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### 1AC---Labor Movements

#### The advantage is Labor Movements:

#### Antitrust law’s under-application to labor monopsony is allowing anticompetitive conduct to escape scrutiny, resulting in overconcentration of the labor market.

Naidu et al. 18, \*Suresh Naidu, Associate Professor of International and Public Affairs and Economics, Columbia University; \*Eric A. Posner, Kirkland & Ellis Distinguished Service Professor of Law, University of Chicago Law School; \*Glen Weyl, Principal Researcher, Microsoft Research New England and Visiting Senior Research Scholar, Yale University Department of Economics and Law School; (2018, “Antitrust Remedies for Labor Market Power”, https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=13776&context=journal\_articles)

B. Antitrust Law and Labor Markets

1. Antitrust Litigation Relating to Labor Markets. — The antitrust laws broadly prohibit firms from creating monopolies and cartels, and taking other actions that reduce the competitiveness of markets. Section 1 of the Sherman Act prohibits contracts “in restraint of trade.”140Section 2 of the same law prohibits attempts to “monopolize . . . any part of the trade or commerce among the several States.”141 The Clayton Act142 prohibits various practices associated with the exercise of market power, including price discrimination143 and — of special interest to us — mergers and asset acquisitions where “the effect of such [merger or] acquisition may be substantially to lessen competition, or to tend to create a monopoly.”144 The unusually broad language of the antitrust laws has been given specific meaning by the courts over many decades of judicial development.

The clear majority of cases have involved efforts to block sellers from cartelizing or monopolizing product markets. However, the law and the cases are not limited to anticompetitive behavior by sellers. The courts have recognized that buyers can engage in anticompetitive behavior. When all the sellers in a market sell to a single buyer, the buyer is said to have a monopsony. When only a few buyers exist, an oligopsony exists, and the buyers violate the antitrust laws if they conspire to suppress prices by agreeing not to compete for products sold by sellers in the market.145 Because the statutes do not distinguish sell-side and buy-side anticompetitive behavior, and buy-side anticompetitive behavior produces the same type of harm as sell-side anticompetitive behavior, the Supreme Court and other courts have not hesitated to recognize that the antitrust laws apply to both types of behavior.146

Most monopsony cases involve allegations that buyers have tried to monopsonize or cartelize markets for goods and services. Consider, for example, a big retailer like Walmart, which may possess the buy-side market power to suppress the prices that it pays to wholesalers. A handful of such cases involve buyers who have tried to monopsonize or cartelize the labor market. Again, nothing in the antitrust laws distinguishes labor markets from other types of markets, and the courts have agreed that anticompetitive behavior in labor markets violates the anti-trust law. The partial exception is section 6 of the Clayton Act, which provides that workers do not violate antitrust laws when they organize unions — a form of labor cartel, at least in the economic sense.147 Indeed, prior to the Clayton Act, antitrust law in labor markets was used to enjoin labor unions as anticompetitive.148 But no court has held that section 6 immunizes an employer from antitrust liability if that employer attempts to suppress competition in the labor markets.

However, antitrust litigation based on anticompetitive behavior by employers in labor markets has historically been quite rare, and mostly involved narrow and idiosyncratic settings like sports leagues.149 In a handful of cases, employees have challenged cartel-like arrangements under section 1 of the Sherman Act, arguing that employers have fixed wages or taken other actions to suppress competition among themselves for labor. The most prominent cases have involved hospitals, which have been accused of coordinating pay scales for doctors and nurses.150In another notable case, the National Resident Matching Program was subject to a class action suit on behalf of former medical residents alleging collusion of hospitals.151 This case spurred theoretical and empirical work by economists, including work by Professors Jeremy Bulow and Jonathan Levin, showing how monopsony could operate even in matching markets.152 Although we are not aware of any work on the topic, monopsony in two-sided markets with preference heterogeneity on both sides could thus generate welfare losses and “squared differentiation” rather than just modestly reduced wages.

Moreover, as far as we have been able to discover, antitrust challenges relating to labor markets have never gone beyond the most overt type of cartelization among rival employers. The Horizontal Merger Guidelines focus almost entirely on the risk of product market concentration, and say nothing about the risks of labor market concentration.153 As far as we know, the DOJ and FTC have never challenged a merger because of its possible anticompetitive effects on labor markets, or even rigorously analyzed the labor market effects of mergers as they do for product market effects. Nor have we found a reported case in which a court found that a merger resulted in illegal labor market concentration.154

The infrequency and rather unusual nature of antitrust litigation involving labor markets for a long time seemed to verify (though it was really founded on) economists’ assumption that labor markets are normally competitive. But the erosion of this assumption in recent years — driven, as noted above, by the consolidation of employers, the noncompete scandal, and empirical evidence of wage stagnation and labor market concentration — has been accompanied by significantly greater legal and regulatory activity.

In 2010, the DOJ entered a settlement with major high-tech firms — including Apple, Google, and Adobe — over their no-poaching agreements, which prevented them from hiring away one another’s employees.155 The DOJ and FTC also issued a guidance document informing firms that it is illegal to enter into such agreements.156 The scandal over noncompetes led the White House and Department of Treasury to issue reports criticizing the use of noncompete agreements,157 while many state legislatures have considered bills and passed laws restricting non-compete agreements involving low-wage workers.158 The White House report also noted the negative impacts on wages, employee mobility, and economic innovation — warranting the DOJ and FTC Guidance notifying the pubic of the DOJ’s intent to more strictly enforce antitrust laws against employers.159 Litigation has also commenced against McDonald’s and other firms that use no-poaching agreements within franchises.160 The DOJ has revealed that it has begun criminal investigations against employers suspected of entering no-poaching agreements.161

A key worry in this flurry of activity is that anticompetitive practices have often targeted the most vulnerable workers: those with limited education and low skills. Moreover, the tech industry notwithstanding, there remains relatively little evidence of explicit cartelization that can be easily targeted by the antitrust laws. This means that the anticompetitive behavior has taken the form of either employer consolidation through mergers or hard-to-detect parallel behavior, in which firms play follow-the-leader without making any explicit agreements.

#### Labor monopsony is soaring alongside a decline in working-class organizing, disproving the long-standing assumption of competitive labor markets.

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Our current economic expansion has lasted almost nine years, yet wages have hardly budged, especially for less skilled workers. Inflation-adjusted wages for the average worker have risen only by 3 percent since the 1970s — and have actually declined for the bottom fifth.

For a long time, the conventional wisdom was that wage growth had slowed because of rising competition from low-paid workers in foreign countries (globalization), as well as the replacement of workers with machinery, including robots (automation). But in recent years, economists have discovered another source: the growth of the labor market power of employers — namely, their power to dictate, and hence suppress, wages.

This new wisdom has displaced a longstanding assumption among economists that labor markets are competitive. In a competitive labor market, employers must vie for workers; they try to lure workers from other firms by offering them more generous compensation. As employers bid for workers, wages and benefits rise. An employer gains by hiring a worker whenever the worker’s wage is less than the revenue the worker will generate for the employer; for this reason, the process of competition among employers for workers ought to result in workers receiving a substantial portion of the output they contribute to.

And as the economy grows over time — which has historically been the case in the United States — this dynamic should naturally lead to a steady increase in compensation for workers.

It turns out, however, that labor markets are often uncompetitive: Employers have the power to hold down wages by a host of methods and for numerous reasons. And new academic studies suggest the markets have been growing ever more uncompetitive over time.

The return of the “company town,” in different form

The company town is a familiar historical example of a situation in which employers hold all the cards when it comes to setting wages. In the late 19th century, companies like Pullman, a manufacturer of sleeping cars for trains, established such towns adjacent to their factories, even providing housing and collecting rent. Since such towns had one employer, the workers couldn’t leave for better pay without uprooting their families, which they tended not to want to do.

Few company towns exist today. Still, a variation of the company town effect exists in some regions, at least for certain occupations. A nurse or doctor who lives in a small town or rural area can choose only among a handful of medical institutions within driving distance of his or her home, for example.

And in many areas of rural America, the best jobs are in chicken processing plants, private prisons, agribusinesses, and other large-scale employers that dominate their local economies. Workers can either choose to take the jobs on offer or incur the turmoil of moving elsewhere. Companies can and do take advantage of this leverage.

Yet another source of labor market power are so-called noncompete agreements, which are far more prevalent than many Americans realize. These agreements prohibit workers who leave a job from working for a competitor of their former employer.

Almost a quarter of all workers [report](http://www.hamiltonproject.org/assets/files/protecting_low_income_workers_from_monopsony_collusion_krueger_posner_pp.pdf) that their current employer or a former employer forced them to sign a noncompete clause. (Jimmy John’s, the sandwich franchise, famously asked its “sandwich artists” to sign covenants forbidding them from taking jobs with Jimmy John’s competitors.) Relatedly, Apple and several other high-tech firms were caught entering into collusive “no poach” agreements so they didn’t have to worry about losing engineers to each other, and settled with the Justice Department.

But the practice continues in many sectors of the economy — including fast-food franchises. No-poaching agreements, like noncompete clauses, enhance employers’ labor market power by depriving workers of the threat to quit if wages fall or stagnate.

There are other, more subtle, ways that employers gain labor market power. Different employers offer different working hours, leave policies, and workplace conditions, and workers tend to choose employers whose conditions suit their personal and family situations. If such an employer cuts wages, a worker may be unwilling to move to another employer that asks her to work different hours — or to be on call during “off” hours.

Developing a specific set of skills can be a double-edged sword too, opening doors yet limiting mobility. An expert welder working for the only manufacturer in town may not find it easy to leave that job and find an equally well-paying job (in, say, nursing) because the skill sets are so different.

The “match” problem is exacerbated by the time and energy that job searches demand; it can be hard to hold a job while also seeking a job. This factor, too, gives employers the power to hold down worker wages without fear of losing too many workers.

Unions and regulation once kept employers’ labor market power in check

While employers have taken advantage of labor market power throughout modern economic history, a worldwide social movement at the end of the 19th century moderated the worst excesses. Workers organized labor unions, which enabled them to oppose employers’ market power with the threat to shut down plants. A powerful legal regime was put in place that supported unions and protected workers with health, safety, minimum wage, and maximum-hour regulations.

Such laws, along with union rules, helped standardize work requirements, which made jobs more interchangeable and thereby allowed workers to more easily quit a workplace if the employer abused its power. These reforms helped spur broadly shared wage growth during the 30 years following World War II.

But the good times ended in the 1970s. Globalization, changes in workplace technology, and the rise of a more heterogeneous workforce put strains on unions. A conservative reaction to technocratic liberalism, led by Ronald Reagan and Margaret Thatcher, eroded support for labor and employment law. A wave of mergers produced larger corporations with even greater labor market power.

For a time, economists believed that labor markets were nonetheless competitive. But that conventional wisdom was vaporized by a series of empirical studies that suggest that labor market power is real and significant. A number of studies, [summarized here](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3129221), have found, for example, that when wages fall by 1 percent, only about 2 to 3 percent of workers leave, at most.

If labor markets were really competitive, we might expect the figure to be closer to 9 or 10 percent. Other studies have found that employer concentration has been increasing over time and that this concentration is associated with lower wages across labor markets.

#### Robust academic scholarship proves labor monopsony is chiefly responsible for rising inequality, stagnating wages, and an excess of corporate power---antitrust law is an underused yet critical resource for mitigating distributive harms.

Posner et al. 18, \*Eric Posner is a professor at the University of Chicago Law School; \*Suresh Naidu is an associate professor of economics and public affairs at Columbia University and a contributor to the [CORE project](http://www.core-econ.org/); \*Glen Weyl is a principal researcher at Microsoft Research New England, and a visiting senior research scholar at Yale’s economics department and law school; (April 6th, 2018, “More and more companies have monopoly power over workers’ wages. That’s killing the economy.”, https://www.vox.com/the-big-idea/2018/4/6/17204808/wages-employers-workers-monopsony-growth-stagnation-inequality)

The costs of employer power

It is sometimes mistakenly thought that wage suppression, even as it hurts workers, at least benefits consumers, who pay lower prices for goods and services (since the cost of production is lower for companies). In fact, that’s not the case: Employer market power, sometimes called “monopsony,” harms economic growth and raises prices. (Monopsony is the concept of monopoly, or dominance of a market for a given good, applied to the “buy side” — namely, the inputs that firms purchase, including labor and materials.)

Monopsony harms growth and raises prices because it works much like monopoly: by reducing production. To increase its profits, the monopolist raises prices and thus lowers production (because fewer consumers are willing to pay these inflated prices).

Similarly, to raise its profits, a monopsonist lowers wages below the value of the workers to the employer. Because not all workers are willing to work at these depressed wages, monopsony leads some workers to quit.

Firms bear the loss in workers (and resulting lowered sales) in exchange for the higher profits made off the workers who do not quit. The resulting group of workers looking for jobs are what Marx called the “reserve army of the unemployed.”

Employer labor market power thus reduces employment, raises prices, and depresses the economy. Those sound a lot like the harms that conservative economists have long attributed to excessive taxation. And that’s no coincidence. Wage suppression is just like a tax: a tax on the labor of workers.

But unlike most taxes, the proceeds do not fund public services or redistribution that benefits the vulnerable. Instead, they fund corporate profits and cause the share of income accruing to workers to fall. (That share has fallen almost 10 percent in the US in the past decade). This fall in labor income and rise in profits have fueled the remarkable rise in the incomes of the top 1 percent of earners about which [so much has been written](https://www.amazon.com/Capital-Twenty-First-Century-Thomas-Piketty/dp/0674979850?ots=1&slotNum=1&imprToken=9abd036f-93af-ec95-24f&ascsubtag=%5b%5dvx%5bp%5d16968849%5bt%5dw%5br%5dgoogle.com%5bd%5dD).

To make matters worse, because the “monopsony tax” drives workers out of the labor force, it simultaneously reduces tax revenue and increases social welfare payouts to the unemployed and destitute.

This one phenomenon explains many of our economic woes

Thus far, however, all of this discussion has been purely theoretical. How much of the decline in labor’s share, or the fall in employment, is attributable to the rise of monopsony or labor market power?

Answering this question precisely will take years of empirical research. But by combining standard economic models with recent evidence about the prevalence of monopsony power and other crucial economic parameters, we can get a back-of-the-envelope sense of the drag of the monopsony tax. (In a recent [working paper](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3129221), you can find a fuller account of our analysis and assumptions.) The answer, as you will see, is simple: huge.

Our focus is the degree of employer labor market power that prevails throughout the economy. To represent this phenomenon, we use a parameter that ranges from 0 (representing perfect competition in the labor market) to 1 (if there were only a single employer in the whole economy).

This parameter can be roughly thought of as the effective number of employment options a typical worker enjoys. If a worker has a very high number of options (if the number is closer to 0), then she will quit and take another job if her wages decline. If she doesn’t (so the number is closer to 1), then she will stay in her job despite a wage decline — or exit the labor force altogether.

Figures 1 and 2, below, show the results of our analysis. At the left side of the figures, labor market power is zero: Labor markets are competitive, and workers have many options. As you move from left to right, labor market power increases to 1, where pure monopsony prevails and workers have only one reasonable option.

Most work in economics has assumed that employer labor market power is close to zero. But recent empirical work has suggested that, on average, labor market power ranges from 0.1 to 0.6, the shaded area.

You can see that in that range, economic output (the blue solid line) is considerably less than it would be if markets were competitive — from 8.5 percent less to as much as 26 percent less. That’s a huge dead weight on economic output.

The crucial point here is how little the model of employer-employee relations needs to diverge from the assumption of perfect competition in order for there to be massive effects on the economy.

Where did that output go? Economic theory tells us that employers suppress wages by underemploying workers. The blue solid line in Figure 2 shows the extent of that wage suppression:\*

In [our working paper](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3129221), we take a first cut at estimating the effects of monopsony on both employment rates and wages. Employment, we calculate, is 5 to 18 percent less than it would be in a competitive market. (Here is Marx’s reserve army of the unemployed.) This effect can explain all of the decline in employment rates among prime-age men observed by labor economists.

The results for wage rates are even more disturbing. Given the way our economy works historically, labor’s share of economic output should be about 74 percent if labor markets were perfectly competitive. Because of employers’ power to drive down wages, labor’s share of economic output falls to somewhere between 51 and 64 percent. This transfer significantly increases income inequality.

To put this into more concrete terms, consider the market for nurses. The median wage for a nurse is about $68,000. Given what we know about the labor market power of medical institutions, the true competitive wage for a nurse would be at least $90,000, possibly as much as $200,000.

However, because most areas have few hospitals, they can suppress nurses’ wages without worrying that nurses will move to a rival hospital. Some nurses will drop out of the labor market entirely, but the hospital still earns a greater profit by shrinking its operation and cutting wages dramatically.

For the labor market as a whole, the median annual compensation is $30,500. If markets were competitive, we estimate that this amount could rise to $41,000, and possibly to as much as $92,000.

If labor market power reduces employment and wages, then it must also reduce government’s revenue from taxes. True, government will obtain more tax revenue from the owners of firms, who benefit from paying lower wages. But because tax rates on labor income are higher than on capital income, and because of the overall loss in output, our model finds that revenue falls as well. Our calculations suggest that revenue declines by 20 to 58 percent as a result of labor market power.

In sum, growing labor market power may well be a significant explanation of the host of maladies that have beset wealthy countries, notably the United States, in the past few decades: declining growth rates, falling labor share of corporate earnings, rising inequality, falling employment of prime-age men, and persistent and growing government fiscal deficits. It’s remarkable how well labor market power alone can simultaneously explain all these trends.

Many conservative economists blame high taxes for these problems. But inordinately high taxes cannot explain these trends, because tax rates have been cut several times during this period. Nor can globalization and automation. Globalization and automation can help explain why inequality has increased but not why economic growth rates have stagnated: On the contrary, globalization and automation should have increased economic growth (by expanding markets and by reducing the cost of production), not reduced it.

The power corporations wield over labor markets is no longer a theoretical curiosity. We think it’s clear it’s a major source of our economic malaise. But what can be done about it?

The law already provides resources, but they’re underused. First, workers can bring antitrust lawsuits against firms that obtain labor market power by merging and colluding. While federal antitrust authorities have historically given little attention to labor market power, that began to change during the Obama administration.

The Obama Justice Department began to crack down on no-poaching agreements, and Trump’s Justice Department has begun criminal investigation of no-poaching agreements. Workers have enjoyed relatively few successes in antitrust actions, but as the economic wisdom grows, they should succeed more often.

Second, workers can organize, relying on union representation to help them counter their employers’ labor market power. Indeed, the recent public teachers strikes in red states can be seen as bargaining tactics against the biggest monopsonist around: a Republican-controlled state government insistent on lowering public sector wages in order to deliver tax cuts. Competition for teacher labor is [limited by the few schools in most jurisdictions](https://link.springer.com/article/10.1007/s12122-999-1006-x), as well as credentialing differences across states, suggesting that unions can be a necessary counterweight even in the public sector.

#### Thus, the plan: The United States federal government should substantially increase prohibitions on anticompetitive business practices by the private sector by

* holding all vertical restraints in presumptive violation of the Sherman Act;
* establishing a strict standard for exclusionary conduct and horizontal and vertical mergers based on market indicators;
* expanding the scope of its antitrust laws to encompass labor monopsony;
* incorporating a labor market impact assessment in its statutory merger review process;
* holding no-poaching clauses in franchising contracts and non-compete clauses in employment contracts illegal per se.

#### The disenfranchisement of the working class cannot be understood without attending to the erosion of antitrust law---the plan drastically rebalances labor market power in favor of workers and strengthens unions.

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IV CONCLUSION: USING ANTITRUST TO REBALANCE POWER IN LABOR MARKETS

This paper sets out an important but under-appreciated aspect of the rise in labor market precarity and diminishing worker bargaining power: the erosion of antitrust laws restricting dominant firms’ ability to use vertical restraints to control and restrict both less powerful affiliates and the workers who work for them, and the concurrent use of antitrust against any attempt by those workers or independent businessmen or contractors to bargain collectively against such concentrations of power. In ascertaining the causes of contemporary inequality in wealth, income, and social status, especially with respect to the labor market, we cannot overlook the role that antitrust has played.

This contrasts with a recent Economic Policy Institute paper by Heidi Shierholz and Josh Bivens that treats the rise of employer power in labor markets, and the extent to which weakening antitrust has caused that phenomenon, as a less important cause of rising inequality and stagnant wages compared to the erosion of labor law and thus of collective bargaining.95 Their evidence for the contention that diminishing worker bargaining power matters more than concentrated employer bargaining power is that inequality within the distribution of labor income is a more significant cause of stagnating wages and the growing gap between median worker pay and average worker productivity than is the declining labor share of national income, which is of more recent vintage than either of the first two economic trends.

But we cannot map rising labor income inequality to worker bargaining power and labor law and the declining labor share of income to employer power and antitrust so neatly. As the analysis in Parts II and III show, income inequality is to a large extent caused by rising earnings inequality between firms, rather than between workers, reflecting employer power to set wages. This is the result of the legalization of business models like the fissured workplace that allow powerful employers to segregate workers from the profits they earn for their bosses. The point of Part II of this paper is that the fissured workplace is the product of both labor regulation and antitrust. Thus, increasing inequality of power between employers and workers cannot be coherently treated as two separate phenomena: rising employer power, and declining worker power.

That means the solution to unequal bargaining power is not necessarily or not entirely an antitrust solution, but antitrust must play a major part, since it implicates the business models available to the economy’s dominant firms. In particular, we should seek, through revived antitrust and labor regulations that both take account of how the economy actually works, and how power is exercised within it, to re-establish the sharp distinction embodied in Richfield Oil. Either workers are employees, in which case they can be controlled by their bosses, who in turn owe them statutory protections including the right to bargain collectively, or they are independent businesses, in which case they cannot be coerced by contract or by any other means. Proposals to extend and strengthen labor law tests for statutory employment to take account of gig economy technologies are crucial, but they will be ineffective so long as employers and lead firms retain the strong incentive to push workers outside their protection. The role of antitrust in that context is to create a significant cost to so doing: the potential for treble damages under antitrust liability should a lead firm be caught coordinating and directing the activities of its non-employee subsidiaries and contractors. That is the mechanism that would weigh against employers’ incentive to mis-classify.

Putting such an antitrust regime in place entails the abandonment of both the consumer welfare standard and, with it, the Chicago School’s jurisprudence of vertical restraints. Instead, any vertical restraint, price or non-price, should be a presumptive violation of the Sherman Act if it is imposed by a firm with market power. And antitrust’s definition of market power must, in turn, be expanded beyond the confined market-share-based Sherman Act jurisprudence to instead take account of the many ways economists have of testing for the existence of market power. Firms would be judged to have market power if they:

•Have the power to unilaterally raise prices for their customers or lower them for their suppliers, including workers;

•Wage- or price-discriminate among customers, suppliers, or workers;

•Unilaterally impose non-price, uncompensated contractual provisions on their counterparties, like non-compete agreements in labor contracts;

•Impede or control entry by would-be competitors; or

•Earn profits and/or make payments to their shareholders at a rate in excess of their market cost of capital.

All of these things are economic indicia of market power because they could not be done by any one or more firms acting in concert in the face of competition from rivals—therefore they should be legal indicia of market power as well.96

Drilling down on how the antitrust laws should target labor market monopsony in particular, not merely prohibit vertical restraints that enable fissured workplace-style business models, the antitrust authorities should bring a monopsonization suit against an online labor platform like Uber that fixes wages and imposes exclusivity on independent businesses, along the lines of Meyer v. Kalanick. If, as would be expected, that case would be adjudicated under the Rule of Reason, despite its economic equivalence to the FTC’s per se cases against professional organizations and unions of independent contractors, then Congress should streamline the Rule of Reason for labor monopsony. This should be done along the lines proposed by Ioana Marinescu and Eric Posner, setting out principles to guide market definition that are responsive to measured firm-level labor supply elasticities.97 In fact, if firms have the unilateral power to dictate wages without causing a significant share of their workforce to leave, then the proper market definition for a monopsonization case may be significantly smaller than the one those authors recommend as a baseline. The point of such a suit is to force Uber to choose one business model or another: either employ the drivers if Uber wants to fix their wages and monitor them on the job, or give up the price-setting and market coordination power that makes the platform such a value proposition for its investors. It cannot be allowed to do both. Meanwhile, workers themselves who are not statutory employees should be protected by antitrust’s labor exemption and should be permitted to bargain collectively. However, any such extension of the labor exemption must not also immunize the powerful employer against whom they would seek to bargain. And at the very least, both no-poaching clauses in franchising contracts and non-compete clauses in employment contracts should be illegal per se.98

Finally, analysis of labor market impact should be incorporated in the statutory prospective merger review process that federal agencies undertake as a matter of routine, in order to prevent the harmful accumulation of monopsony power in labor markets by merger. The current FTC Chairman, Joseph Simons, said as much in Congressional testimony in the fall of 2018,99 but to date there is no evidence that any such investigation has taken place. In the recent merger approval for Staples’s takeover of its supplier Essendant, the majority of the commission claimed that the merger would have a pro-competitive impact on input markets.100 Specifically, if the combined firm reduced the price it pays to manufacturer, it would in fact purchase more from them, not less, and hence that price reduction would not be an exercise of buyer power (the majority’s opinion says nothing about labor specifically as an input). But the idea that the volume of sales is dispositive about the anti-competitive exercise of monopsony power is not correct. Wilmers finds evidence that dominant retailers and manufacturers impose price reductions on the suppliers over whom they exercise market power, and those suppliers in turn pass those price reductions through to their workers in the form of lower wages.101 That is an exercise of monopsony power, but it might well be accompanied by greater sales volume from the supplier to the dominant customer.

Altogether, the thesis of this paper is that there is no way to confront the economy’s crisis of unequal bargaining power without confronting the role that antitrust has played in getting us there. Antitrust is not a substitute to any of the many other ways that policy ought to be extended to halt and reverse the economy-wide erosion of worker bargaining power behind rising inequality and wage stagnation. But strengthening it is a necessary condition for the success of many of those alternatives, notably, labor law reform and collective bargaining on the part of precariously employed gig economy workers.

#### Abandoning the consumer welfare standard accommodates labor while policing capital, providing workers the space necessary for reorganization.

Vaheesan 19, \*Sandeep Vaheesan is a legal director at the Open Markets Institute, previously served as a regulations counsel at the Consumer Financial Protection Bureau; (2019, “Accommodating Capital and Policing Labor: Antitrust in the Two Gilded Ages”, https://static1.squarespace.com/static/5e449c8c3ef68d752f3e70dc/t/5eac7ae9e7384923a4b1373d/1588361971964/Accommodating-Capital-and-Policing-Labor.pdf)

IV. HOW REMAKING ANTITRUST LAW COULD HELP END THE NEW GILDED AGE

Congress, the antitrust agencies, and federal courts should restore the original anti-monopoly, pro-worker vision for the antitrust laws. For much of their history, these laws had a pro-capital, anti-worker orientation. Not-withstanding this record, these laws can be reoriented to police capital and accommodate labor in accord with the intent of Congress. In passing these laws, Congress aimed to curtail the power of capital and also preserve space for workers to organize.392 The antitrust agencies and federal courts should reject the ahistorical and deficient efficiency paradigm and embrace the political economy framework of the sponsors of the antitrust laws. Specifically, they need to reinterpret antitrust to restore competitive market structures and limit the power of large businesses over consumers, producers, rivals, and citizens. Along with imposing checks on the power of large businesses, Congress, the agencies, and the courts must preserve freedom of action for workers acting in concert.

New statutes and executive and judicial reinterpretation of antitrust law, in accord with congressional intent, would help remedy many economic and political injustices in the United States today. Monopoly and oligopoly appear to contribute to a host of societal ills. These include increased inequality,393 diminished income for workers394 and other producers,395 and declining business formation.396 At the same time, protecting workers’ collective action against antitrust challenges would create more space for workers to organize and claim a fairer share of income and wealth.397 Restoring antitrust law to its original goals would likely produce a more just and equitable society. Although no means a panacea for what ails the United States, antitrust law should be part of a broader social democratic agenda that reduces the yawning inequalities in wealth and power today.398

#### Reducing barriers to class organizing through anti-monopoly laws strengthens trade unionism and rekindles New Deal-era labor movements.

[Callaci](https://forgeorganizing.org/author/brian-callaci) 21, the Chief Economist at the Open Markets Institute. He previously worked at UNITE HERE, Workers United, and Change to Win, and served on the Joint Council of United Auto Workers Local 2322, (Brian, April 13th, 2021, “It’s Time for Labor to Embrace Antimonopoly”, https://forgeorganizing.org/article/its-time-labor-embrace-antimonopoly)

Trade Unionism and Antimonopolism: Complementary Movements

Antimonopolism and trade unionism share the same goal — fighting corporate power — and work best as complements rather than substitutes. Notably, both movements peaked between 1945 and 1975 and declined after 1980. They also share a common nemesis: neoliberalism. Antitrust enforcement was extraordinarily vigorous throughout the postwar years of high union density and robust wage growth. In fact, the era of high steel worker wages was far from an era of tolerance for market power: a 1960 merger between two California grocery chains was [blocked](https://supreme.justia.com/cases/federal/us/384/270/) even though the companies controlled only a 7.5 percent market share. This was no accident, as the architects of Roosevelt’s Second New Deal, which began in 1935, saw antitrust enforcement and collective bargaining as complementary policies in generating a high-wage, high-growth economy. Believing that giant corporations had sabotaged the economic recovery by charging prices that were too high while paying wages that were too low (an analysis shared by Marxist and heterodox economists like Paul Baran, Paul Sweezy, and Josef Steindl), they launched the greatest wave of trust-busting in U.S. history simultaneously with the implementation of the National Labor Relations Act that legalized unions.

The policies advocated by each movement today are complementary as well. Bruenig is right that the worst employers are often small, undercapitalized sweatshops. But the answer to this problem doesn’t lie in monopolies. Passing a $15 minimum wage and reforming the National Labor Relations Act to make it drastically easier to unionize would make it much more difficult for inefficient businesses — big or small — to utilize low wages as a competitive strategy. High wages and unions would penalize companies below minimum efficient scale but without encouraging them to amass more dangerous amounts of power. Meanwhile, antitrust policy can protect small suppliers from monopsonistic predation by massive buyers like Walmart or Amazon, allowing them to raise wages for their own workers. Antitrust can perform a similar function for [franchisees](https://equitablegrowth.org/new-research-shows-the-franchise-business-model-in-the-united-states-harms-workers-and-franchisees/) dominated by powerful fast-food brands. As antitrust advocate Zephyr Teachout puts it, “we should make it easier to organize people, and harder to organize capital.” We need both movements as part of a progressive coalition if we are to democratize our economy and protect it from corporate power.

#### Class-oriented, state conscious labor movements provide new economic rationalities that systemically erode capitalist harms through socially democratic public policy.

Wright 17, \*Erik Olin Wright, Professor of Sociology at the University of Wisconsin, Madison, USA. Director of A. E. Havens Center for Social Justice, University of Wisconsin-Madison, (2017, “How to be an Anti-capitalist for the 21st Century”, https://www.redalyc.org/journal/124/12452111002/html/)

There are, of course, many reasons to be skeptical. Three issues are particularly vexing.

First, there is the problem of the state. The idea of eroding capitalism depends in significant ways on initiatives by the state. But the state in capitalist society is not simply a neutral apparatus that can be readily used by social forces opposed to capitalism. It is a particular kind of state – a capitalist state – designed in such a way as to systematically protect capitalism from threats. Eroding capitalism, therefore, is only possible if, in spite of the inbuilt class biases of the capitalist state, it is nevertheless possible use the state to create new rules of the game that can facilitate the expansion of emancipatory noncapitalist relations that point beyond capitalism. Just as in feudal society, in spite of its feudal character the state enabled new rules of the game that ultimately undermined feudalism, so too in capitalism it may be possible for a capitalist state to enable rules that ultimately undermine capitalism. The fact that the capitalist state is not an instrument ideally suited to the erosion of capitalism does not mean it cannot be used imperfectly for that purpose. However, for the capitalist state to be used even imperfectly to erode capitalism, there must be political forces mobilized to use it for these purposes.

Eroding capitalism, like any strategy, needs collective actors. Strategies don’t just happen; they are adopted by people in organizations, parties, and movements. This is the second vexing issue. Where are the collective actors for eroding capitalism? In classical Marxism “the working class” was seen as the collective actor capable of challenging capitalism. Few people today see the working class as sufficiently homogeneous to readily become what used to be called the “Subject of history”.

Rather, the formation of a politically coherent collective actor for a potent anticapitalism of the 21st century will require bringing together people from a much more heterogeneous set of structural locations in the economy and society. Class remains at the center of such collective action, since, after all, the objective of struggle is the transformation of the class structure; this is what eroding capitalism means. But the political identity of the collective actor must be forged around the values of democracy, equality and solidarity rather than simply class as such, and this means constructing such a collective actor with people from a much more heterogeneous set of locations in the social structure. This is a daunting task. Figuring out how to do it as a central problem for the left in world today.

Finally, even if there was a robust coalition of people with diverse identities connected through the belief in the desirability and possibility of a democratic, egalitarian alternative to capitalism, there is the problem of the time horizon for a strategy of eroding capitalism. There is little prospect of the dominance of capitalism being seriously eroded in the short-run. Eroding capitalism depends upon the significant expansion of diverse forms of non-capitalist economic organization capable of meeting needs and generating livelihoods, and this takes time. Effective political mobilization, however, almost always focuses on immediate grievances and seeks solutions that bring improvements in people’s lives in the relative short run. The possibility of combining sustained struggles for immediate improvements with a longer-term vision of social transformation is one of the things which energized social democratic politics in the middle of the 20th century. Eroding capitalism is only likely to become a sustainable strategy if this combination can be recreated in a new way the 21st century. This requires a concentrated struggle against the ideological hold of neoliberalism on center-left politics, especially the neoliberal claim that only by intensifying competition and reducing the constraints on capitalist investment can the lives of most people be improved. The upsurge of what has been termed “populist discontent” on both the left and the right in recent years offers some hope that a genuine break with neoliberalism within social democratic parties may be possible.

So, how to be an anti-capitalist in the 21st century? The fantasy of a revolutionary rupture in which the dominance of capitalism is smashed has little credibility. Some individuals may personally be able to escape capitalism by moving off the grid and minimizing their involvement with money and the market, but this is hardly an attractive option for most people, especially those with children, and certainly has little potential by itself to foster a broader process of social emancipation. Eroding capitalism by connecting the strategic logics of taming, resisting and escaping is the only plausible option for a strategy of challenging capitalism that points beyond capitalism. This means fostering political projects of taming capitalism through public policies and fostering socio-economic projects of escaping capitalism through the expansion of emancipatory forms of economic activity. Both of these efforts need to be anchored in forms of resistance by organized collectivities – social movements and labor unions above all, but also community organizations and sometimes even NGOs. We need a renewal of an energetic progressive social democracy to neutralize the harms of capitalism in ways that also facilitate initiatives to build emancipatory alternatives with the potential to erode the dominance of capitalism. This is an anticapitalism for the 21st century.

#### Capitalism causes abject poverty, backsliding, violations of solidarity and autonomy, and environmental destruction---imagining any alternative necessitates blueprinted planning.

Wright 17, \*Erik Olin Wright, Professor of Sociology at the University of Wisconsin, Madison, USA. Director of A. E. Havens Center for Social Justice, University of Wisconsin-Madison, (2017, “How to be an Anti-capitalist for the 21st Century”, https://www.redalyc.org/journal/124/12452111002/html/)

We live in a world where capitalism, as a system of class relations and economic dynamics, creates enormous harms in the lives of people. The list of such harms is familiar: poverty and precariousness in the midst of plenty; concentrations of power and wealth that undermine democracy; a culture of intense competition and individualism that undermines community and solidarity; forms of domination within work that violate ideals of individual self determination; imperatives of profit-making, consumerism and growth that propel us towards environmental disaster; and on and on.[3](https://www.redalyc.org/journal/124/12452111002/html/#fn2) While there is widespread recognition of these problems, nevertheless the idea of a viable alternative to capitalism that would avoid these harms and make life genuinely better seems quite far-fetched to most people. In part the issue is simply skepticism that an alternative – even if it can be imagined – would actually work in practice. But even among people who do believe in the viability and desirability of a democratic, egalitarian, solidaristic alternative to capitalism, there is little confidence that an emancipatory alternative to capitalism is politically achievable.[4](https://www.redalyc.org/journal/124/12452111002/html/#fn3) The problem here is not mainly the ability to imagine the goal of an emancipatory social transformation; the problem is imagining a strategy to realize that goal – how to get from here to there.

#### State-consciousness is key---otherwise, movements will be recuperated in service of capital.

Milton 19, the Managing Editor at Palladium Magazine, covering stories about the future of governance and society, (Ash, July 15th, 2019, “America’s Divided Workers Are Facing Political Capture”, https://palladiummag.com/2019/07/15/americas-divided-workers-are-facing-political-capture/)

An interesting implication of this kind of industrial reorganization is that it accelerates the end of an apolitical economics. More specifically, it breaks the frame which treats the state as a manager at best and interfering brigand at worst. Rather, the state in this scenario becomes an active participant in the collective creation and distribution of wealth.

Political possibility is in the air again, now that old political coalitions are breaking down and the neoliberal consensus around globalization is increasingly viewed with distaste. But the working class is plagued by deep divisions, and it is naive to think that class alone is sufficient as a rallying mechanism. While currents on both the right and left have become conscious of the tie between labor’s disintegrating power and the populist upheaval, the very fact of their division makes their recuperation all but guaranteed. Existing interests and institutions are there to embrace labor in its vulnerable state and recuperate this new energy for their own ends.

If the new energy amounts to anything real, it will be because it develops a [state consciousness](https://palladiummag.com/2019/05/25/the-case-for-a-new-state-consciousness/) and awareness of those tasks that only political power can see through—organized enough to coherently identify its allies and foes, and to become a formative power within the state.

#### The 1AC’s challenge to the narrow conception of antitrust as applied to labor inspires thought and action to create legal regimes that allow for successful labor movements to emerge.

Fisk 20, \*Catherine Fisk is the Barbara Nachtrieb Armstrong Professor of Law at UC Berkeley Law, where she teaches and writes on the law of the workplace, legal history, civil rights and the legal profession; (September 3rd, 2020, Taking Business Law Back from the Economists: Building Worker Power Through Antitrust Reform, JOTWELL (August 26, 2020) (reviewing Hiba Hafiz, Labor's Antitrust Paradox, 87 U. Chi. L. Rev. 381 (2019) and Sanjukta Paul, Antitrust as Allocator of Coordination Rights, 67 UCLA L. Rev., available at SSRN, https://worklaw.jotwell.com/taking-business-law-back-from-the-economists-building-worker-power-through- antitrust-reform/)

Together, Hafiz and Paul help us go back to first principles in antitrust and labor to think about how to reconcile robust worker protection with robust protection for consumers.

Being neither a scholar of antitrust nor an economist myself, I want to suggest why it benefits scholars of labor and employment to consider their work. Chief among them is the growth of organizing among workers who do not presently enjoy the status of employee under the National Labor Relations Act and, therefore, the labor exemption from antitrust liability for collective action. Lawyers have faced antitrust enforcement for going on strike to protest the abysmally low rates paid to handle criminal defense of indigent people. Even playwrights face antitrust litigation when they try to improve labor standards by acting collectively. As more and more companies have realized they can lower labor costs and increase share price by classifying their workforce as independent contractors, the scope of the labor exemption to antitrust shrinks. The relevance of antitrust to labor grows correspondingly.

Hafiz and, especially, Paul (in this and other works) shed light on the intellectual history of the particular form of economic analysis that came to dominate antitrust theories. Looking back at the history of antitrust's evolution, particularly in its engagement with labor, illuminates the significance of rethinking antitrust now. Use of antitrust to formulate labor policy rarely turned out well for either antitrust law and policy or labor. This is a familiar story in the period between 1890 and 1932, when - as Herbert Hovenkamp notes - the majority of antitrust actions were filed against unions rather than against business combinations. Herbert Hovenkamp, Principles of Antitrust, Chapter 16.b.3 (West 2017).

But even at the height of the New Deal, and even with the progressive Thurman Arnold in charge, antitrust proved to be a threat to worker collective action. In 1937 - the very year the Supreme Court upheld the constitutionality of the National Labor Relations Act and it seemed that worker collective action would finally, for the first time in American history, be safe from criminal and civil litigation aimed at suppressing it - Thurman Arnold's division of the Department of Justice filed half a dozen enforcement actions against labor unions nationwide, including unions in the construction trades, the American Federation of Musicians, and others. Targeted by either DOJ or companies in those years were activities that some considered illegitimate, such as sit-down strikes, secondary boycotts and jurisdictional strikes, picketing for recognition, or collective action by independent contractor fishermen and drivers.

As Harvard labor law professor (and later Attorney General) Archibald Cox tartly observed of this campaign, although Arnold "gave assurance that there would be no interference with legitimate organizational techniques or collective bargaining," the Antitrust Division was quite vague about "how it proposed to distinguish the legitimate from the restrictive," and the antitrust lawyers' own "views on labor policy were highly influential." (P. 261.)

Cox rightly spotted the hazards of Arnold's campaign against unions. Opening the door to lawyers in the Antitrust Division, and federal judges, to decide which expressions of worker solidarity were desirable would revive the very problems that the National Labor Relations Act and the Norris-LaGuardia Act had been enacted to eliminate. Although the Antitrust Division lost its suits, and the Supreme Court ruled that antitrust would have no role to play in regulating union activity, some of the conduct that the Antitrust Division branded as illegitimate - notably, picketing for recognition, secondary activity, and jurisdictional strikes - were later banned by the Taft-Hartley Act and thus brought back into federal courts' purview. And the sit-down strike tactic that was targeted in Apex was declared unprotected by federal law and prohibited by state criminal law. Federal judges and federal juries still grant injunctions and damages judgments, sometimes crushing ones, against expressions of worker activism that they deem illegitimate. Some secondary activity is speech protected by the First Amendment under NAACP v. Claiborne Hardware Co. But some - like the lawyers' protest about the low rates paid for indigent criminal defense - might not be.

Hafiz and Paul explain the dominance of a certain kind of economic analysis in antitrust law, and show how it has been used to reduce worker power while allowing massive economic concentration and inequalities of wealth. It is also worth noting the historical controversy over which styles of economics have been considered acceptable in analyzing labor collective action. As Hafiz explains in other work, in 1940 and 1947, Congress amended the NLRA to specifically prhibit the NLRB from hiring "individuals for the purpose of conciliation or mediation, or for economic analysis." Congress' target - the Division of Economic Research - was thought (wrongly. as it happens) to be a hotbed of communism. The economists at the NLRB in those days were, in Congress' view, the wrong kind of economists - the kind who used the empirical and mathematical skills of the discipline to document, understand, and combat labor exploitation.

If a new political economy of labor is to emerge from the present crisis, it will be important to avoid repeating the mistakes of the mid-twentieth century, when the upsurge of labor organizing failed to produce a durable legal regime to protect workers against the power of capital. As we think about that, reading Hiba Hafiz and Sanjukta Paul's work (along with that of many other progressive antitrust scholars) will help those thinking about a new start for labor.

#### AND, the introduction of scholarship that connects the law’s role in weakening labor’s cause with the broader success of race, gender, and class movements is heuristically valuable for informing all of our future’s beneath capitalism, especially during COVID-19.

Fisk & Reddy 20, \*Catherine Fisk is the Barbara Nachtrieb Armstrong Professor of Law, University of California, Berkeley; \*Diana Reddy is a Doctoral researcher in Jurisprudence and Social Policy, University of California, Berkeley; J.D., New York University School of Law; (2020, “Protection by Law, Repression by Law: Bringing Labor Back Into the Study of Law and Social Movements the Study of Law and Social Movement”, https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1400&context=elj)

As we contemplate the future of the labor movement, the ways in which law has both protected and repressed workers through the regulation of labor unions merit careful consideration. For all the weaknesses of their increasingly narrow form, labor unions stand out, too, for their successes. As Jim Pope points out, workers’ centers are often not funded and controlled by the workers they serve:

Alone among social movements, the labor movement has routinely managed to create durable, democratic mass organizations that can function both locally and nationally. The fact that unions have much to learn from other movements, like the civil rights and the women’s movements, should not blind us to the fact that those movements have rarely produced such organizations—except in the form of labor unions. This is no small matter.552

Moreover, workers’ centers do not do what unions do: organize broad coalitions to exert collective power within workplaces.553

Even as we have argued that the labor movement has more similarities to other social movements than has commonly been understood, it is important to remember the ways it is distinct. Labor as the basis of an oppositional movement represents a crucial liability of capitalism. Other movements coexist more easily within this country’s governing economic logic, at least to some extent, whereas the labor movement challenges the primacy of capital.554 Against all odds, labor unions radically transformed the American political economy for decades. Their decimation has increased economic stratification and weakened the center-left political coalition.555 Whatever form the future of the labor movement takes, a massive task awaits it.

CONCLUSION

Our goal in this Article has been to expand the boundaries of what constitutes the study of law and social movements—to include labor unions seeking economic equity within the workplace, and their socio-historically specific relationship with law.

To do so, we presented a case study of how the labor movement experienced the law during the mid-twentieth century, not as a goal, tactic, or frame⎯but as something imposed upon it, despite labor’s best efforts to avoid it. The legal restraints of the Taft-Hartley Act, as interpreted by courts, seized upon much of what had been labor’s strengths⎯its institutional power (and its coffers), its use of picketing to create solidarity, its legitimacy as a movement advancing the general good⎯and regulated these strengths to the point of depriving them of potency. Juneau Spruce exploited dissension within the ranks of the CIO, a dissension that had been fanned into flames by the Taft-Hartley Act’s coercion of unions to oust suspected Communists from their ranks. The NLRB and courts aided that effort by ignoring the peaceful resolution of the dispute between the two contending unions at the Juneau Spruce mill. Having thus denied labor organizations the power to resolve the disputes, the courts then conceptualized the economic harm that ensued as being entirely the fault of the unions. These multifaceted legal constraints required union lawyers at every step of the process to counsel clients to moderate, to redirect, or to cease movement activity. At the same time, new social movements arose, which sought to avoid labor’s fate, and in so doing, reconstituted the relationship between social movements and law.

The story of Juneau Spruce is important not just conceptually but temporally. The early 1950s was a transition point in cycles of protest⎯the point at which one vision of social movement replaced another, when one type of regulatory regime began to regress, just as another coalesced. Looking back at that moment in time, it is hard not to consider⎯and perhaps mourn⎯paths not taken, paths that might have better reconciled these two models of social movement. Today, we sit at what may be another historical turning point. The past ten years can be seen as their own cycle of protest⎯a populist challenge to the neoliberal turn of the decades prior.556 New visions of justice contend with older ones: international solidarity versus national supremacy; environment versus growth; inclusion versus exclusion. The raison d’être of governance⎯and of law with it⎯appears to be in question. And so too does the future of the labor movement.

On the heels of two years—2018 and 2019—that saw more workers on strike than in previous decades, the 2020 crisis of capitalism brought on by the global coronavirus pandemic has called long overdue attention to the dearth of worker protection and social insurance in the United States. Daily headlines question how it came to be that so many of the workers deemed “essential” are poorly paid, without health insurance and sick leave, and excluded from legal protections linked to employment, because they are undocumented or misclassified as independent contractors.557 We have shown that law played a significant role in bringing about a world in which essential workers have so few protections; it channeled labor from its mass movement origins in the 1930s, into a powerful institution from the 1940s through the 1960s, to its much weakened form today.

Envisioning there to be different models for how social movements are organized and for how they engage with law not only helps us think through the socio-historical specificity of the rights-oriented social movements, but also allows for theorizing how other movements have drawn or could yet build upon organized labor’s collective action, majoritarian, non-rights-based model. For example, other groups (e.g., tenant unions, debtor unions, cooperatives, credit unions, or even class actions) have created or could create institutional channels for the ongoing exercise of collective power. In turn, those institutional channels will both empower and repress, just as they did for labor. And, of course, our socio-historical approach also invites creativity in thinking through new organizational forms and new ways of interacting with law.

In chaotic times like 2020, scholarship at the nexus of law and social movements is more important than ever. For that scholarship to be able to theorize these new challenges, it must be attentive to the jurisprudential boundaries which have channeled social movement activity throughout the twentieth century.

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#### That’s true even if none of our ideas ever come to light.

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

Antitrust has always been political in nature. Antitrust law provides broad legal commands dealing with how governments and private individuals can challenge different types of market behavior. In this way, antitrust has not changed. Antitrust will never take the place of sports, the Dow Jones index, or the weather for conversation at the breakfast table, but it has become a meaningful part of the political and policy debate for candidates, the legislature, and important segments of civil society. What has changed, however, is the degree that antitrust has reentered the political arena. Once mostly the domain of technocrats, antitrust issues have been proposed and debated by Presidential candidates, political parties, legislators, pundits, journalists, lobby groups, and voters alike. There are also a flurry of serious proposals and investigations that would make significant changes to the current system if adopted. This is all to the good. Even if none of the current proposals come to fruition, the antitrust debate is part of a broader engagement with political economy issues dealing with fundamental concerns such as economic concentration, globalization, income inequality, social and racial justice, and even recently the proper response to the COVID-19 emergency. The many proposals, initiatives, and pressure groups represent at a minimum the return of antitrust as part of the progressive agenda.

#### Black women socialist organizers have been essential theorists and activists in the class struggle. Rejecting alliance via class struggle guarantees the destruction of the black working class and discounts the accomplishments of black organizers.

Ferguson 15, Associate Professor in Liberal Studies at North Carolina A&T State University (Stephen C., Philosophy of African American Studies: Nothing Left of Blackness, pp. 7-14)

Contrary to Asante's claim, scholars such as Mark Naison, Ted Vincent, Erik S. McDuffie, Gerald Horne, Carole Boyce Davies, Robin Kelley, Minkah Makalani, and Mark Solomon in addition to autobiographies by Harry Haywood, Hosea Hudson, and Michael Hamlin offer a much more nuanced picture of communism, socialism, and Marxism-Leninism in Black life and culture. Over the years, scholarship in labor studies and Black Studies has revealed the historical legacy of Black worker militancy. As we travel through the annals of Black history, we unearth Peter Clark's crucial involvement in the Great Railway Strike of 1877, Lucy Parsons's unflinching engagement in the Haymarket Square struggle, the heroic efforts of Ralph Gray, Tommy Gray, Eula Gray, Al Murphy, and scores of Black sharecroppers, tenant farmers, and agricultural laborers to organize the predominantly Black underground organization the Share Croppers Union, A. Philip Randolph's tireless efforts with the Brotherhood of Sleeping Car Porters, Ferdinand Smith's vanguard role in the National Maritime Union and Paul Robeson's monumental efforts to use folk music to entertain Spanish Civil War loyalists and striking workers as he gave support to international socialist solidarity. We could mention the steadfast leadership of Velma Hopkins and Moranda Smith in the 1947 strike at the Reynolds Tobacco Company in Winston Salem, North Carolina. There were Black postal workers like Cleveland Morgan, a member of New York Branch 36 of the National Association of Letter Carriers, who played a seminal role in the nationwide 1970 postal wildcat strike. We could also mention the historic efforts of the League of Revolutionary Black Workers to organize wildcat strikes in Detroit, Michigan. And, in more recent times, we could mention working-class Black women who have fought against the attack on public services, such as public housing and welfare. We should not ignore the fact that many of these activists were socialists, and quite a few were Marxist-Leninist in their ideological outlook.

The scholarship of Clarence Lang, John Arena, Adolph Reed, Barbara Ransby, Rhonda Y. Williams, and Joe Trotter has demonstrated the historic importance of the Black working-class to African American history and culture. They bring to light the centrality of class struggle and conflict as determinate features of what makes up the Black working-class. World capitalism gave birth to the Black working-class. The initial accumulation of large sums of capital, which in turn, was invested in the exploitation of European workers, derived from the slave trade and the plantation system in the so-called New World. In volume one of Capital, Marx so famously wrote "capital comes dripping from head to foot, from every pore, with blood and dirt."40 The ruthless exploitation of Black bodies, in a manner of speaking, became the proverbial goose that lays golden eggs, possessing the magical ability to increase the magnitude of capital. Incidentally, the profitability of the "proverbial goose" prompted slaveholder Thomas Jefferson to remark, "it would never do to destroy the goose."41 Leaving the decks of the slave ship, "In the Name of Jesus," large numbers of Wolof, Mande, Fulani, and Mandingo were bound together by chains, from neck to neck and wrist to wrist.42 Out of the diversity of African ethnic groups a new synthesis was formed under the brutal system of capitalist slavery, giving birth to African Americans. The incessant "demand for Black labor" by Northern industrial capital and the plantation bourgeoisie fueled world capitalist development. Black slaves toiled in textile mills, shipyards, sawmills, and coalmines from Virginia to Mississippi. Black women labored on tobacco fields in the Carolina piedmont and picked cotton on plantations along the coast of Georgia. Black men like Tom Molineaux and Black women like Sylvia DuBois were given release time from slave labor in order to engage in athletic labor (as boxers) to bring entertainment and profits to slaveholders and the larger white Southern community. 43 From the seventeenth century to the twenty-first century, from slave plantations to auto factories, Black women, men, and children labored under the hard times of capitalist exploitation. The brutal forces unleashed by the capitalist drive for surplus value laid the foundation for the development of African American life and culture, from religion to music.44

Presently, we are witnessing, from New York to North Carolina to Missouri to Wisconsin to California, concerted attacks on public sector workers in order to resolve the economic crisis ravaging US capitalism. We cannot ignore the fact that Black people are prominent in the leadership as well as in the rank and file in a great number of these mass demonstrations. In cities throughout the country, working-class men and women, Black, white, and Latino, are being blown away by police officers who are ultimately protected by the rule of law. In the aftermath of the murders of Trayvon Martin, Michael Brown, Aiyanna Jones, Yvette Smith, Rekia Boyd, and Eric Garner, Black working people are not silently standing by while the "Lords of Capital" via their "special bodies of armed men'' – with military weapons and tanks – confront them in the streets. This seminal point is lost on Black critics of Marxism during the past 90 years.

As numerous studies in AAS have demonstrated, the working-class is not one-dimensional, exclusively composed of white people. The working-class is composed of women, men, and children, in addition to being multinational in character. Marxist studies of Black working-class life and culture are needed now more than ever because in the souls of the Black working-class the grapes of wrath are filling and growing heavy. As Karl Marx so famously put it, "The weapon of criticism cannot, of course, replace criticism of the weapon, material force must be overthrown by material force; but theory also becomes a material force as soon as it has gripped the masses."45

#### 2---There are countless examples of Black women’s efforts in the labor movement successfully materializing change.

Kelly 19, \*Kim Kelly is a freelance journalist and organizer based in Philadelphia. Her work on labor, class, politics, and culture has appeared in the New Republic, the Washington Post, the Baffler, and Esquire, among other publications, and she is the author of FIGHT LIKE HELL, a forthcoming book of intersectional labor history. (February 23rd, 2019, “Black Women in the Labor Movement Have Long Defended American Workers”, https://www.teenvogue.com/story/black-women-in-the-labor-movement)

Black leaders, activists, and organizers formed the backbone of the U.S. labor movement. Even when the forces of structural racism and segregation sought to stifle their contributions, their resolve to fight for workers’ rights alongside the cause of civil rights remained unshakable. Black women, in particular, have played an enormous role in the movement’s legacy and development.

The Washerwomen of Jackson formed Mississippi’s first labor union in 1866. Lucy Parsons, the anarchist firebrand, cofounded three influential radical unions in 20th-century Chicago. More recently, United Auto Workers (UAW) organizer Sanchioni Butler [battled](https://ips-dc.org/black-workers-are-organizing-at-nissan/) Nissan in a years-long campaign to organize Southern auto-plant workers. Along with so many others, these Black women have long been the bedrock of a workers’ rights movement that has often tried to shut them out.

Prior to desegregation, many white-led unions [refused](https://www.teenvogue.com/story/black-activists-shaped-the-labor-movement) to admit Black members of any gender, and Black women faced the intersectional double bind of gender bias and racial discrimination. When faced with a locked union hall door, however, many Black women labor leaders decided to take matters into their own hands and formed their own organizations within the industries in which they had the highest numbers and therefore held the most power.

In 1866, a group of newly emancipated Black women working as laundresses in Jackson, Mississippi, [formed](http://www.seiu-uhw.org/archives/20663) the state’s first labor union by sending a [resolution](http://www.sojournertruth.net/mississippisfirst.pdf) to the mayor, informing him that they would henceforth be charging a “uniform rate” for their labor. Two decades later, in Atlanta, [98% of Black working women](https://progressive.org/dispatches/we-mean-business-or-no-washing-atlanta-washerwomen-strike_180205/) in the city were employed as domestic workers, and those who worked long, back-breaking hours as laundresses organized the Atlanta Washerwomen's Strike, demanding fixed wages. Their numbers grew from 20 to 3,000 people, and they also invited white laundresses to join them in a show of interracial solidarity that was nearly unheard of at the time.

The examples of Southern Black women organizers continue with leaders including Sylvia Woods, a New Orleans–born laundry worker–turned–union activist who in Chicago participated in one of the first sit-down strikes of the Depression era; Rosina Tucker, who helped organize the first AFL-CIO–recognized Black labor union and helped [organize laundry workers, domestic workers, and hotel and restaurant workers](https://timeline.com/rosina-tucker-pullman-porters-37ba63c2b9eb), jobs that at the time were primarily held by Black women; and [Dorothy Lee Bolden](https://www.teenvogue.com/story/black-activists-shaped-the-labor-movement).

Bolden, who started working in domestic service at the age of 9 and [founded](http://aarlarchives.blogspot.com/2011/11/mrs-dorothy-lee-bolden-founder-and.html) the National Domestic Workers Union of America in [1968](https://blog.library.gsu.edu/2011/09/07/dorothy-bolden-gives-voice-to-atlanta%E2%80%99s-%E2%80%9Chelp%E2%80%9D/), was involved [in the fight for labor and civil rights](https://www.huffingtonpost.com/entry/stacey-abrams-georgia-domestic-workers_us_5bd8a9cbe4b0da7bfc14a210), and her organizing work within an often exploited industry made a [huge impact](http://aarlarchives.blogspot.com/2011/11/mrs-dorothy-lee-bolden-founder-and.html) on the lives of domestic workers, both in Atlanta and far beyond the city limits. Bolden is now hailed as an Atlanta labor icon, and, according to the Georgia State University library [website](https://blog.library.gsu.edu/2011/09/07/dorothy-bolden-gives-voice-to-atlanta%E2%80%99s-%E2%80%9Chelp%E2%80%9D/), at its height, the union she founded “claimed to represent 30,000 people and played a part in fundamentally changing the treatment of domestic workers under U.S. labor law.”

Their legacies continue through modern union organizers, including the UAW’s [Sanchioni Butler](https://and-still-i-rise.org/wp-content/uploads/2015/04/SanchoniButler.pdf), Communications Workers of America’s (CWA) [Sandra Joyce Bellamy](https://and-still-i-rise.org/wp-content/uploads/2015/04/SandraJoyce.pdf), and UNITE HERE’s [Wilna Destin](https://and-still-i-rise.org/wp-content/uploads/2015/04/WilnaDestin.pdf).

Butler, Bellamy, and Destin are all profiled alongside 24 other Black women labor leaders in the 2015 project [And Still I Rise: Black Women Labor Leaders’ Voices, Power and Promise](https://and-still-i-rise.org/about/), which was part of the Black Worker Initiative, from the Institute for Policy Studies. “We know that they are, and have always been, ‘the miner’s canary’ for workers in America. Black women have experienced for decades many of the economic and social ills now faced by others. Therefore, it stands to logic that making black women whole raises the floor for all women—likely, for all workers,” consultant Kimberly Freeman Brown and Marc Bayard, director of the Institute for Policy Studies' Black Worker Initiative, write in the project’s introduction.

Chicago and New York City — specifically Harlem — have long been hotbeds of Black labor activity, too. Harlem’s Dora Lee Jones helped establish the Domestic Workers' Union. Maida Springer Kemp, who was born in Panama and moved to Harlem as a child, was heavily involved in labor struggles. During the Depression, she worked in a garment factory and became [involved](https://www.post-gazette.com/news/obituaries/2005/03/31/Obituary-Maida-Springer-Kemp-Labor-activist-traveled-worldwide/stories/200503310254) in its union, the International Ladies' Garment Workers' Union (ILGWU), working her way up through various positions. She was also involved with labor organizing in Kenya, Ghana, and Tanzania, and was named the AFL–CIO's representative to Africa in 1959, making her the [first](http://www.seiu-uhw.org/archives/20663) Black woman to represent U.S. labor abroad.

#### Their critique it is self-defeating, because the proof of the importance of foundational events like slavery or the Middle Passage is itself linear

Hom 18, PhD Professor of IR at Edinburg (Andrew R. Hom, 2018, “Silent Order: the Temporal Turn in Critical International Relations,” Millennium: Journal of International Studies, 46.3)

Even more than timelessness, ‘linear time’ plays the bête noire in critical IR.48 This appellation subsumes a huge variety of temporal phenomena associated with hegemonic logics, including but not limited to state sovereignty,49 national citizenship,50 security,51 capitalism and colonialism,52 history,53 patriarchy,54 western calendars and clocks,55 neopositivism,56 progress and rationality,57 and narrative.58 How precisely these issues link to or instantiate ‘linear time’ – and how this supports hegemony – typically remains unsaid. Moreover, rare qualifications of ‘linear time’ add little in the way of clarity. Linear time is ‘bounded’, ‘rational’, and ‘homogeneous’.59 It depends on heroic narratives of specific deeds but is also a smooth ‘continuum’ moving us ‘steadily from moment to moment’ or, relatedly, an ‘empty’ container for events.60 These visions of linear time contrast discontinuity.61 Yet elsewhere linear time associates with discontinuity, with discrete parcels of past, present, and future sometimes normatively valuated as progress.62 This distinguishes linear time from continuous, pre-modern, or indigenous temporalities, which are ‘non-linear’ because they co-mingle the past and future in each present and thus admit no temporal borders.63 Occasionally, ‘linear’ indicates both continuity and discontinuity, as when heroic national narratives produce discrete succession and time as ‘continuous and linear’.64 Critical scholars also contrast linear time with cyclical or circular temporalities.65 By this way of thinking, cyclicality problematises the arrow-like trajectory of linear time’s forward thrust, a movement which complements the logics of nationalism, patriarchy, and causation.66 Cyclical alternatives to linearity as such are not especially coherent. In cyclical time the past ‘“directly effects the present and the future”’.67 This is very much a causal statement.68 Moreover, rendered as simplistic binaries, linear/cyclical distinctions are spurious: a cycle refers to an undulating line or sine wave,69 and the further in we zoom, the straighter it appears. Finally, like invocations of ‘timelessness’ a basic sense of linearity facilitates rather than precludes cyclical imputations, providing the serial baseline passage against which recurrence resolves as such. Other critical alternatives to linear time also depend on linearity inasmuch as they propound a lineal-spatial metaphor and/or assume some sense of past, present, and future (or before and after). For example, duration, chronotopicity, and retroactive and anticipatory meaning-making imply, respectively: the serial connectability of experiential content, a spatialised and gridded shape, a clear sense of backward and forward.70 Or consider time as ‘becoming’, which refutes linearity because it moves ‘in different directions at the same time, into the past and into the future’.71 Nothing about ‘linear’ per se opposes this movement or the sense of continual development evoked by ‘becoming’. As before, becoming only resolves as such against a basic linear comparator. Non-linear proposals based on time-as-becoming are even more explicitly linear. Aion describes the ‘pure’ and ‘empty form’ of a ‘straight line’,72 which vitiates ontologies of presence by stretching out ‘limitless in either direction’.73 It is the movement by which ‘the line’ frees itself from the punctual present so as to ‘[c]onstantly flee … in different directions’.74 These characterisations depend on a classical notion of linearity: ‘a line that is single, straight and infinite in both directions’.75 Yet aion’s champions pit these very qualities directly against the state’s linear time, in particular its ‘linear timelines and distinctions between before and after’.76 Now it may be that they mean aion to challenge a specifically discontinuous and unitary form of linearity, but as the summary above showed, these qualities do not exhaust the possible meanings of linearity. Similarly, it is difficult to understand how the ‘pure event’ associated with aion refuses distinctions between before and after but depends on notions of the past and future. Something more is going on with the aionic challenge to state and historical time, but most of the grappling remains hidden by a discourse based on a number of silent, shared assumptions about just what ‘linear’ encompasses. Similar problems stalk critical scholars’ interest in the non-linear ‘countertemporality’ of alternative knowledge genres.77 For instance, where linear state narratives close down political possibility, films are ‘powerful [because they do] not try to bring [experiences] together in order to form a unity’.78 Now alternative cinematic accounts of events may indeed challenge hegemonic interpretations. However, to gloss them as ‘non-linear’ because they possess no ‘clear temporal order that can be used … to determine the sequence of images and sounds in accordance with a homogeneous movement or a narrative that takes us from the past to the present’ forgets the linearity of the artistic medium itself and the sovereign practices involved in the ‘series of cutting and sequencing’ that the auteur uses to ‘disrupt the very notion of a whole’.79 It makes no sense to claim that cinema’s ‘time-image’ produces ‘“images without subordinating them to coherent movements and linear timelines”’80 unless we ignore the series of singular images that compose a film and have in mind a specific and particular understanding of linearity. Just as hegemonic narratives construct coherent unity, films purposefully construct a non-coherent storyline by manipulating an intrinsically linear series. It is this structural quality that led earlier time scholars to attack determinism by charging that it ‘denied time and freedom by rolling up the future in the present the way the end of a film is already determined at the start of the reel’.81 Such tensions would not be so conspicuous if critical scholars did not persist in positioning them against a murky, libertine notion of ‘linear time’.82

#### The alternative’s use of aesthetical afro-futurism alone trades off with the envisioning of political imaginaries that challenge racial capitalism---the permutation’s combination of aesthetics and movement building is the best way to solve contemporary anti-blackness.

T.J. Demos 18, Professor in the Department of the History of Art and Visual Culture, University of California, Santa Cruz, To Save a World: Geoengineering, Conflictual Futurisms, and the Unthinkable, e-flux #94

“Climate change is global-scale violence against places and species, as well as against human beings,” contends Rebecca Solnit. Naomi Klein extends that insight where she writes how “the reality of an economic order built on white supremacy is the whispered subtext of our entire response to the climate crisis,” which is far from accidental, but rather “the result of a series of policy decisions the governments of wealthy countries have made—and continue to make—with full knowledge of the facts and in the face of strenuous objections.” Attacking such decisions at UN climate summits, the Sudanese diplomat and climate negotiator Lumumba di Aping has predicted the results to be “climate genocide,” where limiting warming to two degrees Celsius means accepting a global average that will translate into 4-5 degrees in some places, meaning “Africa will burn.” Owing to the massive scales, delayed impacts, and tremendous complexity of climate science, as well as its networked agencies built of cybernetic systems, the challenge is urgent to render these insights into visual evidence capable of forming collective political subjects who act, so that we can shape the future we want to live in—at least while there’s yet time left to do so. Even while Love is the Message doesn’t specifically reference geoengineering, it nonetheless offers a discernable cry of protest against the latter’s ambition to sustain our present culture with no alteration to its governing sociopolitical and economic arrangements, with mitigation technology only intervening at the level of regional weather control and atmospheric waste management. By virtue of its montage, Jafa’s video joins passages of black death and police violence to close-up shots of angry sun flares, as seen from NASA’s International Space Station’s near-live feed, offering an insight common in environmental justice circles that views global warming as a threat multiplier that exacerbates social conflict and inequality. According to well-documented research, disenfranchised and impoverished communities of color experience higher levels of exposure to climate-related disasters and their aftermath, food and water shortages, major health risks, and other forms of environmental vulnerability. In this vein, it’s feasible to understand the video’s footage of the alien’s dripping secondary jaws from Ridley Scott’s 1979 classic, and those of the city-destroying monster from Cloverfield, Matt Reeve’s 2008 faux-found-footage horror film, as further allegories, serving to elevate the tragic-but-quotidian documents of police violence and social oppression to the realm of cosmopolitical significance, the arena where worlds are annihilated and remade. In other words, any given police attack cannot be seen as a stand-alone local event, but rather, by virtue of Jafa’s stream of collected footage, part of systematic and widespread violence, and more, as a matter of civilizational threat akin to the horror of an alien assault on planet earth. As such, the monstrous here is a story of racial injustice, which Jafa sets in a post-natural dystopia resulting from runaway climate change. The many film fables that the monstrous proposes might also be read variously as representing the greedy and senseless destruction of the world conducted by the rapacious power of carceral capital, bolstered by police climate control, the colonization of debt, and the chains of spectacle; the radical and threatening otherness of racial difference become a predatory behemoth; alternately, a justice-seeking revenge fantasy upon white-supremacist culture by what lies beyond recognition; or the materialization of contemporary fears of a genetically and geo-engineered Frankensteinian science in creating post-natural dystopias and runaway climate change—or indeed some element of each all mixed together without articulate or stable meaning. The Breakthrough Institute also references our “contemporary Frankenstein”—enlisting no less than Bruno Latour in its theoretical armory, who argues that we must not disown the planetary monster we have created—the earth of the Anthropocene—but rather learn to love and care for it through further technological acts of “modernizing modernization.” While Naomi Klein overlooks Latour’s subtler call for a “compositionist” modernity as “a process of becoming ever-more attached to, and intimate with, a panoply of nonhuman natures,” she criticizes the presumptuousness of his proposal especially where it aids in the Institute’s pro-engineering agenda: “The earth is not our prisoner, our patient, our machine, or, indeed, our monster. It is our entire world. And the solution to global warming is not to fix the world, it is to fix ourselves.” Adding to mounting opposition to geoengineering, she highlights the unintended side-effects (e.g. interfering in Monsoons in South Asia, exacerbating drought in North Africa, widening the ozone hole); the lack of any regulatory protocol for climate interventions with trans-national implications; its lock-in effect making it next to impossible to abandon the technology once it’s been implemented; its anti-democratic basis in an era of globalism led by a handful of powerful developed nations; and, crucially, its directing of precious resources away from the causes of climate disruption, in favor of addressing symptoms. Indeed, in recent years popular resistance movements have formed around climate justice, asserting the fundamental principle of “system change, not climate change,” where justice means dedication to equality, fairness, and the inclusion of the most vulnerable and members of frontline communities in the deliberation of climate solutions. Think of the ongoing battle in central France to stop the new airport and invent a non-capitalist commons at the Zad; Standing Rock’s ongoing opposition to the Dakota Access Pipeline and expression of multi-national resurgence in the name of Indigenous and environmental rights; the many examples of Blockadia pitted against fossil-fuel infrastructure and extraction projects across the Americas, including protests in Louisiana against the Bayou Bridge Pipeline, in British Columbia against the Trans Mountain Pipeline, and those in Ecuador against oil drilling in Yasuní National Park; and the European climate camps and the Ende Gelände [Here and No Further!] movement in Germany, where the state is currently threatening to tear down the ancient Hambach forest to dig for coal, evicting activists along the way. These are all pledged variously to the goal of reinventing forms of life by refusing the imperatives of capitalist growth and market-based mechanisms for addressing climate breakdown, even while they also seek to expand the social technologies of equality and justice. But despite such momentum and creative transitions, what’s becoming clear with the ongoing development of geoengineering is that massive resources and funding bodies are mobilizing the technology under the star of the neoliberal Anthropocene. If anything, that formation parallels and joins the same forces that support the militarization and technologization of police functions, growing economic inequality and generalized indebtedness, the privatization of and creation of for-profit prisons, and the criminalization of protest, to the point where the criminal justice complex increasingly treats both environmental and antiracist activism as terrorism. Consider Breakthrough Initiatives—no relation to the Institute other than sharing a trending term within the field of competitive tech development—which is one among many trying to “save the planet” and motivated in doing so by what some see as a $12 trillion opportunity. Funded in part by Facebook’s Mark Zuckerberg and Israeli-Russian venture capitalist Yuri Milner of Digital Sky Technologies, and counting the late Stephen Hawking among its collaborators, the project recently put $100 million into a radio wave project to search for alien life. Led by a libertarian entrepreneurialism that derides the outmoded and bureaucratic state agencies of the Cold War, Breakthrough Initiatives is part of a growing “colonial futurism” premised upon the neoliberalization of outer space. It connects to the projects of Silicon Valley’s modeling of “NewSpace,” as in the rhetoric of Elon Musk, set on off-planet resource mining, terraforming other planets, and extending property claims far into the galaxy. With the neoliberal corporate-military-state complex determined to occupy and settle the very place that certain Afrofuturists have long sought as a destination to escape colonized Earth, such starry-eyed fantasies are quickly becoming grim futures. Other initiatives focus their attention on Earth, representing how the neocolonialist spirit haunts new wave environmentalism. There’s ScoPex, Harvard University’s current $20 million Stratospheric Controlled Perturbation Experiment, notable for its first-ever plans to test solar radiation management technologies outside the lab in the earth’s atmosphere above Arizona. Led by David Keith, Harvard professor of applied physics, founder and board member of the private corporation Carbon Engineering, and signatory of “An Ecomodernist Manifesto,” the project is supported by Microsoft’s Bill Gates and his Fund for Innovative Climate and Energy Research, as well as by the Hewlett Foundation and the Alfred P. Sloan Foundation (an appropriate beneficiary, considering it is named for the longtime CEO of General Motors). Notable for its funding model joining university engineering and climate-science research to Big Tech and fossil capital, ScoPex parallels a marine cloud-brightening field experiment in Moss Landing, California, led by the Joint Institute for the Study of the Atmosphere and Ocean (JISAO) at the University of Washington, directed by Thomas Peter Ackerman, Professor of Atmospheric Sciences, with Paul Crutzen as a senior advisor. With $16 million in funding from Gates and others, the project plans to shoot seawater droplets into the atmosphere from a ship with high-pressure nozzles, creating a solar shield to deflect sunlight. In light of Cameroonian theorist Achille Mbembe’s diagnoses of creeping precaratization as “the becoming-black of the world”—meaning the post-racial generalization of dispossession, indebtedness, and loss of powers of self-determination—geoengineering’s desire to save the world by whitening the sky reveals how completely detached the field is from the catastrophes currently occurring on the ground in the here and now. While geoengineering may profess to stem from love of earth, its message is death: the death of social justice, equality, and democratic inclusion. The go-to guide for Zuckerberg and Gates is Yuval Noah Harari’s recent book Homo Deus: A Brief History of Tomorrow, which, tellingly, includes a chapter titled “The Anthropocene.” Driven by an endless quest for “bliss, immortality, and divinity,” anthropos, in this narrative, figures as ultimate self-creator, for whom no challenge—climate change, agricultural failure, artificial intelligence, planetary hunger, even death and extinction—will be beyond technological overcoming, especially when matched to Silicon Valley capital. At the same time, the cost will be greater inequality and technocracy, an expanding useless class, a new religion of algorithmic “dataism,” and the reduction of humanity to “biochemical subsystems” monitored by global networks. More prosaically, the Good—read: Neoliberal—Anthropocene emerges in this and the Breakthrough Institute’s narrations as the ideological mechanism of choice for suspending contradictions between economic growth and climate solutions. In fact, even climate-change denying Texas Republicans can get on board with geoengineering as a not-to-be-missed pro-tech economic opportunity, requiring no need to debate sources of environmental transformation or hold petrocapitalism responsible, as causality is sacrificed on the alter of techno-solutionism. While the Trump administration has defied the scientific consensus on climate change and supported fossil-fuel deregulations, its February 2018 budget, supported by many in congress, included the first-ever tax breaks for new technologies of atmospheric carbon capture. Meanwhile, the Hoover Institution, The Heartland Institute, and the American Enterprise Institute—all key conservative think-tanks—support this move, the latter hailing geoengineering as nothing less than “a revolutionary approach to climate change.” Even more alarming is the current conceptualization by Keith and others of “counter-geoengineering,” the counteracting of the militarization and weaponization of climate manipulation technologies as deployed by imagined rogue states or non-state actors. This additional danger dramatizes engineering’s ungovernable status and potential for destructive instrumentalization in the era of Homo Deus. Even more than biologically regressive, neo-humanist and universalist, depoliticizing and neocolonialist, Anthropocene geoengineering is proving most threatening where techno-utopianism merges with military unilateralism in proposing near-future global weather wars, going far beyond anything imagined in the Cold War. While the horror of those systems are devastatingly presented in Jafa’s video, Love is the Message also powerfully intercuts passages portraying the remarkable resilience, accomplishment, and beauty of African American culture—despite all—in activism, politics, speculative imagination, rhetoric, music, dance, literature, athletics, and, profoundly, everyday forms of creativity. The negative and the positive, love and death, repeatedly and relentlessly oscillate and converge in explosive combination in his piece, proposing something like a singular Vine compilation of cutting philosophical import, or an Instagram feed of alternating soul-destroying and restorative affects. Jafa terms it the “the abject sublime,” an extraordinary mix of beauty and horror, issuing from an archive of black visual culture that seems infinite in its range of experiences. For Jafa, this ultimately beyond-quantifiable record of being stems from an ontological construction inseparable from the wake of transatlantic slavery. Indeed, the video’s description-defying vastness, its overwhelming multivalence, is signaled in Greg Tate’s necessarily transgressive grammar used in describing the piece: “The viral outgrowth of an aborted found-footage exercise, the 7-minute video is an alternately mirthful-cum-melancholic-cum-cardiac-arresting meditation on race-agency wrapped in a visually sermonic recitation of race tragedy wrapped in a nuanced and feverish exultation of diverse Black American lives at various states of collapse and regeneration.” Yet even though the video offers an amazing account of generative ambivalence and creative survival, even while it also gives rise to encompassing hopefulness in collective moments of love, solidarity, ethical conviction, and collective justice-seeking, it simultaneously obliterates any consideration of extending or sustaining its world of horror, one of beyond-grotesque inequality, impoverishment, and violence that renders Black life and lives matterless by the state and its techno-human apparatuses. Unlike The Breakthrough Institute, which proffers art and leisure as rewards, Jafa’s sci-fi reaches the realm of cosmopolitical magnitude without losing sight of vernacular instances of in/justice, of situated expressions that are future-oriented but historically informed, and which are dedicated to the reinvention of everyday life, art, culture, politics, mourning. It follows, then, that Jafa would extend solidarity to a younger generation by including artist Martine Syms. During her cameo, she reads from her 2015 “Mundane Afrofuturist Manifesto,” which reprises the longstanding black cultural aesthetic that draws on visions of a utopian time to come, one reached only by passing through the traumatic alienations of racial capitalism. No simple time travel or shapeshifting is possible, however. “Mundane Afrofuturists recognize that we are not aliens,” Syms explains, while facing the camera seated behind a desk. Jafa borrows the clip from Syms’s eponymous documentary, which, over the course of its hour-long duration, eschews what its author sees as the depoliticized fantasies of past Afrofuturisms. According to Syms, they have sunk into hackneyed fashions, commodifiable styles and stale pop-cultural spectacles severed from any radical imagination inspiring collective liberation. More, she warns against acritical escapism, as when “magic interstellar travel and/or the wondrous communication grid” lead to “an illusion of outer space and cyberspace as egalitarian.” For her, “jive-talking aliens,” “reference to Sun Ra,” and “Egyptian mythology and iconography” are all out, calling instead for “a new focus on black humanity: our science, technology, culture, politics, religions, individuality, needs, dreams, hopes, and failings … Mundane Afrofuturism is the ultimate laboratory for world-building outside of imperialist, capitalist, white patriarchy.” While Love is the Message expresses potential solidarity with the oppressed and excluded, both human and non, Syms’s sentiment rejects equivalence between racial difference and the monstrous. It is expressive of what Aria Dean diagnoses as the conjunction of black accelerationism and Afrofuturism that entails both a catalytic movement toward “the end of the world” and a revolution beyond the in/humanisms of racial capitalism. In other words, a younger generation has elected to update Afrofuturism, asking us to witness a double move that rhymes negative critique with positive transformation. The challenge here is bringing this vision of social critique and social liberation into explicit connection—and more importantly, direct conflict—with the neoliberal Anthropocene, and to oppose the threat of white supremacist tendencies and colonial, extractive futurism. These Ecomodernist agendas are intent on shaping the world to come; with resources and the political will to do so, it will not only set us on a track of unstoppable climate transformation but also interminably extend racial injustice and white supremacy. Against that scenario, we urgently need to invent and work toward cultivating futures beyond the world’s end, where that end is no longer unthinkable beyond current socio-political and economic arrangements, or where that end has already in fact occurred. It is urgent that we ask ourselves, why should cultures outside Afrofuturism—which remain comfortably shielded by whiteness and the current narratives that uphold its position—care? One answer is to reiterate the desirable terms of a shared world where “injustice anywhere is a threat to justice everywhere.” Expressing a future-oriented imperative with new politico-ecological purpose, Fred Moten, in a recent public conversation with Robin D. G. Kelley, has updated that famous ethico-political formulation of Dr. Martin Luther King Jr. (who, it should be noted, makes a notable appearance in Jafa’s video). He posits the mission of contemporary Black studies as “on the most fundamental level to try to save the earth, and on a secondary level to save the possibility of human existence.” Kelley adds that this is a “project for liberation,” a “transformative project,” and if it doesn’t exist as a response to “the neoliberal, neo-fascist turn, then it’s worthless.” Why should this project for liberation not also be the overarching imperative of artistic practice today? If so, then art will name the practice of creative aesthetics that merges ecological insight with political engagement in the hopes of not only saving what good we have but securing a flourishing and emancipated future for all.