siege by purveyors of capital. As this occurs, new spaces of accumulation open in areas formerly peripheral to the capitalist agenda. At the same time that these new rounds of accumulation take place, sovereign expressions of power serve to forcibly remove Black people and ensure they remain separated from these new spaces of accumulation. Subsequently, Black people are routinely harassed for existing in the communal spaces in which they have resided for generations.1 Along with public policy shifts, policing, incarceration, and extrajudicial killings simultaneously disqualify Black spatial agency and remove Black bodies from spaces deemed open for appropriation by capitalism’s purveyors, thereby simultaneously spatializing antiBlackness and reproducing global capital. The systemic casting of Black spaces as lifeless and open to appropriation for the continuation of capital breathes new life into “civil society’s political economy: [the Black body] kick-starts...capital at its genesis and rescues it from its over-accumulation crisis at its end—black death is its condition of possibility” (Wilderson, 2003: 238). Put simply, the endless accumulation of capital and its legitimating sovereign practices are, in part, made possible through the continued societal insistence on Black inhumanity and a Black lack of cartography, which casts Black spaces as empty. Hence, there exists an unquestionable connection between the colonial logics inaugurated centuries ago and today’s capitalist agenda. The lack of recognition of Black humanity underpins both projects. Early capitalism flourished thanks to the relegation of enslaved Blacks to the ontological and legal condition of non-humans on the plantations, in the forests, and in the mines of the Americas, while slaveholders and early insurance companies made fortunes off their investments in the transatlantic slave trade. Similarly, real estate speculation (Harvey, 2010), urban renewal (Perry, 2013), the roll-back of social wages (Wacquant, 2009), and the explosion of prisons (Gilmore, 2007)—all of which have allowed present-day capitalism to continue its agenda of accumulation—are only possible via the understanding of spaces inhabited by Black populations as empty and naming and treating those same populations as abject, inhuman beings. In this way, the anti-Blackness and assumed lack of Black being that originated in and defined the colonial epoch remains present with us today, despite the new material practices and justifications it takes on. Anti-Blackness remains an ever-present condition, defining the modern world. Scholars can and should look to Black thinkers and activists to help make sense of the interrelated phenomena of anti-Blackness and global capital, as Black grassroots actors explicate the linkages between these phenomena (Burton, 2015).

#### 3---white futurity---extinction’s non-unique, placing it in the future smooths over the ongoing black apocalypse.

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In all their shocking glory, Summers’s remarks epitomize a pervading instrumentalization of black existence, which challenges much of the totalizing gestures of Anthropocene narratives. It is the logic intrinsic to these gestures that I have attempted to lay out thus far. Braidotti, Morton, Tuana, and even Colebrook in her incisive interventions, are unable to relinquish or effectively resist the homogenizing consequences of the discourse.42 Their respective ethical and critical prescriptions sidestep an engaged account of social antagonisms, and more specifically those enacted along racial lines. Instead, these are smoothed over and displaced in the name of an ethics of futurity grounded on a deeply naturalized variation of relationality—namely that all beings, insofar as they are earthly at least, are fundamentally interconnected and can (or must) only be perceived as such. This affirmation, as well as Braidotti’s own brand of vitalism, is not only symptomatic of a more entrenched form of historical amnesia concerning questions of culpability (i.e., how did we end up here and who is responsible). More perniciously, they appear to be yet another instantiation of Saidiya Hartman’s provocative claim that “the white bourgeois family can actually live with murder in order to reconstitute its domesticity.”43 In its most blatant form, Summers’s secret memo is precisely this! There is nothing sacrificial in his proposition; it is not about preserving the air quality that matters—so to speak—at the expense of Africans. Rather, Africa—and therefore blackness—remains the disposable trash container of the world par excellence; a case of instrumentalization in its most primitive execution. Under these conditions, one is thus pressed to inquire how can a global ethics of care44 be possible when fundamental questions of racial culpability are eluded in the name of a shortsighted conception of “becoming” and an aggrandized notion of ontological relationality—both of which remain unwilling to sustain engagements with their violent racial foundations. Indeed, in her critical essay evocatively titled “The Mattering of Black Lives: Octavia Butler’s Hyperempathy and the Promise of the New Materialism,” Diana Leong asserts that the “reduction and disavowal of race [. . .] is something of a structural necessity for the new materialisms.”45 In ways that significantly resonate with my own argument in this article, she contends that, in addition to being a discursive necessity, circumventing the race question in this discourse “enables an ethics of relation or affect that further legitimizes the reduction and dismissal of race.”46 In other words, as I have also maintained, the ontological realism that naturalizes this “hyper-ethics” of relationality can only be maintained by the concealment of systems of racial oppression.

Recall that the ethical dimension of Braidotti’s becoming-posthumanist strives for the actualization of a community-to-come unrestrained by “the guilt of ancestral communal violence, or the melancholia of unpayable ontological debts.”47 This suggests that posthumanist reconfigurations of subjectivity and its creative invention of a “future people” as solutions to our ecological demise, hinge on the forgetting of the atrocious making of “another people” by slavery and the responsibility such violent history bestows on the Western world. What remains at stake here, however, is not so much the general (and generic) recognition of the differential effects of our environmental crisis on vulnerable populations. The literature exists, and the work continues to be done.48 Rather, we must return to the structural conditions that facilitates and renders possible the “symptomatic desire to abandon race.”49

If indeed, as Leong forcefully argues, “Blackness [. . .] is the specter that haunts the Anthropocene and its possible futures,” it is imperative that we incisively revisit the conditions that make “blackened” life and death unregisterable and therefore un-grievable. And if indeed grievability and the imperative to survive constitute, as Colebrook suggests, the “we” of the Anthropocene, it behooves us to attend to those ungrievable lives for which even survival requires facing death. That is to say, those lives for which existence requires suicidal decisions such as deadly expeditions across the Mediterranean Sea, the Mexico-United States border, and the many “border-fortresses” of the EU. How can we possibly ascertain to possess an “adequate cartography of our real-life conditions,” when we continue to sidestep considering the precarity of “social practices of human embodiment,” which necessitate one to gamble with one’s own death in order to envisage the possibility of a future?50

Insofar as Tuana’s viscous porosity, Morton’s hyperobject, and Braidotti’s vitalist posthuman politics are mostly interested in giving an account of the ontological foundation of species entanglements, they cannot account for the violent foundational structures that make Summers’s indifference I mention above possible. In my opinion, this is the discursive gift that philosophical interventions in the study of anti-black racism have offered us in the past couple of decades, namely (and I quote Jared Sexton here): “A meditation on a poetics and politics of abjection wherein racial blackness operates as an asymptomtic approximation of that which disturbs every claim or formation of identity and difference as such.51 Unlike Braidotti, whose main concern is to reconfigure the boundaries of subjectivity so as to recompose, with a materialist politics of posthuman difference, a “missing people,” critical black philosophies interrogate the very foundation of becoming—of this “we” to come. In addition to its demystifying agenda, which unremittingly unsettles the self-aggrandizing gestures of Western theory, critical black philosophies consider black suffering to be a crucial site of interrogation. They question what it means to inhabit a structural position whereby by the black philosopher is always already forced to align herself with exclusionary terms in order to register antiblack violence as violence. They investigate, for instance, what using the general lexicon and terms of philosophy “insubordinately” entail for the black philosopher. What matters for this critical tradition is to assess the conditions of a world when blackness is, at last, understood to be a decisive organizing principle.

In his poignant essay “Onticide: Afro-Pessimism, Gay Nigger #1, and Surplus Violence,” Calvin Warren challenges us to think of those who fall “outside the cultural space of ethics, relationality, and the sacred.”52 In fact, he provides us with robust grounds to remain suspicious of the hasty impulses of an affirmative politics of life and relationality profoundly unequipped to recognize the mundane and persistent ways in which death and perhaps even extinction always already constitute existence for the “fungible” object/being. In this text, Warren returns to the brutal killing of Steen Keith Fenrich by his white stepfather. It is not the gruesome details surrounding Fenrich’s death that are at stake here; in the same ways the morbidly grandiose performances of anti-black violence across the globe do not necessarily hold explanatory power in and of themselves. Rather, Warren uses this story to show how the violent spectacularity of Fenrich’s death—its operation, protocols and structure - “indicate a certain ontological violation that preconditions physical injury.”53 This violence that shocks both in the simultaneity of its excessive gratuitousness and indiscriminate indifference, a violence that “exceeds the logics of utility,” to use Warren’s language, is indispensable for the constitution of the human self and necessary to maintain the coherence of its solipsistic contours and concomitant socio-political institutions.54

#### **3---contingency is alt solvency, not an answer.**

King 16, Assistant Professor of Women's, Gender, and Sexuality Studies at Georgia State University. (Tiffany Lethabo, “The Labor of (Re)reading Plantation Landscapes Fungible(ly)”, *Antipode*, Vol. 48 No. 4, pg. 1036-1037, doi: 10.1111/anti.12227)

Fungible Futures

The ever-changing and unpredictable violence that makes Black bodies fungible can also be exploited by Black people seeking freedom. Dash beautifully and poetically turns porous and stained flesh as well as the noxious zone of indigo processing into heterotopic spaces where the possibility for other kinds of life exist (Bailey and Shabazz 2014; Foucault 1986). Black flesh and Black spaces as heterotopic spaces function as counter-sites where new possibilities for (more than) humanness and freedom are articulated (Foucault 1986). The dense, smoky, putrid, and secluded area of indigo processing may have allowed for the enslaved depicted in De Brahm’s imaginary and actual plantation landscapes of the 18th century to maneuver and temporarily escape the violent relations of the plantation.

Looking closely and critically at the blue stain marking the skin of Black bodies in Dash’s movie, modes of escape made possible through the shifting terrains of fungibility become visible. In the opening montage of the film, the camera focuses on Black women with indigo-stained pores intimately engaging other Black flesh. These stained pores attend to soft newborn skin, braid a young woman’s hair, and prepare food for the community. The trauma of slavery (sometimes visible as scars) may be healed by the community, here in this moment, on earth. In this way, I read Dash’s character’s indigo hands as a form of Spillers’ (1987) yet to be flesh. As matter that lives outside of both the privileges and constraints of humanist categories of legibility (sex/gender, sexuality, normative time and space) the Black body can become a form of liberated flesh (Spillers 1987) once again in its capacity to exist beyond violent taxonomies and conceptions of the human. While the power of blue works here in the present, it also reaches into the spiritual realm exceeding our conventional notions of time and space.

Dash’s choice to stain her actors’ hands blue was made to reference a variety of seen and unseen realms and meanings. In her book chronicling the making of the film, Daughters of the Dust: The Making of an African American Woman’s Film, Dash (1992b) shares that she explicitly evoked Yoruba cosmology by linking specific actors to the colors of orishas. By reading the Black body through Dash’s complex diasporic cosmology we are able to register the body’s significance within multiple realms of reality and relationality. Black flesh is significant to the self, the community, and spirit world in ways that cannot be contained by slavery or the rubric of Black labor.

While the enslaved certainly used alternative epistemologies, the ecstatic, spiritual practices, and liberatory theologies to reclaim and repossess the body for their own needs, these are not the only modes of freedom enacted. The practice of getting free constantly changes and can never be anticipated in advance under slavery’s mode of fungibility. Since new modes of captivity and fungibility are always unfolding and expanding under slavery, freedom is ever unfolding and expanding as well. Modes of freedom existed in garret spaces, leaving the body, going insane, suicide, interracial sexual liaisons, same gender love, gender play, setting fire to the slave estate, murdering the Settler-Master, revolt, escape, or just surviving. Black fungibility as an always-unfolding space has multiple undersides that can be transformed into new geographies of Black freedom.

#### Legal focus replicates a cycle of cruel optimism and empirical failures that crystallize the settler state’s authority and redirect black energy from community-building to courtrooms.

Ramsey 21, J.D.-M.Div. candidate at Harvard Law School and Harvard Divinity School. (James Stevenson, “Lawyering in the Wake: Theorizing the Practice of Law in the Midst of Anti-Black Catastrophe”, 24 *Cuny L. Rev. Footnote Forum* 12, pg. 18-22)

Conversely, wake work is about paradoxically clinging to life amidst death and catastrophe. The game has been lost. There is no pre-slavery Blackness. There is no un-murdering, no un-spilling of blood. There is no available expulsion of a foreign power, as in the case of Gandhi's India, nor is there any reason to foresee or hope for a surrender of our government structures to Indigenous folk, as in Mandela's South Africa; apartheid is perfected here. Outside of worldwide upheaval, the state – this crystallized settler colony – is here to stay, as are the scars on the peoples residing in the underbelly of society, which holds up the rest of it. 30 The hold is sturdy, and those who have been disposable are still disposable; as a matter of policy, the starved in history can still be starved, the historically captured can still be captured (e.g., arrested and incarcerated), and so on. 31 What would it mean for lawyers to practice from this place of containment, from apparent defeat? Not primarily from an obligation to universal ideals or political affiliations as Delmas describes, but from a collective mourning and hunger? How might "politics" and "obligations" be recast in the wake, and how might we triage them? Starting from the first analysis of divided loyalties, how might lawyers thinking from within the wake determine the relative weights of our obligations to the law and to those on the margins? What does the law mean to us who are already always the living dead, those whose deaths make the world possible?32

As scholars and movement lawyers have long explained, a singular focus on legal remedies for the marginalized in our context has several pitfalls and other shortcomings. First, concentrating solely or even primarily on the systemic reform of the legal system and/or direct client services has not worked. To be sure, it is no longer legal, strictly speaking, to segregate schools based on race, 33 but housing and school segregation persist.34 Lynching is technically illegal, but it persists. 35 Police still kill Black people, Black children, legally and illegally. 36 Mass incarceration has been decried by some, 37 and yet prisons, along with a visceral, systemic need to punish, also persist and are levied against Black people in particular, who have always been necessarily capturable.38 Some voting rights for Black people were secured on paper,39 but they have since been both resisted in practice and rolled back formally. 40 Wealth inequality between Black people and white people has ballooned over time, and, even more harrowingly, inequalities in life expectancy between Black people and white people still exist. 41 I do not mean to dismiss the steps toward reducing these inequities that have been made through the law or by legal actors. But, as discussed earlier, these injustices are not accidents or anomalies; they are constitutive parts of the system as it currently exists, and they mean something about who in this country can (still) be hurt and stolen from and about what this country is. Appealing to such a system to change itself has not been proven effective on its own, as many scholars have observed; forms of state oppression merely shift from one form to another.42 These so-called reforms leave the violent core of the nation intact because they must; the underlying, necessary penchant for anti-Blackness and the domination of Indigenous peoples has remained as the lifeblood of the nation-state. 43

Second, along these lines, appealing to the state for relief reinscribes the state, the coercive power it uses to effectuate its ends, and our own status as Black (non)subjects. 44 As Anthony Farley explains, praying to the state for relief is to accept the power of the state to say "yes" but also its power to say "no": "To request equality is to surrender before one begins. To request equality is to grant one's owners the power to grant or deny one's request. To grant one's owners such a power is to surrender oneself to one's owners entirely and completely." 45 To recognize this power is to submit to the law's (necessary) privileging of its interests those that give it coherence and legitimacy: the erasure of Native American peoples and the infliction of perpetual suffering upon Black people as punishable, malleable, detestable flesh 46 -over our own:

To pray for legal redress is to bow before the authority of law .... Law is only the relation of white-over-black to white-over-black to white-over-black. When we follow a legal rule we follow only the track that we have ourselves laid down. In other words, we ourselves are track, we become the track when we lay down, and we follow that track white-over-black into the future that lasts forever.47

Third, as various scholars have observed, focusing on legal redress to the exclusion of other tactics and remedies, which lawyers are prone to do, has the potential to block the building of power in the communities those lawyers serve, creating serious problems in movement work.48 For example, such a focus often contains social action and energy within the domain of the courts, as opposed to building sustainable structures and practices within the community itself." There is a lurking tendency for lawyers, because of our conservative, risk-averse training, to quell radical thought and tactics-in the name of precedent and rationality-and instead bow to the law.5 Because strictly legal approaches often rely on the unique credentials, skill set, and language of lawyers, such approaches can center and empower lawyers in movement strategy, rather than empower activists and members of the community.51 A law-focused approach tempts lawyers and community members alike to conflate the lawyer's role with that of an organizer, which is problematic because lawyers and organizers tend to employ different frameworks and techniques." Our legal system tends to atomize legal disputes and claims, often forcing legal proceedings into person-against-person conflicts and making it difficult for collective legal action, coalition building, and redress of harms on a community level.53

#### 3---compulsory solidarity. Critiques of “US-centrism” non-reciprocally burden black scholars with the onus to theorize every global subject position.

Nopper & Kaba 14, \*Tamara K., sociologist, writer, and editor. \*\*Mariame, the founding director of Project NIA, a grassroots organization with a vision to end youth incarceration. She is also a co-founder and co-organizer of Survived & Punished. (8-15-2014, "Itemizing Atrocity", *Jacobin*, <https://www.jacobinmag.com/2014/08/itemizing-atrocity/>) \*\*Thanks to kwudjwa

It is also true that, despite the black diaspora’s effort to emphasize what happens to black people worldwide (including in the United States), references to globalization, militarization, and the war on terror are often treated as markers of non-blackness — and among some progressives, as code for “needing to go beyond black and white” or for blacks in the United States to not be so “US-centric” (read: “self-absorbed”).

Hence the odd historiography about the militarization of the US police as emerging from the (relatively new) war on terror found in some of the current commentary. Some may promote the effort to “connect the dots” in service of a more nuanced analysis or to encourage international and interracial solidarity.

We can also consider this an example of “the precariousness of empathy,” with blacks required to tether their suffering to non-blacks (and processes often erroneously treated as non-black, such as “militarization” and “globalization”) in the hope of being seen and heard. This is also a marker of the compulsory solidarity that is demanded of black people without any expectation that this solidarity will be reciprocated.

Relatedly, the push for coalition and the use of analogies suggests a difficulty to name precisely what black people experience in the United States. Scenes of police violence against blacks in Ferguson seemingly become more legible, more readable and coherent, when put into conversation with Iraq or Gaza. And yet something gets lost in translation.

#### Pointing out the magnitude of anti-blackness isn’t homogenization, BUT the world DOES strip black people of claims to individual identity.

Douglass 18, Assistant Professor of Justice, Community, and Leadership at Saint Mary’s College of California. She received her PhD in Culture and Theory from the University of California, Irvine. (Patrice, January 2018, “Black Feminist Theory for the Dead and Dying”, *Theory & Event,* Volume 21, Number 1, <https://muse.jhu.edu/article/685972>)

The conceptual framework of women of color, I argue, similarly performs an erasure of the antagonistic relationship Black genders hold with the structuring paradigm of gender. At the level of experience women of color, as a broad association, are subjected to violence at the intersections of at least their race and gender. However, the structural positioning of Blackness blurs the lines of difference demonstrating an intimate proximity to violence that troubles the water of gender as an explanatory category.31 Andrea J. Ritchie explains how the assumption of gender transgression places women of color at an increased risk of experiencing police brutality. Ritchie argues, women framed as ‘masculine’ – including African American women, who are routinely ‘masculinized’ through systemic racial stereotypes – are consistently treated by the police as potentially violent, predatory, or noncompliant regardless of their actual conduct and circumstances, no matter how old, young, disabled, small, or ill.32 Black women here representing a convergence of supposed gender lines. The significance of this gesture by Ritchie is that is hones into the peculiar relationship between Blackness and gender. Gender here is not accounted for by how Black women identify or perform. Nor can it be taken as misrecognition of real gender by the police. Black gender occupies a position that is captive to a libidinal economy of différance.33 Theorizing the power that disorients Black gender deconstructs the assumptive logic of gender violence. What is revealed is that Black gender functions as a demarcation of difference at the level of existence. Ritchie goes on to offer a critical analysis of beliefs held by police officers that 7rely on racialized and gendered preconceptions of women of color to justify the use of force. Ritchie writes, Use of force against women of color is also uniquely informed by racialized and gendered stereotypes – officers often appear to be acting based on perceptions of Black women as “animalistic” [End Page 114] women possessing superhuman force, Latina women as “hot-tempered mamas,” Asian women as “devious,” knife-wielding martial arts experts, and so on.34 Although these descriptions are presented in a list, the assumptive framing of them are not the same. Latina and Asian women are portrayed as hypersexualized and deviant variants of womanhood, while Black women are not seen as women at all. Black women are positioned outside of the scope of humanness. Though, I would caution to suggest that the hum-animal distinction does not mark the essence of Black feminine gender. Instead the description of Black women given above situates Black identity into a void. As Zakiyyah Iman Jackson critically argues, “…at the moment when the conception of ‘the human’ was reorganized such that humanity was understood as coincident with ‘the animal,’ humane discourse relying on this new understanding simultaneously reformulated blackness as inferior to both “the human and “the animal.”35Jackson demonstrates how the animal possesses a conceptual framework in a manner Blackness is barred from. The Black, can be everything and nothing simultaneously. Blackness is gendered through violence that structures it outside of humanity and defines the perimeters of what it means to be for the Human and its discontents.36 The archive of gender is structurally anti-black. Its assumptive logic, whether explicit in its presentation or not, maintains that all women have the same gender. This orientation of thought does more than render Black gender invisible or silent. It makes it conceptually impossible to think of gender violence as orienting more than the realm of gender. Rather than engaging a politic fixated on what binds women together in life, I want to draw focus to what separates Black women in death. What creates the conditions of (im)possibility for Black women to die like Korryn Gaines? How might we augment the lens to theorize the issue of Black gender as much larger than it appears? Blackness brings into focus a paradigm of existence that rests on a gratuitous structure of violence that unhinges Black people from a possessive relation to categories of identity. Anti-black violence bleeds across demarcations of difference. When examining the contexts of Black gender, what emerges through theory is Blackness obscures the intensity and scope of violence such that Black suffering becomes indiscernible from violence experienced by others. Thus, the intimate relationship between Black gender and violence becomes a crisis for non-blacks, as this structural proximity is assumed as applicable to all. The Women’s March principles are exemplary of the transfusion of myth and reality. As Saidiya Hartman so critically poses, “How can we understand the racialized engenderment of the black female captive in terms other than deficiency or lack in relation to normative conditions and instead understand this production of gender in the context of very difference economies of power, property, kinship, race, and sexuality?”37 The implications of this provocation by Hartman are a critical lens to understanding the policing of Black women38 and the generative possibilities of theorizing gender through Blackness. So, what does the lens of Blackness offer introspections into gender? In the same respect as the proclamation by Beth E. Ritchie that is it dangerous to produce theory for all women, can the same be said for Blackness? The short answer to latter is, no. While there is no place in history where all women have stood subjected equally to violence, there is such a place for the black, the hold of the slave ship. I would like to privilege an analysis of the hold and the world produced from it as predicated on Black social and political death. The hold is marked by the putridness of unattended matter. A critical theory of Blackness rooted in the urgency and immanence of that death must attend to the specter of Black gender unhinged by a dispossessed status. As Jared Sexton posits, “The slave’s cause is the cause of another world in and on the ruins of this one, in the end of its ends.”39 Black gender as a theorem, not a thing, dismantles the predicate of gender. When gender and Blackness converge, Black people are found wavering in an ocean of violence. The core of Black feminist concerns is how to account for the gravity of gender violences that lack a proper name.

#### 3---damage control DA. The perm is a liberal corrective that interposes Black radical theorizing between genocidal logics.

King 17, Assistant Professor of Women's, Gender and Sexuality Studies at Georgia State University. (Tiffany, Spring 2017, “Humans Involved: Lurking in the Lines of Posthumanist Flight”, *Critical Ethnic Studies*, Vol. 3, No. 1, pg. 173-174)

As an example of how the protocols, codes of conduct, and politesse of postcolonial “business as usual” unfold in the university, I reflect on my encounters as a student and now professor in the graduate classroom, reading scholarly texts, listening, and taking part in scholarly critique and the collegial repartee that occurs at academic conferences. Within these scenarios, I have observed the decorum of supposedly “engaged and rigorous” critique proceed in the following ways. Often postcolonial interventions into colonial or critical theory travel through phases, stages of progression, and levels of engagement with continental philosophy. First, in order to demonstrate your scholarly due diligence, capacity for rigor, and abstraction, you must learn and rehearse the origins of and become fluent in the language, idioms, and grammar of Deleuze and Guattari or whichever white scholar is in fashion. Second, you must figuratively inhabit and empathize with the white scholar’s very personal and particular existential and ethical questions (even if you cannot relate to her particular kind of situatedness or experience). It is often in graduate seminars where you have been asked—and we have been trained as faculty—to have you think about what it must have been like to be Karl Marx, Michel Foucault, or Gilles Deleuze and Félix Guattari in the moment in which they lived. Imagine the trials and tribulations of being a European bourgeois male maverick in the academy and civil society. In other words, you must internalize and perform this worldview as if it applies to you. After you internalize and perform, the third thing that you are allowed but by no means required to do is list the problems with this theory or worldview. Once you have identified the problems, even irreconcilable ones, you are encouraged to make an intervention or slight adjustment to the discourse or theory by asserting that you will now put Indigenous or Black life at the center of this body of thought. The challenge or intervention usually reads as “what if we put Native or Black studies at the center of Deleuzoguattarian thought?”

Although we may become disillusioned with and challenge a metanarrative, we are rarely encouraged to do what Eve Tuck does when she “Break[s] Up with Deleuze.” We are often prevented from getting to this stage of exasperation or justified disgust because we are not allowed to stop, look at, and more importantly feel the violence of Western turns in critical theory. Because of academic respectability politics that impose a kind of bourgeois politesse on all “communicative acts,” be they in person or in writing, it is impolite and more importantly irrational to be rendered devastated, enraged, mute, or immobile by the violent terms on which continental theory proceeds. One must tolerate that Deleuzoguattarian rhizomatic movements require Indigenous genocide. In fact, it is a necessary evil in order for the West to model the kind of unfettered nomadic movement that Deleuze and Guattari privilege. The neoliberal temporality of productivity also requires that scholars keep moving unaffected in the midst of the violence. In fact, one is required to work through and repair or do damage control

for Deleuze and Guattari. This is what a “good scholar” does: puts Black or Native studies at the center of rhizomes rather than contesting the very terms in which lines of flight become epistemic entities. But how do we perform or act otherwise in the face of this kind of violence?

I am not arguing that academics should not read Deleuze and Guattari. As scholars committed to decolonial thought, we should read their work and understand how genocide and colonialism flow through it. However, we can read without becoming seduced and attached to the work. I turn again to the writings of Black and Native feminists as an example of what this critical disinterest and refusal might look like.32 As Simpson and Tuck and Yang argue, refusal can reroute one set of concerns and questions and redirect them toward other pursuits. Better yet, disenchantment and pessimism can compel one to perceive or think about new questions. Refusal and misandry can move you out of the circuit that the corporate university imposes on critical thinking: know, internalize, perform, disagree, and then center yourself**.**

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## Case

#### The aff requires law enforcement AND a judicial remedy.

Bovard 21, senior director of policy at the Conservative Partnership Institute. She is the co-author of Conservative: Knowing What To Keep with former Senator Jim DeMint and a member of the TAC advisory board. (Rachel, “Why Republicans Must Rethink Antitrust,” *The American Conservative*, <https://www.theamericanconservative.com/articles/why-republicans-must-rethink-antitrust/>)

Accomplishing any of this, however, requires the right to rethink its reflexive hesitance to take action. This is especially true in the area of antitrust. Too many on the right conflate antitrust enforcement with regulation, when the two are quite distinct. Antitrust is targeted law enforcement. It addresses specific acts of marketplace conduct that must be thoroughly investigated by the Department of Justice or the Federal Trade Commission, and proven before a judge, before the law is enforced. Regulation, by contrast, goes after entire sectors of the economy with a one-size-fits-all approach, and does so without necessarily concerning itself with finding clear evidence of fault.

#### This distinction is relevant.

Heather 19, senior vice president for international regulatory affairs and is responsible for antitrust policy at the U.S. Chamber of Commerce. (Sean, “Antitrust is not regulation. It’s law enforcement,” Roll Call, <https://www.rollcall.com/2019/07/23/antitrust-is-not-regulation-its-law-enforcement/>)

Put simply, antitrust is “not” regulation; it’s law enforcement. Antitrust fundamentally believes market forces maximize efficiency in the market to the benefit of the consumer. That’s why we use antitrust to restore market forces when a firm’s conduct prevents the market from functioning efficiently. By contrast, regulation drives specific market outcomes that extend beyond efficiency. In our democracy, the legislative process is responsible for setting regulatory priorities. For example, Congress is actively considering federal privacy legislation. The privacy debate is important, but privacy is not an antitrust matter to be decided by our antitrust agencies.