# Neg v Texas Tech

## OFF

### 1NC---T Statutory Exemptions

#### First off is TOPICALITY.

#### “Expanding scope” requires prohibiting practices that are currently legislatively exempted from antitrust laws

Garubo, citing Supreme Court, 84, Senior Vice President and Corporate Secretary, Commercial Credit Group, Juris Doctor, magna cum laude, from California Western School of Law (Angelo, “Severing the Legislative Veto Provision: The Aftermath of Chada,” *California Western law Review,* 21.1)

A proviso is a clause engrafted on an enactment to restrain or modify the enacting clause or to except from its operation something which otherwise would have been within it. It also acts to exclude or prevent possible grounds of misinterpretation. It is designed to prevent an interpretation which extends that statute to cases not intended by the legislature to be brought within its purview.140 By its very nature a veto provision can be considered as a proviso to the rest of the statute. The function of a veto provision is to allow Congress to exercise post enactment control over the executive. 141 It allows them to prevent officials of the executive branch from implementing a statute in a way which is inconsistent with the intent of the legislature.142 By "vetoing" an act of the executive branch, Congress could insure that any implementation of a statute was consistent with the purview of that statute. 143 The Department of Education Organization Act' 44 authorized the Secretary of Education, an executive official, to prescribe rules and regulations as he determines are necessary to administer and manage the functions of the department. 145 The statute also contained a veto provision which stated that rules and regulations promulgated under the Act could be disapproved by a concurrent resolution of Congress.146 As this example indicates, veto provisions act as provisos to the main body of a statute by allowing Congress to retain control over the implementation of the statute by the executive branch. Since a veto provision can qualify as a proviso, the rule in Davis v. Wallace 147 and Frost v. Corporation Commission 148 can be applied to show that the legislative intent test is inadequate to determine if a veto provision should be severed. In Davis and Frost, the Supreme Court ruled that a proviso could not be severed if it was originally written into the statute. 149 The Court reasoned that severing such a provision would result in an extension of the scope of the statute.' 50 Such an extension would be contrary to the legislative intent of a statute by including subject matter which the legislature expressly chose to exclude.151 The Davis and Frost analysis can be applied to the "congressional veto" because (1) the veto provision can be considered a proviso 152 and (2) severing a veto provision will expand the scope of the statute contrary to legislative intent. 5 3 By severing a veto provision the executive branch would be free to expand or limit the scope of a statute through its implementation. Such an expansion or limitation would constitute a defacto contradiction of legislative intent by altering the purview of the statute.' 54 A veto provision is a control mechanism.' 55 Its mere presence in a statute indicates the legislature's desire to restrict the scope of that statute. 5 6 By removing it, the court would affect a fundamental change in the nature of the statute, which was not accounted for when the legislature enacted the law. 157 Because a veto provision is a proviso, its excise from a statute would contradict legislative intent. A test which uses legislative intent to determine if a veto provision is severable could only find that the provision is not severable. Thus, when literally applied, the legislative intent test is not adequate to determine if a veto provision should be severed from its statutory framework.

#### VIOLATION---the plan does not reverse a statutory exemption.

#### VOTE NEG:

#### 1---Predictable limits and ground. Any other interp makes “stronger enforcement” topical, which justifies limitless sub-industry of the week and each of which has zero link uniqueness.

#### 2---Precision---Supreme Court definitions are the gold standard [our ev cites Davis v. Wallace and Frost v. Corporation Commission]

#### 3---Resolutional synergy. Our interp gives independent meaning to “scope of laws.”

### 1NC---World Computer K

#### Second off is the WORLD COMPUTER.

**There’s a World Computer – it overdetermines sociality for capital gain.**

**Beller 21** (Jonathan Beller = Professor of Humanities and Media Studies and Critical and Visual Studies at Pratt Institute, “*The World Computer: Derivative Conditions of Racial Capitalism”*, Duke University Press, BEH)

Information as Real Abstraction Taking the **notion that Capital was always a computer as a starting point** (Dyer-Witheford, 2013), The World Computer understands the **history of the commodification** of life as a process of encrypting the world’s myriad qualities as quantities. Formal and informal techniques, from double-entry bookkeeping and racialization, **to the rise of information and discrete state machines**, imposed **and extended the tyranny of racial capital’s relentless calculus of profit.** By means of the **coercive colonization of almost all social spaces, categories, and representations**—where **today language, image, music, and communication all depend upon a computational substrate** that is an outgrowth of fixed capital—all, or nearly all, expressivity has been captured in the dialectic of massive capital accumulation on the one side and radical dispossession on the other. **Currently the money-likeness of expression**—**visible as “likes”** and in other attention metrics that treat attention and affect as currency—is symptomatic of the financialization of daily life (Martin, 2015a). **All expression,** no matter what its valence, **is conscripted by algorithms of profit** that intensify **inequality by being put in the service of racial capitalism**; consequently, we are experiencing a near- apocalyptic, world-scale failure to be able to address global crises including migration for reparations, carceral systems, genocide, militarism, climate racism, racism, pandemic, anti-Blackness, extinction, and other geopolitical ills. The colonization of semiotics by racial capital has rendered **all “democratic” modes of governance outmoded** save those designed for the violent purpose of extracting profits for the enfranchised. Culturally these modes of extraction take the form of fractal fascism. An **understanding that informationalized semiotic practices** function as financial derivatives may **allow for a reimagining of the relationship between** language, visuality, and that other economic medium, namely **money, in an attempt to reprogram economy** and therefore the creation and distribution of value**—and thus also the politics and potentials of representation.** In what would amount to an end to postmodernism understood as the cultural logic of late capitalism, our revolutionary politics require, as did the communisms of the early twentieth century, a new type of economic program. In the age of computation, putting political economy back on the table implies a reprogramming of our cultural logics as economic media for the radical redress of the ills of exploitation and the democratization of the distribution of the world social product. **Sustainable communism requires the decolonizaton of abstraction** and the remaking of the protocols of social practice that give rise to real abstraction. **Though in this section we will more narrowly address the issues of money, race, and information as “real abstraction,” and their role in computational racial capitalism**, we note the overarching argument for the larger study: **1 Commodification inaugurates the global transformation** of qualities into quantities and gives rise to the world computer. **2 “Information” is not a naturally occurring** reality but emerges in the footprint of price and is always a means to posit the price of a possible or actual product. 3 **The general formula for capita**l, M-C-Mʹ, where M is money, C is commodity, and Mʹ is more money) can be **rewritten M-I-Mʹ,** where I is information. 4 “Labor,” Attention, Cognition, Metabolism, **Life converge as “Informatic Labor” whose purpose,** with respect to Capital, **is to create state changes in the Universal Turing Machine** that is the World Computer— racial capital’s relentless, granular, and planetary computation of its accounts**. 5 Semiotics, representation, and categories of social difference** function as financial derivatives—as wagers on the economic value of their underliers and as means of structuring risk for capital. 6 **Only a direct engagement with the computational colonization** of the life-world through a reprogramming (remaking) of the material processes of abstraction that constitute real abstraction can secure victory—in the form of a definitive step out of and away from racial capitalism—for the progressive movements of our times. Such a definitive movement requires an occupation and decolonization of information, and therefore of computation, and therefore of money. Only through a remaking of social relations at the molecular level of their calculus, informed by struggle against oppression, can the beauty of living and the fugitive legacies of creativity, community, and care prevail. The mode of comprehension, analysis, and transformation proposed here will require an expanded notion of racial capitalism. It interrogates the existence of deep continuities and long-term emergences—what one could correctly call algorithms of extractive violence—in the history of capitalism. These algorithms of violence include the reading and writing of code(s) on bodies, their surveillance and overcoding by informatic abstraction. Such algorithms of epidermalization or “the imposition of race on the body” (Browne: 113) are inscribed and executed on the flesh (Spillers 1987); and they are executed by means of codification processes that violently impose both a metaphysical and physical reformatting of bodies. As Simone Browne shows, epidermalization is given “its alphanumeric form” (99) through a vast array tools of marking, scarification, discipline, and surveillance that include branding irons, implements of torture, auction blocks, ship design, insurance policies, newspaper ads for runaway “property,” photographs in postcard form and a panoply of other media of dehumanization. Executable code is imposed as social categories of race, gender, religion and property, as ideologies, psychologies, contracts, brands, communication theories, game theories, and quantities of money—these abstractions work their ways into and are indeed imposed by the machines of calculation—and their avatars. We confront a continuous process of unmaking and remaking using all means available; it is violently inscribed on bodies. Sylvia Wynter, in her post– Rodney King piece “No Humans Involved: An Open Letter to My Colleagues” writes, “Both W. E. B. Du Bois and Elsa Goveia have emphasized the way in which the code of ‘Race’ or the Color Line, functions to systemically predetermine the sharply unequal re-distribution of the collectively produced global resources; and therefore, the correlation of the racial ranking rule with the Rich/Poor rule. Goveia pointed out **that all American societies are integrated on the basis of a central cultural belief** in which all share. This belief, that of **the genetic-racial inferiority** of Black people to all others, functions to enable our social hierarchies, including those of rich and poor determined directly by the economic system, to be perceived as having been as pre-determined by ‘that great crap game called life,’ as have also ostensibly been the invariant hierarchy between White and Black. Consequently in the Caribbean and Latin America, within the terms of this sociosymbolic calculus, to be ‘rich’ was also to be ‘White,’ to be poor was also to be ‘Black’ ” (Wynter: 52). “To be ‘rich’ was also to be ‘White,’ to be poor was also to be ‘Black.’ ” The real abstraction imposed by executable code—the “**code of ‘Race’ ” that “functions to systematically predetermine** the structurally **unequal redistribution of global resources**” is beholden to mediating capitalist exchange while embarking on a radical reformatting of ontology. This reformatting, the supposed result of “that great crap game called life,” brutally correlates race and value, but not entirely by chance, while racial capitalism embarks on imposing this calculus globally. Racial abstraction is endemic to what we will further explore as “real abstraction”; the evacuation of quality by abstract categories and quantities is, as we shall see in more detail, a “necessary” correlate to a world overrun by the calculus of money. Such algorithms of violence encode social difference, and although they may begin as heuristics (“rules of thumb”), they are none the less crucial to the **calculated and calculating expansion of racial capital**. Its processes and processing structures the meanings that can be ascribed to— and, as importantly, what can be done to—those of us whose data profiles constitute us as “illegal,” “Mexican,” “Black,” “[Roma] Gypsy,” “Jew,” and a lexicon of thousands of other actionable signs. This codification process draws from the histories of slavery, of colonialism, of state formation, of genocide, of gender oppression, of religious pogroms, of normativity, and again from the militarization and policing and the apparatuses of calculation that have developed within states and parastates in their own biometric pursuit of capital—power. Their violent destruction and remaking of the world. The **internalization of these codes**, including the struggles with them and the ways in which they license and/or foreclose various actions, exists in a recursive relationship to their perilous refinement. **Their analysis, a code-breaking of sorts,** will therefore demand some drastic modifications in many of the various anticapitalist, antistate warrior-stances practiced to date, particularly in a large number of their European and U.S. incarnations that until very recently remained blind to their own imperial violence and are too often complicit with hegemonic codes of masculine, unraced agency, imperialist nationalism, and default liberal assumptions in relation to questions of race, gender, sexuality, coloniality, and other forms of historically institutionalized oppression.3 The analytic, **computational racial capital, would identify the field of operations** that emerges around the embryonic form of the commodity and coarticulates with racial abstraction to formalize its code, code **that serves as operating system for the virtual machine here hypostasized as “the world computer”** and by inscribing itself on bodies and everything else. The commodity, the analysis of which famously begins volume 1 of Marx’s Capital, expressed the dual being and indeed dual registration of the humanly informed object as both quality of matter and quantity of exchange-value, along with the global generalization of this form. “The wealth of societies in which the capitalist mode of production prevails appears as an immense collection of commodities” (125). Commodities were (and with some modifications to be discussed further on, still are) humanly informed materials with a **use-value and an exchange-value— humanly informed qualities indexed by quantities**. “Computational racial capital,” as a heuristic device, stages an analysis of the convergence of what on the one side often appeared as universal: **the economic, abstract, and machinic operating systems of global production** and reproduction endemic to the commodity form and its calculus, with what on another side, sometimes appeared as particular or even incidental: racism, colonialism, slavery, imperialism, and racialization. The concept organizes this dramaturgy of analytically reunifying elements that were never materially separate in light of the study that the late Cedric Robinson conducted and recorded as Black Marxism. Robinson writes, “The development, organization and expansion of capitalist society pursued essentially racial directions, so too did social ideology. As a material force, then, it could be expected that racialism would inevitably permeate the social structures emergent from capitalism. I have used the term ‘racial capitalism’ to refer to the development and to the subsequent structure as an historical agency” (1983: 2–3). The World Computer takes what Robinson saw as “civilizational racism,” and its central role in the development of capital as axiomatic,—and sees that this role extends to and deeply into capitalist calculation and machinery during the entire period in which the world economic system seems to have moved form the paradigm of the commodity to a paradigm of information. “**Computational racial capitalism” would** **thus understand the generalization of computation** as an extension of capital logics and practices that include and indeed require the economic calculus of the dialectics of social difference. These differences, both economic and semiotic, would include those plied by slavery, anti- Blackness and other forms of racism during the past centuries. Computation must **therefore be recognized** as not a mere technical emergence but the **practical result of an ongoing and bloody struggle** between the would-have- it-alls and the to-be-dispossessed. Developed both consciously and unconsciously, computational racial capitalism is, when seen in the light of ongoing racialization and value extraction, “the subsequent structure as an historical agency.” The racial logic of computation must be pursued when considering finance, surveillance, population management, policing, social systems, social media, or any of the vast suite of protocols plying difference for capital. The local instance of computation, a specific 1 or 0, may seem value neutral, a matter as indifferent as lead for a bullet or uranium for a bomb. But we are looking at computation as the modality of a world- system. Computation emerges as **the result of struggles that informed “class struggle**” in all its forms, recognized or not by the often spotty tradition(s) of Marxism, including those struggles specific to the antagonisms of colonialism, slavery, imperialism, and white supremacist heteropatriarchal capitalism more generally. It is the result of struggles indexed by race, gender, sexuality, nationality, and ethnicity, along with additional terms indexing social differentiation too numerous to incant here but that together form a lexicon and a grammar of extractive oppression—and as we have said and as must always be remembered, also of struggle. The lexicon includes compressions that result in many of history’s abstractions including a perhaps singularly pointed abstraction: “a history whose shorthand is race” (Spillers 1997: 142). The grammar for that lexicon depends upon the deployment and execution of forms of differentiating abstraction that are lived—lived processes of abstraction and lived abstraction organized by the increasingly complex and variegated calculus of profit and thus of domination. “**Real abstraction,”** then**, emerges** not just as money in Sohn-Rethel’s sense, but **as the codification of race, gender, sexuality, geography, credit and time**—and gives rise to a “grammar,” in Hortense Spillers’s (1987) use of the term, that not only structures meaning and redounds to the deepest crevices of being smelted by social practices, but also, and not incidentally, prices differentials indexed to social difference.4 “Real abstraction,” as Sohn-Rethel spent his life deciphering, takes place “behind [our] backs” as the practical and historical working out of the exchange of equivalents within the process of the exchange of goods (33). For him, the development of the money-form, of the real abstraction that is money, is Exhibit A of the abstraction process mediating object exchange. This capacity for abstraction, realized first in “the money commodity” and then as money provided the template for further abstraction, not least in the conceptual formations of Western philosophy itself (1978). Sohn-Rethel develops this argument that practices of exchange precede the abstraction of value in Intellectual and Manual Labour, providing the full quotation from Marx: “Men do not therefore bring the product of their labour into relation with each other as value because they see these objects merely as the material integuments of homogeneous human labour. The reverse is true: by equating their different products to each other in exchange as values, they equate their different kinds of labour as human labour. They do this without being aware of it. (Marx 1990: 166 in Sohn-Rethel 1978: 32). Here is Sohn- Rethel’s commentary: People become aware of the exchange abstraction only when they come face to face with the result which their own actions have engendered “behind their backs” as Marx says. In **money the exchange abstraction achieves concentrated representation**, but a mere functional one— embodied in a coin. It is not recognizable in its true identity as abstract form, but disguised as a thing one carries about in one’s pocket, hands out to others, or receives from them. Marx says explicitly that the value abstraction never assumes a representation as such, since the only expression it ever finds is the equation of one commodity with the use- value of another. The gold or silver or other matter which lends to money its palpable and visible body is merely a metaphor of the value abstraction it embodies, not this abstraction itself. (33–34) Exchange-value is “in our heads” but is not the creation of any individual. Alongside use-value it is the other, abstract component of the “double being” of the commodity-form. Like Norbert Wiener’s (1961: 132) definition of information but, strictly speaking, emerging long before the idea of information proper, real abstraction is “not matter or energy.” There is not an atom of matter in exchange-value, or, as Marx puts it, “Not an atom of matter enters into the objectivity of commodities as values; in this it is the direct opposite of the coarsely sensuous objectivity of commodities as physical objects” (1990: 138). And a bit on, “So far no chemist has ever discovered exchange-value in a pearl or diamond” (177). But unlike in Wiener’s naturalist definition of information, exchange-value is an index of a social relation, an historical outcome. It indexes “abstract universal labor time,” a third term that forms the basis of comparison between two ostensibly incomparable and therefore incommensurable commodities, and, because common to both, creates the ratio of value that renders them quantitatively commensurable. **This distinction between the social basis of exchange-value and the universal character** of information should give us pause. As we shall have occasion to observe, information, as it is today (mis)understood, is thought to be a naturally occurring additional property of things—neither matter nor energy—rather than a domain of expression constituted by means of a technological and economic repression of its social dimension. Notably, Sohn-Rethel “set[s] out to argue that the **abstractness operating in exchange and reflected in value does nevertheless find an identical expression**, namely the abstract intellect, or the so-called pure understanding—the cognitive source of scientific knowledge” (34). For him, it gives rise to the abstract capacities of the subject of philosophy as well as the quantitative capacities of the subject of science and mathematics that in the twentieth century move toward a paradigm of information. Echoing Sohn-Rethel, we could say then that information is in our machines but not the creation of any individual machine. Not an atom of matter enters into information, though, like value, it is platformed on matter and requires energy for creation. This thesis will take on particular importance as we consider social differences whose descriptors, it turns out, are executable in a computational sense, at least from the point of view of financial calculus, but platformed on matter, and indeed, on living matter, on life. Beyond the intention of any individual, abstraction as “exchange-value” in “money” occurs in and as the process and processing of exchange in accord with an emerging standard. This standard, which economists call “exchange-value,” and which, in Marx is based on abstract universal labor time (the historically variable, socially necessary average time required to produce a commodity), persists alongside and within the specific qualities of the commodity (its use-value) and creates the commodity’s dual being. Though without chemical or material basis, **this standard, exchange-value, is a social relation**—a social relation as an abstraction—that inheres in the commodity-form itself and is formalized with the rise of the money commodity. The money commodity, in becoming a general equivalent, standardizes and thus renders fully quantifiable the exchange-value of commodities—exchange-values denominated in quantities of money. The quantification of value in a measure of money is an abstraction enabled by money itself which, as we have seen, is a real abstraction. It is a calculation that has occurred behind our backs, and indeed produces what Hayek (1945) identifies as the price system. When we recognize the differences in wages among people who are raced, gendered, nationed, and classed by various matrices of valuation, we also recognize that the calculus performed by and as real abstraction includes racial abstraction and gender abstraction. It is part of the calculus of **capital that provides it with an account of and discounts on the rate of exchange** with the labor power of marked people(s) —by discounting people(s) (Beller 2017b; see also Bhandar and Toscano 2015: 8–17). Racial abstraction provides capital with an index that measures a deviation from the average value of human life (itself historically driven down by the falling rate of profit). In this, computational racial capitalism is not merely a heuristic or a metaphor for the processes of a virtual machine; it is a historical-material condition. As we shall see, and as is obvious at least in the general case to anyone who has thought seriously about it, whiteness (and the fascist masculinity endemic to it) is not only operating where one finds “race”: it is operating everywhere in the imperium that it can be imagined (by some) that race is not a factor—**in medicine, in science, in statistics, in computation, in information**. As I wrote—resituating Bateson’s (1972) definition of information—in The Message Is Murder, **information is not merely “a difference that makes a difference”; it is a difference that makes a social difference**. **This slight difference in expression situates information historically.** While in keeping with Bateson’s far reaching ideas regarding an ecology of mind **(“If I am right, the whole thinking about what we are and what other people are has got to be restructured”;** 468), ideas that at **once problematize any distinction between inside and outside** and that make him dubious of any thought that presupposes sovereign subjectivity, my interpolation of “social” in his formulation “a difference that makes a social difference” **shifts the emphasis somewhat by insisting on the always already sociohistoricity** of any possible knowledge. Bateson believed that his understanding of information and systems ecology promised a new mode of thinking that he himself, as a twentieth-century bourgeois white man, did not feel capable of really embodying. Thus our interpolation, in keeping with Bateson but made compatible with Marx is, in keeping with Marx, designed to “transform ... the problem of knowledge into one of social theory” (Postone 2003: 216). Such a transformation **situates knowledge and now also information in the sociohistorical milieu**, the ecology such that it is, of racial capitalism, and therein finds information’s historical conditions of possibility. Here we advance the argument for the ultimately determining instance of social difference (and up the ante for the bet against whiteness) by **proposing that information is the elaboration of real abstraction**, of abstraction that results from collective practices of economic exchange and therefore from the general management of value as a social relation. I argue that set out in logical sequence, information is posited by, then posits and then presupposes the human processes of exchange that Sohn-Rethel, following Marx, argues are the practices that first give rise to the money- form and to real abstraction. For Sohn-Rethel the result of the activities of comparison, adequation, and trading of specific things that have qualities— which are, strictly speaking, incomparable—resulted over time in a process of finding a relation of equivalence and then general equivalence indexed to abstract labor time, what was in effect socially average human labor time. Exchange-value was a quantitative measure of that abstract time—the average socially necessary time to create commodity X denominated in money. This real abstraction was no one’s invention but was the practical result of exchange—of people’s activity—and thus emerged as a nonconscious result that nonetheless interceded on conscious process. Consequently, real abstraction was for Sohn-Rethel also the precursor to conceptual abstraction, including philosophy, science and mathematics. He writes: **The essence of commodity abstraction, however, is that it is not thought-induced**; it does not originate in ~~men’s~~(people’s) minds but in their actions. And yet this **does not give “abstraction” a merely metaphorical meaning. It is abstraction in its precise, literal sense.** The economic concept of value resulting from it is characterized by a complete absence of quality, a differentiation purely by quantity and by applicability to every kind of commodity and service which can occur on the market. These qualities of the economic value abstraction indeed display a striking similarity with fundamental categories of quantifying natural science without, admittedly, the slightest inner relationship between these heterogeneous spheres being as yet recognizable. While **the concepts of natural science are thought abstractions, the economic concept of value is a real one**. It exists nowhere other than in the human mind but it does not spring from it. Rather it is purely social in character, arising in the spatio-temporal sphere of human interrelations. It is not people who originate these abstractions but their actions. “They do this without being aware of it.”5 The practical rise of a form of abstraction indifferent to particular qualities is key here and is to be understood as a precursor to the content- indifferent abstractions of a variety of types. As Simmel notes in The Philosophy of Money, law, intellectuality, and money “have the power to lay down forms and directions to which they are content indifferent” (441–2). Without doubt, such power informed the racial categories of the Humanism of Ernst Renan, Roger Caillois, and others so brilliantly excoriated by Aimé Césaire in his Discourse on Colonialism. We add here the hypothesis that **the rise of information as the content-indifferent assignation of numerical index to any social relation** whatever, is a development of the abstraction necessary for economic exchange to persist under the intensive “developmental” pressure of global racial capitalism—information is derived from the increasingly complex things that people do through and as exchange and as such is both precursor and corollary to financialization— **the social conditions that sustain what is fetishistically apprehended as “finance capital”** and its seeming capacity to derive wealth from pure speculation and risk management in ways that (incorrectly) appear to be fully detached from labor and labor time. In this light, information reveals itself as **neither naturally occurring nor the creation of anyone in particular**, but, in keeping with Sohn-Rethel’s Marxian formulation of real abstraction, is likewise invented “**behind our backs” as a result of ~~“man’s”~~ “People’s” practical activity**. Information enables a complexification and further generalization of what will turn out to be monetary media, media that would be adequate to, and indeed are adequate (from the perspective of capital) to contemporary forms of exchange—what people do when they interact with one another in what is now the social factory. In brief, information is the extension of a monetary **calculus adequate to the increasingly abstract character of social relations and social exigencies**. It is an interstitial, materially platformed, calculative fabric of abstraction that through its coordinated capillary actions orchestrates social practice and provides interface for the uptake of value production. Once this idea is fully grasped, it becomes pointless to look for any other origin to the information age. Just as for Marx there is not a single atom of matter in exchange value (1990: 138), we say that there is not a single atom of matter in information.6 “All the phenomenon of the universe, whether produced by the hand of man or indeed by the universal laws of physics, are not to be conceived as acts of creation but solely as a reordering of matter” (Pietro Verri 1771, cited in Marx 1990: 133; note 13). Value is the socially valid informing of matter, so too is information. Economy then is society’s matter compiler and, approximately simultaneously with the advent of “man,” “history,” and “the world market,” “exchange value” emerges as a quantitative measure of the social value of material state changes indexed to human labour posited as “abstract universal labour time.” Marx’s famous example of the simple wooden table in Chapter 1 of Capital, which “transcends sensuousness” when leaving the clear-cut framework of use value and becoming a commodity and thus an exchange value, registers as “fetishism,” the “metaphysical subtleties,” “theological niceties,” and “grotesque ideas” (1990: 163), endemic in the table’s computability as value. In brief, just as **discreet states of matter embodying value as a network of commodities** mediated by markets and tied to labor give rise historically to the discrete state machine, otherwise known as the computer, exchange value gives rise to computable information and then to computation itself, becoming interoperable with it. Even before the rise of information proper, **exchange value operates as information** (and thus, necessarily information processing) —and then, as synthetic finance and contemporary forms of computer- mediated accounting and production readily testify, by means of it. Computation is the extension, development, **and formalization of the calculus of exchange value**—the ramification of its fetish character—and becomes in spirit and in practice, a **command control layer for the management of the profitable calculus of value**. Platformed on states of matter, information, not matter but rather difference between and among states of matter, extends, grammartizes, and granularizes the calculus of value regarding the organization of matter. **Commodities and computation thus run the same basic operating system**—state changes in matter driven by human practices—the value of which in any given state is expressed in the context of an informatic network and indexed to labor time. As such, information is the processing power of money itself and is inexorably beholden to abstract labor time and thus to racial capitalism. It is, in brief, an outgrowth of the money form. The cost of computation, the **arrival at a discrete state, is a derivative operation**, indicating an investment, that is explicitly a risk on the future value of an underlier, that is, on value itself. This argument for understanding the social as the ultimate referent and ground for any and all information, further advanced in chapter 1, is not content to serve **as a mere heuristic for cultural theorists to express a modicum of suspicion** with respect to truth claims backed by statistics and information. It is a **thoroughgoing indictment of information as a technique of value extraction**, racialization, and instrumental social differentiation. As a first approximation, actually existing information, like actually existing money, can indeed be said to be the root of all evil—in as much as the fact of its existence is a symptom of a far more complex historical process than what would seem to be discernible from the fact of the coin or the bit. The problem, of course, is that your metabolism (and mine), cannot easily extend into the future without access to both. I develop this idea here to say that everywhere computation operates, so too does racial capitalism—at least until proven otherwise. The repressive apparatus of capital clearly assumes this role for information, even if it does so at a level that most often exceeds ordinary default “human” (white) understanding: **the net result to date of the number crunch of “the world computer**” is a hierarchy of valuations inseparable from the violence of racialization and its attendant dispossession, and inseparable again from what Ruth Wilson Gilmore (2007: 28) in her classic and statistically attuned definition of racism calls “the state-sanctioned or extralegal production and exploitation of group- differentiated vulnerability to premature death.” Today, we argue, no calculation**, networked as it is with the world computer, is fully separable from informatics and its basis in racial capitalism.** We will argue for this logical and also horrific history of abstraction in more detail below as we explore the interoperability of digital systems and their colonization of the semiotic, corporeal and material domains. The global learning curve of revolutionary praxis must attend to this modal innovation of systemic oppression, an oppression which is at once beyond all calculation and one with it.7

#### Anti-trust is the legal force behind economic imperialism. Competition law is a product of economic nationalism designed to fuel American capitalist expansion at the expense of the periphery.

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Abstract

Since 1945, US judges have extended numerous “domestic” US laws (including securities and antitrust laws) to govern economic transactions taking place “abroad”. However, they have generally failed to extend US labor and employment laws to govern employer– employee relationships outside “US territory”. Through a close reading of federal court decisions and drawing on recent work in the field of critical legal studies, this article makes an argument for centering the study of jurisdiction in International Relations scholarship and for approaching states as instantiated in their jurisdictional assertions. I suggest that such an approach enables us to capture the geographies—including the imperial geographies—of US law in the “normal,” everyday course of affairs. In particular, such an approach allows us to see that, since the mid-20th century, the legal authority and legal relations of the US government have come to be organized around the notion of the national economy (rather than simply around, for example, notions of territory or citizenship). What this means is that it is increasingly a posited relationship to this national economy that determines whether people and corporations, wherever in the world they are located, are subjected to or protected by US law.

Since 1945, US courts have frequently used US laws to adjudicate certain kinds of civil disputes arising anywhere in the world. They have also allowed the Department of Justice to use these laws to criminally prosecute individuals and corporations (including “nonUS” citizens and corporations) for certain kinds of conduct carried out “abroad”.1 US courts have justified these extensions of US laws (which are referred to as instances of “extraterritorial jurisdiction”) in a variety of ways, pointing, for instance, to a need to protect US citizens located abroad from acts of “terrorism” or to otherwise safeguard the vital “national interests” of the United States.

International Relations (IR) scholars have been increasingly attentive to these practices. However, reflecting the traditional realist and liberal, and more-recent constructivist, foci of the discipline, they have generally focused on how these practices have unfolded in two contexts—security and human rights (Liste, 2014, 2016; Lohmann, 2016; Shambaugh, 1999). With some important exceptions (Putnam, 2009, 2016; Slaughter, 1995; Slaughter and Zaring, 1997), IR scholars have been less attentive to extensions of US “economic” laws, such as antitrust and securities laws, to govern conduct taking place abroad. An important aspect of these extensions is their routineness. Unlike extensions of, for example, US “terrorist financing” laws, which are often represented as necessitated by “exceptional” circumstances, extensions of US economic laws are significant precisely because of such laws’ applicability to, and impact on, routine commercial activities. As such, studying such extensions allows us to capture an important modality through which the US government structures and regulates global economic activity. It further enables us to capture the geographies—including the imperial geographies—of US law in the “normal,” everyday course of affairs. Since World War Two, the extraterritorial extension of US economic laws has often taken place pursuant to the “effects doctrine.” As described by US courts, the effects doctrine states that governments may apply their own laws to conduct that takes place outside their territorial boundaries, but that has effects (of a particular magnitude) within such boundaries. Before 1945, courts, including the Permanent Court of International Justice (PCIJ), had used the doctrine to uphold jurisdictional assertions by governments over conduct taking place abroad but having physical effects within their territories (S. S. Lotus [France v. Turkey], PCIJ, 1927). The frequently-cited example was a bullet fired across an international border giving rise to jurisdiction where the bullet landed. However, in 1945, a US federal appellate court held for the first time that economic effects, within the United States, of extraterritorial conduct would be sufficient to trigger the application of US law. Specifically, in United States v. Aluminum Company of America (“Alcoa”), the Second Circuit Court of Appeals (1945) applied the Sherman Antitrust Act of 1890 to the allegedly-anticompetitive activities of a Canadian company, taking place in Switzerland. The court justified its decision by pointing to the effects of these activities on quantities of aluminum imported into, and on prices of aluminum within, the US In subsequent decades, US courts invoked this “economic” version of the effects doctrine in a variety of contexts, using it, for instance, to apply US securities and trademark laws to conduct taking place abroad (Schoenbaum v. Firstbrook, Second Circuit, 1968; Steele v. Bulova Watch Co., US Supreme Court, 1952). However, they failed or refused to apply the doctrine in other contexts, and in particular, refused to apply US employment and labor laws to govern conduct taking place abroad (Foley Bros. v. Filardo, US Supreme Court, 1949 (“Foley”); Equal Employment Opportunity Commission v. Arabian American Oil Co., US Supreme Court, 1991 (“Aramco”)). In this article, through an examination of US courts’ effects-based extraterritoriality since 1945, I do two things. First, I provide a descriptive account of the geographies of the jurisdictional boundaries of the United States, understanding “jurisdictional boundaries” as the shifting lines between spaces in which, and subject areas and people to which, US law does and does not apply. There has long been a disjuncture between these jurisdictional boundaries and the territorial boundaries that the US government claims as its own. This article moves beyond a simple demonstration of such a disjuncture, to trace its precise (though ever-changing) shapes. Through a close reading of US court decisions in the antitrust and employment/labor contexts, I show that, in the post-World War Two (“postwar”) period, in addition to the notion of territory, the jurisdictional boundaries of the United States have come to be organized around a (partly-legal) construct called the “national economy.” What this means is that it is increasingly a posited relationship to this national economy that determines whether US law applies in a particular case, and so also determines where US law applies. Through my descriptive account, I also make a broader argument for foregrounding jurisdictional assertions in IR scholarship, and for approaching states as both instantiated in and constituted by these jurisdictional assertions. In particular, I show the potential of such an approach in helping us think about the state “around” (Reid-Henry, 2010: 752) or “beyond” (Glassman, 1999: 669) the territorial trap.2 I show that, by foregrounding and tracing jurisdictional assertions, we are better able to empirically capture the shifting geographical coordinates of states’ legal boundaries. Furthermore, I show that, by foregrounding and tracing jurisdictional assertions, we are able to reconceptualize such legal boundaries, to see them as not static and singular, but shifting and multiple. Some such borders are “clearly visible in the landscape,” others are “hidden from immediate view” (Cowen, 2009: 70)—though no less consequential, and—crucially— no less “formal” or “legal” for that. In one sense, then, my argument is a very specific, empirical one about US extraterritoriality. I am not suggesting a similar rise in extraterritoriality elsewhere in the postWorld War Two period: rather, as I explain in the next section, I view postwar “economic” extraterritoriality as, until recently, a largely US practice, enabled primarily by and enabling of US economic preeminence. Yet my argument is also a broader one in its proposal of a particular approach to states’ boundaries, an approach which finds these shifting boundaries in the routine, seemingly-mundane jurisdictional assertions of states. I show that, by tracing these jurisdictional assertions, we can better capture the multiple ways in which legal authority is organized and authorized in the contemporary world— sometimes around and by the notion of territory, sometimes around and by the notion of the national economy, sometimes in still other ways. In highlighting the multiple ways in which legal authority is organized in the contemporary world, this article does not suggest that the notion of territory is no longer important—quite the contrary. My concern is rather with the political productiveness of the very assumption of the territorial organization of jurisdiction, of the assumption that legal authority is both supreme and even within, and limited by, territorial boundaries. For example, in settler-colonial states, the assumption of supremacy and evenness of the settler government’s jurisdiction within its claimed territory works to obscure rival indigenous forms of authority and law (Pasternak, 2017). So too, this assumption serves to obscure, and so enable, ongoing violent processes through which such jurisdiction needs to continually be imposed on, and is continually resisted by, indigenous peoples (Pasternak, 2017). At the same time, and as this article shows, the assumption of the territorial limitedness of the US government’s jurisdiction works to obscure, and so to enable, the routine reach of US law “abroad.” At its core, then, this article aims to counter these assumptions of the territorial exclusiveness and limitedness of jurisdiction, and so to make possible the consideration and tracing of other contemporary geographies of law, and specifically, of the imperial geographies of law. In the section “Centering jurisdiction”, drawing on work on jurisdiction and territory in IR and law (Dorsett, 2002; Dorsett and McVeigh, 2012; Elden, 2013; Kaushal, 2015; McVeigh, 2007; Pahuja, 2013; Ryngaert, 2016; Valverde, 2009), I detail my approach to jurisdiction, and describe how it diverges from conventional approaches to the same. In the sections “The emergence of effects-based extraterritoriality” and “Delineating the US economy”, I show that, since 1945, the jurisdictional boundaries of the United States have come to be organized around a construct called “national economy.” I do this in two steps. In the section “The emergence of effects-based extraterritoriality”, contrasting two cases decided 36 years apart, I demonstrate the importance of this construct, which was only at play in the latter case, in enabling the extraterritorial extension of US law. In the section “Delineating the US economy”, I detail the ways in which US judges continually construct the national economy through their decisions, by articulating some people and conduct to, and disarticulating other people and conduct from, that national economy. I suggest that, in doing so, these judges draw US jurisdictional boundaries in ways that include US corporations but exclude US workers employed abroad. The final section concludes. Centering jurisdiction IR scholars and international lawyers tend to think and talk about jurisdiction—the authority to speak or enunciate the law—primarily in terms of territorial sovereignty. Territorial sovereignty is generally seen as coming before jurisdiction, in two ways. First, territorial sovereignty is seen as giving rise to jurisdiction, as providing grounds for the authority to speak the law. Second, territory—already-formed territory—is seen as setting the spatial extent of jurisdiction: a state’s jurisdictional boundaries are seen as normally limited by its existing territorial bounds. Such an approach has crucial implications for the study of jurisdiction: as Sundhya Pahuja (2013: 70) writes, it casts jurisdiction as “a technical question concerned with whether a particular sovereign state, or any judicial or quasi-judicial body constituted according to [. . .] law, can exercise legal authority over a territory, dispute, person or issue.” Recent writings on jurisdiction by critical legal scholars (Dorsett and McVeigh, 2012; Kaushal, 2015; Pahuja, 2013) have called into question this view of territorial sovereignty as anterior to jurisdiction. These writings have instead stressed the “inaugural” quality of jurisdiction, the ways in which jurisdictional practices, rather than being carried out by already-constituted political communities, serve as important sites for the constitution and reconstitution of such community (with all the violent Irani 5 inclusions, displacements, and expulsions that such processes often involve) (Kaushal, 2015: 781–782).3 In this article, I draw on this flipped characterization of legal authority, but I add an emphasis on practice. In my account, legal assertions not only form, border, and construct “the state”: they are the state. The state is instantiated in its jurisdictional assertions: it is “the ever-changing snapshot emerging from [multiple] jurisdictional assertions, the very pattern of assertions of jurisdiction, not an entity that ponders whether to assert jurisdiction or not” (Malley et al., 1990: 1296). Changing jurisdictional assertions do not simply change what “the state” does: they further change what the state is, who and what it includes and excludes, and crucially, where it is located. Approaching the state as both constituted by and instantiated in its jurisdictional assertions effects a transformation in our understandings of the geographies of states and their borders. In particular, it enables us to better capture the imperial geographies of some states and their borders. Rather than entities that exert legal authority uniformly within, and only within, fixed lines-on-maps, states come to have multiple boundaries, formed in particular moments, through particular assertions. Territorial borders become only one among many legalized boundaries of state authority; territory becomes only one way of organizing and limiting state law. This opens up space to think about other (nonor less-territorial) legalized boundaries of state authority, other (non- or less-territorial) ways of organizing and limiting state law, ways that—far from being superseded at Westphalia or overcome with decolonization and the supposed universalization of the state form—actually exist in the contemporary world. In IR scholarship, the primary place these other ways of organizing and limiting jurisdiction make an appearance is in the historical scholarship on territory (Elden, 2013; Ruggie, 1993). Such scholarship generally describes a shift in the organization of legal authority, variously identified as taking place sometime between the 14th century and the Peace of Westphalia: while prior to this period, multiple legal authorities had coexisted in given spaces, during this time period, governments for the first time began to claim exclusive authority over bordered spaces and the people they “contained.” I draw from this work a recognition of the historical situatedness and specificity of the territorial organization of jurisdiction, a recognition which opens up space to both consider multiple ways of organizing jurisdiction and investigate their techniques and micro-politics— as I do below. But I diverge from this work in emphasizing that such multiple ways of organizing jurisdiction are contemporaneous and contemporary, rather than successive or primarily of historical interest.4 To capture the existence of multiple contemporaneous and contemporary ways of organizing jurisdiction, I employ the concept of jurisdictional rationalities, or modes of jurisdictional thought and action (Dorsett and McVeigh, 2012: 32). Much like political rationalities, different jurisdictional rationalities can be understood as different “conceptions of the proper ends and means of government” and law (Miller and Rose, 1990: 5). These rationalities can be distinguished by the particular “concept or category” around which jurisdiction is “centered” (for example, “territory” or the “national economy”) (Dorsett and McVeigh, 2012: 48). Different jurisdictional rationalities “engage” law differently: they are associated with different kinds of legal subjects, spaces, and institutions (Dorsett and McVeigh, 2012: 42, 48). For example, while “territory” (as a mode of jurisdictional thought and action) is associated with “sovereign-subject (or citizen) 6 European Journal of International Relations 00(0) relations distributed in territorial terms” (Dorsett and McVeigh, 2012: 41), the “national economy” is associated with—and brings into being—other kinds of subjects and relations (for example, relations between the “United States” and corporations located abroad whose actions are understood as affecting prices within the United States). Conversely, as I show below, thinking about legal authority in terms of a national economy can erase sovereign-citizen relations, when such relations are understood as unimportant to the economy of the United States. In subsequent sections, I examine the jurisdictional rationalities, the modes of jurisdictional thought, underlying US judges’ decisions about whether or not to extend US antitrust and labor laws to govern conduct “abroad.” I show that, while territory remains important as an organizing principle for legal authority, there emerged, in the postwar period, a new mode of thinking and talking about legal authority, which centered on the national economy. I show that, in decisions in this period in which judges considered whether or not to extend US laws abroad, they increasingly represented people, corporations, and activities in terms of their relationships to “US commerce” or “the US economy,” rather than solely in terms of where they were located, incorporated, or born. It is these relationships that served—and continue to serve—to make possible, or to preclude, the extension of US law. These relationships—between various people, corporations, and activities and the “US economy”—are not ones that pre-exist the decisions in which they are invoked, although they are portrayed by judges as such. Such relationships are not found or noticed by judges: judges create them. For instance, as I will show below, judges draw on general economic “laws” to make connections between extraterritorial agreements to restrain production of a particular commodity and prices of that commodity within the United States. In so doing, they characterize the parties to such agreements as affecting the US economy, and so as subject to the legal authority of the US government. Of course, in defining particular people and activities as “part of” or as “affecting” the US economy, judges delineate the US economy itself. It is, in part, in and through particular legal decisions that the national economy is given form and limits, and is modified, over and over again. What this means is that the national economy is constructed in and through the decisions for which it serves as jurisdictional grounds.5 I discuss this process of construction in subsequent sections. In doing so, I focus on judges’ reasoning, on the texts of their decisions. However, it bears mentioning that these decisions have material effects, in part because they are enforced. Enforcement is a complicated legal question in an international context: legal scholars generally agree that, while states may sometimes declare their laws applicable to particular kinds of conduct taking place anywhere in the world (a form of jurisdiction known as “prescriptive jurisdiction”), they may rarely legally “enforce” these laws or judgments in another state’s territory without permission (a form of jurisdiction known as “enforcement jurisdiction”) (Lowe, 2003: 338). Nonetheless, this general rule obscures the US government’s frequent use of “indirect territorial means” of enforcement (for example, the seizure of assets located within the United States, a ban on travel to the United States) to enforce the judgments of US courts (Ryngaert, 2008: 24–25). Crucially, “indirect territorial means” for enforcement are differently available to different states. Enforcement, in particular, depends on the material capabilities and Irani 7 economic positioning of states. In theory, any government can employ the economic effects doctrine to apply its domestic law to conduct taking place abroad. In practice, however, it is the “presence of assets” within the territorial boundaries of a state that “giv[es] these expansive jurisdictional claims bite,” because it is against such assets that a legal judgment can most easily be enforced (Raustiala, 2009: 113). As such, the centrality of the United States to global economic activity is absolutely crucial in enabling the effective exercise of extraterritorial jurisdiction by US courts. This point is obscured by US governmental officials who have defended the extraterritorial extension of US laws by suggesting that other states could similarly extend their laws to govern conduct taking place abroad (Bell, 1978). But it is crucial in understanding the practices described in this article, and specifically, in understanding the uniquely-broad scope of US extraterritoriality, the relative ease with which the United States is able to extend its laws to govern conduct taking place anywhere in the world.6 The emergence of effects-based extraterritoriality In the next two sections, I show that, in the postwar period, the legal authority of the US government has come to be organized around the notion of the national economy. In this section, I demonstrate the importance of this notion in enabling the emergence of (economic) effects-based extraterritoriality in the 1945 Alcoa case. In the next section, I show the ways in which US judges have constructed the national economy in the decades following Alcoa—specifically, in ways that include US consumers and importers, but exclude US workers located abroad. Prior to 1945, the United States and numerous European states routinely applied their laws to certain conduct taking place in much of the “non-European” world, for example, in China and Japan. However, with some exceptions, in relations between the former states, principles of international law and comity were understood to limit states’ legal authority to acts seen as taking place within their territorial boundaries. Within US law, the quintessential statement of this understanding could be found in American Banana Company v. United Fruit Company (“American Banana”), a 1909 US Supreme Court decision which—ignoring and obscuring the routine nature of US extraterritoriality outside of Europe—is sometimes described as marking the high point of strict territoriality in US law (Slaughter and Zaring, 1997: 3). American Banana was an action to recover damages, brought by the American Banana Company against the United Fruit Company for the latter’s alleged violations of the Sherman Act of 1890 (15 U.S.C.A. §§ 1–2), which, among other things, bans certain contracts or combinations in restraint of trade, as well as the monopolization or attempted monopolization of trade and commerce. The plaintiff, American Banana, alleged that the defendant, United Fruit, had violated the Act primarily through its anticompetitive conduct in what was considered, at various historical moments and by different parties, to be Colombian, Panamanian, and Costa Rican territory. American Banana accused United Fruit of entering into quantity- and price-fixing agreements, and of instigating the Costa Rican government to seize goods and materials destined for American Banana’s plantation (American Banana, US Supreme Court, 1909: 354). 8 European Journal of International Relations 00(0) Justice Holmes, writing for the Supreme Court, dismissed American Banana’s complaint, holding that since the Sherman Act did not apply in Colombian/Panamanian/ Costa Rican territory, the plaintiff had no legal basis on which to sue. The Court characterized its decision as dictated by “[t]he general and almost universal rule” “that the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done” (American Banana, US Supreme Court, 1909: 356). Given this rule, the Court stated that “[f]or another jurisdiction, if it should happen to lay hold of the actor, to treat him according to its own notions rather than those of the place where he did the acts, not only would be unjust, but would be an interference with the authority of another sovereign, contrary to the comity of nations, which the other state concerned justly might resent” (American Banana, US Supreme Court, 1909: 356). For three decades after American Banana, Justice Holmes’ declaration—that “the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done”—remained dominant in US relations with European states. In the 1945 Alcoa case, however, the Second Circuit Court of Appeals, acting as a court of final appeal because of the Supreme Court’s inability to muster a quorum, reversed course. Specifically, Judge Learned Hand held that the US Justice Department could use the Sherman Act as a basis for the prosecution of a Canadian corporation, Aluminum Limited, for its acts in Switzerland (and specifically, for its entry into a cartel agreement that aimed at limiting production of aluminum). Justifying his decision, Judge Hand pointed to the effects that this agreement could be presumed to have on quantities of aluminum imported into, and on prices of aluminum within, the United States. Judge Hand contended that these effects brought into play the general rule that “any state may impose liabilities, even upon persons not within its allegiance, for conduct outside its borders that has consequences within its borders which the state reprehends” (Alcoa, Second Circuit, 1945: 443, citations removed).7 How are we to understand the Alcoa decision in light of the earlier American Banana one? When one engages in a close reading of the two judgments, what quickly becomes apparent is the very different rationalities, the very different conceptualizations of the proper means and ends of federal government and federal law underlying each decision: these rationalities render different courses of action legitimate and desirable in each case. For Justice Holmes, the author of the earlier American Banana decision, federal government is about controlling and managing a bordered physical space. This understanding of the proper end of federal government is manifest in Justice Holmes’ concern with the locations of acts, his categorization of such acts as inside or outside particular lineson-maps, and the fact that such categorization is determinative of whether or not he thinks US law is to apply (American Banana, US Supreme Court, 1909: 355). Justice Holmes writes: “In the first place the acts causing the damage were done, so far as appears, outside the jurisdiction of the United States and within that of other states. It is surprising to hear it argued that they were governed by the act of Congress” (American Banana, US Supreme Court, 1909: 355, italics added). And, as mentioned above, after listing certain limited exceptions, Holmes continues: “[t]he general and almost universal rule is that the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done” (American Banana, US Supreme Court, 1909: 356, italics added). Irani 9 Justice Holmes’ understanding of the proper end of federal government (that is, the control and management of a bordered physical space) is particularly visible in what he does not discuss, and in particular, in his lack of attention to factors other than location. For instance, in American Banana, there is no discussion of the economic implications of the dispute at hand “in” or “for” the United States. There is no discussion of the possible effects of the defendant’s foreign anticompetitive activities on US banana prices or on the overseas opportunities of other US-incorporated companies. Even the injuries to American Banana, itself a US-incorporated corporation, are only mentioned when Justice Holmes summarizes the plaintiff’s claims (that is, not when he discusses the jurisdictional question) (American Banana, US Supreme Court, 1909: 355). Such effects are not yet seen as relevant to the question of legal authority, or, at least, are not the terms in which legal authority can yet be explicitly discussed. In contrast, 35 years later, economic effects are central to Judge Hand’s decision in Alcoa: Judge Hand grounds the application of federal law in the presence of such effects within US borders. Yet, he does not identify any particular individuals or groups located within the United States who might be affected by Aluminum Limited’s agreement to limit production of aluminum. Instead, Judge Hand speaks in general terms about the effects of the aluminum cartel on imports and prices of aluminum, characterizing these effects as “consequences within [the United States’] borders which the state reprehends” (Alcoa, Second Circuit, 1945: 443–444). Implicit in the suggestion that the United States, as an entity, “reprehends” particular economic consequences is the notion of a single national economic unit with a single national economic interest: reduced imports and raised prices are bad for the United States itself, rather than for particular people or classes or even component US states. Although he never actually uses the term, we can see the centrality of what we might today call a “national economy” to Judge Hand’s decision. This economy is made up of components like imports, exports and prices, which need not be identified with any particular individuals, classes, or component states, but can simply be identified with the United States These components are linked: Judge Hand feels comfortable setting up a presumption that reduced imports into the United States will lead to uniformly higher prices throughout US territory (Alcoa, Second Circuit, 1945: 444–445). These components are all cast as located within the United States, since effects on these components are described as consequences “within [the United States’] borders” that the United States reprehends (Alcoa, Second Circuit, 1945: 443–444). Yet they are also cast as vulnerable to economic activities, such as agreements to limit production, taking place abroad: for example, Judge Hand declares that “a depressant upon production which applies generally may be assumed, ceteris paribus, to distribute its effect evenly upon all markets” (Alcoa, Second Circuit, 1945: 444–445). From Judge Hand’s discussion of effects in Alcoa, we can both extract, and see the implications of, a jurisdictional rationality that differs from the one at play in American Banana. In the American Banana decision, federal government is about governing a bordered physical space: as such, US law can be extended to govern, and only to govern, acts taking place within that bordered physical space. In contrast, in the Alcoa decision, federal government is not only about managing a bordered physical space (although it certainly is that). Rather, because that bordered physical space is cast as coterminous 10 European Journal of International Relations 00(0) with a national economy, protecting that space involves protecting that national economy (including its components like imports, exports, and prices) as well. And given the ease with which economic effects are seen to travel across borders, a necessary means to the end of economic protection is the extraterritorial extension of US law. The centrality of the national economy to Judge Hand’s 1945 decision, and its absence in Justice Holmes’ 1909 decision, is not surprising: at the time of Justice Holmes’ decision, no such construct was imagined to exist. As Timothy Mitchell (2005a; 2005b) and Hugo Radice (1984) have shown, in the United States, it was not until in the 1920s and 1930s that new practices of accounting, measuring, and calculating “formed. . .the economy as a new object of professional knowledge and political practice” (Mitchell, 2005b: 126).8 The discipline of Economics was a particularly important site in this process: in this field, innovations (like the practice of national income accounting) and publications (like Keynes’ General Theory of Employment, Interest and Money) enabled the economy to, for the first time, be imagined as the “self-contained structure or totality of relations of production, distribution and consumption of goods in a given geographic space” (Mitchell, 2008, p. 1116; see also Radice, 1984: 121).9 Developments outside the discipline, including in the legal field, also played a role in enabling this imagining of the national economy. For example, in domestic “Commerce Clause” decisions in the first half of the 20th century, federal judges began to link and draw together transactions and processes (like production, distribution, and sales) that they had previously represented as separate.10 In addition, they began to consider the effects of previously “local” transactions on “national” economic indicators. These decisions paved the way for the Supreme Court, by 1942, to explicitly speak in terms of a national economy, which, in a series of later New Deal cases, it assigned to the federal government (rather than the United States’ component states) for protection and promotion (Wickard v. Filburn, US Supreme Court, 1942a: 125–126; A.B. Kirschbaum Co. v. Walling, US Supreme Court, 1942b: 520–521). Judge Holmes was unlikely to suggest that the federal government had the authority to extend US law abroad to manage the US economy because he was unlikely to think in terms of such an economy at all. And, as Miller and Rose (1990: 6) write: “Before one can seek to manage a domain such as the economy it is first necessary to conceptualize a set of processes and relations as an economy which is amendable to management.” By the time of Alcoa, however, “[t]he birth of a language of national economy as a domain with its own characteristics, laws and processes that could be spoken about and about which knowledge could be gained” had enabled that national economy to “become an element in programmes which could seek to evaluate and increase the power of nations by governing and managing ‘the economy’.” (Miller and Rose, 1990: 6)11 As such, in Alcoa, Judge Hand was able to allude to a national economy as grounds for his extraterritorial extension of US law. Delineating the US economy In the previous section, I identified a jurisdictional rationality centered on a national economy and demonstrated its importance in enabling the extraterritorial extension of US law in a particular, and particularly-important, case. In this section, I move from Irani 11 identifying a jurisdictional rationality centered on a national economy, to demonstrating that the legal authority of the federal government of the United States has come to be organized partly in terms of that national economy. By this, I mean that people, entities, and conduct are often represented in extraterritoriality decisions in terms of their relationships to a national economy (rather than in terms of their citizenships or locations): it is these posited relationships that justify their subjections to particular US laws. These relationships are not self-evident or pre-existing, although they are often represented as such by judges, lawyers, and rationalist scholars of extraterritoriality (Putnam, 2009).12 Rather, judges construct these relationships in their decisions, articulating some to and disarticulating others from, the US economy: these articulations enable their extensions of, or refusals to extend, US law. In this way, in deciding against and for whom to bring into play the very material force of US law, judges draw the jurisdictional boundaries of the United States. To clarify my argument, it is useful to return to Asha Kaushal’s (2015) discussion of the “inaugural” function of jurisdiction. To recap, Kaushal (2015: 782) describes the “second order manifestation of inaugural jurisdiction” as the “attachment of an individual, place, or event to a legal and political order”. This is not simply the attachment of an individual, place, or event to an unchanging order: rather, the very act of attachment transforms the order itself, modifying what it contains, where it begins and ends. Below, I show how judges, through their decisions, engage in the work of attaching some, and not others, to the United States: I further identify the shifting coordinates of the political and legal orders that emerge from these attachments and detachments. I do this through a comparison of two legal contexts: antitrust and employment/labor law. Several authors have pointed to a disparity in these contexts: US judges have frequently extended US antitrust laws to govern extraterritorial conduct, but have generally refused to do the same for US employment or labor laws (Putnam, 2009: 460; Turley, 1990: 601–602). I show how this disparity has been enabled by judges’ different articulations, in these two contexts, of particular people and conduct to the United States.13 In decisions in which they invoke the effects doctrine, judges have articulated people and conduct to the US economy in two ways. First, judges have represented certain kinds of actors, activities, indicators, and goods as themselves part of the US economy. They have usually done so implicitly, without defending their decisions about membership but simply casting such membership as fact. Second, judges have represented people and conduct “outside” the US economy as affecting those actors, activities, indicators, and goods that they have already decided are “part of” the US economy. Again, they have usually done so without much explanation, often simply characterizing certain kinds of activities as the causes or consequences of others. Occasionally, however, judges have supported their causal assertions by citing basic and commonplace notions about economic tendencies and rules, making repeated references to, for example, the “laws” of supply and demand (Alcoa, Second Circuit, 1945: 44–45). Although they “may or may not be empirically valid on their own terms” (Weldes, 1999: 13), these causal relationships are important: they work to relate the allegedly causal actors or activities abroad to components of the US economy, and so to trigger Congress’ authority to protect that economy from externally-originating harm. As such, these relationships serve as “warranting conditions” (Weldes, 1999: 13), enabling extensions of US laws abroad.

Taking each of these moments of articulation in turn. First, judges have cast very different kinds of actors as themselves part of the US economy in the antitrust and labor contexts, that is, they have represented the composition of the US economy very differently in these two contexts. In antitrust cases, judges have represented US consumers as part of the US economy, so that their losses can be seen as national losses, their gains national gains. So, for example, as previously discussed, in Alcoa, Judge Hand described the higher prices of aluminum to be paid by US consumers as “consequences within [US] borders which the state reprehends” (Alcoa, Second Circuit, 1945: 443, citations removed). In addition, judges have represented US importers, searching for commodities abroad, as part of the US economy, so that interference with their business would amount to interference with the US economy itself. So, for example, in Occidental Petroleum v. Buttes Gas Company (Central District of California, 1971: 102–103), a US District Court stated that one US corporation’s interference with another US corporation’s “business of extracting and importing oil into the United States” through acts in the Persian Gulf would affect US commerce in ways that would, in theory, justify the extension of US law.14

In contrast, judges have defined the composition of the US economy much more narrowly in employment/labor cases. In particular, they have failed or refused to characterize US workers located abroad as part of the US economy. For example, only 4 years after Alcoa, the Supreme Court in Foley (1949: 284) refused to apply a federal overtime pay law to the activities of Foley Bros, a US corporation, undertaking construction projects for the US government in Iran and Iraq: it refused to do so despite the fact that the employee in question, Filardo, was a US citizen. This refusal to cast US workers abroad as part of the US economy continued half a century later. So, for example, in 1991, in Aramco (US Supreme Court, 1991: 247–248), the Supreme Court refused to extend Title VII of the Civil Rights Act (banning employment discrimination on the basis of, among other things, race, religion and national origin) to govern the conduct of a US incorporated corporation in Saudi Arabia, even though the employee in question, Ali Bourselan, was a US citizen and the employment relationship had begun in the US In both these cases, there was no suggestion that the lost wages of US citizens, like the lost profits of US importers, might amount to losses for the US economy (despite the fact that US citizens are often taxed on their global earnings). Instead, in failing to mention or use the economic effects doctrine to extend US law in Foley and Aramco, the Supreme Court characterized the lost wages of US citizens as both localized and private, as theirs alone.

Judges have not simply represented the composition of the US economy very differently in the antitrust and employment/labor contexts. They have also represented the relationships between economic activities, markets, or indicators across national borders very differently in the two contexts. In the antitrust context, judges have emphasized the cross-border consequences of anticompetitive activities, linking activities in one state to economic indicators in others. In Alcoa, for instance, the Second Circuit (1945: 444– 445) connected the contract to limit production, signed in Switzerland, to prices in the United States: it did so by invoking an economic “law” that “a depressant upon production which applies generally may be assumed, ceteris paribus, to distribute its effect evenly upon all markets.” In contrast, in the labor and employment contexts, US judges have routinely cast employment practices and labor markets in different states as unconnected and distinct. For instance, in the Foley and Aramco decisions described above, the Supreme Court never explicitly entertained the possibility that wages, hours or discriminatory employment practices outside US borders could have any effects on workers within what it considered US territory, despite the fact that the practices in question were those of US corporations employing US citizens abroad.

The economic worlds described by US courts in the antitrust and labor contexts are very different. In the antitrust context, courts have painted a picture of a world in which economic activities are not contained by national borders. In Alcoa, the Supreme Court went so far as to entirely ignore such borders, never mentioning how US tariffs might affect the “laws” of supply and demand. In contrast, in the employment/labor context, as in Aramco and Foley, courts have failed or refused to draw connections between working conditions across borders. There are many such connections that could be drawn. For example, courts could presume that discriminatory employment practices of US employers, of the kind at issue in Aramco, could result in greater unemployment within US borders, as discharged employees return home. Or courts could presume, using an often-invoked “race to the bottom” narrative, that weak employment laws abroad would lead to unemployment or to the lowering of labor standards within the United States, as American companies relocate to states that offered the most to employers, or threaten to do the same. In cases like Aramco and Foley, either presumption would have suggested the existence of sufficient effects within the United States to justify the extraterritorial extension of US law. However, rather than make any such connections, which are surely no more speculative than the connections invoked in antitrust cases like Alcoa, US courts tend to represent labor markets in different countries as unconnected, as distinct.

Contrasting extraterritoriality decisions in the contexts of antitrust and employment/ labor law, we can see how US judges draw some into the reach of US law, and eject others from that same reach. Approaching the state as constituted by and instantiated in its jurisdictional assertions, these moves, when coupled with enforcement, can be understood as moments at which the state is brought into being in particular locations and at particular times (quite possibly, to move on again). These decisions can be understood as instances of boundary-making, as judges draw lines, in particular cases, between the inside and the outside. The above discussion shows that the resultant boundaries are not perfectly, or even roughly, coincident with the lines-on-maps that are often understood to mark the boundaries of US territory. Rather, it shows that the resultant boundaries are organized around the notion of the national economy, as the US state expands to incorporate those deemed to be significant, and contracts to eject those deemed unimportant, to that economy.15

#### Data, not antitrust, controls the free market.

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Surplus Derivation

“Data is the new capital asset of the 21st century,” announces Tom Wheeler, former chairman of the US Federal Communications Commission, commenting on the rise of Amazon over companies like Walmart.25 We can further extend this line of thinking to consider Facebook, Alphabet, and Twitter’s role in the Capitol riots of January 2021. Democratic members of Congress have suggested that the mayhem that day was driven by informational excesses, whose exploitation was responsible for simultaneously destabilizing the American political system and generating a huge windfall for the largest tech companies. According to Wheeler, such situations lay bare the inadequacy of old regulatory concepts for capturing new technological, social, and commercial realities. The regulation that Wheeler and others are accostomed to is based on “industrial antitrust, anti-centralization kinds of concepts.”26 What Wheeler suggests is that our contemporary situation in both politics and economy no longer functions according to the ideals of efficiency, energy, and scarcity that preoccupied industrial economies. Surplus data is the condition that Wheeler places beyond the industrial, and its paradigm is derivation. It was once the imagined limits to resources and energy that shaped industrial conceptions of efficiency, energy, and labor power.27 In the early twenty-first century, data capitalism changes this formula by putting the derivative before the source. Derivation takes the place of extraction, and where there was efficiency, there is now optimization.28

We glimpse the centrality of such inefficiency and derivation in the highprofile case of the r/wallstreetbets subreddit, whose members in January 2021 (and again in February and again in June) strategically bought up shares of dying brick-and-mortar companies, such as GameStop and AMC Theatres, which had high levels of short interest. These actions triggered a massive short squeeze that nearly drove some hedge funds, like Melvin Capital, out of business. The improbably parabolic price movement was made possible by ferreting out the unhedged positions of (ironically) hedge funds in the share interest data and mobilizing a vast army of traders invisibly in plain sight. What had come to feel like a guarantee of endless surplus to mega-money investment firms was, in a matter of days, undone by a data overload in the form of digital buy orders sent by retail traders on desktop and smartphone trading apps. The amount of trading data was so great that it created liquidity problems for brokerages, who decided to block buying of some popular meme stocks at various times. Conspiracy speculation took root on the Reddit boards, which then passed to mainstream attention and finally to hearings in Congress.

As this case demonstrates, the actions of the masses are now a resource for capital. Robinhood, a trading app launched in 2015 that advertises a dark utopian mission to “democratize finance for all,” offers commission-free trading and became the popular vehicle for the retail traders who joined the GameStop mania.29 But, as Richard Serra and Carlota Fay Schoolman contended in their 1973 piece, Television Delivers People, producing a statement that has since become a foundational principle of media studies: when something is free, you are not the consumer, “you are consumed.”30 And sure enough, Robinhood makes much of its money from selling traders’ order flow data to market makers like Citadel, whose CEO had invested $2 billion in Melvin Capital, the very hedge fund that was caught in the short squeeze. Beneath the David and Goliath story of Main Street investors sticking it to Wall Street villains was a more nefarious revelation that the real surplus at work in the meme stock affair was reaped as data that helped shore up the more traditional forms of surplus among big institutional firms that control the very contours of a supposedly free market. Moreover, the qualitative, affective response to such market dynamics, as recorded on Reddit and Twitter, have now become a tactical resource of hedge funds, who have learned to profit from even the best attacks against them. Quantitative trading algorithms analyzing massive amounts of social media data using advanced natural language processing are deployed to perform sentiment analysis and opinion mining. And so the cycle of surplus continues from data to affect to data, ad infinitum—each derived from the last with the derivative more fundamental than the putative source of derivation.

Surplus Politics

During the COVID-19 pandemic, an unprecedented portion of the population was confined to their homes, producing and consuming data in a state of hermetic globalism, straining the already overloaded bandwidth of global data transfer.31 On 6 January 2021, a group of right-wing supporters of Donald Trump attacked the Capitol building in Washington, D.C., fueled by the conspiracy theory of the group QAnon, a widespread online network surrounding a putative source high up in the “deep state” (the figure known as Q) and propagating racist, anti-Semitic, and xenophobic propaganda. As we see in Cullen Hoback’s documentary about the movement, Q: Into the Storm (2021), Q operates on the suspicion that the truth is in hidden byways of digital data, sometimes yielding deadly consequences. To witness Hoback accompany Jim Watkins—a businessman and the operator of 8Chan, the main platform on which Q, an alleged intelligence officer, posted his “drops”—laughing as the crowd breaks into the Capitol building is to see the conflation of the digital and the social all too directly.32 Q has created a semiotic world of clues that severs itself and its followers from the fabric of social reality altogether, gamifying it as Hoback suggests in a comparison to Cicada 3301, alternately characterized as an actual secretive organization or a fictional alternate reality game that has run complex digital scavenger hunts since 2012. 33 Q’s game indeed has rules, a perverse affective sense of fun, and easter eggs that provide domesticated surprise. QAnon’s slogan “‘do your own research’” might be taken as a command to surf your own surplus data channels.34And the Q movement has one thing right: data is worldly; digital channels do shape the world and are in excess of any heuristic intent. Events like the Capitol riot reify the data surround, among other things giving rationale to the increasingly datafied police to expand their quantitative vision.35 The events themselves are shocking and somehow predictable all at once: it is as though image boards (4Chan, 8Chan, 8kun) premeditate events by sniffing them out of the back alleys of data and insinuating them into reality.

This eruption of conspiratorial violence reminds us that data has inherited the legacy of biopolitics, particularizing its manipulation of society as a mass. As Rob Kitchin has argued, it is not just size that makes data big. Even speed of transfer and variety of format make up necessary but insufficient conditions for the revolution we were promised. Data deserving the name big also has to be “flexible” and “relational”—open to the inclusion of new fields—and, crucially, both “exhaustive” and “fine-grained.”36 The usefulness of data was traditionally attached to the precision with which it was gathered and defined. Sparse data, very exact, could create predictions to guide action by means of averages. The resulting categories, like those in an actuarial table, did not apply to individuals directly but at the level of the mass. This type of data was a crucial technique of what Michel Foucault called biopolitics, governance not of the individual body but at the level of generality. However, if biopolitics still relied on the assumed reality of demographic data, surplus data is something entirely novel. What was once a disjunction between individual and mean has become a partly automated loop between machine vision (or more generally, categorization) and its application to singular states of affairs. This logic stretches from FICO scores to healthcare data, from global logistics to finance capital.

Data has indeed become big and granular, and it has gained the ability to move from particulars to generalities and back again. Ecological fallacies emerging from large data sets now simply become new sources of value in both markets and politics. Without norms or quantifiable risks, we enter endless loops of uncertainty. David Bering-Porter, in his contribution to this issue, juxtaposes W. E. B. Du Bois’s data visualizations and speculative fictions with the famous case of Judge Schreber’s paranoid fantasies. Extrapolating into our present, we might imagine the paranoid conspiratorial politics of QAnon as occupying the space of paranoic dreams, ones of absolute counting, datafication, and control of the future, aspirations whose impossibility always drives violent forms of speculation and politics. But, Bering-Porter suggests, there are other pathways available. In the quantitative countermyths put forth by Du Bois to document racism in America, there was also an alternative aspiration “to reconcile the aims of visuality and data in two senses: as sight and apparition, evidence and aspiration.”37 Perhaps there is a future in which data stories offer evidence of a reality surplus data seems to foreclose in the present, the reality of the Black lives that Du Bois highlights and that have taken center stage in US politics today. It is the new task of a progressive politics to turn the endless extendable and colonizing frontiers of machine learning systems into something other than conspiratorial derivative instruments. In the surplus of data, any faith in the singularity of the real has been shattered—but these systems might harbor another way to encounter the world, one grounded in the experiences and data of the diverse multitudes. Our machines make technically visible what perhaps has always been there—the social nature of our technical lives. They need only be turned toward that future.

#### US-centered environmentalism has a long colonial history and excludes non-western perspectives

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A large portion of the work being done to forestall or minimize the damage of climate change is contained within the biological and environmental sciences. Ultimately, that climate change re-inscribes imperialism should be anticipated because of the link between conservation and colonization. The protection of America's wildlife and natural landscapes through the formation of the national parks is widely regarded as the beginning of the conservation movement. The creation of the national parks also coincided with the removal of indigenous Americans from those 'preserved lands' and their displacement onto reservations. As Mark David Spence illustrates in his book, Dispossessing the Wilderness: Indian Removal and the making of the National Parks, the foundation of the national park system was based on the ideology that presented the "wilderness as an uninhabited Eden that should be set aside for the benefit and pleasure of vacationing Americans" (1999, p. 4). This configuration of the national lands as uninhabited had one major flaw: the native peoples who "continued to hunt and light purposeful fires in such places" (Spence, 1999, p. 4). In order to fulfill the preservationist view, "the establishment of the first national parks necessarily entailed the exclusion or removal of native peoples" since "uninhabited wilderness had to be created before it could be preserved" (Spence, 1999, p. 4). Three of the major national parks—Yosemite, Yellowstone, and Glacier—had "policies of Indian removal" despite the fact that "each supported a native population at the time of its establishment" (Spence, 1999, p. 5). This treatment of the indigenous North American population is in line with settler colonial ideology. More insidious, however, is how this settler colonial project would begin global conservation efforts. The United States became a leader in conservation and preservationist efforts, and the national parks "as the grand symbols of American wilderness, the uninhabited landscapes preserved in these parks have served as models for preservationist efforts, and native dispossession, the world over" (Spence, 1999, p. 5). This further illustrates the ways in which modern understandings of environmentalism, preservation, and conservation have been shaped by colonialism—settler colonialism in this specific case. With the dubious imperial beginnings of conservation and environmentalism, it is not surprising that ecocriticism also has problematic roots. Nixon (2011) scrutinized the lack of international writers within ecocritical literature and found that the current slew of ecocritical work "tended to canonize the same self-selecting genealogy of American authors” (p. 235). He says that this made him realize "that literary environmentalism was developing, de facto, as an offshoot of American studies" (Nixon, 2011, p. 234). Missing, Nixon realized, were the voices of postcolonial literary scholars. He points to the example of Ken Saro-Wiwa, an "Ogoni author who was being held prisoner without trial for his environmental and human rights activism in Nigeria" (Nixon, 2011, p. 234). Even following his death, which Nixon (2011) claims makes him "Africa's most visible environmental martyr," Saro-Wiwa's writings were "unlikely to find a home in the kind of environmental literary lineage" that had formed in the American vein (p. 234). This is because "the environmental justice movement" has become a "branch of American environmentalism" (Nixon, 2011, p. 235). Nixon (2011) laments that this high potential "for connecting outward internationally to issues of slow violence, the environmentalism of the poor, and imperial socioenvironmental degradation" continues to remain marginalized (p. 235). By maintaining an American centrality in environmentalism, one based in racism and exclusion of indigenous people, it is almost impossible for environmentalism to resist its imperialistic underpinnings.

#### The ideology of water stewardship is techno-managerial – this is their view of waste management to protect the fish.

Aijaz and Akhter, 20 [Abdul Aijaz, Graduate Student in Geography studies, Majed Akhter, Senior Lecturer in Environment and Society, “From Building Dams to Fetching Water: Scales of Politicization in the Indus Basin,” 2020, MDPI]//Townes

The push for large dams has permeated everyday life in Pakistan and the ideology of water stewardship channels the affective, political, and economic energies of the state and the society to maintain the structure of hydrosocial relations that were inaugurated during the period of British colonial rule. If the prevalent water crisis reveals anything, it is the uneven distribution across different sections of the society. Considering unequal access and vulnerability to water related hazards as the biggest issue of Pakistan’s water sector, Mustafa asserted, “There is sufficient water for golf courses, lawns, ornamental plants, sugarcane fields, but not for poor people’s domestic needs, or poor and women farmers’ kitchen gardens and food crops” [57]. Instead of questioning the narratives that inform these unequal and unjust relations between different sections of the society on the one hand, and between the society and water on the other, the state and its colonial infrastructure of water management doubles down on its tried policy of a combined control over peoples and waters through “expert” knowledge and nationalist sentiment. The apparent depoliticization achieved in this process masks a politics of appropriation premised upon a knowledge system that allots inferior status to the place-based practices of water management and use. This framing contrives a complicated interplay of the politics of truth, scaler dimensions of water crises, and collective national development as the common goal to discredit the dissenting voices.

By setting up the dam fund, the judicial and civil bureaucracy along with the Prime Minister of the state have deeply politicized the question by taking most politics out of it and invoking narratives of inevitability and survival. Politics in the water sector has worked in sometimes paradoxical or unexpected ways. While the Pakistani state has invoked the political language of rights as lower riparian in its conflict with India, a similar acknowledgement of the rights of the lower riparian within the state—e.g., Sindh—have not been recognized [58]. Instead, the internal resistance is silenced by invoking technical discourses. The institutional practices of water management have been deeply impacted by these technical, managerial discourses since their inception within colonial hydrology. Local people are rarely consulted and their own knowledge of water and water resources are rarely taken into account. The political questions of distribution and rights are silenced with the language of efficiency and management imperatives. Resistance is countered with the narratives of inevitability as dams and a certain version of water development are invoked as matters of life and death of the state and society.

Water in the Indus basin has been perceived as more than a mere calculable, passive resource that is devoid of history [59]. On 31 October, the Chief Justice of Pakistan overturned the death sentence of Asia Bibi which invoked protests throughout the country, bringing it to almost a standstill within one day. Asia Bibi, a local Christian, had dared to drink water from the same cup as her Muslim co-workers, who did not like sharing pots and pans with Christians who are generally treated as untouchables in many parts of Pakistan. The small feud resulted in the Muslim women accusing Asia of blasphemy; she was then sentenced to death by the local court. When the governor of the province Salman Taseer tried to help Asia Bibi by pointing out the colonial nature of the blasphemy laws and vowing to defend her case in the court, some hardliners of the Muslim community in the country turned against him. Several fatwas or religious edicts were issued against him declaring him wajib-ul-qatal (“deserving of death”) and demanding he be killed. Encouraged by these pronouncements, the governor’s own bodyguard assassinated him in broad daylight on 4 January 2011. Arrested and later sentenced to death by the court, this bodyguard, Mumtaz Qadri, is now celebrated as a hero by certain sections of the Muslim community in Pakistan. Just a few weeks before the verdict on Asia Bibi case, the Chief Justice had set up a dam fund while vehemently rejecting the politics involved in water and terming dam fund critics as traitors to the national cause. By invoking the water scarcity narrative at the national scale as a question of collective survival, he could conveniently overlook the “storm in a cup of water” which resulted in the killing of a governor, the death of a “hero”, many public protests and losses to the economy, and its reverberating influence on the terms of public debate in Pakistani society.

Even as the state understanding of water as a quantifiable and depoliticized entity has been the dominant (but contested) force at the scale of regional and international water politics, this story of fetching water shows the real efficacy of a different type of water operating at a different scale.

Treating water as free from cultural and historical context is a convenient discursive strategy, but it does not erase the social imbalances, power hierarchies, and asymmetric vulnerabilities across lines of gender and community that mark the social landscape in Punjab. These political tensions and fractures that mark the society cannot but enter the hydrosocial web of relations that impact not only national politics and economics, but the domain central to social reproduction: the everyday and the domestic. Water is a material that connects all the various domains of social life, and yet is inevitably approached in inherently pluralized and uneven ways. From international geopolitics to the cultural politics of fetching water, there are many water worlds that present challenges to state efforts at depoliticization [60].

5. Conclusions

This paper presents a periodization of the historical geography of the Indus waterscape. For more than a century, various state authorities have attempted to know and transform the Indus as a quantifiable natural resource. This understanding of the Indus assumes that knowledge of nature is separable from the political domain. State experts have been at the center of large-scale infrastructural transformations of the Indus. However, attempts to depoliticize the Indus through state-backed expert knowledge encounters, as delineated in this paper, challenges to repoliticize natural resource governance. This is because water is known and understood by large sections of society as not simply a quantifiable natural resource. Instead, water is imbued with political, economic, and cultural meanings that vary over space and across scale. Water is imbued with what Rizvi [61] has called a “moral ecology”.

We introduce this paper with two images of hydrosocial politics operating at two seemingly very different scales: the dam at the scale of national politics and the well at the scale of everyday domestic social reproduction. As stressed above, however, the effort to build the dam has stretched into millions of everyday lives—and the communalized politics of fetching water at the village scale has had national and international implications for Pakistan. Water politics thus cuts across and through scale. What cannot be missed across these scales however is the social and spatial struggle that revolves around a politicized understanding of water. Focused mainly on the regional and international scale, our periodization of the historical geography of the Indus tries to show that state-led attempts to depoliticize water have always led to political struggle and pushback by actors insisting on water’s repoliticization. This dynamic, between politicization and repoliticization in the water sector, exists across a variety of political regimes: colonial/post-colonial, and civilian/military in the post-colonial period.

The focus on scales of politicization and repoliticization thus goes beyond shifts in political regime to shed light on a deeper dynamic shaping the historical geography of the Indus waterscape. This dynamic is thus shown to exist in a mode of knowing water exclusively as a quantifiable resource, and thus as best managed by experts, engineers, and technocrats. Just as this dynamic spans major divides in the political periodization of the Indus, it also moves across scales and social domains. While we provide a broad overview of connections across periods and scales, much more work is needed that connects the scalar and cultural dimensions of water politics. This is especially urgent in waterscapes such as the Indus, where the engineered basin is absolutely central to the lives, livelihoods, and future of so many.

#### The World Computer superimposes a failed imagination of risk arbitrage onto society that will cause extinction.

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Finance, in a sense, represents capitalism’s form of partial but functional self-awareness. Of course, capitalism is not a living human being capable of self-awareness. Yet it is a system that, increasingly globally, is replete with autonomous feedback mechanisms, ways of knowing the world.

For Hayek (2007), perhaps the most brilliant 20th century capitalist theorist, free markets ideally represent a uniquely perfect knowledge systems. For Hayek, markets operate as price discovery mechanisms where competitive bidders collectively determine the true value of commodities, otherwise unknowable to any single actor. In this sense, markets are, writ large, as Beller (2021) suggests, a kind of world-encompassing meta-computer, constantly calculating (though a million independent, competitive bets) the world. In Martin’s (2015) reading of Hayek, capitalism with advanced financial markets is not only the fairest system, but also the truest. Though no individual can “know” the sublime market (and, indeed, failure to perfectly know the market is what, ironically, drives the differential behaviour of market actors of which the market is composed), the market has a kind of perfect, superhuman knowledge of the world.

In a similar but distinct fashion, and from the opposite side of the ideological spectrum from Hayek, Marxist geographer Harvey (2018) proposes that financial markets represent the central nervous system of capitalism. Financial markets, writ-large, take in market signals from around the world and, in response, send out prompts for investment and divestment, a process exacerbated and accelerated by recent advances in computing and telecommunications technology. Financial firms compete to study and evaluate firms, industries, sectors and whole nations, the better to speculate on their future fortunes and thereby determine where to advance or withdraw capital. I have suggested that, in contrast to the “central nervous system,” the metaphor of imagination may be more appropriate because it connotes the chaotic, conjectural and hallucinatory aspect of finance’s reckoning of the world (Haiven 2012). Approaching finance as capitals’ imagination also helps bring into focus the way that financial speculation relies on a multitude of acts of the individual human imagination, a position echoed by Beckert (2016) and Komporozos-Athanasiou (2021). My approach builds on Castoriadis’s (1997) framework which frames the imagination not as an individual quality of mind but as a material social force from which the institutions of social reality are crafted. In this sense describing finance as capital’s imagination seeks to identify the process by which it comes to understand and shape the world.

If finance represents capital’s means of self-reflexivity, then this imagination is constantly failing to accurately measure the meaningful value of things. It suffers from a debilitating and destructive solipsism, within which all worldly things are imagined exclusively in terms of risk, yield, and speculative profitability. It’s not simply that Financialized markets are constantly misvaluing stocks, bonds, derivatives, currencies and other assets; this is already part of the system: the failure of accurate measurement is key to many bedrock financial activities, like arbitrage. More importantly and damningly, financial market’s failure to properly imagine and value the world also jeopardizes human and environmental rights, communities and even the future of humanity itself. Functionally, it necessarily places the speculative concerns of a handful of major financial firms over material needs of millions, even billions of people. The financially-driven market’s imagination of the world is a fundamentally skewed one, but its power is such that, increasingly, the world is cut to measure its skewed imagination.

There is another, deeper failure of the imagination inherent to this situation. Financialization depends on most social actors, including notably those with political and economic power, internalizing finance’s imagination of the world and making it their own, the better to compete in a world financialization is creating. Frequently, major political and economic decisions are made based on a sense of inevitability, fatalism or a sense that no other options are possible, representing a profound failure of the imagination.

In sum, to identify finance as capital’s failed imagination of the world is to identify financialization’s reliance on the transformation of the human imagination, but also to contend with it as the means by which the system gains some measure of associative reflexivity. It’s not simply that how capital imagines the world is objectively wrong. That may be the case, but more dangerously still, its power is such that this mismeasured world in then instantiated in reality thanks to finance’s economic, political, social and cultural power.

#### The alternative is refusal – this will produce a form of derivative communism. Its try or die – cap causes Armageddon.

Beller 21 (Jonathan Beller = Professor of Humanities and Media Studies and Critical and Visual Studies at Pratt Institute, “Introduction:  The Social Difference Engine and the World Computer,” in *The World Computer: Derivative Conditions of Racial Capitalism*, Duke University Press, pp. 183-189 BEH)

Given the sea change in the nature of **languages and images** themselves— their wholesale transposition and transformation from a means of **representation to a means of production**— the difficulty here is both with the substrate of communication (its bits) and with the us- versus- them perspective: we want to ban advertisers, but today we must also confront the disturbing possibility that we are them. Remember, “they” **program** “our” language and “our” imagination, “we” speak **“their” thought**— indeed, that is our work, or rather our labor. What to do with the fact that “we have seen the enemy and he is us?” One could say, one could want to say, “I don’t care who you are: if you live in the first world, if you live in the Global North, then fuck you! You ain’t no victim, even if you’re sick.” But who would be saying that? Probably some other Northerner, writing about how culture or the Venice Biennale, as if it were, could or should be more than a lavish spectacle of global suffering staged for a cosmopolitan elite. As capital’s nations, banks, armies, schools, languages, newspapers, and films did to its colonies and colonial subjects, the current **institutions from states to computer**- media companies do to “us”: they command us to make ourselves over **in capital’s image** for their own profit through networked strategies of **expropriation and dispossession**. “We” do it to ourselves, and our representations of **self and other are designed to sell** a version of ourselves back to ourselves so that we can perform further work on what is now the raw material for the next iteration of images. Therein lies our ontological lack, an ontological lack of solidarity and of even the possibility for solidarity. Therein lies the desire for and indeed necessity **to become a plantation manager** — the word is overseer. Though it is beyond the scope of this essay, this digital neocolonialism that practically commands global Northerners to in one way or another accept Nazism and genocide with their cappuccino could be understood as being on a continuum with the internal colonization of Europe by the German banks— which depends of course on the **distributed production of a kind of neoliberal “realism**” that Mark Fisher (2009) called “**capitalist realism,”** and was only ever a hair’s breadth away from fascism. This fact of our investment in and by advertising, the conversion of the sign to what I call the “advertisign,” poses a genuine problem for theory— indeed an unprecedented one. This problem is particularly evident considering the material conditions (class, nationality, education, race, language, et c.) of the participants in the would-be counterhegemonic theoretical discussions of culture and policy that presuppose the books, computers, schools, and institutions that sustain these. Those within the circuit of these discussions have already passed through a homogenization process which **programs them in compatible systems languages**. **Without submitting ourselves** and our own aspirations to radical critique, without conducting a Gramscian inventory of our ostensibly internal constitutions, we run the risk of merely trying to set up a **competing corporation** with a new business model. The revolution will not **be televised**; decolonization **will not be a brand.** Any would-be anticapitalist “we” runs this risk of coopting and cooptation from the get-go, particularly if it does not think about the materiality of **social production** from top to bottom: class, yes, but also race, nation, gender, sexuality, ability, geolocation, historical stratification. The world’s postmodern poor, the two billion– plus living on two dollars a day, also lab or to survive in the material landscape organized by the post- Fordist social factory its **anti- Blackness, its Islamophobia, its endless and mutating racism** and imperialism. However, from the standpoint of capital, **the role of those at the bottom is to serve as substrate** for image- production and semiosis; not only in factories, cottage- industries, subsistence farming, and informal economies, but also as starving Advertisarial Relationshordes; “irrational,” criminalized or surplused populations; subject- objects for policing, encampment, and bombing; desperate refugees; and even as voids in the idea of the world—as sites of social death. Forgive me, but I’d wager that no one capable of understanding these words can claim full exemption from the indictment they issue regarding structural complicity with the production and reproduction of everyday life. Humans **are troped (via discourse and the screen) to organize military production**, national policy, internment camps and prisons, bourgeois imaginations, museum shows, corporate strategy, and market projections. Let us clearly state here that **any program** that does not admit this excluded **planet into dialogues** **that vitiate** the **monologues imposed by capitalist** informatics and advertisigns is still floating in the realm of the ruling ideas **and therefore participant in murder.** These ruling ideas are the ones whose density and weight, whose material support and very machinery, threaten to further crush the late- capitalist poor out of not just representation but out of existence. This erasure and disposability, imposed by systems of informatic inscription designed to absorbe very output of sense, is the achievement of the advertisarial relations endemic to computational racial capitalism. When information is an advertisement for itself that presupposes the operating system of the world computer as virtual machine, **banning what we recognize as advertising on the internet, even if an excellent beginning,** is just not adequate to address these issues of representation, social justice, planetary and climate racism, and emancipation. To summarize: the forms of sociality which are the conditions of possibility for the online, informatically organized r elations— best characterized as advertisarial — run through e very sector and register of planetary life. The internet, while recognizable as an effect and a cause of the current form of **planetary production and reproduction**, cannot be considered in isolation as a **merely technical platform or set of platforms if its historical role is to be properly understood.** To take the internet as an autonomous technological force results in a species of platform **fetishism that disavows both the histories and material conditions** of its emergence, conditions that are, in short, those of screen culture and racial capitalism; this is to say that it, the internet, is the very means by which the capitalist suppression of global democracy (which is emphatically, economic democracy as well) has been accomplished and continues. If the internet is autonomous, it is because it expresses the autonomization of the value form. As noted previously, **with the hijacking of communications** and **semiotic infrastructures** by racial capitalism, the medium is the message and **the message is murder.** To ban advertising on the internet would be a good start— but what if the whole thing is advertising? **One reading of** what I have said thus far might suggest that, giv**en the expropriation of the cognitive- linguistic, our volition is overtaken by capital logic;** and given our inability to cogitate in any way that is genuinely resistant to capitalist expropriation, coercion, strictly speaking, **is no longer necessary to impose cooperation for capitalist production.** We “want” to cooperate productively, our desire— which, from the dispossession of even language and mind constitutes ourselves as subjects in the media ecology of the capital is t technical image, that is, in and through the organization of digital information—**is itself an iteration of capital, a script of becoming predestined to become capital**. The old language scored by the new image machines and their extractive algorithms locally organizes cooperative subjects who want to cooperate with vectoral capitalization. **We want to provide content in order to derive currency and survive.** Our solidarity on the internet produces more internet. Thus, in a certain way— and particularly since **we no longer properly have any thoughts of our own—we all collaborate in a world organized by images and screens, thereby participating more or less mindlessly in the seamless realization and triumphant apotheosis of the programming business.** However, I am sorry to have to report that the dystopian vision **here is not quite as bucolic as even this** already dreary picture of unwitting and irredeemable pulverization and servitude. While I do see that representation and semiotics have been increasingly flattened à la Orwell and Marcuse by a vast internalization of the apparatuses of oppression ( in which “**thought” is the** [productive] thought **of the [capitalist**] Party and “**repressive desublimation**” is an engine of capitalist- fascist **production)** the “old problems” like the hierarchy of class have not gone away; neither have racism, sexism, homophobia, transphobia, ableism, and fascist nationalisms ceased playing their roles to create vectors of privilege for white male– identifying aspiration. Indeed, most thought today, such that it is, is all about maintaining hierarchical society. **The thinking runs thus**: capital is nature, capital is eternal, capital is information is nature. Or, in a more pedestrian mode: **human beings are naturally acquisitive and competitive**, economic growth and technological advancement mean progress, **this tech provides**, **or almost provides,** a color- , gender- , and religion- blind society, and so on— and one must advance one’s place in it by any (crypto- or not- s o- cryptofascist**) means necessary.** Of course, there exists better thinking out there. Mia Mingus: “As organizers, we need to think of access with an understanding of disability justice, moving away from an equality based model of sameness and ‘we are just like you’ to a model of disability that embraces difference, confronts privilege and challenges what is considered ‘normal’ on every front. We don ’t want to simply join the ranks of the privileged; we want to dismantle those ranks and the systems that maintain them” (Mingus 2011, cited in Puar 2017: 16). However, there is **broad- band, ambient programming that facilitates assuming neo- liberal** and full-on **fascist subjective sovereignty**. This programming seeks triumphant brushes with plenitude (communion with the big Other, as distinct from the racial or otherwise other, becomes the ego- ideal) , and this same programming is violent, competitive, hateful, mean- spirited, and alienating when embraced—at the same time that it is also cooperative, simpering, and abject. Servitude, even when automatic and mostly unconscious, is unhappy and, as we can see any day from the daily news, utterly pathological and sick. Of course, this diagnosis represents a huge generalization, but despite its broad-brushing lack of subtlety we may find that such a schizoid oscillation between entitled adjudicator and abject supplicant sums up the contours of your average reality televisions how or comments section on YouTube. It is Bateson’s (2000) and Deleuze and Guattari’s (1977) schizophrenic, caught in the double- bind, who has become the capitalist norm— the one who struggles to negotiate in the form of contradictory signals the aporias of hierarchical society, while reproducing it, and all the while experiencing their own psychic dissolution as an injunction to create. 3 With this schizoid capture in mind, let me then develop my question about the internet— “ What if it is all advertising?”—in the framework of post- Fordist production. The argument is that, in the context of virtuosity and the expropriation of the cognitive- linguistic by computational racial capital, sociality itself has become advertisarial, a ceaseless waging of capitalized exploits designed to garner attention and value for oneself and one’s capitalistic. This situation represents— indeed imposes— a derivative logic, a logic **in which every action** is a hedge, a kind of risk management devoted to maximize a return. In addition to the fractalization of fascism, in which agency is manifest as a profile that has aggregated the attention of others, advertising has worked its way into the sign itself, into the image, and into data visualization, and it has generated the advertising . All signs become points of potential cathexis, derivative positions on the underlier that is social currency and ultimately value. This new type of sign is not simply the brand but also an element of vectoral language (Wark 2007): functionalized words in a production channel, engaging in the micromanagement of desire, the production of new needs, and the capturing of the imagination, all in order to induce linguistic and behavioral shifts in the attention of others while aggregating their attention for oneself— t urning their heads with an interface. This combination of the manipulation of market conditions (that is, everyday life) through techniques of risk management is no longer merely the province of advertising but of so- called tuman interactivity 188 Chapter 4(what was once just communication and before that culture), now become adversarial through and through. From Smythe’s claim in the “Blindspot” essay (1977) that all leisure time has become lab or time, to Virno’s (2004) notion of virtuosity, we have seen aspects of this model for the capitalist overdetermination of apparently unremunerated time before. However, here— with the financialization of expression—we clearly grasp that the financialization of everyday life means also the convergence of semiotics and financial derivatives. Given the thoroughgoing intensification of vectoral, and in fact matrixial, signs, we need to investigate its implications in the context of a discussion of radical media practice. I will make two additional points here before shifting gears and turning at the end of this chapter to what I identify as an aesthetics of survival—an aesthetics that emerges from within the matrix of adversarial, schizoid capture. The final chapter of this volume will endeavor to extend aspects of such socio aesthetic forms, those resistant to computational racial capitalism, to new notions of radical finance and the possibility of platform communism. If, as was already becoming true in the cinematic mode of production, the dominant means of representation have become the dominant means of production, the questions of and models for political agency are radically transformed, and the urgent need to decolonize communication and decolonize finance presents itself. Future communication will require a cybernetic approach, and, as wes hall argue, this cybernetic approach will necessarily be financial, though it will be reaching toward a different order and different mode of production. Like communism, because it will need to be communist, it will see economic transformation of the material relations of production and reproduction as essential to the revolution. It will draw on the repressed and extracted cognitive- linguistic resource of the racialized and other wise marginalized and configure ways to make our voices matter both as meaning and as tools for the reorginzation of the material world and the social relations therein prescribed. Language and images are neither inside nor outside; they are part of the general intellect— currently they are at once media of thought and of capital. We also know that languages and images are not isolable, meaning that they are not and have never been stand- alone entities but rather exist in relation to their media, their platforms, which are again inseparable from society and its institutions. Furthermore, each platform relates to another platform. Paraphrasing McLuhan, we could even say that the “content” of a media platform is another platform. Thusly the general intellect is inseparable from its media platforms and their financials. We see that the general intellect, once largely held in common, is increasingly being privatized; the very media of our thought belong to someone else . This expropriation of the media commons is precisely the precondition of the real subsumption of society 189 Advertisarial Relationsby capital. It is an extension of the ongoing expropriation begun by primitive accumulation and money as capital, and it has been accomplished through the financialization of media as platforms of extraction. The ramification of mediation by computation and information has resulted in its convergence into formats offering derivative exposure to underliers that are the expressive vitality and futurity of our communication. We therefore no longer have any organic relation to the materials for thought itself (sincerity has become a myth, at least in the medium- term of most circles)— t he words, images, and machines we require to think, to express ourselves, to interact, and to know have been ripped from the species and privatized via the longue durée of dissymmetrical exchange. We work on the words and images, but as numbers they belong to someone else. The media themselves have become forms of capital— forms of racial capital— and our usage of these media means that we work to add value that valorizes capital, for the capitalist and within a relation designed as much as possible to guarantee that our creative acts necessarily occur as dissymmetrical exchange with capital. I write this book in a discourse that does not just not belong to me because it is shared, but in a discourse that is increasingly the property of a set of institutions— publishers, journals, universities— that all have their eye on the bottom line. The means by which we most intimately know the world, ourselves, and our desires (our images and words) are themselves vectors of capitalization intent upon converting our very life- process into surplus value (which is to say value for capital). We need strategies that will seize the means of production and create a reverse subsumption of affect, intellect**, knowledge**, **capability, communication, and community.** When all media have converged as economic media, it is **economic media that must be re- engineered**. When all media have converged as economic media, it is economic media that must be re- engineered. Again, I think this subsumption of cognitive and affective capacity, the quasi-automating (scripting) of productive labor for capital, is what Stiegler means by the proletarianization of the nervous system—which would include the proletarianization of the pathways of feeling and thought. Our affective capacities are put to alienated and alienating work in the social factory, and their product too is alienated, producing ever-intensifying and ever-accumulating dispossession and disempowerment as the dialectical antithesis of its simultaneous production of unprecedented wealth and power for the cyborg avatars of the great media conglomerates. Intellect and emotional intelligence, the product of thousands of years of species- becoming, is being strip-mined so that extraction machines may continue their furious innovation to further discount people. I write this book aware of the pressure to think it just right, to at once extend thinking in order to command attention and produce new needs, but also to delimit it, to control myself, and to put the reins on whatever counterpower may rage within my body, because academia can tolerate only so much “bullshit” and no more. Yes sir, I’ll be careful not to cross that line, but a word to the woke: the bullshit is the best part. From a historical perspective, this encroachment on the means of representation—that Banksy and I and a billion others join the silenced majority in opposing—indicates that the individual subjective agent, itself a platform for sociality that developed with the rise of capitalism (as the subject who relates to other subjects in the market, the bearer of the commodity and thus its thought), is nearly **defunct.** As has been noted previously, in a world where life processes are stripped, ripped apart, rebundled, and sold as derivative exposures, the individual subject is an outmoded technology despite the fact that it still appears as a skeuomorph in certain updated technosocial apparatuses—like the latest forms of films, games, influencers, and versions of national politics that proffer invitations to momentary individualistic identification for the dividual purpose of providing a sense of familiarity and orientation. While palliative for some in small doses, such individuality is no longer a viable (which is to say, sustainable) fantasy. The real thought is that of the infrastructure, of the AI that codes our meat and scripts our sheets. Sure I take up the mantle for a few moments each day to appear as the agent of this text, suiting up as the operator of an intellect that might be adequate to the informatic shit-storm of racist, capitalist, imperialist, patriarchal, for-profit assaults, but then I drop off into an ocean of petty concerns, food shopping, and home repairs. And even when I say “I,” to perform as the nexus of all this insight, I also know that it’s hardly me talking. I’m just curating at the gates of shit that needs to be said, and hopefully titrating to let the right stuff through. That’s part of my politics though Dog knows that I could create a more lucrative named-professor type profile with just a little more discipline, a bit more self-interested adherence to the protocols of the academy’s factory code. Instead, there is the effort to overturn, to be or at least to live something beyond being the scribe of the world computer, to at once witness the drama of the emergence of the intelligence of commodification, testify to its outrage, and intimate the possibility of its overthrow. Such would be the art of this text, practiced at the limits of disciplinarity and of subjectivity, guaranteed by nothing and no one. The expiration of the subject form, imminent since the subject’s first intimation of mortality—and made structurally mandatory by Freud and especially, with the full-blown rise of the sign at the moment of it radical marginalization by visuality, by Lacan—is not necessarily a cause for lament, despite the increasingly intense fading of its incalculable beauty, its sad reduction to cliché. From a political perspective, it means that within each concrete individual body the presumed continuity of the individual is riddled with contradictory and indeed unassimilable indicators; it means also that there exists in differing quantities and qualities capitalist and noncapitalist striations or sectors. Hallways of emptiness, but also hallways of love. Like bundled assets, the mind-body is tranched by executable logics organized by a calculus of risk available to investors. There are, to be a bit simplistic, **aspects of desire that are** programmed (indeed farmed) to produce practices that function in perfect accord with capitalist accumulation strategies (individualizing or schizoid) and aspects of **desire that are atavistic or collectivist**, utopian, communist, or maybe even just plain lonely, and, in short, subprime. In reality, of course, desire is more singular than even such formalizations might indicate. Insert your favorite snippet of poetry here. Hortense Spillers in “All the Things You Could Be by Now If Sigmund Freud’s Wife Was Your Mother” (1997) invokes “the Dozens” and the music of and like that of Charles Mingus (152–3), to make present an “interior intersubjectivity”(140) testifying to the rich unaudited psychic life of what might today be called Blackness. There are vast resources beyond the easy resolution of hegemonic hermeneutics whether deployed by institutionally validated psychoanalysis or compressed by current systems of informatic extraction. In agreeing with Freud that consciousness makes up a small part of mental life when compared to the preconscious, the unconscious, dreams, and so on, but in rejecting the normative assumptions and disavowals (including his own Jewishness) that situate Freud and the psychoanalytic discourse that will become part of European and U.S. bourgeois society, Spillers recognizes a vast store of mental life and the possibility of listening anew. However, when speaking of politics now, we therefore necessarily speak of the abstract forms available for the conceptualization and deployment of concrete emergences whether referring to haecceities that are innumerable or collective forms of existence and psychic life actively mediating between “the one” and “the ‘masses’ ” (141). Let us listen anew. Acknowledging that we ultimately and if possible immediately want to “marry our thought” (Wynter 1994b: 65) to the wealth of subaltern forms of life and the care of the bios, allow me then to put the situation of the post- Fordist subject thusly: in Imperialism, the Highest Stage of Capitalism, Lenin (1939) showed how imperialist dividends complicated class issues in England, since many people, otherwise part of the working class, got a share of the dividends of imperialism by clipping the coupons of their investments in racist, exploitative British enterprises across the globe. Today this race-based class fractionalization is fully internalized in the Global North; on our iPads built by Chinese slaves from blood metals extracted from the Congo, we may momentarily feel like biomorphically unmarked nobles in the global cosmopolis; while on the job market or when simply seen in our raced and gendered embodiments, we are abjects. Materially and intellectually we are nodal points on a global network. The signal oscillates between narcissistic megalomania and utter abjection and can be affected by a billion parameters taking us from melancholia to outrage. **Thus, even the concrete individual is composed of class fractions, race fractions, gender fractions.** In the form of signs, we clip coupons that validate our investments. The language of object-identification, we observe here, cannot really keep up with the fluctuations resulting from the throughput of code as we work to identify and disidentify our agency. Can we audit a different mode of emergence, a different futurity than one inexorably overcoded by capital? Of course this is still somewhat simplistic and also class-specific, as many (billions even) never get to participate as an enfranchised global citizen in any aspect or moment of life, even if the lived experience of these same billions is radically overdetermined by the class(es) from which they are excluded.4 The gilded poverty of the enfranchised, as opposed to the mere poverty of the rest, is now a measure of connectivity. A more complete view is that we are the product of the world system and thus everything we are has been produced vis-à-vis globalization, and therefore everything bears the trace of the system in its entirety (again, in varying proportions). This conceptualization of concrete individuals (bodies) as global communitarian products forced to varying degrees into templates of individualized risk by capitalist states, is not to erase class; however, it suggests that, just as Fanon saw the great European metropoles as the product of third world labor, we are all products of the worst conditions prevailing in the Global South and around the planet. Global inequality is internal to **our being**. It is us. How then does one (such a one who is relatively enfranchised by the derivative language of texts such as this one) inventory those relations and produce them as formations of solidarity rather than as disavowed residuum? Is there another data-sphere, a communist one? Can we build communist interfaces, networks, **and finance?** How would **we register,** track, amplify, and render actionable the communitarian affinities, **solidarities, obligations, and debts**, the resources in the wake of too many genocides to count, that in actual practice **underpin the official economy,** collective life, and whatever authentic hope is left to our species? Perhaps we have arrived at a question worthy of theory: Is there, could there be communist algorithms? Communist derivatives? Derivative communism? We are looking for that path. To add to my point about the shifting, distributed character of political actors—that goes so far as to suggest that we can no longer think only of actors but rather must think of vectors and fields in addition to thinking of the resources developed in cultures of survival—I will make a second observation. **A political intervention** in the advertisarial relations that have this planet heading toward environmental doomsday requires not only revolutionary policy but revolutionary culture. (I defer further discussion of a third requirement, revolutionary finance, to the final chapter.) This culture must take into account that, for many on this planet, Armageddon is not the future but an **ongoing constant**. My call here (which should not be entirely unfamiliar, as it gives petit bourgeois intellectuals something important to do) is to (re)politicize semiotic and affective structures and practices, including and perhaps especially those we might control, for example our own utterances—our expression. Of course, to call them “our own” seems to contradict what I’ve said about the expropriation of the cognitive- linguistic and the intensification of aphanisis by visual, verbal, and digital media derivatives, but it is here precisely that we confront one of the significant material contradictions of our time: who or what speaks in us? This question, which I shorthand using the phrase the politics of the utterance and which you can experience palpably right now (as you endeavor to think), seems to me to insist that **our idea-making** must actively produce its solidarity with the dispossessed. We must struggle for the **radical constellation.** The question concerning the politics of the utterance, asked here in a strange passage of this text through a beyond-academic terrain, a moonless forest the traversal of which may or may not at this point lead us back to the plot, also raises the question of becoming, as well as the questions of agency and of action within the capitalist image— programmable images, racializing and racist images that, in the terms we have set out, are functionally omnipresent. Continuous media throughput has generated a capitalist imaginary structuring both language function and imaging processes, coordinated at scales and by calculative logics that exceed individual comprehension. Though the occasion is upon us, **we must struggle for space and time to think. We must** open a spread on which to bet against the dominant order. We glimpse, and we feel, that to insist upon the unremitting relevance of both culture-making and of cross-cultural transnational solidarity helps **to avoid platform fetishism** because it sees the internet and its machines not as a set or collection of autonomous technologies but as a historically emergent system of value-expropriative communication and organization, built directly upon older but nonetheless contemporaneous forms of inequality, including but not limited to historically emergent techniques of gendering, racialization, and imperialism, and embedded in the living flesh of the world. All of this calculative interconnectivity and networked agency implies, contradictorily, in fact, that the internet is not all advertising—but neither is advertising all advertising. It is also murder and struggle. Banksy knows that. The advertisarial relation is the programmatic relation encrypted in the apparatuses of capital: the war of each against all, taken all the way from finance, computation, and surveillance to the speech act and the imagination in accord with the autopoietic algorithm of the distributed Leviathan. Marx himself saw capitalism as vampiric, and today’s processes of **capitalization are even more totalitarian**, more widely distributed, and more blood-, life-, and indeed soul-sucking than even in prior eras—though such comparisons **don’t do those killed by past iterations of capitalism any good.** Despite the disavowals to the contrary, we recognize that capital needs labor, needs metabolic time more desperately and more voraciously than ever before (what else is biopolitics?) and, furthermore, that it wages war on life-time on all fronts, in order to secure labor power, its product and basis, at a discount. The pyramids of inequality become internal fractals, and even as the base broadens, the tip with the all-seeing eye (that is not a subject) ascends ever higher. **We do not** yet **know what can be destroyed** or indeed built with the massive appropriation of Banksy’s rocks, but we do know that at present **there is** total war against our using them to build anticapitalist, nonhierarchical, horizontal, solidary sociality. The refusal or détournement **of capital’s encroachment** **is** itself a creative act. Perhaps we have only **begun to glimpse what** a total **refusal might achieve.**

## Case

### 1NC---Waste Advantage

#### 1---Vote negative on presumption — “Big Waste” is already able to be prosecuted, and is being prosecuted right now — their own evidence concedes state courts have already ruled against Waste Management, giving plantiffs standing against Big Waste

1AC Christensen ’21 — Dan Christensen (Write, Florida Bulldog); “Judge: Evidence shows Waste Management had ‘anti-competitive goals’ and ‘lack of business ethics’;” Florida Bulldog; August 24th, 2021; <https://www.floridabulldog.org/2021/08/evidence-shows-waste-management-anti-competitive-goals/>

[TITLE]: Judge: Evidence shows Waste Management had ‘anti-competitive goals’ and ‘lack of business ethics’

A Broward judge has ruled that Davie businessman Ron Bergeron can seek punitive damages against Waste Management and LGL Recycling, a company controlled by Palm Beach trash kingpin Anthony Lomangino, for allegedly conspiring to ruin his flourishing recycling business.

“Bergeron has complained throughout this litigation that it was Waste Management’s plan to put Sun Bergeron out of business as its competitor (and destroy Bergeron’s interest in it),” wrote Broward Chief Judge Jack Tuter.

“The evidence proffered in support of this motion illustrates Waste Management and LGL’s calculated efforts to achieve its anti-competitive goals and its lack of business ethics, including spreading falsehoods and misstatements of fact and intent to antitrust regulators; to Sun Bergeron’s governmental customers; and to Bergeron.”

Tuter held that the evidence produced for his inspection in court papers and during two days of pre-trial hearings “sufficiently outlines a scheme to put Sun Bergeron out of business by depleting its assets, interfering with or taking control of its government contracts and closing the deal [despite] knowing it needed Bergeron’s approval.”

#### C---There’s a Marine Organism Homogenization DA.

Elder 14 (Maximilian, Oxford Centre for Animal Ethics, “The Fish Pain Debate: Broadening Humanity’s Moral Horizon,” Journal of Animal Ethics, Vol. 4, No. 2 (Fall 2014), pp. 16-29, DOA: 3-18-2022) //Snowball

There are many complexities that surround this discussion, the first of which involves terminology. Exactly what the term fish means is contestable. Fish is often used in the vernacular as an all-encompassing word for a diverse group of animals, each of whom hold a very different taxonomic status. There is what I call a problem of definitional scope with the term fish that is very hard to escape. The lack of specificity inherent in the term virtually ensures that any meaningful statement about fish may easily be deemed inaccurate by the sheer likelihood of an individual species exception.4 For example, the difference in organic makeup between osteichthyes (bony fish) and chondrichthyes (cartilaginous fish) is immense; it is hard to find a meaningful statement about one that could be fairly applied to the other. Similarly, the possibility of varying shades of sentience within and among marine vertebrates and invertebrates5 further complicates the discussion.

#### 4---Biodiversity loss is not existential.

Dr. John Halstead 19, PhD, University of Oxford, researcher at Founders Pledge; citing Dr. Peter Kareiva, PhD in ecology and evolutionary biology, Cornell University, director of UCLA’s Institute of the Environment & Sustainability; also citing Valerie Carranza, PhD student in Kareiva’s lab, 5/1/2019, “Centre for the Study of Existential Risk Six Month Report: November 2018 - April 2019,” <https://forum.effectivealtruism.org/posts/zbZxisJRJBCdtYvh9/centre-for-the-study-of-existential-risk-six-month-report>, pacc

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Can you explain what the mechanism is whereby biodiversity loss creates existential risk? And if biodiversity loss is an existential risk, how big a risk is it? Should 80k be getting people to go into conservation science or not?

There are independent reasons to think that the risk is negligible. Firstly, according to wikipedia, during the Eocene period ~65m years ago, there were thousands fewer genera than today. We have made ~1% of species extinct, and we would have to continue at current rates of species extinctions for at least 200 years to return to Eocene levels of biodiversity. And yet, even though significantly warmer than today, the Eocene marked the dawn of thousands of new species. So, why would we expect the world 200 years hence to be inhospitable to humans if it wasn't inhospitable for all of the species emerging in the Eocene, who are/were significantly less numerous than humans and significantly less capable of a rational response to problems?

Secondly, as far as I am aware, evidence for pressure-induced non-linear ecosystem shifts is very limited. This is true for a range of ecosystems. Linear ecosystem damage seems to be the norm. If so, this leaves more scope for learning about the costs of our damage to ecosystems and correcting any damage we have done.

Thirdly, ecosystem services are overwhelmingly a function of the relations within local ecosystems, rather than of global trends in biodiversity. Upon discovering Hawaii, the Polynesians eliminated so many species that global decadal extinction rates would have been exceptional. This has next to no bearing on ecosystem services outside Hawaii. Humanity is an intelligent species and will be able to see if other regions are suffering from biodiversity loss and make adjustments accordingly. Why would all regions be so stupid as to ignore lessons from elsewhere? Also, is biodiversity actually decreasing in the rich world? I know forest cover is increasing in many places. Population is set to decline in many rich countries in the near future, and environmental impact per person is declining on many metrics.

I also find it surprising that you cite the Kareiva and Carranza paper in support of your claims, for this paper in fact directly contradicts them:

"The interesting question is whether any of the planetary thresholds other than CO2 could also portend existential risks. Here the answer is not clear. One boundary often mentioned as a concern for the fate of global civilization is biodiversity (Ehrlich & Ehrlich, 2012), with the proposed safety threshold being a loss of greater than 0.001% per year (Rockström et al., 2009). There is little evidence that this particular 0.001% annual loss is a threshold—and it is hard to imagine any data that would allow one to identify where the threshold was (Brook, Ellis, Perring, Mackay, & Blomqvist, 2013; Lenton & Williams, 2013). A better question is whether one can imagine any scenario by which the loss of too many species leads to the collapse of societies and environmental disasters, even though one cannot know the absolute number of extinctions that would be required to create this dystopia.

While there are data that relate local reductions in species richness to altered ecosystem function, these results do not point to substantial existential risks. The data are small-scale experiments in which plant productivity, or nutrient retention is reduced as species numbers decline locally (Vellend, 2017), or are local observations of increased variability in fisheries yield when stock diversity is lost (Schindler et al., 2010). Those are not existential risks. To make the link even more tenuous, there is little evidence that biodiversity is even declining at local scales (Vellend et al., 2013, Vellend et al., 2017). Total planetary biodiversity may be in decline, but local and regional biodiversity is often staying the same because species from elsewhere replace local losses, albeit homogenizing the world in the process. Although the majority of conservation scientists are likely to flinch at this conclusion, there is growing skepticism regarding the strength of evidence linking trends in biodiversity loss to an existential risk for humans (Maier, 2012; Vellend, 2014). Obviously if all biodiversity disappeared civilization would end—but no one is forecasting the loss of all species. It seems plausible that the loss of 90% of the world’s species could also be apocalyptic, but not one is predicting that degree of biodiversity loss either. Tragic, but plausible is the possibility of our planet suffering a loss of as many as half of its species. If global biodiversity were halved, but at the same time locally the number of species stayed relatively stable, what would be the mechanism for an end-of-civilization or even end of human prosperityscenario? Extinctions and biodiversity loss are ethical and spiritual losses, but perhaps not an existential risk."

# 2NC

#### In the context of their fish framing, the affirmative’s declaration that animal lives are equivalent to human lives cannot be extricated from a set of violent assumptions about Indigenous communities and commercial fishing practices. EITHER Indigenous peoples are “fraudulent ecologists” for hunting harmless fish OR they are “the same” as White folk and therefore ought not govern their own waters.

Marker ‘06

(Michael Marker, Indigenous scholar, Associate Professor in the Department of Educational Studies at the University of British Columbia. “After the Makah Whale Hunt: Indigenous Knowledge and Limits to Multicultural Discourse,” *Urban Education* 41, no. 5 (September 2006): 482–505. <https://doi.org/10.1177%2F0042085906291923>, JB)

No recent event has exposed the present limits to “multicultural openness” and classroom cultural responsiveness more than the Makah whale hunt and the anti-Indian backlash that followed. When the Makah tribe hunted and killed a whale off the Washington coast on May 17, 1999, it kindled a sweeping aggression against Indians in the region and even across North America. In Puget Sound communities, it was the worst climate for Indian-White relations since the fishing wars of the 1970s, when anti-Indian bumper stickers and T-shirts were commonplace. Whereas the whale hunt has been discussed as a media relations circus related to the politics of animal rights environmentalists, the event was never talked about as a profound rupture in the prospects for crosscultural education. The classroom context of hostility toward indigenous perspectives on land, identity, and food revealed the limits to meaningful considerations of culture within educational institutions. The whale hunt was regarded as an environmental issue, but it was evaded as a core epistemological problem for educational settings. Schools are founded on a way of knowing that distances and isolates students from engaging with both community and the local ecosystem (Gruenwald, 2003). For Indian people, their ways of understanding have always been inseparable from their web of relationships in the natural world. Many indigenous communities are attempting to reassemble components of their traditional ways of life and learning in a contemporary context. These endeavors, although understood by the tribal community as reinvigorating old values and beliefs, are often misunderstood by the dominant society. Meanwhile, the popular media have so saturated the public imagination with Indian stereotypes that educators tend to place indigenous people in a frozen exotic past or an assimilated, degenerate present identity. In Neah Bay, protesters held up signs: “Save a whale, hunt a Makah” (Harris, Lyon, & McLaughlin, 2005, p. 82). Apart from the important social justice concerns raised by the persistent backlash against Aboriginal political resurgence (Lomawaima & McCarty, 2002), there is a deeper epistemological collision that animates these moments and challenges us to view schools through an indigenous lens. The backlash against tribal students was not confined to environmental education issues but reveals how the mainstream culture of the classroom silences both the native voice and a deeper cross-cultural reflection. Because the schools privilege a form of knowledge that presumes the cultural neutrality of science and technology, indigenous ecological understandings are dismissed as exotic, but irrelevant, distraction. Rather than disparaging or ignoring indigenous values and choices, educators should seize a potent opportunity for a crosscultural critique (Marcus & Fischer, 1986), focusing a mirror back at the commonplace assumptions about nature, history, identity, and food. This is a setting where anthropology’s comparative approach to understanding culture would have been exceedingly useful. Recently, there has been an intensification of assaults on Aboriginal people by both academic writers and journalists who portray them as fraudulent models for ecologically sustainable lifeways. Most of these writings assert that Indians have become assimilated and so do not represent any connection with an Aboriginal past that has likewise been mythologized and romanticized. Founded on iconoclastic zeal, these texts go too far. In an effort to expose the cardboard version of “Indian as ecologist,” they end up like Krech’s (1999) book, The Ecological Indian, having an underlying theme of “Indians are just like us”: For every story about Indians being at the receiving end of environmental racism or taking actions usually associated with conservation or environmentalism is a conflicting story about them exploiting resources or endangering lands—and inevitably disappointing non-Indian environmentalists and conservationists. In Indian country, as in the larger society, conservation is often sacrificed for economic security. (p. 227) This writing, which excoriates the “Indians and nature” construction, replaces it with another stereotype, one based on the denial of significant cultural differences between European and indigenous ecological conduct. Smith (1999) has discussed how discourse on the politics of difference—or sameness—becomes caustic anti-Indian rhetoric: One of the major problems with the way words are defined is that these debates are often held by academics in one context, within a specific intellectual discourse, and then appropriated by the media and popular press to serve a more blatant ideological and racist agenda. (p. 73) In many respects, this move to deny Aboriginal claims based on ecological practice and sustained inhabitation is not a new

theme for tribal people of the Pacific Northwest. Washington state has one of the most notable anti-Indian histories in North America. What is not conventionally discussed is how the politics of Indian-White relations is felt in classrooms and other educational 484 URBAN EDUCATION / SEPTEMBER 2006 Downloaded from uex.sagepub.com at The University of Hong Kong Libraries on May 10, 2015 Marker / AFTER THE MAKAH WHALE HUNT 485 settings. During the 1970s and 1980s, Indian children were attacked both verbally and physically because of White resentment about native fishing rights victories in the courts. The 1974 Boldt decision1 is foregrounded as tribal people tell of their survival in hostile public schools controlled by powerful White teachers and administrators, many of whom were fishermen (Marker, 2000). The expression of local indigenous culture becomes contentious whenever claims on land and resources from tribal representatives are made from claims about historic cultural identity. So it was that Coastal Salish students during the fishing wars could speak about their culture only as long as they avoided discussing the salmon—a central aspect of their culture. Classroom talk about the salmon, in particular when it included discourse on treaties, provoked attacks on Indians. The cultural claims to the salmon were pounced on at the same time that the Aboriginal students’ narratives about identity and history were confronted and framed as illegitimate by the White community. Such assaults were viewed as justified outrage at a political, not cultural, condition born of a presumed inequitable distribution of the fisheries resource. Teachers, administrators, and other members of the White community argued vociferously that they were not being racist against Indians but were merely disputing the “special” rights of tribal people. It could be asserted that the racist hostility experienced by Washington state’s Indian children was formed out of conflicts that were essentially economic in nature, but that is incomplete and inexact. There is a deeper kind of suspicion and resentment about the indigenous Other that simply finds public legitimacy in the claims of injustice or unfair special status for Indians. Tribal elders have told me on a number of occasions that political backlash moments are largely an excuse for Whites to vent long-held hostilities toward Indians. There is a deep and enduring aspect to the racism experienced by Aboriginal students that is unlike the experiences of any other oppressed ethnic minority. There is a deep insecurity within the consciousness and conscience of settler societies that, when confronted by the indigenous Other, is awakened to challenges about authenticity in relation to land and identity. There is embedded in this encounter with indigenous knowledge a challenge about both epistemic and moral authority with regard to indigenous relationships to land and the spirit of the land. Whereas other minoritized groups demand revisionist histories and increased access to power within educational institutions, indigenous people present a more direct challenge to the core assumptions about life’s goals and purposes. Urban African Americans and Latinos mobilize around equity and access discourses, but indigenous cultures posit a social stance outside of assertions of pluralism, rather, claims to moral and epistemic preeminence based on ancient and sustained relationships to land. Their histories and presence speak loudly, “We are the First Peoples.” Kawagley and Barnhardt (1999) put it well: “The incongruities between Western institutional structures and practices and indigenous cultural forms will not be easy to reconcile. The complexities that come into play when two fundamentally different worldviews converge present a formidable challenge” (p. 120). American Indian scholar Donald Fixico (2003) points out that indigenous and nonindigenous frames of mind are polar opposites and that the Indian relationship to place is connected to “one of the undisputed laws of nature” (p. 71). In the case of the Makah whale hunt, the issue was not that White fishermen wanted to hunt whales and were resentful that Indians were granted an exclusive treaty right to an economic resource; it was that public opinion opposed any and all hunting of whales. The cultural clash was based on different understandings of reality and different emotional perspectives about the whale. For the nonnative public, the whale is viewed as a special creature that has been sufficiently media-ized and anthropomorphized. On classroom bulletin boards all across North America, whales are displayed as gentle wise creatures helping children imagine a warm and friendly natural world that mimics a Disney film.2 Teachers inadvertently inculcate a strange and unnatural affection for a media-concocted icon while cementing the collage of their students’ ethnocentrism. Tribal people, on the other hand, tend to regard events such as the Makah whale hunt as an effort to reclaim stolen cultural space and autonomy in the shadow of colonial and corporate hegemony. The sentiment of the public, manipulated by the media, was that the Makah were not involved in anything cultural—whatever culture means—and that sinister economic forces, such as Japanese businessmen, were manipulating an already corrupted group of factionalized and even fictionalized Indians. Patricia Pierce Erickson (2002) has written that in the wake of save-the-whales campaigns—the Free Willy and Free Willy II movies and the saga of repatriating the whale, Keiko, to his original homeland in Iceland—the Makah people have faced considerable anti-whaling sentiment. . . . Some of the more intense elements of this anti-whaling strategy have included threats to destroy Makah whaling vessels, blockading the Neah Bay harbor, and swamping the annual Makah Days gathering with protestors. (pp. 207-208) The public attacks on the Makah have been akin to such vituperative writings as Ted Williams’s (2001) Audubon editorial against the Hopi’s taking of golden eagles for religious purposes: Who really stands to benefit from the myth that Native Americans, when given the opportunity, can’t make as good exploiters as other Americans? Can wrongs to people long dead be righted by wrongs to people living and yet unborn? And can it really be that what is bad for wildlife is good for Native Americans? (p. 1) Once again, we are delivered the unvarying and militant chorus of “Indians are just like the rest of us” with an ethnocentric edge. “Can school be a place to be indigenous, a place to be nonhomogenized, a place in which all children learn, question, and grow from a position that values and builds upon who they are?” (McCarty, 2002, p. 199). Maybe, but not if you are from a Makah family that hunts whales. In the classroom, an authoritative teacher’s voice, immersed in science and psychology, overwhelms the rare moments when an Aboriginal student, risking a personal attack, offers an outside perspective on cosmology, humans, and animals. This is the point at which indigenous perspective is “up against the wall,” so to speak

# 1nr

#### Legal definitions are more precise and better for establishing mechanisms and brightlines.

IAMR 20 (IAMR Law College, <https://webcache.googleusercontent.com/search?q=cache:Ow2tu5fufXQJ:https://iamrlawcollege.com/wp-content/uploads/2020/04/CRIMINOLOGY-LEC-6.docx+&cd=1&hl=en&ct=clnk&gl=us>)

According to the legal definition, a delinquent juvenile is one who violates criminal law (i.e. commits an offence). Sociologists insist that legal definition is of no help in understanding the true nature of delinquency and in knowing who are juvenile offenders, since the arrest or conviction of a child may depend upon various fortuitous circumstances. Thus, legal definition fails to take' into account the environmental factors. Also, legal definition differ from place to place and time to time. However, legal definitions are preferred because of their precision and specificity, while the sociological definitions are full of diverse individual or group opinions. Also, legal definition specifies machinery and process determining the violations and therefore able to identify offenders, which is not possible when certain conduct branded as delinquent in social terms.

#### That makes statutory exemptions key.

McGinnis 14, JD @ U-M, 2014 (Anne, “Ridding the Law of Outdated Statutory Exemptions to Antitrust Law: A Proposal for Reform,” *University of Michigan Journal of Law Reform*, 47.2)

Most of the statutory exemptions enacted over the last one hundred years are still in place today, despite widespread changes in economic theory, market structures, and antitrust law in general. When initially enacted, many statutory exemptions were seen as special-interest legislation harmful to competition, competitors, and society. While others were beneficial when first put into law, even many of those have grown irrelevant over time. Some have even become as harmful as those enacted with the intent of benefitting special interests.

#### If it’s not in the statute, it’s not the scope.

Dernbach 21, Professor of Law at Widener's Harrisburg campus, teaching administrative law, environmental law, property, international law, international environmental law, sustainability and the law, and climate change (John, A Practical Guide to Legal Writing and Legal Method”, In “Chapter 5: Reading and Understanding Statutes, p. 61)

Understanding the scope of a statute is the second step. A statute’s “scope” defines the persons to whom and the circumstances to which the statute applies. Some statutes, such as criminal statutes, apply to almost everyone with only minor exceptions (e.g., young children). Other statutes, however, apply only to certain classes of people, and/or only when certain factual circumstances exist. If the person or organization that you represent is not subject to the statute’s requirements, then the statute is not applicable to your client. Similarly, if your client’s conduct or desired course of action is not addressed in the statute, the statute is not applicable. Thus, efficient research and effective representation depend on a lawyer’s ability to determine whether and when a given statute applies to a client’s situation.

#### In the context of antitrust, exemptions are exclusively determined by the legislature

Krattenmaker 4, US Federal Trade Commissioner, (Antitrust Enforcement in Regulated Sectors Working Group , International Competition Network, <https://centrocedec.files.wordpress.com/2015/07/limits-and-constraints-intervening-in-regulated-sectors-2004.pdf>)

A. Congress’s will prevails. – The national antitrust laws and the national regulatory statutes are creatures of Congress. They mean whatever Congress wants them to mean and conflicts between them must be ironed out according to the will of Congress, as best as that intent can be ascertained. So, if Congress has spoken clearly to the issue, its resolution governs. For example, in United States v. Philadelphia National Bank, 374 U.S. 321 (1963), the Supreme Court was confronted with an antitrust challenge to a bank merger. The banks argued that a recent statute, the Bank Merger Act of 1960 repealed by implication the application of antitrust law to block bank mergers. The Court found that Congress had not intended such a result. But what if Congress has not clearly spoken? Then other principles come into play. B. Full compliance is the norm. – Generally speaking, one must comply with both the dictates of the antitrust laws and the requirements of the regulatory regime. Thus, for example, mergers between telecommunications firms are subject to review under both federal antitrust law and the provisions of the Federal Communications Act. Telecommunications firms, then, may not merge unless they have cleared both antitrust and Federal Communications Commission review. Permission from one does not entail permission from the other. Denial by one is therefore sufficient, but legally does not constitute denial by the other. Of course, if there is a clear conflict – so that one federal statute commands an act that another one forbids and that conflict cannot be resolved by statutory interpretation – then the later expression of Congressional will governs. (See, for example, the case of Gordon v. New York Stock Exchange, discussed below, in which fear of conflict led the Court to imply an antitrust immunity.) Exemptions from the antitrust laws are not lightly inferred. – Sometimes, compliance with antitrust may be possible, but difficult or arguably not consistent with the policies underlying the regulatory scheme. Firms may argue that the regulatory scheme should be understood to act as granting an implied exemption from antitrust. Federal courts rarely accept this argument. The general rule is that, to obtain an exemption from antitrust, one must get it directly and explicitly from the legislature, not from courts. The Philadelphia National Bank case, discussed above, is an example of the Court’s general refusal to find antitrust exemptions without express direction from Congress. Similarly, in an important case establishing the per se rule against price fixing, United States v. Socony-Vacuum Oil Co., Inc., 310 U.S. 150 (1940), the Court gave short shrift to the defendants’ claim that their conduct was “consistent with the general objectives and ends sought to be obtained under the National Industrial Recovery Act,” which was in place when the conduct began. This was because the conduct, illegal under the antitrust laws, “lack[ed] Congressional sanction.” Even though the Federal Energy Regulatory Commission has extensive powers over interconnection and interconnection prices, the Court refused to imply an antitrust immunity in a challenge to a refusal to interconnect and provide electricity in Otter Tail Power Co. v. United States, 410 U.S. 366 (1973). On very rare occasions, the Supreme Court will find an implied immunity. In Gordon v. New York Stock Exchange, 422 U.S. 659 (1975) the plaintiffs challenged agreements by which New York Stock Exchange brokers fixed commission charges. These agreements were allowed under New York Stock Exchange rules, but the U.S. Securities and Exchange Commission had statutory authority to alter the rules and in fact exercised supervisory authority over them. On these facts, the Court found an immunity necessary to prevent conflicts between instructions from the Commission and from antitrust courts to the Exchange.44

#### The law is what’s in the law. Not interpretations of it.

Hatter 90, Judge, US District Court, California Central (Terry J., “In re Eastport Assoc.,” 114 B.R. 686, Lexis)

[\*\*10] Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would expand the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### Here’s an external terminal impact –– limits explosion causes COVID related burnout – the community’s mental health massively outweighs gripes about our interp making it hard to be aff

Paulette Delgado 20, Tecnologica de Monterrey Observatory of Educational Innovation, 9/7/20, “Are You Feeling Exhausted Lately? You Are Probably Experiencing Burnout,” https://observatory.tec.mx/edu-news/burnout-covid19-education

Anne Helen Petersen, the writer, journalist, and author of the book Can't Even: How Millennials Became the Burnout Generation, describes "burnout" as something beyond physical or psychological exhaustion. It is the feeling of being exhausted from life and, despite that exhaustion, having to keep going without rest.

One of the characteristics of burnout (also known as "occupational burnout") is to have no sense of accomplishment after finishing something stressful such as a final exam or significant work project. It is to be continually seeking that feeling of action without having it due to anxiety, workload, or distractions. Josh Cohen, a psychoanalyst specializing in burnout, describes it as follows: "You feel burnout when you have exhausted all your internal resources, but you cannot free yourself from the nervous compulsion to keep going."

The effects that often accompany this syndrome are anxiety, insomnia, interpersonal conflicts, poor job performance, less creativity, resignations, and illnesses. According to Petersen, "part of the reason that people work all the time is that they’re terrified of what would happen if they didn’t. And what they’re terrified of is precarity—not having any sort of backstop or any sort of safety net."

Although burnout is considered a condition that mainly affects the Millennial generation, the syndrome is not new. Burnout was first diagnosed in 1974 by psychologist Herbert Freudenberger, who defined this syndrome as a case of physical or mental collapse caused by overwork or stress. Although its literal translation is "exhaustion," burnout has a deeper meaning, as it is means to feel exhausted but not stopping, to keep going while handling it, even for years.

Teacher burnout: the problem of being always present

Teaching during a pandemic, with schools closed indefinitely, has been no easy task. Not only did teachers have to adapt to emergency remote learning at the start of the epidemic, but with the prolonging of lockdowns all over the world, they must now be flexible and always available online.

An example is Chrissy Romano Arrabito, a second-grade teacher in New Jersey in the United States. Her day begins early in the morning with sending "good morning videos" to all her students, and she finishes the workday at ten o'clock at night, when she starts to answer calls from parents who work during the day. (Many of them are essential workers who cannot contact her to ask questions until that time.) While being available throughout the day is admirable, teachers do need to take the time to care for themselves.

What happens is that being at home all day because of quarantine makes many parents and administrators expect that the teachers, also being at home, have no reason not to help them or students at any time. Another critical point is that teachers are expected to become experts in distance education overnight due to the pandemic. This pressure affects their mental health. Unlike other professions, teachers often act as caregivers, especially those who work in preschool, primary, and secondary education. This results in physical, mental, and emotional exhaustion as there may be students they worry about because of their socioeconomic or family situations, and they want to care for them.

"The most exhausting part of the job is that I feel like I am putting in all this effort without really knowing if it is worth it."

Because of the pandemic, teachers are now distant from their students, which can unleash anxiety because they do not know how the students are, and they feel helpless. That is the reason why many teachers try to compensate for this absence by always been available, answering emails, or calls late at night, as Chrissy Romano does.

Although closeness and emotions are essential for supporting the students' academic performance, these attitudes, feelings, and activities of the educators provoke burnout or chronic stress, resulting in less motivated and less engaged teachers. In the worst scenario, the burnout can lead them to leave the profession.

How to avoid teacher burnout?

The Yale Center for Emotional Intelligence, along with colleagues from the Collaborative for Social, Emotional, and Academic Learning, known as CASEL, detected two possible factors that help protect teachers' emotional well-being and prevent them from suffering from burnout or anxiety.

First, teachers need to be more open with their emotions. They often report higher job satisfaction and less anxiety or exhaustion than they truly feel, so their leaders do not detect any problems and give them the support they need. Learning to name and express their emotions precisely, according to CASEL, helps teachers understand the causes and consequences of the emotions they feel, which allows them to self-regulate effectively.

Second, having a leader or administrator with developed emotional skills helps improve the teacher-student relationship, facilitating a more significant commitment to learning. That is why it is essential to focus on the mental health of the educators and their administrators so that they are psychologically prepared to return to school.

Burnout in higher education: lessons for university leaders

Academia and higher education are incredibly prone to trigger burnout because it fosters a culture where teaching and research are treated as passions that must be followed at any cost. Due to the pandemic, teachers lost their structure and had to adapt to online classes. Many teachers had not had the experience of teaching an online course. They were frustrated and exhausted while adapting to online platforms, work that can make teachers more prone to burnout.

Even the summertime, when teachers and administrators usually take advantage of disconnecting and resting, has been different because of the pandemic. Many teachers and administrators have interrupted their holidays to attend meetings and committees to talk about the next school year's landscape. Will it be face-to-face, hybrid, or fully online? What would each of these panoramas entail?

Such was the case of a female administrator (who did not want to share her name, for fear of harming her institution) who confessed how exhausting the experience had been. "The most exhausting part of the job is that I feel like I am putting in all this effort without really knowing if it is worth it." She also mentioned that it is essential to consider burnout when planning the next school year since it could harm teachers physically and emotionally. Moreover, ignoring the issue can lead to a high turnover of staff who leave the institution for another that is more concerned about their employees' mental health.

There is still much work to be done concerning this issue. The importance of mental health in educational institutions is already beginning to be recognized. According to a survey of the American Council on Education, the university leaders they interviewed put both staff and students' mental health as one of the five most urgent concerns of the pandemic needing to be translated into actions.

Solutions that education leaders can take to avoid burnout at schools

Make the work environment feel more human

Many of the triggers behind burnout are systemic and complicated for any manager to solve. However, talking about the topic openly and making clear expectations for the next school year will help them know what is expected of them to avoid more stress. It is also essential for leaders to share their struggles. Sharing their experiences would help them build meaningful connections with staff and increase trust.

Simplify and reduce the workload

Administrators should prioritize essential tasks and put on hold those that are not as important. It is a time of change and uncertainty. It is time to take the previous months' experience and assess what deserves to remain and what does not.

#### B---Underlimiting is worse. Including anything “antitrust” would overstretch debate

Waller 20, John Paul Stevens Chair in Competition Law, Professor, and Director of Institute for Consumer Antitrust Studies at the Loyola University Chicago School of Law, and Jacob E. Morse, J.D. Candidate at the Loyola University Chicago School of Law (Spencer Weber, “The Political Face of Antitrust”, Brooklyn Journal of Corporate, Financial, and Commercial Law, Volume 15, July 2020, <https://awards.concurrences.com/IMG/pdf/_11_weber_waller_v21_formatted_1_.pdf?68864/b1fc17637de92baef13f2a93eb750f872a721091>)

IV. Antitrust in Civil Society

Competition issues are also part of the general civic discourse separate from the campaign rhetoric and legislative proposals offered by politicians. This is also a significant sign that antitrust has begun to be an important source of small “p” politics that engages substantial segments of the public at large. One example is the increased number of non-technical books intended for a lay audience that deal with the role of antitrust in a healthy economy and democracy. Recent and forthcoming books dealing with these themes include Tim Wu’s “The Curse of Bigness,”109 Matt Stoller’s “Goliath,”110 Maurice Stucke and Ariel Ezrachi’s “Competition Overdose,”111 Zephyr Teachout’s “Break ‘em Up,”112 and David Dayan’s “Monopolized.”113 On the academic side, there are a plethora of government and NGO studies of competition policy on digital competition114 and new works are flourishing which explore the broader ramifications of antitrust and competition in society.115 Long form and more mass-market journalism have also taken up the mantle of exploring the role of antitrust and competition policy. Such diverse magazines as The Atlantic,116 Time,117 New Republic,118 American Prospect,119 Rolling Stone,120 New York Times magazine,121 Variety,122 National Review,123 Foreign Policy,124 and other policy and opinion magazines have all run recent stories or profiles of individuals involved in antitrust issues. Before the COVID-19 pandemic effectively monopolized press coverage in the United States, there were thirty-three antitrust related stories on the front page of the New York Times or the front page of its business section over a three-month period in late 2019.125 A majority of the stories focused on tech giants such as Apple, Microsoft, Google, Amazon, and Facebook.126 In addition, the New York Times also covered stories about mergers, merger policy, local issues such as the Chicago taxi market, and various smaller industries.127 This is separate from coverage during the same period of campaign issues and candidate statements relating to the field. A similar increase in coverage during this same period can be observed anecdotally in more business-oriented publications like Forbes, Barron’s, Wired, and the Wall Street Journal; general newspapers like USA Today, Washington Post, and Huffington Post; more local newspapers; as well as radio and television.128 Web pages and social media accounts on these issues have similarly proliferated on all ideological perspectives.129 Lobbying and public policy groups are growing in number and influence. Beyond the traditional trade associations and general think tanks there are now a number of active groups with antitrust as a large part of their focus. These include the Open Markets Institute,130 American Antitrust Institute,131 Anti-Monopoly Fund,132 Institute for Self-Reliance,133 Public Citizen,134 Public Knowledge,135 Demos,136 and the International Center for Law and Economics.137 At the more technical legal end of the debate, antitrust is similarly flourishing as a field. One sees increased law school hiring in the field for the first time in decades. Academic institutes and centers abound with a wide variety of perspectives ranging from libertarian to enforcement oriented.138 Most major antitrust cases now feature multiple amicus briefs from legal and economic experts on both sides of an issue both in the Supreme Court or the Courts of Appeals.139 Conclusion Antitrust has always been political in nature. Antitrust law provides broad legal commands dealing with how governments and private individuals can challenge different types of market behavior. In this way, antitrust has not changed. Antitrust will never take the place of sports, the Dow Jones index, or the weather for conversation at the breakfast table, but it has become a meaningful part of the political and policy debate for candidates, the legislature, and important segments of civil society. What has changed, however, is the degree that antitrust has reentered the political arena. Once mostly the domain of technocrats, antitrust issues have been proposed and debated by Presidential candidates, political parties, legislators, pundits, journalists, lobby groups, and voters alike. There are also a flurry of serious proposals and investigations that would make significant changes to the current system if adopted.