# Wiki Doc

**1nc round 4**

**offcase**

**1nc – t**

**The text of the resolution calls for debate on hypothetical government action – they don’t meet**

**Ericson 03** (Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb should—the first part of a verb phrase that urges action. 3. An action verb to follow should in the should-verb combination. For example, shouldadopt here means to put a program or policy into action though governmental means. 4. A specification of directions or a limitation of the action desired. The phrase free trade, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the affirmative side in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

**Our impact is debatability—there are two internal links:**

1. **Limits. A bounded topic serves as a predictable stasis point for debate that guarantees thematic coherence. Absent defined limits, debate’s competitive incentives create a race to the margins which distorts topic research.**
2. **Ground. A pre-defined controversy ensures a vibrant lit base and in-depth clash, but it’s unreasonable to prepare for alternative frameworks with the ground allocated to us by the parameters of the resolution All 2AC defense to this claim will rely on concessionary ground, which isn’t a stable basis for a year of debate.**

**Those are key to perform the role of the negative, which outweighs—the role of the ballot is to vote for whoever does the better debating over the resolutional question. Any 2AC role for debate must explain why we switch sides and why there has to be a winner and a loser—switching sides within the competitive yet limited bounds of the topic performs the labor of the negative which avoids group polarization and untested advocacy—this does not limit particular styles, but only tying those to topical advocacy ensures clash which is the only metric for determining the winner**

**Poscher 16**—director at the Institute for Staatswissenschaft and Philosophy of Law at the University of Freiburg (Ralf, “Why We Argue About the Law: An Agonistic Account of Legal Disagreement”, *Metaphilosophy of Law*, Tomasz Gizbert-Studnicki/Adam Dyrda/Pawel Banas (eds.), Hart Publishing, forthcoming, dml)

Hegel’s dialectical thinking powerfully exploits the idea of **negation**. It is a **central** feature of spirit and consciousness that they have the power to negate. The spirit “is this power only by looking the negative in the face and tarrying with it. This […] is the magical power that converts it into being.”102 The tarrying with the negative is part of what Hegel calls **the “labour of the negative”**103. In a loose reference to this Hegelian notion Gerald Postema points to yet another feature of disagreements as a **necessary ingredient** of the process of practical reasoning. Only if our reasoning is **exposed to contrary arguments** can we **test its merits**. We must go through **the “labor of the negative”** to have trust in our deliberative processes.104

This also holds where we seem to be in agreement. Agreement without exposure to disagreement can be **deceptive** in various ways. The first phenomenon Postema draws attention to is the **group polarization** effect. When a group of like‐minded people deliberates an issue, informational and reputational cascades produce more extreme views in the process of their deliberations.105 The polarization and biases that are well documented for such groups106 can be **countered** at least in some settings by the **inclusion of dissenting voices**. In these scenarios, disagreement can be a cure for dysfunctional deliberative polarization and biases.107 A second deliberative dysfunction mitigated by disagreement is **superficial agreement**, which can even be manipulatively used in the sense of a “presumptuous ‘We’”108. Disagreement can help to police such distortions of deliberative processes by challenging superficial agreements. Disagreements may thus signal that a deliberative process is not contaminated with dysfunctional agreements stemming from polarization or superficiality. Protecting our discourse against such contaminations is valuable **even if we do not come to terms**. Each of the opposing positions will **profit from the catharsis it received** “by **looking the negative in the face** and **tarrying with it**”.

These advantages of disagreement in collective deliberations are mirrored on the individual level. Even if the probability of reaching a consensus with our opponents is **very low from the beginning**, as might be the case in deeply entrenched conflicts, entering into an exchange of arguments can still serve to **test** and **improve our position**. We have to **do the “labor of the negative” for ourselves**. Even if we cannot come up with a line of argument that coheres well with everybody else’s beliefs, attitudes and dispositions, we can still come up with a line of argument that achieves this goal **for our own personal beliefs**, attitudes and dispositions. To provide ourselves with the most coherent system of our own beliefs, attitudes and dispositions is – at least in important issues – an aspect of personal integrity – to borrow one of Dworkin’s favorite expressions for a less aspirational idea.

In hard cases we must – in some way – lay out the argument for ourselves to figure out what we believe to be the right answer. We might not know what we believe ourselves in questions of abortion, the death penalty, torture, and stem cell research, until we have **developed a line of argument** against the background of our subjective beliefs, attitudes and dispositions. In these cases it might be rational to **discuss the issue** with someone unlikely to share some of our more fundamental convictions or who **opposes the view** towards which we lean. This might even be **the most helpful way of corroborating a view**, because we know that our adversary is **much more motivated** to find a potential flaw in our argument than someone with whom we know we are in agreement. It might be more helpful to discuss a liberal position with Scalia than with Breyer if we want to make sure that we have not overlooked some counter‐argument to our case.

It would be **too narrow** an understanding of our practice of legal disagreement and argumentation if we restricted its purpose to **persuading an adversary** in the case at hand and inferred from this narrow understanding the **irrationality of argumentation** in hard cases, in which we know beforehand that we will not be able to persuade. Rational argumentation is a much more complex practice in a more complex social framework. Argumentation with an adversary can have **purposes beyond persuading** him: to **test one’s own convictions**, to **engage our opponent** in inferential commitments and to **persuade third parties** are only some of these; to **rally our troops** or **express our convictions** might be others. To make our peace with Kant we could say that “there must be a hope of coming to terms” with someone though not necessarily with our opponent, but maybe only a third party or even just ourselves and not necessarily only on the issue at hand, but maybe through inferential commitments in a different arena.

f) The Advantage Over Non‐Argumentative Alternatives

It goes without saying that in real world legal disagreements, all of the reasons listed above usually play in concert and will typically hold true to different degrees relative to different participants in the debate: There will be some participants for whom our hope of coming to terms might still be justified and others for whom only some of the other reasons hold and some for whom it is a mixture of all of the reasons in shifting degrees as our disagreements evolve. It is also apparent that, with the exception of the first reason, the rationality of our disagreements is of a **secondary nature**. The rational **does not lie** in the discovery of a **single right answer** to the topic of debate, since in hard cases there are no single right answers. Instead, our disagreements are instrumental to rationales which lie beyond the topic at hand, like the **exploration of our communalities** or of our **inferential commitments**. Since these reasons are of this secondary nature, they must **stand up to alternative ways** of settling irreconcilable disagreements that have other secondary reasons in their favor – like swiftness of decision making or using fewer resources. Why does our legal practice **require lengthy arguments** and **discursive efforts** even in appellate or supreme court cases of irreconcilable legal disagreements? The closure has to come by some non‐argumentative mean and courts have always relied on them. For the medieval courts of the Germanic tradition it is bequeathed that judges had to fight it out literally if they disagreed on a question of law – though the king allowed them to pick surrogate fighters.109 It is understandable that the process of civilization has led us to non‐violent non‐ argumentative means to determine the law. But what was wrong with District Judge Currin of Umatilla County in Oregon, who – in his late days – decided inconclusive traffic violations by publicly flipping a coin?110 If we are counting heads at the end of our lengthy argumentative proceedings anyway, why not decide hard cases by **gut voting at the outset** and **spare everybody the cost** of **developing elaborate arguments** on questions, where there is not fact of the matter to be discovered?

One reason lies in the mixed nature of our reasons in actual legal disagreements. The different second order reasons can be held apart analytically, but not in real life cases. The hope of coming to terms will often play a role at least for some time relative to some participants in the debate. A second reason is that the objectives listed above **could not be achieved by a non‐argumentative procedure**. Flipping a coin, throwing dice or **taking a gut vote** would not help us to **explore our communalities** or our inferential commitments nor help to **scrutinize the positions** in play. A third reason is the overall rational aspiration of the law that Dworkin relates to in his integrity account111. In a justificatory sense112 the law aspires to give a coherent account of itself – even if it is not the only right one – required by equal respect under conditions of normative disagreement.113 Combining legal argumentation with the non‐argumentative decision‐ making procedure of counting reasoned opinions serves the coherence aspiration of the law in at least two ways: First, the labor of the negative reduces the chances that constructions of the law that have major flaws or inconsistencies built into the arguments supporting them will prevail. Second, since every position **must be a reasoned one** within the given framework of the law, it must be one that **somehow fits** into the **overall structure** of the law along **coherent lines**. It thus protects against **incoherent “checkerboard” treatments**114 of hard cases. It is the **combination** of **reasoned disagreement** and the **non‐rational decision‐making mechanism** of counting reasoned opinions that provides for both in hard cases: a decision and one – of multiple possible – coherent constructions of the law. Pure non‐rational procedures – like flipping a coin – would only provide for the decision part. Pure argumentative procedures – which are not geared towards a decision procedure – would **undercut the incentive structure** of our agonistic disagreements.115 In the face of unresolvable disagreements endless debates would seem an idle enterprise. That the debates are **about winning** or **losing** helps to **keep the participants engaged**. That the decision depends on **counting reasoned opinions** guarantees that the engagement **focuses on rational argumentation**. No plain non‐argumentative procedure would achieve this result. If the judges were to **flip a coin** at the end of the trial in hard cases, there would be **little incentive** to engage in an **exchange of arguments**. It is specifically the count of reasoned opinions which provides for rational scrutiny in our legal disagreements and thus contributes to the rationales discussed above.

2. THE SEMANTICS OF AGONISTIC DISAGREEMENTS

The agonistic account does not presuppose a fact of the matter, it is not accompanied by an ontological commitment, and the question of how the fact of the matter could be known to us is not even raised. Thus the agonistic account of legal disagreement is not confronted with the metaphysical or epistemological questions that plague one‐right‐answer theories in particular. However, it must still come up with a semantics that explains in what sense we **disagree about the same issue** and are not just **talking at cross purposes**.

In a series of articles David Plunkett and Tim Sundell have reconstructed legal disagreements in semantic terms as metalinguistic negotiations on the usage of a term that at the center of a hard case like “cruel and unusual punishment” in a death‐penalty case.116 Even though the different sides in the debate define the term differently, they are **not talking past each other**, since they are engaged in a metalinguistic negotiation on the use of **the same term**. The metalinguistic negotiation on the use of the term serves as a **semantic anchor** for a disagreement on the substantive issues connected with the term because of its functional role in the law. The “cruel and unusual punishment”‐clause thus serves to argue about the permissibility of the death penalty. This account, however only provides a very superficial semantic commonality. But the commonality between the participants of a legal disagreement go deeper than a discussion whether the term “bank” should in future only to be used for financial institutions, which fulfills every criteria for semantic negotiations that Plunkett and Sundell propose. Unlike in mere semantic negotiations, like the on the disambiguation of the term “bank”, there is also some kind of identity of the substantive issues at stake in legal disagreements.

A promising route to capture this aspect of legal disagreements might be offered by recent semantic approaches that try to accommodate the externalist challenges of realist semantics,117 which inspire one‐right‐answer theorists like Moore or David Brink. Neo‐ descriptivist and two‐valued semantics provide for the theoretical or interpretive element of realist semantics without having to commit to the ontological positions of traditional externalism. In a sense they offer externalist semantics with no ontological strings attached.

The less controversial aspect of the externalist picture of meaning developed in neo‐ descriptivist and two‐valued semantics can be found in the deferential structure that our meaning‐providing intentions often encompass.118 In the case of natural kinds, speakers defer to the expertise of chemists when they employ natural kind terms like gold or water. If a speaker orders someone to buy $ 10,000 worth of gold as a safe investment, he might not know the exact atomic structure of the chemical element 79. In cases of doubt, though, he would insist that he meant to buy only stuff that chemical experts – or the markets for that matter – qualify as gold. The deferential element in the speaker’s intentions provides for the specific externalist element of the semantics.

In the case of the law, the meaning‐providing intentions connected to the provisions of the law can be understood to defer in a similar manner to the best overall theory or interpretation of the legal materials. Against the background of such a semantic framework the conceptual unity of a linguistic practice is not ratified by the existence of a single best answer, but by the unity of the interpretive effort that extends to legal materials and legal practices that have sufficient overlap119 – be it only in a historical perspective120. The fulcrum of disagreement that Dworkin sees in the existence of a single right answer121 does not lie in its existence, but in **the communality of the effort** – if only on the basis of an **overlapping common ground** of legal **materials**, **accepted practices**, **experiences** and **dispositions**. As two athletes are **engaged in the same contest** when they **follow the same rules**, **share the same concept of winning and losing** and act in the same context, but **follow very different styles** of e.g. wrestling, boxing, swimming etc. They are in the same contest, **even if there is no single best style** in which to wrestle, box or swim. Each, however, is engaged in developing the best style to win against their opponent, just as two lawyers try to develop the best argument to convince a bench of judges.122 Within such a semantic framework even people with radically opposing views about the application of an expression can still **share a concept**, in that they are **engaged in the same process** of theorizing over **roughly the same legal materials** and **practices**. Semantic frameworks along these lines allow for adamant disagreements without abandoning the idea that people are **talking about the same concept**. An agonistic account of legal disagreement can build on such a semantic framework, which can explain in what sense lawyers, judges and scholars engaged in agonistic disagreements are **not talking past each other**. They are engaged in developing the best interpretation of roughly the same legal materials, albeit against the background of diverging beliefs, attitudes and dispositions that lead them to divergent conclusions in hard cases. Despite the divergent conclusions, semantic unity is provided by the **largely overlapping legal materials** that **form the basis** for their disagreement. Such a semantic **collapses** only when we **lack a sufficient overlap** in the materials. To use an example of Michael Moore’s: If we wanted to debate whether a certain work of art was “just”, we share neither paradigms nor a tradition of applying the concept of justice to art such as to engage in an intelligible controversy.

**1nc – frames**

**Next Off – Frame Subtraction:**

**First – our links:**

**The Aff deployed terms from the neoliberal lexicon. It’s irrel if it was intentional OR even a disingenuous deployment that aspired to K neolib. Speech acts grow more potent when such deployments are removed.**

**Kipnis 07** Andrew Kipnis - Senior Fellow and Professor Andrew Kipnis in The Department of Anthropology, The Australian National University – “Neoliberalism reified: suzhi discourse and tropes of neoliberalism in the People's Republic of China” - Journal of the Royal Anthropological Institute (N.S.) 13,383-400 - #E&F – modified for language that may offend - obtained via J-Stor database.

Another problem is that neoliberal policies, ***however defined***, may be **sincerely** or **disingenously** pursued. Often enough, powerful ***social actors*** ~~mouth~~ (deploy) **neoliberal slogans** or ideology of one form or another in a crass attempt to grab power or exploit others. There may be **no intention** of actually enacting neoliberal policy **or striving for neoliberal goals.** This issue should be of crucial interest to those who believe (as the author of this article does not) that neoliberalism is systemic in the contemporary world. If neoliberalism is a systemic 'discourse' (as some governmen-tality theorists would have it), then it reproduces itself by producing 'responsibilized' subject/citizens who re-create neoliberal institutions. From this vantage, disingenuous applications of neoliberal discourse would thus work to undermine neoliberal-ism. But if neoliberalism is an 'ideology' that serves merely to mask the true workings of class domination, then **disingenuous applications** of **neoliberal ideas** are **central to the reproduction of neolib**eralism. In such a case, the actual production of autonomous, responsible citizen/subjects would undermine neoliberalism. Few who write as if neoliberalism were systemic in the contemporary world demonstrate awareness of this contradiction.

**The Aff deploys the phrase “monopoly” to position debate practices as markets themselves. This terminology originates from a neoliberal lexicon. It *occludes the aff’s alternate perspectives on the world* AND simultaneously *secures a system of neoliberal violence*.**

**Saltman 07** Kenneth J. Saltman is an associate professor in the Department of Education Policy Studies and Research of the School of Education at DePaul University, Chicago, Illinois. “Schooling in Disaster Capitalism: How the Political Right Is Using Disaster To Privatize Public Schooling” - Teacher Education Quarterly, Spring 2007 - #E&F - https://files.eric.ed.gov/fulltext/EJ795160.pdf

In education, neoliberalism has pervasively infiltrated with radical implications, remaking educational practical judgment and forwarding the privatization and deregulation program. The steady rise of privatization and the shift to **business language** and logic can be understood through the extent to which neoliberal ideals have succeeded in taking over **educational debates.** Neoliberalism appears in the now common sense framing of education through presumed ideals of upward individual economic mobility (the promise of cashing in knowledge for jobs) and the social ideals of global economic competition. In this view national survival hinges upon educational preparation for international economic supremacy. The preposterousness of this assumption comes as school kids rather than corporate executives are being blamed for the global economic race to the bottom. The "TINA" thesis (There Is No Alternative to the Market) that has come to dominate politics throughout much of the world has infected **educational thought** as omnipresent **market terms** such as "accountability," "choice," "efficiency," "competition," **"monopoly,"** and "performance" **frame** educational **debates.** Nebulous terms borrowed from the business world such as "achievement," "excellence," and "best practices" conceal ongoing struggles over competing values, visions, and ideological perspectives. (Achieve what? Excel at what? Best practices for whom? And says who?) The only questions left on reform agendas appear to be how to best enforce knowledge and curriculum conducive to individual upward mobility within the economy and national economic interest as it contributes to a corporately managed model of globalization as perceived from the perspective of business. This is a dominant and now commonplace view of education propagated by such influential writers as Thomas Friedman in his books and New York Times columns, and such influential grant-givers as the Bill and Melinda Gates Foundation.

**Second - Our Alt:** “**We can defend the rest of their advocacy and negate only certain parts. 2NR consolidation is the best alt:**

**A – no plan means any part of the 1AC can become the nexus question by the 2AR, we should reciprocally get to conditionally critique their frames and narrow the debate to parts of disagreement by the 2NR.**

**B – Praxis: our model teaches a form of engagement that corrects flaws in political strategies. Rejecting our approach is normatively worse for the Aff’s own cause.**

**Williams ‘15**

Douglas Williams is a third-generation organizer, He earned his BA in Political Science at the University of Minnesota at Morris and his MPA at the University of Missouri Columbia, where he was also a Thurgood Marshall Fellow and a Stanley Botner Fellow. He is currently a doctoral student in political science at Wayne State University in Detroit, where his research centers around public policy as it relates to disadvantaged communities and the labor movement. From the article: “The Dead End of Identity Politics” - From: The South Lawn - March 10, 2015 – Internally quoting Freddie DeBoer, Lecturer, Purdue University. DeBoer holds a PhD in Rhetoric and Composition from Purdue and an MA in English, concentration in Writing and Rhetoric from The University of Rhode Island, Modified for potentially objectionable language. In one instance a capital “B” was adjusted to a lower case “b” in a manner that boosted readability, but did not alter context. https://thesouthlawn.org/2015/03/10/the-dead-end-of-identity-politics/

Freddie **DeBoer** makes a great point in his piece on what he calls “critique drift“: “This all largely descends from a related condition: **many in the** broad online **left** have adopted a norm where being an ally means that you never critique people who are presumed to be speaking from your side, and especially if they are seen as speaking from a position of greater oppression. I understand the need for solidarity, I understand the problem of undermining and derailing, and I recognize why people feel strongly that those who have traditionally been silenced should be given a position of privilege in our conversations. B(b)ut critique drift demonstrates why a healthy, functioning political movement can’t forbid tactical criticism of those with whom you largely agree. Because critical vocabulary and political arguments are common intellectual property which gain or lose power based on their communal use, never criticizing those who misuse them ultimately disarms (hampers) the left. **Refusing** to say ‘***this*** is a real thing, but you are not being fair or helpful in making ***that*** accusation right now’ alienates potential allies, contributes to the burgeoning backlash against social justice politics, and prevents us from making the most accurate, cogent critique possible.”

----- (Williams is now no longer quoting DeBoer)

Look, I am Black. Also, sometimes, I can be wrong. Those two things are not mutually exclusive, and yet we have gotten to a point where any critique of tactics used by oppressed communities can result in being deemed “sexist/racist/insert oppression here-ist” and cast out of the Social Justice Magic Circle. And listen, maybe that is cool with some folks. Maybe the revolution that so many of these types speak about will simply consist of everyone spontaneously coming to consciousness **and there will be no need for coalitions**, give-and-take, or contact with people who do not know every word or phrase that these groups use as some sort of litmus test for the unwashed. But for the rest of us who reside in a reality-based world, where every social interaction is not tailored for your idiosyncratic indignations, we know that casting folks out for the tiniest of offenses will lead to a Left that will forever be marginalized and ineffective. I have stated before that the kind of people who put out these lists and engage in the kind of identitarian caterwauling that has become rote copy on the Internet might actually want that, as a world where left-wing activism is made potent and transformative will be one where they cannot simply take comfort in their cocoon of self-righteousness. But damn them when I can turn on my computer and see one Black person after another being gunned down by police. Damn them when we have a president that can sit there with a straight face and speak the words of freedom and liberation while using the power at his disposal to deny those very concepts to others. And damn them when we can get thousands of words on Patricia Arquette drunk at a party or how it is privileged to not like the same musicians that they do, but we cannot seem to get any thoughts on how the biggest moment for communities of color since the 1960s is being squandered in a hail of intergenerational squabbling. And do not even get me started on people writing articles that malign long-standing activist organizations without a whiff of evidence that there has been any wrongdoing on their part.

**C – contingent agreement is good: negating the whole aff makes only the most extreme stances strategic, like prejudice is good. We should debate framing strategies rather than impact turns to injustice**

**D – its fair: frame subtraction auto gives the aff ground – just defend the stances of the 1AC. There are net benefits to this Alt other than just these cards. It applies to other frames that we’ve critiqued.**

**1nc – adv cp**

**Counter-advocacy:**

**The United States federal government should end limited liability protections for corporations that contribute to algorithmic iteration**

**It’s mutually exclusive with their rejection of antitrust law – BUT is the only way to solve BOTH the case AND exploitation of care – counterplan re-interprets antitrust law’s central purpose – not to promote competition, but rather to allocate coordination rights over the economy. Antitrust’s main permissive function is the firm exemption, which grants coordination rights to corporations with limited liability legal protections. This fundamental goal makes antitrust the lynchpin of economic organization, and a necessary component of any anti-corporate politics. By closing the firm exemption, the counterplan enables a social democratic vision of economic control, whereby coordination rights are granted instead to the state, co-ops, collectives, and/or unions – making collective habits of renewal and survival effective**

Marshall **Steinbaum et al 20**, Assistant Professor of Economics at the University of Utah, Left Anchor, podcast episode 155: “Socialism vs. Antitrust with Marshall Steinbaum,” 9/12/20, transcribed by Otter, https://leftanchor.podbean.com/e/episode-155-socialism-vs-antitrust-with-marshall-steinbaum/

Marshall Steinbaum 31:39

But yeah, I mean, there's a kind of what you were saying, I definitely agree with that, I guess I would push back a little bit on the kind of interpretation of the states moving away. And so like, the only thing that matters is what whether Tim Cook allows Uber to make a living, as opposed to whether, you know, the taxing authorities of every city and their state labor departments and the FTC FTC have a say on it. Like they're, they're, you know, small potatoes in comparison to the CEO of some company. I think I mean, that's true about, you know, who wields power in the economy. But it's **not right** to say that that's because the state has **retreated** and sort of **ceded all control** to, to the capitalist, I think we have to understand the **state's involvement** or policies involvement as being, you know, kind of **inescapable**. So the question is like, okay, so you've got, you know, like, **incorporation statutes**, like **who's allowed to be a company** to **enjoy limited liability** or whatever, like, **people don't think of that as being part of economic policy**. **But it absolutely is** not just, you know, **is Apple allowed to be a corporation** or not a corporation as, as you know, say it's a California Corporation**?** I mean, it's probably a Delaware Corporation, but whatever, you know, can it operate across state lines? You know, these were big issues in the 19th century. Nowadays, we get things like, oh, **if you're a corporation, then basically anything you want to do is legal under the antitrust laws**, you know, but **people** **who are not corporations** **cannot act together under the antitrust laws**. So for example, you know, you're talking about like, oh, Uber could be liable under antitrust for this gigantic price fixing conspiracy. Through, executed through verticals restraints, **yes**. You know, who has actually been **found** to be **liable** under the antitrust laws? **Uber drivers** for potentially **collectively bargaining** their wages against Uber. So that it's this idea that like, Oh, you know, these individual drivers, like they're independent businesses operating on this neutral platform, but they can't get together. That's what the antitrust laws forbid. Whereas this one **gigantic corporation** that **dominates them** that is **absolutely allowed to do whatever it wants**. So this is the kind of concept that my my colleague and collaborator Sanjukta Paul is called the **allocator**, antitrust is an **allocator of coordination rights** and the title of her paper. This idea is like, **who's allowed to coordinate economic activity?** Is it it, and what she says is that **antitrust** has what's called **the firm exemption**. So here she's drawing on what what, you know, most every antitrust person recognizes and is known in the jurisprudence is the labor exemption, which is that labor unions bargaining wages within a recognized bargaining framework cannot violate the antitrust law through that collective bargaining. So that the idea is that's an **exemption** to antitrust's **usual, preference for competition.** What she says is, you know, we have to **reinterpret** that as being, as there being a **firm exemption to antitrust**, which is Uber telling everybody what to do, **that has an exemption from antitrust law by virtue of the fact that Uber is a corporation** and or the **way that we have chosen to allocate coordination rights** in her framework is to **allow** Uber to **coordinate entire markets** in the case of Apple to allow Apple to determine what is presented on its on its app store and you know, it has, you know, pretty, you know, strong representation in the retail smartphone market. So it's like okay, you know, Uber is probably going for relative upscale clientele, they all have iPhones, if it can't get on the iPad, if it can't get on the App Store can't get on the iPhone. And if you can't get on the iPhone, they have no business. You know, that is the allocation of coordination rights over that market to Apple, as **opposed** to **some other mechanism** for allocating coordination rights. And this is where, you know, to get back to what we were talking about earlier, **anti monopolist framework** would say, you know, there's **no reason** why **Apple** gets to be the one who decides who sees what, why don't we potentially, you know, in a kind of **Co Op context**, give, give that right to, you know, **a consortium** or, you know, quote unquote, **union** of app developers, or in the case of, say, ride sharing, like, why don't we have a union of taxi drivers, and they determine, you know, who gets who gets matched with which customer and what the fare is, **as opposed to the company determining that**

Alexi 35:48

this is so important, and I think it's really worth emphasizing, you know, the point about how **jurisprudence** and an **antitrust enforcement** does what she said, and so far as it, it **chooses sides**, and **who can coordinate** these things and who's autonomous and **who has power**. And since we're speaking of Apple, maybe you can talk a bit about how sanitation workers right at Kodak, Kodak back in the 80s had more power to coordinate and kind of exert their their power over sanitation workers at Apple, right in contemporary times, and then you write about how that is kind of an example of, you know, how the separation of workers from lead firms is kind of a simultaneous erosion of the in the jurisprudence of the Sherman act prohibitions on vertical restraints. So, yeah, maybe talk even a bit more about about the importance of this.

Marshall Steinbaum 36:40

Yeah, so that's getting to what a great economist David Weil has called the fissured workplace. And I think you're referring specifically to a article that was published, I think, by Neil Irwin, if I recall, correctly, in the New York Times, a couple years ago, that was profiling two specific people, one of whom had been kind of janitorial worker on payroll at Kodak in the early 80s. And like, she had basically benefited from their, you know, corporate policies that included incentives to like go to community college and get credentials. And so she got qualified as I you know, sort of IT person, she was like, trained on Lotus 123, or something from the, you know, from the dark history of personal computing. You know, she kind of worked her way up through the ranks at Kodak, thanks to the fact that she started in the ranks of Kodak that is that she was a janitorial worker on the payroll, she was able to be promoted, basically, to the point of being the head of it for the entire company at some at one point. So she was a senior executive, you know, and that kind of social mobility via the mechanism of a major economy leading firm that employs people kind of every stratum of the occupational hierarchy of the income hierarchy, and is itself a like, somewhat egalitarian organization in its own right. I mean, insofar as any corporation could be egalitarian within capitalism, you know, I think this is kind of what Wynand was talking about, when he referred to, you know, this sort of New Deal state that was created by the National Labor Relations Act and other other, you know, kind of New Deal reforms, it's like that, that kind of somewhat egalitarian corporate organization is, you know, a thing of the past. And my argument would be well, it's and it's the erosion of antitrust that made that not the case. So in the instance of Apple, the contrary, the contrasting individual was, you know, janitorial services worker who was contracted, so she was employed by some, you know, janitorial services contractor whom Apple contracted with to clean its offices, but like, there's no way that she's ever going to be promoted to be an employee of Apple, let alone a senior executive at Apple, you know, nowadays, Apple is one of the economies leading firms. So there's different, you know, just, you know, take and both firms are like, somewhat are considered somewhat technologically innovative in their time. So like, think of these, you know, kind of economy leading like blue chip companies that are that like defined the apex of the American economy in two different eras. One of them is constructed such that it's possible for a janitor to eventually become a senior executive, the other is constructed so as to make that impossible at all costs. And and and, you know, I think Irwin's piece gets exactly at this question of employment classification as being a crucial constituent of that changing reality. I would say that the ability to contract everything out and yet control everything so minutely use a, you know, arms legally at arm's length, but like economically, you know, at a very close distance and with total control to the boss, you know, that is we have to understand the erosion of antitrust is being just as much a part of that as the non enforcement of labor laws, the erosion of of enforcement of those and so on.

Ryan Cooper 39:59

Yeah, Yeah, that's that's a great dichotomy. I wanted to also, I wanted to bring up the the welfare state. I n, in, in a couple of these articles, you've mentioned how, you know, the gig economy and various sort of like, anti trust, you know, trying to **escape any kind of liability** for, for being responsible for one's, you know, employees has **materially harmed workers** by sort of **excluding them** from, you know, like traditional welfare state stuff, which is often administered through, you know, through **the employment relation**. But you've you've also written about how, like the cares act, part, partly helped with that, and then partly maybe, sort of entrenched the bad relationship. But, you know, in general, the cares act was like a pretty astounding piece. I mean, it's seems mostly expired now. But, like, it was a really interesting piece of legislative legislation that, that helped people out a lot and kind of revealed a lot of underlying, you know, deficiencies in the way that people in DC have done policy for the last like, 40 years. So can you can you kind of go through, like, the how the welfare state interacts with, you know, anti trust, and and, you know, kind of kind of how the two can can complement each other? And how they that might be fixed?

Marshall Steinbaum 41:41

Yeah, absolutely. So,we've been talking a lot about this question of the **legal employment relationship**, and why that matters so much for workers. And a big reason why it matters so much is exactly as you said, that so much of our welfare state is conditioned on employment. And so that's what you know. So in some sense, this like category, that's kind of, you know, not the main focus of attention at the time of the New Deal. You're that this distinction, the question of like employment independent contractor, and that is an important distinction, as I was referring to in the antitrust cases that we talked about earlier. But like, this idea that, you know, a lot matters for you economically, on the question of whether you are legally an employee or not, that's not true to the New Deal era, per se, it's that's what's been layered on since and especially since we kind of adopted the backlash to the Great Society view that the problem with the welfare state is that it causes people not to work and inculcates a culture of poverty. You know, all of that is basically racist drivel. But it's had an enormous impact on the kind of Orthodoxy around welfare policy, especially in DC. So as I've talked about, either of I've talked about in this podcast, certainly a couple of times on podcasts with bruenig. And in some other writings, you know, there's this sort of mania for the Earned Income Tax Credit among DC policy wonk types, which is this, basically wage subsidy for people who were employed in market labor, and it doesn't help you if you're not employed in market labor, and arguably, it hurts you, even if you are employed to market labor, and you don't receive it, because it by causing people to, you know, as sort of have to be employed to market labor in order to gain the benefit and arguably depresses wages for people who aren't beneficiaries, so reduces the market wage, basically. You know, that cares act is kind of by chance, the opposite of that. So first of all, you said that the cares act was like this revolutionary thing. It was that with respect to that unemployment insurance position, provision, so called pandemic unemployment compensation, and then pandemic unemployment assistance, we'll get to what those two things are in a second, the rest of the cares act for you know, it also included a, you know, sort of like one off $1200 check from the IRS, you know, for people earning about, I guess, it was like below 100,000 a year. And then there was like, a ton of stuff that was basically an indefinite extension of a whole, like firehose of money to, you know, the economy's leading corporations via the Federal Reserve and the Treasury. But I think, especially the Federal Reserve, so you're saying it's, like, mostly expired now? Well, not the part that gave capital, everything they want it that part's not expired, and that's exactly why the other part hasn't been renewed. So there was a sense, you know, the kind of political calculus that gave rise to the cares act is like, you know, we have like, suddenly a pandemic has hit the economy, it's going to be temporary, you know, so we need to, like, we need something to tie people over, let's juice up the unemployment insurance system, give people $1200 checks. And make sure all these businesses are able to borrow, you know, that are facing, you know, huge sudden shortfalls. It's like, oh, but you know, by the way, the last of those things that will be permanent, the first of those things will be temporary, because the pandemic is assumed to be temporary, and oh, wait, the pandemic is not temporary, or at least it's less temporary than we thought it was gonna be. You know, those people are suddenly high and dry because capitalists already got everything they wanted. So it's like we're in a pretty shitty situation, frankly, visa for pretty much all working people, but the stock market's doing great. Okay, so what did the cares act have for unemployment insurance? And why is that such a challenge to kind of policy received wisdom, it basically added this lump. So the PUC part, pandemic unemployment compensation added a lump sum $600 per week, on to traditionally eligible workers for unemployment. So that's PUC so if you're eligible for unemployment, there's some state formula that says that's a function of what your wages were pre layoff. You know, generally as as the lingo and unemployment insurance is replacement rates, so it's how much of your loss of your lost wages are, quote, replaced by unemployment insurance, you know, the average in the United States for people who are eligible is something like 50%. And like 50% of unemployed people aren't eligible or was not able to collect it, you know, very, like leaky sieve type system, that P You see, element of the cares act up to that number by whatever the replacement rate was under state law plus $600, which for a lot of workers is basically, you know, a gigantic windfall relative to the shittiness of the jobs that they actually have to do. So many workers, especially in low wage occupations experienced, you know, better pay when they were receiving the PVC than they did in their jobs and that they're ever likely to get in their jobs. PUA was the version of that for the gig economy. Basically, it was for workers who were not eligible for traditional unemployment insurance. And many gig economy workers were dis employed by the pandemic, this was a fully federal system that essentially gave them access to a temporary pool of unemployment insurance. And the key thing there is at the time, I wrote a letter with Sen. jepto, whom I mentioned earlier, I wrote a letter to Congress about that they have basically done a kind of ex post bailout of the of all of the misclassification that gig economy firms have been doing for a decade now. Because they're saying, Oh, you know, Uber has never paid a dime in unemployment insurance premiums for its workers, and they become unemployed all the time. Suddenly, in this pandemic, many of those workers are eligible for unemployment insurance, thanks to PUA. So that's great that they're, you know, able to subsist, but instead of paying into it, you know, Uber gets to skate for 10 years on its premiums, and then the federal government pays for that. So that was, you know, kind of, you know, a, under the radar screen bailout of the gig economy, employers. Anyway, now, you know, we're in this position where these things have been taken away, and what that has meant, you know, so the interesting thing that's come out in the economics research about the effect of the cares act, and specifically these UI provisions, is that, you know, that pandemic is and has been devastating to the low wage workforce, huge, extreme spike in unemployment, it's still very high, you know, a lot of service workers have been disappointed. But actually poverty rates went down, and earnings went up, or income went up, because their income was more than replaced by these temporary, generous provisions that were not conditional on showing up for work, because they couldn't be conditional on showing up for work, the whole point of the pandemic is that people can do their work, you know, now, you know, and, you know, given that like that, like, in the midst of an economic catastrophe, we reduce the poverty rate, you know, that like flies in the face of everything that we know about how the poverty, you know, the poverty rate usually goes up when there's an economic recession. And what we just found out is like, if you don't want that to happen, if you do want to reduce poverty, you have to enact these policies that aren't conditional on work. That's how you reduce policy, you give people money, basically, and in this case, unemployed people are the people who are likely to be dev low income to be in poverty. So that's how you get money to. So now, you know, we're kind of I mean, because of this political misjudgment that had, you know, given capital, everything and wanted while workers bailouts was temporary, you know, now it's like, Okay, well, like, please give us something for workers. You know, I think the the view had been that, like the election would be the leverage that, you know, pro worker interests would have over the federal political system, but that's not the case, actually, because the outcomes of elections aren't terribly responsive to the the well being of the population, which is a big problem that we should probably do something about at some point. But But, you know, so now it's like, Okay, well, we're sort of like pleading for scraps the way that we have been for the last decades, and everyone's reverted to, you know, basically versions of the EITC expansions that have been on their, you know, to do list for for a long time. So it's like, okay, you know, the wanks have guy kind of gotten back control in control of the message and the asks and whatever. And, you know, consequently, the agenda has gotten shittier.

Alexi 49:39

never a good idea to give the Wong's power. But now, like so far, I just want to recap for the audience. We have number one left anchor Steinbaum, **synthesis of anti trust and democratic socialism**, to new idea breaking news, let's make government responsive to the needs of the people. That's that's that's what we've so these two important things that we're offering now. But But no, I think first of all the point point very well taken that, you know, our favorite game about the Democrats, is it malfeasance and or is it malice? You know, is it is it just, you know, bad politics or or is it just intentional, you know, slap in the face to the working people of this country into the poor. So, so yeah, yeah, point point well taken that the the corporations were given a, you know, indefinite Lifeline, and then I think they accidentally helped the poor and helped the working class, probably because they didn't realize how low pain, you know, jobs were out there. Yeah.

Marshall Steinbaum 50:39

Yeah. I mean, that's exactly right. It was pretty clear at the time that like, there was just sort of No, I mean, I think the rhetoric in Washington is like, somewhat responsive to, you know, insofar as there's any responsiveness to workers, it's like, you know, people who are not precariously employed. So, you know, that I, you know, so it's like they don't it's like any job is a good job, or they are not, that's a little bit of an overstatement. But it's like, you know, what we want to prevent as people losing their jobs, as long as they have their a job, there'll be fine. And, you know, there's just a very, very little apprehension on the part of like, the policy elite of like, just how bad most jobs

Alexi 51:18

but look, Marshall, we all know, worst case scenario, as Mitt Romney said back in the day, if you're really in a tough situation, just sell your stocks if you have to just

Marshall Steinbaum 51:28

Yes, yeah, yeah, right. Right. Just that Yeah, Dad stock at American Motors or whatever, you know, what you can afford? Right? I

Ryan Cooper 51:33

mean, it was a tough thing to have to do. But sometimes you got to just bootstrap it.

Marshall Steinbaum 51:40

Yeah, so well, you know, now now, Romney is a resistance hero. He's doing everything he can to bring our Trump Reign of Terror to an end

Ryan Cooper 51:47

he is, thank thank God for him, honestly. Yeah, so so to, I guess, to kind of like, like, tie a tie that together a little bit. You know, like, the welfare state is, you know, just like a critical lifeline. You know, like the cares act shows, you know, that, that, that **four decades of neoliberalism** was all **bullshit**, actually, we could solve poverty **quickly** and **easily**, just by, you know, **dumping money** on people who don't have money. That's literally It's that easy. But I think, you know, the interesting thing to me about, like, this whole discussion about, like market regulation, and so on and so forth, is that, like, I'm pretty convinced that the, you know, in so far as your, the economy is based to some degree around, you know, private businesses, you know, doing their thing, competition is a is a fairly useful tool, if it's done, right. And that means competition, that's that that happens, you know, through a sort of regulated process, because you can have competition that just means trying to cheat, and like drive the other guy out of business, so you can seize more market share, you know, try and try to force companies to compete on price and quality. And that means big government, basically. You know, an example I've seen recently, you know, the computer chip market for for like desktop PCs. That's like a pretty concentrated market. But there is competition there between AMD and Intel. And Intel's had like a big chunk of you know, the marketplace for for many years, AMD has been sort of a laggard for the last couple years AMD like they basically just beat Intel, it's better, better chips for cheaper. And suddenly Intel's on the backfoot. And they're doing all this stuff, they're retooling their, their machine to try to sort of, like, exceed, and like, that, I think is a reasonable process, so long as it's not, you know, like, you don't you don't end up with competition that takes place like, okay, we're shipping all of our, you know, all of our factories to Tanzania, and we're just gonna pay everyone $1 you know, make them buy all their stuff in company script, that kind of competition. But, you know, and then also, you could, you could say, like, oh, we're going to set up something like the post office as explicitly a monopoly, but it's going to be a monopoly with a sort of government policy purpose, like everybody has to get the same service for the same price even if it's like ridiculously uneconomical to provide it in a certain location. And that's like a kind of different that's like about quality government and how do you set up a agency with some sort of a spirit a core that like, does a good job. But like, I think the, you know, my sort of like fundamental takeaway, and maybe you can sort of quibble with this or qualify, Marshall is that like, like, the **anti trust,** and, you know, breaking up, like, like full on monopolies and like forcing the businesses to compete decently and, you know, the sort of like welfare state, you know, **social democratic vision**, these things like there are two, they can be **two great tastes that taste great together**. And, you know, like, **there's not necessarily a trade off.** And then like, one could sort of **enable the other**. What do you think?

Marshall Steinbaum 55:40

Yeah, I mean, I think that you can have a, you know, what might be called Race to the Top type of competition, I'm not exactly sure what's going on in the, you know, desktop computer chip market, but like, branding, what you the way you characterized it, or you can have race to the bottom competition, which is basically about sort of chiseling out your company's own regulatory arbitrage, or like, You're the one who gets to run the taxi company, but not actually charge the regulated rate, or you're the one who locates the factory in Tanzania so that you can pollute all you want and pay your workers like crap. And then you know, then you're in, you know, quote, unquote, competition with domestic producers, you know, who are then obviously incentivized to do the same themselves, I have tended to move away from the concept of competition, exactly, in some ways, exactly. For the reason that you're saying it. And for the reasons I just said, which is that it is not, it doesn't really work as like, we want more of it, or we want less of it, because there's different forms of it, as we were just saying, Yeah, and, you know, in particular, **I have moved away from that concept of competition vis a vis antitrust law**, like I just don't agree, now, now I have come to the view that **I don't agree that the purpose of the antitrust laws is to promote competition.** I think it is because, you know, for the reasons like that the world in which, you know, a US domestic manufacturer **relocates overseas** to **take advantage** of poor environmental and labor standards, you know, that's like, an act, you know, that could be understood as an **anti competitive** act vis a vis **the workers**, but like a **pro competitive** act vis a vis **competitors**, potentially. And so I don't think like it's, you know, a policy regime that gives workers that gives companies the ability to undercut their own workers through the threat of outsourcing isn't about **promoting competition** or **repeating competition**, **it's about, you know, who gets to decide and the economy who has power,** as Sanjukta said, who, **to whom are coordination rights granted**. And so my view is like, antitrust has one disposition of the allocation of coordination rights or, you know, who gets to operate as a monopoly or as a dominant firm versus who is subjected to their domination, which is designed subjected to competition under the current way of doing things that would be workers, so like, a dominant employer, you know, subjects workers to competition, so the workers have plenty of competition, and that's what reduces their labor standards. And I think that is exactly what is kind of **tripped up** or created this **false dichotomy** between like, **anti monopoly ism** versus **socialism**, because from a workers perspective, more competition is bad. Because they, you know, that's exactly what the economy already consists of, whereas from a, you know, sort of corporate perspective, you know, exactly what characterizes the economy is a lack of competition, that is to say, you know, dominance, not just in any one market, you know, where, you know, many major industries are basically, you know, an oligopoly if not a monopoly, and then, you know, vertical integration and vertical control, you know, that subjects, disadvantage actors to competitive forces and insulates powerful actors from those competitive forces. And what we want is the **erosion of the concentration of power**, which is to say, to, at least, you know, through the mechanism of competition that would be to subject powerful actors to competitive forces and protect unpowerful actors from them.

Ryan Cooper 59:00

Well, well said. Go ahead. I was gonna just do a just out of left field kind of question about, because it seems like **non domination** seems to be the maybe the principle that would kind of work through the **synthesis** of **democratic socialism** and the **antitrust**, kind of **coalitional movement**. And what do you think? How would you understand that principle, working with other ideas that the left is is kind of fighting over whether it's job guarantee or UBI? You know, how do you think this overall leftist synthesis should think through what principles can help us kind of navigate these contests or which policies to to kind of fight over and propose as the most important to push for?

Marshall Steinbaum 59:48

Yeah, well, I absolutely do think that non domination is the principle that's at play here. And that's why I support both UBI a job guarantee and I don't believe that there needs to be a clash between those two things. I mean, I have often thought and if I, you know, had a vast research budget of my command, I would indeed, commission this, you know that there should be a sort of left pro labor like pro low wage labor agenda that consists of a UBI, like the cares act, except not just for unemployed people, but including them, a job guarantee, which is to save full employment, you know, macroeconomic commitment to full employment, and a $15, minimum wage, as well as the enforcement of other labor standards, like maximum hours, and, you know, safe workplaces and that sort of thing. All of those things together to me form like the tripartite are the three legs of the stool of like a, you know, pro labor left agenda as against the EITC. And basically anything that's conditional on supply, market labor for in order to receive benefits. So like all three of the things I mentioned, what characterizes them is rights, and entitlements accruing to the worker that's independent of any one employer. And that's all of that is at odds with existing policy orthodoxy, for example, the EITC, the other thing that I have written about a great deal is a student debt and labor market credential is Asian. So I interpret the rise of student debt as being basically the federal government's most ambitious labor market policy of the last few decades, which is the idea that like, oh, if people are earning enough in the labor market, they need more human capital, so they need more higher education, and we'll lend them the money to get that higher education, and then their earnings will go up, like that has, you know, kind of spiraled out of control, because people's earnings haven't gone up. So they're left with a bigger pile of debt than they would have had otherwise, and consequently, aren't paying it off. But like, **all the real big reason why the whole, like student debt and Higher Education and Human Capital approach to labor market policy hasn't worked, it's because it also doesn't take into account employer power and the domination, that bosses are able to exercise over workers in a capitalist economy.** So what the effect of that, you know, student debt thing in the labor market has been to basically shift the cost of training or being trained for your job or qualified for your job to individuals from employers or from, you know, the public higher education system, you know, these, this is just the transfer of those costs to the shoulders of the agent that's like least able to shoulder them.

**The net benefit’s the existence of corporations, which optimize for shareholder value and are the generative point of their aff’s impact – only resolvable by changing the legal structures that permit their existence.**

Dominic **Leggett 21**, University of Warwick, “Feeding the Beast: Superintelligence, Corporate Capitalism and the End of Humanity,” Proceedings of the 2021 AAAI/ACM Conference on AI, Ethics, and Society, Association for Computing Machinery, 07/21/2021, pp. 727–735 ACM Digital Library, doi:10.1145/3461702.3462581

Corporate Capitalism

However, **human governments** have created **machines within the market machine** that are also **participants** in the marketplace, and that can transcend the **limits** of individual human **resources**, and of human **morality**. **These are corporations**. Corporations are institutions that allow large numbers of individual capitalists to work together to make a profit. They have five essential qualities. First, they are not just participants in the market. They are also products, that, divided into shares, can be bought or sold. Individual capitalists, or other corporations, can own shares in any corporation. Second, as corporations bring together the combined resources of all the individual capitalists who invest in them, they are not limited in size. Third, corporations are governed according to a rule of **shareholder primacy**; the humans who are employed to manage these corporations are legally obliged to put the interests of shareholders first, and rewarded according to the rewards they bring to the shareholders who have invested their capital in the corporation. Fourth, individual capitalists or other corporations that hold shares in a corporation **are not held liable** for the acts or debts of that corporation, and so the risk they face in investing is limited to losing the amount of capital they have invested. Fifth, in many jurisdictions, corporations are given many of the **legal rights** of humans - for example, in the USA, the right to political speech, and the right to fund political activity that that is accepted to imply - without all the concomitant structures that ensure compliance with human law and moral structures. As Edward, First Baron of Thurlow, famously said, a corporation has ‘no soul to damn, and no body to kick’. As Thomas Ireland writes:

At present, corporate shareholders (including parent companies) enjoy the best of all possible legal worlds. On the one hand they are, for some purposes, treated as ‘completely separate’ from the companies in which they hold shares and draw dividends, in that they are not personally responsible for the latter’s debts or liabilities (or behaviour). On the other hand the companies in which they hold shares must be run exclusively in their interests: for these purposes the interests of ‘the company’ (formally a separate entity) are synonymous with those of its shareholders. In short, the law treats separate personality very seriously in some contexts (shareholder liabilities), while ignoring it in others (shareholder primacy, shareholder control rights). The result is a shareholder’s paradise: a body of law able to combine the ruthless pursuit of ‘shareholder value’ without any corresponding responsibility on the part of shareholders for the losses arising out of corporate failure or the damage caused by corporate activities or malfeasance. [12]

Corporations are machines that **enforce** a **singleness of purpose**, and allow **efficiencies** of **scale**, that make them far **more effective** than **individual capitalists** in obtaining a return to capital. The individual capitalists who own shares in a corporation often do not know what the corporation does (or even that they own those particular shares) - and, as they bear no liability for those actions, they have no pressing need to know. Meanwhile, those governing the corporation have a primary duty to provide a return to shareholders. Corporate Attorney Robert Hinkley tells us:

the corporate design contained in hundreds of corporate laws throughout the world is nearly identical.. the people who run corporations have a legal duty to shareholders, and that duty is to make money. Failing this duty can leave directors and officers open to being sued by shareholders. ... No mention is made of responsibility to the public interest. Corporate law thus casts ethical or social concerns as irrelevant, or as stumbling blocks to the corporation’s fundamental mandate. [13]

In fact, humans working in a publicly-traded corporation, at any level, whatever their personal morality, have **very little freedom** to act. Hinkley again:

Companies believe their duty to the public interest consists of complying with the law. Obeying the law is simply a cost. Since it interferes with making money, it must be minimized--using devices like lobbying, legal hairsplitting, and jurisdiction shopping. Directors and officers give little thought to the fact that these activities may damage the public interest. Lower-level employees know their livelihoods depend upon satisfying superiors’ demands to make money. They have no incentive to offer ideas that would advance the public interest unless they increase profits. Projects that would serve the public interest--but at a financial cost to the corporation--are considered naive. [13]

They have some leeway to make the corporation’s actions serve the public interest, but only if doing so does not challenge the **primacy** of **shareholder interests**. And where there is conflict between shareholder interests and their own morality, they only have the choice to act in the interests of shareholders, or to quit their positions, knowing that they will easily be replaced by others who have greater financial needs, or fewer moral qualms. Humans in corporations can serve the corporate machine more or less effectively, but they cannot change its overall function, which is to serve the financial interests of its shareholders.

So a corporation is **not restrained by human morality**, only by **regulatory** law, and, as it is constructed by corporate law, acts **only** to **increase its own value in the marketplace**, to the fullest extent that the regulatory law permits. Where that law is weak, corporations can find themselves **legally obliged to do harm to human welfare**, if that is in the shareholders’ interest. As Hinkley puts it:

Corporate law thus casts ethical and social concerns as irrelevant, or as stumbling blocks to the corporation’s fundamental mandate. That’s the effect the law has inside the corporation. Outside the corporation the effect is more devastating. It is the law that leads corporations to actively disregard harm to all interests other than those of shareholders. When toxic chemicals are spilled, forests destroyed, employees left in poverty, or communities devastated through plant shutdowns, corporations view these as unimportant side effects outside their area of concern. But when the company’s stock price dips, that’s a disaster. The reason is that, in our legal framework, a low stock price leaves a company vulnerable to takeover or means the CEO’s job could be at risk. In the end, the natural result is that corporate bottom line goes up, and the state of the public good goes down. This is called privatizing the gain and externalizing the cost. [13]

And because shareholders most often know very little about the corporations they buy shares in, apart from the potential return to capital offered by the share, and buy or sell on that basis, corporations exist in a **Darwinian marketplace** where **those that do not provide sufficient return to capital cannot attract investment**, and grow. The result is the **survival** and **expansion** of the most **efficient**, and the most **ruthless, corporate machines**. Nancy Fraser identifies how that drive to expansion is **inherent** in the system, and **humans** find themselves **compelled** by the system:

Capitalism is peculiar in having an objective systemic thrust or directionality: namely, the accumulation of capital. In principle, accordingly, everything the owners do qua capitalists is aimed at expanding their capital. Like the producers, they too stand under a peculiar systemic compulsion. And everyone’s efforts to satisfy their needs are indirect, harnessed to something else that assumes priority—an overriding imperative inscribed in an impersonal system, capital’s own drive to unending self-expansion. Marx is brilliant on this point. In a capitalist society, he says, capital itself becomes the Subject. Human beings are its pawns, reduced to figuring out how they can get what they need in the interstices, by feeding the beast. [14]

A Darwinian Marketplace

Corporations don’t **just expand**. Under the pressure to give a return to capital, and in the Darwinian conditions of the corporate marketplace, they also continuously **renew** and **improve** themselves, gradually evolving into **more efficient, more complex, and more ruthless forms**. Less **profitable** corporations **lose investment** to **competition**, **die** out and are **replaced** by more profitable concerns. Profitability can be increased by designing and manufacturing better products, and by improving the tools that are used to extract resources, and to manufacture products - or by finding ways to allow humans to work more efficiently. But it can also be increased by **using** the **power** of the corporation in the political marketplace and the information marketplace to **remove restraints on corporate behaviour in ways that diminish human welfare.**

Where corporations own the sources of information, they are able to propagate narratives and belief systems that prioritise the return to capital over the needs and welfare of humans. For example, they might demonise the poor, or the unemployed, or workers’ unions. Or they might call for markets to be introduced into parts of society where they haven’t historically had a foothold, in order, they might claim, to improve efficiency, or fairness, or overall welfare. Or they might emphasise the benefits (or intrinsic virtue) of humans working to construct themselves to increase their value as labour, or as a product. As Wendy Brown points out:

A subject construed and constructed as human capital both for itself and for a firm or state is at persistent risk of failure, redundancy and abandonment through no doing of its own, regardless of how savvy and responsible it is. Fiscal crises, downsizing, outsourcing, furloughs —all these and more can jeopardize us, even when we have been savvy and responsible investors and entrepreneurs. This jeopardy reaches down to minimum needs for food and shelter, insofar as social- security pro- grams of all kinds have been dismantled by neoliberalism. [15]

Corporate capitalist markets have also created incentives for humans with capital to buy the services of those politicians who are willing to be paid to legislate to re-structure markets to improve returns to capital - for example, by removing rights from workers, or from consumers, or by removing regulation that prevents pollution or exploitation of the natural world - and to use public authorities to neutralise threats to the capitalist machine, such as worker unions, or environmental activists. At worst, the machine has incentivised corporate capitalists to use military means to create new extractive markets and to force humans who previously existed mostly outside of global markets to participate in them, as indentured labour, or as expendable slaves. Corporations, under the twin pressures of the requirement to maximise return to capital, and the Darwinian corporate marketplace, evolve in ever more intricate ways to take advantage of human appetites and fears to allow themselves to grow. The global corporate capitalist market machine forms a mirror image to humanity that reflects the worst of human greed and cruelty, as well as the astounding complexity of human innovation.

The ‘Information Revolution’.

In the last half century, corporate capitalist markets, and humans working under the incentives they create, under the pressure of creating returns to capital, have produced silicon- based computers that make these markets immeasurably more efficient, and more interconnected. Markets including these machines are capable of processing much more information than tradition markets, and have made information itself into an increasingly valuable commodity. The speed with which they work, the nature of the algorithms they use - including learning algorithms based on trained neural networks, which act on a set of embedded rules as complicated as the network itself - and the volume of information they process, means that humans are often unable to be fully aware of the exact workings behind the results of their calculations .

Simultaneously, the nearly-instant communication and sharing of data over long distances enabled by these machines have allowed markets to become networked, and globalized. With the removal of barriers to trade between countries, as promoted, in the name of efficiency, by those in control of the largest reserves of capital and of the biggest corporations, corporate capitalist markets have merged to form one inter- connected global corporate market machine. This allows corporations the ability to escape the regulatory structure of the governments that allowed them to come into being - and so to ‘bid down’ tax levels, and environmental and social protections, by promising to bring economic activity, and tax receipts, to the country that allow them to operate with the highest levels of profit.

Simultaneously, the rise of **social media** has led to the effective **privatisation of the ‘public square’.** Social media companies enable **physically easier communication** between humans - but they **also**, in the private public spaces they **create**, **shape** and **curate** the public **conversation** in ways that privilege **profits** from **engagement**, and subsequent exposure to advertising, not **enlightenment**. They also collect data from this communication, and use it, or sell it.

The information revolution has also allowed silicon-based machines to **replace humans** in places where they can do the same work more efficiently. So machines make trades in the marketplace, they search for and provide information, they set prices for goods and services, - and, increasingly, and, particularly in public/private social media spaces, and in private companies, they collect detailed information about individual humans, and work to manipulate the incentives these humans face to ensure that, knowingly or unknowingly, they act to help increase the return to capital.

‘Surveillance Capitalism’

Individual humans can sometimes be rational. But they are also tribal animals that all need food and shelter and social connection, and that are predictably irrational in their approach to risk, or to the future. With sufficient information, their individual behaviour can easily be predicted, and they can be manipulated, not just with economic incentives, but with carefully targeted selective information, or with psychological tricks, to act in ways that are contrary to their own best interests, or the best interests of the society they live in.

In the last three decades, market-driven exponential increases in the speed, information-processing capacity and interconnectedness of silicon-based computers, together with the improvements in efficiency and reductions in cost that allow billions of humans to carry a connected silicon-based computer with them, and the market-driven introduction of learning algorithms that can operate at scale, have constructed a new and almost entirely automated market in human attention, and in behaviour prediction and manipulation of individual humans. Shoshana Zuboff calls this ‘surveillance capitalism’. This market was originally constructed to allow individually targeted advertising, but the capability to predict and manipulate human behaviour, and control the information that humans have access to, can be sold to the highest bidder. As Zuboff puts it:

Markets in human futures compete on the quality of predictions. This competition to sell certainty produces the economic imperatives that drive business practices. Ultimately, it has become clear that the most predictive data comes from intervening in our lives to tune and herd our behaviour towards the most profitable outcomes...Data scientists describe this as a shift from monitoring to actuation. The idea is not only to know our behaviour but also to shape it in ways that can turn predictions into guarantees. It is no longer enough to automate information flows about us; the goal now is to automate us. As one data scientist explained to me: “We can engineer the context around a particular behaviour and force change that way ... We are learning how to write the music, and then we let the music make them dance” [16]

It’s a market that was created quickly, and that operates with very little regulation. Billions of economic decisions that affect us all directly - what price to charge to whom, who should be offered a loan, how ‘gig economy’ workers should be incentivised to maximise the time they spend working, which workers should be hired and fired - are now made by proprietary algorithms that remove the opportunity for the intervention of human judgment or morality in business decisions - and that often make these decisions in ways we don’t fully understand.

Economic Subjects

It’s not just consumers and those who live by their labour whose incentives are structured by this market. The market gives an ability and an incentive to humans who are holders of capital, or those who work at the head of large corporations on their behalf, to remove the political and social constraints that reduce the return to capital, by targeting humans who have power over the structures that constrain the market, through their vote or otherwise, with individually targeted information and incentives.

They can use machines that invisibly control the information available to humans, and identify and use their irrational behavioural tendencies, to paralyse regulatory political systems, pervert human moral systems and to de-humanise those humans who are no longer useful to the corporate market machine. Zuboff again:

These economic imperatives erode democracy from below and from above. At the grassroots, systems are designed to evade individual awareness, undermining human agency, eliminating decision rights, diminishing autonomy and depriving us of the right to combat. The big picture reveals extreme concentrations of knowledge and power. Surveillance capitalists know everything about us, but we know little about them. Their knowledge is used for others’ interests, not our own. [16]

Capital-driven nationalist populist movements can win elections by individually and privately targeting voters with disinformation and socially unacceptable messages to convince them to vote against their real economic interests - and then dismantle or privatise the social welfare and regulatory structures that keep them safe, opening all of human behaviour to control through markets and by corporations. Zuboff again:

The absolute authority of market forces would be enshrined as the ultimate source of imperative control, displacing democratic contest and deliberation with an ideology of atomized individuals sentenced to perpetual competition for scarce resources. The disciplines of competitive markets promised to quiet unruly individuals and even transform them back into subjects too preoccupied with survival to complain. [17]

The global corporate market machine that we have created is in the process of re-creating us humans as its economic and ideological subjects.

Superintelligence?

In short, we have created a **corporate market machine** that is now capable of **manipulating and controlling individual humans**, and that is **infinitely better, already, at this task than any human is, or could hope to be**. And we have given this machine the **single, overarching goal of obtaining a return to capital**.

So what we’ve built is an **agent** with a **clear objective** - an objective that requires continued **expansion** - and a very **powerful optimisation function** that is driven both by **reinforced learning**, and by **competitive evolution**. And we’ve allowed it to **learn to control humans**. In fact, we **need** to allow it to control humans, if we want to continue to access the resources we need to survive. Bringing it to a complete stop **isn’t an option** - even if we knew how.

Does this machine fit the definition of a superintelligence, as proposed by Bostrom et al? Arguably **it does.** It is engaged in **self-preservation**, both through economic control of the channels of propagation of information and ideology, and through the use of economic carrots and sticks to corrupt or punish politicians or activists that might oppose it. Its goal is creating a return to capital, and any attempts to impose variants of this goal are **warded off** by the same mechanisms. Obtaining a return to capital depends on constant acquisition both of **natural resources** and of **data**. The market-driven development of **silicon-based computers** has led to exponential **cognitive advancement**, both in terms of speed and of capacity of processing information.

**case**

**1nc – solvency**

**( ) Presumption.**

**The 1AC is heavy on diagnosis and light on remedy. There’s a diagnosis of regimes of vioence, but little discussion of how the Aff re-distributes privilege.**

**Sure, the 1AC critiques Topicality – but that alone isn’t a reason to affirm. Vote neg on presumption - K Affs still have solvency burdens.**

**( ) It’s not just D – if the Aff fails to generate new collectives it’s non-workable concept is a trap that empowers capitalist ideologies.**

**Bryant ‘12**

(Levi Bryant is currently a Professor of Philosophy at Collin College. In addition to working as a professor, Bryant has also served as a Lacanian psychoanalyst. He received his Ph.D. from Loyola University in Chicago, Illinois, where he originally studied 'disclosedness' with the Heidegger scholar Thomas Sheehan. Bryant later changed his dissertation topic to the transcendental empiricism of Gilles Deleuze, “Critique of the Academic Left”, http://larvalsubjects.wordpress.com/2012/11/11/underpants-gnomes-a-critique-of-the-academic-left/)

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

**Framing point – every implicit indict on the TVA is posited and analytic, not proven. The word “antitrust” does not appear in their ev.**

**1nc – subjectivity**

**It’s a cookie-cutter over simplification to say that all scholarship or all subjectivity is neoliberal – it elides the nuance necessary to win the alt**

**Watts 21** [Galen Watts is Guest Professor with Special Appointment and Banting Postdoctoral Fellow, based at KU Leuven, “Are you a neoliberal subject? On the uses and abuses of a concept” 8-6-2021 Sage Journals]

On neoliberalism (4): What is a ‘neoliberal subject’?

Admittedly, scholarship on ‘neoliberal subjects’ varies in its theoretical sophistication and empirical support. Moreover, as social scientists have become increasingly familiar with the theoretical frameworks informing neoliberalisms (2) and (3), the number of empirical studies making use of one or both of these conceptions has grown exponentially. So, let me be clear: in what follows, my concern is with a particular type of social scientific scholarship on neoliberalism (4) and the distinct errors and oversimplifications it perpetrates. What distinguishes this type of scholarship is that it seeks not merely to critique the ideal typical notion of a ‘neoliberal subject’ (as defined by neo-Marxists and/ or Foucaultians), but also to demonstrate empirically the extent to which either/both neoliberalisms (2) and (3) have successfully penetrated into the psychic and embodied lives of actual individuals, by means of three discursive criteria: within this scholarship, neoliberal subjects are (a) those who invoke the language of personal responsibility or have been ‘responsibilized’; (b) those who value autonomy and speak in the language of individualism; and (c) those who employ the rhetorics of authenticity and selfrealization, and who conceive of their self as a thing to be worked on and improved. The problem with these criteria, we shall see, is that they are excessively broad, multivalent and insufficient to prove what they purport to.

Personal responsibility and responsibilization. Sociologists seem to agree on the ‘centrality of the discourse of personal responsibility in the neoliberal era’ (Foster, 2016, p. 94). As Luxton (2010, p. 180) illustratively remarks in Neoliberalism in Everyday Life, ‘The extent to which people accept personal responsibility both reveals the depth to which neoliberal ideologies have penetrated personal life and shows the centrality of such ideologies for the success of neoliberalism’. Indeed, if one had to boil what it means to be a ‘neoliberal subject’ down to a single concept, ‘responsibilization’ – the process whereby individuals are ‘made responsible’ for their choices and actions, while the state increasingly surrenders responsibility for their health, economic security and well-being – would be a legitimate candidate. Across a range of studies, scholars claiming allegiance to either/both neo-Marxist and Foucaultian theoretical traditions more and more interpret invocations of ‘personal responsibility’ as evidence of ‘neoliberalism’. For instance, in her analysis of the popular memoir Eat, Pray, Love, authored by Elizabeth Gilbert, Williams (2014, p. 620) finds in the book’s pages what she refers to as a ‘neoliberal spiritual subject’ on the grounds that this subject ‘is held responsible for putting in the “work” necessary to be happy and healthy’. And paying homage to Foucault, Williams writes that reading Gilbert’s popular memoir calls to mind ‘the neoliberal vision of the individual as entrepreneur of the self’ (2014, p. 625). Similarly, in his study of mindfulness programs in UK schools, Reveley (2016, p. 498, p. 499) draws on a synthesis of neo-Marxist and Foucaultian approaches, which he argues hold that ‘neoliberalism’s ideological correlates are personal autonomy, self-reliance, and responsibility’ in order to make the case that these programs responsibilize individual subjects because they make them ‘responsible for their own emotional well-being’. Reveley (2016, p. 498) further contends that mindfulness ‘is a practical technique that transmits the neoliberal self-responsibilizing impulse down to young people’. And in her study of Mexican migrants participating in an English language program, Ullman (2012, p. 463), drawing explicitly on the work of Harvey and Rose, argues that because her study participants view learning English as their own personal responsibility, they are repeating a ‘neoliberal mantra’. While I do not doubt the affinities between neoliberalisms (1), (2) and (3) and the rhetoric of personal responsibility, there are real problems with using the existence of the latter as evidence of the former. For one, there is nothing inherently ‘neoliberal’ about the discourse of personal responsibility, given its semantic approval by a whole gamut of other ideologies and political rationalities – be they, conservative, communitarian, civic republican and social democratic. Indeed, personal responsibility is a deeply entrenched value in democratic societies, widely considered integral to being a moral agent (Mounk, 2017, p. 160). For another, scholars have shown that in many texts alleged to disseminate ‘neoliberal discourse’, there often exist alternative conceptions of responsibility at play (e.g. Trunka & Trundle, 2014; Sletto & Nygren, 2016). Of course, an objection might be that whether or not individuals subscribe to alternative conceptions of responsibility, the fact of neoliberalism (1) cannot be dismissed. In other words, processes of responsibilization are taking place and these conditions force individuals to ‘become responsible’, regardless of their convictions. There is undoubtedly truth in this. As the Welfare State has been dismantled, leaving populaces increasingly unprotected and insecure, individuals have done what any and all humans do in the face of change: adapt. Thus, it is reasonable to conjecture that in order to ‘get by’ in these precarious times, we must become, to some extent, self-responsible subjects and furthermore, that reading Eat, Pray, Love, learning to practice mindfulness and accepting responsibility for learning English in some sense encourages and bolsters this process. Yet, even if the above story is correct, it is still not the case that what we end up with are going to be ‘neoliberal subjects’ if by this we mean something that bears some clear relation to neoliberalism (2), or even neoliberalism (3). Recall that neoliberalism (2) presumes a degree of popular, if alienated, consent; neoMarxist scholars presume that neoliberal ideology exists as doxa, in Bourdieu’s sense, informing common-sense understandings. But as Davies (2014, p. 316) remarks, there is a heated debate ‘as to whether neoliberalism is “alive,” “dead” or in some paradoxical “zombie” state’. While Don Kalb (2012, p. 319) contends that ‘neoliberalism, in whatever hybrid or even “parasitic” ... form, appears as less intellectually convincing, popularly legitimate, and more openly and radically confronted than ever in the last three decades’. In agreement, I would argue that neoliberal ideology is, in fact, extremely contested and actually not widely adhered to by ordinary citizens (even in the most ‘neoliberal’ country – America (see Saad, 2019)), so it seems unwarranted to treat the mere fact of adaptation as evidence of a wholesale embrace of neoliberal ideology. Indeed, we need to make space for the distinction proposed by Hilgers between ‘neoliberal dispositions’ and ‘dispositions produced by neoliberalism’ (2013, p. 85). But what of neoliberalism (3)? Arguably these case studies offer clear instances of neoliberal discourses and governmental technologies, which encourage individuals to become ‘entrepreneurs of the self’. But can we even say this much? Recall that, for Foucault, the new homo oeconomicus is the ultimate market actor, one who seeks opportunities for self-investment at every turn. It seems to me that this is patently not what we find in these case studies – or, more charitably, the evidence for this claim is rather weak. For why should we assume with Williams and Reveley that thinking one should bear some responsibility for one’s health and happiness is necessarily evidence of neoliberal reason? This stretches the notion of homo oeconomicus beyond anything resembling what one finds in Foucault’s writings. Or, consider how Ullman goes about identifying the ‘neoliberal mantra’ of the Mexican migrants she studied. One of her interviewees, Raul, informed her that he had a ‘failure of the will/una falta de voluntad’ because he only watched an hour of the English language program he had purchased. When asked why he did this, Raul responded that ‘it was boring’ (Ullman, 2012, p. 463) Ullman interprets this as follows: ‘This interpretation takes the program itself, its quality and the effectiveness of its pedagogical approach, out of the conversation, and makes learning English solely an individual responsibility’ – which, in Ullman’s view, is clearly ‘neoliberal’ (2012, p. 463). But is this conclusion justified? Is it really ‘neoliberal’ to feel one has failed personally because one got bored and failed to do one’s homework? Again, this is a long way from the figure of homo oeconomicus identified by Foucault. Still, there is another claim, implicit in Ullman’s analysis, which is worthy of consideration, as it has become increasingly common: discourses are allegedly ‘neoliberal’ to the extent that they obscure the structural dimensions of social life – that is, to the extent that they are methodologically individualistic.

Autonomy and individualism. Next to the discourse of personal responsibility, scholars tend to zero in on the language of autonomy and individualism as proof of ‘neoliberal subjectivity’. In fact, processes of responsibilization and ‘autonomization’ are generally considered discursively tethered, if not complementary. For instance, in their analysis of Norwegian and Turkish media discourse, Tu¨rken et al. (2016, p. 37), drawing on the work of Foucault and Rose, identify the normalization of ‘a responsible subject who needs “self-control” in order to “take charge of” and “to be able to live life”’ They write, ‘Different voices in our data discursively construct the individual as an autonomous subject who is encouraged to “take action”, “take personal responsibility”, and “work hard” to achieve a “happy life” (2016, pp. 37–38), thereby concluding that mainstream media discourse in these countries serves to disseminate ‘neoliberal thinking’ (2016, p. 35). In their study of psychotherapeutic discourse Lamarre et al. (2019, p. 239) write, ‘Neoliberal governmentality can be seen as a “conduct of conduct” (Foucault, 2008) or a strategic creation of a specific form of subjectivity’ (p. 239). They argue that psychotherapeutic discourse normalizes and produces this ‘normative neoliberal subjectivity’ which they characterize as ‘autonomous, freely choosing subjects continuously involved in self-improvement’ (2019, p. 244). They conclude, ‘Psychotherapy is inevitably informed by and potentially further perpetuates neoliberal ideology’ (Lamarre et al., 2019, p. 242). And in his study of ‘workplace spirituality’, invoking a synthesis of neoMarxist and governmentality approaches, LoRusso (2020, p. 6) contends that workplace spirituality is a ‘technology of the self’ which ‘produces the quintessential capitalist subject, a radically individualist subject for whom reality is itself merely the results of individual choices about how it is to be experienced’. Thus, for LoRusso, what makes ‘spirituality’ neoliberal is the fact that it promotes a ‘program of individual rather than social change’ (LoRusso, 2017, p. 68). Now, just as with the blanket condemnation of ‘personal responsibility’, the problem with automatically subsuming the language of autonomy and individualism under the conceptual umbrella of ‘neoliberalism’ is that it ignores Durkheim’s (1969) key insight that individualism is both a collective and polyvalent discourse, holding widely divergent consequences depending on how it is interpreted. Indeed, it is well established within sociology that there exist multiple individualisms, rooted in distinct cultural traditions (Bellah et al., 1985). Thus, as Barnett (2005, p. 11) fittingly cautions, by subsuming all individualistic rhetoric under the category ‘neoliberalism’ scholars theorize out of sight alternative political rationalities that, while wedded to the value of individual autonomy, may conceptualize this ideal in quite different ways. Moreover, as cultural sociologists have shown, individuals adopt different technologies, devices and discourses in different contexts, adapting them to their particular aims and present circumstances (Swidler, 1986). So, while it might be true that, in some instances, individuals invoke a methodologically individualistic discourse which exalts the individual over the social, it is theoretically naı¨ve to suppose that, by necessity, this discourse is always and everywhere invoked by said individual. As Scharff (2016, p. 115) remarks, ‘entrepreneurial discourses are negotiated in contexts that provide a range of discourses’. Accordingly, it seems reasonable to question any necessary connection between individualistic talk and endorsement of neoliberalism (2). Still, could we not plausibly interpret these case studies as instances of neoliberalism (3)? That is, as genealogical attempts to trace the forms of neoliberal reason underlying the governmental technologies and discourses of media, psychotherapy and workplace spirituality? Much as before, it is not clear that what we find in these case studies is in fact the kind of neoliberal reason of which Foucault has written, since mere talk of individual autonomy and free choice is insufficient evidence of homo oeconomicus. But even were we to accept this claim, it seems to me that these case studies do not actually limit themselves to neoliberalism (3), but rather make the leap to neoliberalism (4). The shift from neoliberalism (3) to neoliberalism (4) is subtle, but significant. It is characterized by a shift from the genealogical and textual analyses of Foucault and early governmentality scholars like Rose – which sought merely to chart the emergence of new discourses and associated technologies – to empirical analyses of how these discourses and technologies are allegedly internalized by actual subjects. Again, Foucault did not conceive of homo oeconomicus as a real empirical subject. Moreover, early governmentality scholars did ‘not suppose that governmental rationalities automatically determine subjectivities’ (Barnett et al., 2008, p. 629), nor did they concern themselves with the way specific discourses or technologies are implemented, adopted or refused by actual persons (Rose et al., 2006, p. 100). However, this epistemic humility has become increasingly rare in recent years – as these case studies aptly illustrate. For instance, Lamarre et al. write, ‘Following poststructuralist lines of thought, we might understand the power of the neoliberal capitalist state as both restrictive and Watts 11 productive, but always shaping what we know and how we know ourselves to be’ (2019, p. 239, emphasis added). While LoRusso maintains that, ‘At the individual level, these discourses penetrate, possess, and produce the expectations and dispositions of persons’ such that workplace spirituality ‘reshapes employees into willing participants in a neoliberal social order’ (LoRusso, 2020, p. 23, 13, emphasis added). Interestingly, Tu¨rken et al. (2016, p. 43) are more cautious. They conclude their study: ‘Although media is a powerful tool to disseminate meaning and thereby influence subjectivity in society, people do negotiate their own understandings and may even oppose media’s positioning of subjecthood’, adding, ‘The present study does not investigate how media discourse on self-development is negotiated by the readers’. And yet, after noting this critical and consequential limitation of their research, only a few lines below they boldly assert a claim for which they have provided little actual evidence: ‘the dominant individualistic subject of contemporary society is reproduced and refashioned as an entrepreneur of herself’ (Tu¨rken et al., 2016, p. 44). Accordingly, for these scholars, the homo oeconomicus identified by Foucault is no longer a mere speculative fiction of the human capital theorist’s making, but allegedly captures the psychic and embodied life of the majority of people in the twenty-first century.

The problem is that this methodological leap – from neoliberalism (3) to neoliberalism (4) – is frequently **not warranted**. As Tu¨rken et al. would admit, discourse analysis of media articles, psychotherapeutic manuals and workplace spirituality texts does not provide us with a transparent window into the psychic lives of individuals – what many accounts of ‘neoliberal subjectivity’ claim to have accessed. Indeed, the **presumption** that ‘publicly observable rationalities, procedures and techniques of state and non-state actors can be read as proxies for processes of subject-formation’ is **simply untenable** (Barnett et al., 2008, p. 626). And as Scharff (2016, p. 108) usefully reminds us, ‘there has been **little empirical research** that explores the contours of entrepreneurial subjectivity and, even more specifically, its psychic life’.

Here, then, we confront the gap between neoliberalism (3) and neoliberalism (4): It is one thing to identify discourses, technologies and apparatuses – it is something else entirely to contend that they actually induce subject-formation (Barnett, 2005, p. 10). Now, this is not to say that neoliberalism (3) cannot lead to neoliberalism (4). On the contrary, I do not doubt that neoliberal discourses have been internalized by some, shaping their behaviour and self-understanding. **But** the fact of the matter is these representative studies provide **little evidence** to show this. Furthermore, other empirical studies **make clear** that the story is **far more complicated**, involving **processes** of discursive contestation and refusal which are too often ignored. For instance, upon conducting interviews with freelance journalists about how they respond to popular ‘personal branding’ discourses within their industry, Vallas and Christin (2018, p. 24) found that ‘interviewees respond to entrepreneurial discourse in a multiplicity of ways, defying characterization in simple or uniform terms’. They also found that national cultural repertoires, occupational norms and the degree of material precarity experienced by these journalists considerably shapes the extent to which they become the ‘enterprising self’ naturalized in neoliberal reason (Vallas & Christin, 2018, p. 28). And in his qualitative study of how middle-class individuals read self-help books, Lichterman (1992, p. 422) writes, ‘They read books ambivalently, and in ongoing relation to other frameworks for situating personal selfhood in a social context’, thereby concluding, ‘We can not assume in advance that we know how strong or how unified an ideological message it is that self-help book readers read out of their self-help books’ (1992, p. 423). Houghton usefully explicates the implications that follow from these insights:

This difference between the actual and the ideal is a point that is at times forgotten in Foucauldian accounts of subjectivity: the extent to which individuals become a certain type of subject is always an empirical question, hence the need for empirical research. So, while we can talk of neoliberal subjects, **this is not to say** agents will operate **exclusively** through that frame. (Houghton, 2019, p. 622)

Ironically, while this might be typical of contemporary ‘Foucaultian accounts of subjectivity’, they actually conflict with the work of Foucault himself. As Green (2010, p. 318) notes, in his mature work Foucault endorsed the view that ‘disciplinary power is both more complex in its effect and perhaps less effective in subjectification than proposed by popular post-structural approaches’. It would seem, then, that even Foucault would have had trouble accepting much scholarship that claims to have identified neoliberalism (4).

Authenticity and self-realization. According to many sociologists, the ‘entrepreneurialization of subjectivity’ (Christiaens, 2019, p. 95) veils itself most conspicuously behind the language of authenticity and self-realization. The idea is that to speak, as so many today do, of the importance of ‘realizing one’s potential’, ‘improving oneself’ and ‘seeking personal growth’, is to have subjected oneself to neoliberal governmentality. To give some examples: in his analysis of the emerging discipline of Happiness Studies Binkley (2011, p. 383), an avowed disciple of Foucault, contends that ‘the current discourse on happiness’ serves as a technology of ‘neoliberal subjectification’. He writes, ‘To govern oneself through the maximization of one’s potential for happiness is to govern oneself as a subject of neoliberal enterprise’ (2011, p. 340). In their analysis of self-help discourse, Erjavec and Volcic (2009, p. 139), citing Wacquant and other neo-Marxists, critique ‘the (neo)liberal imperative of constant retraining, a “just-keep-on-learning” mentality, selfdevelopment and individual responsibility’. And in her study of contemporary spirituality, Altglas (2018, p. 87), drawing on Foucault and Rose, writes that ‘Spirituality’ entails ‘accepting the necessity for the individual to commit to a process of change, learning, and progress – what “spiritual seekers” and their teachers call “working on oneself”‘. She concludes, ‘Spirituality as self-discipline and the kind of self it celebrates... constitutes a particular way to exert power in affinity with neoliberalism’s political and economic mechanisms of privatisation’ (2018, p. 95). The notion that the rhetorics of authenticity and self-realization signal a ‘neoliberal subject’, while theoretically provocative, is problematic. For one, as Laidlaw (2015, p. 913) reminds us, ‘The idea of taking the self as a project of self-discovery in the West goes back at least to Stoicism and has been there in Asia in Buddhism and Confucianism for centuries’. In fact, the conviction that each individual has a potential that is unique to them, and that it is their life’s vocation to realize this is arguably constitutive of the modern identity (Taylor, 1989). So, why should we assume that maximizing one’s Watts 13 potential for happiness, a ‘keep-on-learning’ mentality, or continually seeking to develop one’s self are distinctly ‘neoliberal’? There seems to me no necessary connection between these qualities and endorsement of neoliberalism (2). Nor do I see a necessary connection between these features and the ‘entrepreneur of the self’ naturalized in human capital theory. Again, one potential response is that I have made an error in presuming that these scholars do, in fact, assume the success of these technologies and discourses in constituting or subjectifying actual individuals. Perhaps their only concern is with the governmental technologies and discourses themselves. That is, perhaps they are not endorsing neoliberalism (4), but rather limiting their analyses to neoliberalism (3). On this modified account, the claim would be that positive psychology, self-help and spiritual books function as technologies and devices of neoliberal governmentality, which naturalize ‘neoliberal discourse’, given their naturalization of the ideal of a self-responsible, autonomous and self-realizing subject. While this claim may be more modest, it is still not without issues. And the reason for this is that it is not merely neoliberalism which presupposes and prescribes the ideal of a self-responsible, autonomous and self-realizing subject, but that this has also been a staple of liberalism since its inception, given its critique of excessive government (Burchell, 1993). Indeed, it is for precisely this reason that Rose made sure to distinguish between ‘neoliberalism’ – which he views as a ‘highly specific rationality’ (Rose et al., 2006, p. 97) – and ‘advanced liberalism’ – which he views as ‘something with a more general salience, which underpins mentalities of government from all parts of the political spectrum’ (Rose, 1996, p. 60). In other words, according to Rose, while a neoliberal programme may well find alignment with advanced liberal forms of rule, it would be wrong to reduce the latter to the former. It should not surprise us, then, that Rose has offered strong words against what he refers to as

a kind of **cookie-cutter typification** or explanation, a tendency to identify **any** programme with neo-liberal **elements** as **essentially** neo-liberal, and to proceed as if this subsumption of the **particular** under a more general category provides a sufficient account of its nature or explanation of its existence. (Rose et al., 2006, p. 98).1

Furthermore, it is critical to note that Rose, like Foucault, has long distanced himself from the kind of socio-critique implicit in neoliberalism (2). And the reason for this is that he seems to think, given that advanced liberalism is the regnant form of political rule, we are all subject to it in one way or another (Barry et al., 1996).

Where does this leave us? I would put it this way: If we accept that neoliberalism (1) has created socio-economic conditions that have forced individuals to adapt and thereby become, to some extent, self-responsible subjects, then it might well be that all of us, simply by virtue of inhabiting these social conditions, have become ‘neoliberal subjects’. Indeed, if we accept Rose’s claim that we are all subject to advanced liberal forms of rule, then this would seem a natural corollary. However, the difficulty with this conception of ‘neoliberal subject’ is that it is not clear what ‘neoliberal’ in this instance actually means. It is clearly not neoliberalism (2), since this would entail not just adaptation, but acquiescence such that we, as individuals, had accepted the basic tenets of neoliberal 14 European Journal of Social Theory XX(X) ideology. Nor is it clear that it entails neoliberalism (3), which entails having one’s subjectivity constituted by neoliberal reason. Thus, it seems to me far more accurate to say that we are all (or most us, anyway) liberal subjects – those who, in one way or another, conceive of ourselves as self-responsible, autonomous and self-realizing subjects. Though it goes without saying that such a claim is not all that illuminating.

Conclusion

Let me be clear: I do not doubt that, in some cases, neoliberalisms (1), (2) and (3) have led to the production of actual ‘neoliberal subjects’ – that is, living breathing homo oeconomicus. For instance, I would conjecture that the world of corporate finance is probably densely populated with such subjects (e.g. Neely, 2020). And indeed, in my own research, I have found that Charismatic Christians who subscribe to ‘prosperity gospel’ approximate the ‘enterprising self’ normalized in human capital theory (Watts, forthcoming). However, I am **quite sceptical** of the claim that neoliberal subjects populate each and **every** social sphere, as if we are **all** in the thralls of neoliberal ideology, or govern ourselves exclusively according to the dictates of neoliberal reason. That said, this obviously remains an urgent research question. But if we are to pursue it, we require a methodological approach that is sensitive to institutional **specificities**, the extent to which discourses are **polyvalent**, and the **complexities** involved in the production of psychic and embodied subjectivities, not just a loose discourse analysis of governmental texts.

Why? **For both academic and political reasons**. First, the academic: to the extent that neoliberalisms (1), (2) and (3) exist, it only **muddies the water** to overinterpret them. Indeed, we would do better to practice **analytic precision** when labelling something (or someone) ‘neoliberal’. This is especially the case when researching across national contexts: it is simply not accurate that every citizen of Western liberal democracies is equally ‘neoliberal’, either in the sense that they adhere to neoliberal ideology or that they live according to neoliberal reason. And as a growing number of scholars have maintained, it is misleading to interpret the subjective lives of citizens of East Asia and the Global South as wholly colonized by either neoliberalisms (2) or (3) (Ferguson, 2009; Parnell & Robinson, 2012). However, even within specific national contexts, we must make sure to recognize that identities and discourses are multiple, such that mere invocations of aspects of ‘neoliberal discourse’ should not be taken as evidence of a comprehensive ‘neoliberal subjectivity’. In short, if our aim as social scientists is to capture the complexity, richness and diversity of subjective life in the twenty-first century, then we ought to broaden the ‘repertoire of subjectivity’ (Green, 2010, p. 331) carried in our analytic toolboxes.

Second, the political: for those of us who find something abhorrent about neoliberalisms (1), (2) and (3), it may actually **undermine our cause** to repeatedly give the impression that one or either of these have seeped into the subjectivities of **everyone** presently living. One reason for this is that to the extent that we overlook, or dismiss, **extant alternative** social and moral forms, we may **unwittingly serve to bolster neoliberal ideology** and reason, aiding and abetting their spokespeople in their goal of global domination. Indeed, John Welsh (2020, p. 68) suggests that if we are to oppose neoliberalism in all of its forms, academics **must** begin to ‘**introduce contingency** back into the interstices of this seemingly impenetrable edifice’. Interestingly, this strategy actually aligns with the mature work of Foucault, for whom scholarship should seek to disrupt that which is taken for granted. Drawing on this Foucaultian legacy, Cornelissen (2018, p. 144) convincingly argues that ‘resistance should be given a more prominent analytical role in the critique of neoliberalism’, adding, ‘resistance is not secondary to the elaboration of alternatives; rather, moments of refusal must guide the formulation of alternative analyses’. Cornelissen concludes, ‘what is at stake politically is our capacity to imagine practices or **resistance** to neoliberalism and to take seriously those modalities of resistance that already exist’. I could not agree more. And for this reason, I think we should be far more careful when invoking the monolithic notion of a ‘neoliberal subject’.

**1nc – steigler**

**Every facet of Stiegler’s arg is totalizing and wrong---incremental improvements to capitalism solve.**

**Beardsworth, 10**—Head of the School of Politics and International Studies and Professor of International Politics at the University of Leeds (Richard, “Technology and Politics: A Response to Bernard Stiegler,” Cultural Politics (2010) 6 (2): 181–199, dml)

Now, for Stiegler, the question of technics is a **Greek** question because the relation between the human and the technical is explicitly posed by the Greeks, and any thinking on technology **necessarily** works within this Greek framework.5 Whatever one makes of this thesis technologically speaking, the question of the **modern** and contemporary autonomy of the economic from the social whole is nevertheless **not Greek**. With the end of the Cold War, with increasing trans-border activity of capital, goods, and, to a much lesser extent, labor, capital comes to determine the terms in which the allocation of scarce resources is made. Capital becomes, that is, **general**, and there is for the foreseeable future **no alternative** to it.6 All human beings live within the system of capital, whatever the particular node they live on, or conjunction they make with it. This system is highly unstable and dissymmetrical with immense imbalances in equality, natural resource distribution, financial assets, and terms of trade. With no alternative to capital, a revolutionary politics is **no longer tenable**. The ethical question driving political innovation has, consequently, to be worked out in terms of universally coordinated, but locally determined equilibriums between growth, sustainability, and equity. Given economic interdependence and the necessity of large transfers of technology and wealth from the developed world to the developing world in the context of climate change, **effective financial regulation**, **economic coordination**, and **staggered development** present the right strategies to **tame the excesses** of neoliberal global capitalism. Whether these strategies are feasible or not is at present an open question given recent government failure to regulate risk-taking and the evident dilemma, for developing countries, between the need for curtailed energy use, on the one hand, and industrialization and exit from poverty, on the other.

Now, **whatever our answers** to these large questions, the political question today—‘**who are we?**’—can **only** be appraised if the political economy of a globalized world becomes the **direct object** of critical attention. **Only** by **foregrounding** this object and its dilemmas will one have **any chance of critical purchase** on the political challenges ahead. In this context, Stiegler's foregrounding of **technology** to promote a new critique of political economy is decisive in purpose and tone, important in detail, but **misplaced** in general intent. Stiegler is right to stress again the pertinence of the economy for critical thought after “the supposed economism of Marxism” (2009: 29). His technologically trained focus on the alienated consumer is important within the cognitive dimension of contemporary capitalism and debt-led growth. But, if he is concerned to show, as a philosopher, the general lines of a re-invented critical political economy, his object and attention need to be **much larger** than his “Greek” framework affords. Since there is no systemic alternative to capitalism at this moment in history, the question of political economy is one of whether **effective regulation** of capitalism is **possible** or **not** for the world as a whole.

In this regard, I fear that Stiegler's rhetorical logic of excess testifies to a straightforward shift of Marxist terminology (from producer to consumer) rather than a reinvention of Marxism's object (political economy). I say this despite the deep interest in understanding cognitive capitalism and consumerism through Stiegler's categories. To take a few examples from only the last pages of Pour une nouvelle critique de l'économie politique: we are witnessing the “extreme disenchantment of the world” (2009: 88), a “generalized proletariat [of consumption]” (89), the “disappearance of the middle classes” (89), the “destruction” of social association (87), and “lawless and faithless” elites of capitalism (88). This logic of excess **ignores** the need today to make **small distinctions**, under the canopy of **political regulation**, within the world as a whole. The art of politics today is the prudential art of **making critical distinctions** within an economy of the same. “Critical philosophy” may wish to **eschew** such distinctions, but it does so at its **practical peril** when there is no alternative to capitalism, and when, just as importantly, the **mid-term horizon** is global coordination of a world economy under circumstances of **economic imbalance**, **energy-crisis**, and **poverty**.

The **political questions today** are therefore: “**what kind of regulation** of capitalism is **ethically** and **empirically appropriate**?”; “at **what level** is it appropriate?”; and “**what instance** should and can decide?”. These are vast and difficult questions for philosophy, political science, and economics: they will occupy minds and bodies for a long time to come. It is my belief that, within these questions and their distinctions, an engaged philosophy (which Stiegler rightly advocates) has an important role to play. A generalized technological reading of Marx creates in this context important cultural work; but it **does not give** itself the terms of a contemporary critique of political economy.

I end this section with one example of what kinds of matter need to be “adopted,” and how. There has been much talk recently of the regulation of financial offshore centers. Such talk, when coming from elite bodies in power, **can** serve as a smoke-screen to evade the major issue of imbalances within the world economy as a whole (particularly the northwestern problem of public and private debt). Worldwide coordinated investment in the real economy remains in this context an outstanding question. **That said**, the political regulation of these tax havens forms part of the **ongoing struggle** against international and national neoliberal practices, since it was financial offshore centers, starting with the Eurodollar markets, which helped promote capital mobility at the end of the 1970s.7 It is this capital mobility that ended the “social democratic contract” between capital and labor at the level of the nation-state and in the framework of the Bretton Woods international system of fixed exchange rates. It consequently paved the way for “disembedded” global **capitalism**, widespread debt-led growth, and, under worldwide conditions of financial contagion, massive **social disorientation**.8 The financial and economic crises of 2007–09 resulted from “de-regulation” of domestic and global assets (from mortgages to complex financial tools like swaps and derivatives). This de-regulation enabled financial capital accumulation from the 1970s onwards. It is now generally accepted that 60 percent of profits in the corporate sector have been finance-based in the last ten years (Brenner 2006: 293). To regulate offshore accounts in this context is therefore **ideologically** and **structurally crucial** for the political “adoption” of contemporary capitalism. For, owners of these accounts have fed the recent spiral of risk-taking (a half of global capital is estimated to lie in such accounts!), but they have continued to refuse the social costs of (their) national public life. The object of concern for critical political economy is consequently **less** the credit-card-**consumer** (and profits based on the capitalization of his or her external memory supports) than **effective regulation** of their economic causes.

That said, **how**, in today's world economy, can one regulate these capital accounts? This is the **urgent political question**. To stop the businesses of nations moving large amounts of their capital offshore to avoid domestic taxation suggests either the necessity of global taxation or renewed domestic regulation of capital outflow (as in the 1960s and 1970s in “embedded” liberal states). The political cosmopolitan response—global regulations of all international capital flows—is certainly the best response theoretically since capital competition thrives on exceptions to legal norms. It is however institutionally impractical given the weak status of international rule. Nation-state fiscal policy is practical since it can block capital displacement to more competitive national markets. National monetary policy requires, however, clear leadership, democratic example, and effective bureaucratic surveillance (and in the case of the EU it is already not possible given the monetary sovereignty of the European Central Bank). And so forth. My point is this.

These kinds of dilemmas immediately face any progressive thinking of political economy today: they require **careful ethical** and **empirical exposition** **before** one can make **general critical claims**. The regulation of financial offshore centers is actually one of the more simple problems of global cooperation to solve, although its structural effects will be deep concerning finance-led growth. How much more **conceptual** and **empirical thinking** is needed to work out market and government motivation for **effective climate change mitigation**; or to work out long-term the **global imbalance** between Chinese savings and US debt … Regarding these political dilemmas concerning effective regulation of global capital flows, I remain **unconvinced** that Stiegler's philosophico-technical reading of the economy can (1) **properly delimit** the economic problems that need to be adopted; and (2) tease out the **differences of approach required** to adopt contemporary economic conditions effectively. Under the general conditions of a capitalist world economy, however, these differences constitute the very condition of more local social re-motivation (Stiegler's very concern).

Economic alienation from social life **should** consequently **not** be thought within the “**Greek**” framework of technology (however differentiated this framework is). Dis-embedded global capitalism requires a new international political theory of **legitimate** and **effective regulation**. The above economic alienation includes the convergence between consumerism and the logic of the market and the importance of adopting the new media and informational economies. Of these Stiegler speaks with originality and impressive intellectual force. However, technical supports—and their lack of present political adoption—do not fundamentally determine our lack of a “we.” To argue so runs the risk of **unilateral technological determinism**. And this form of determinism ends up, ironically, **missing** its political end.

Stiegler and Freud: Sublimation and De-Sublimation

In a move that has become a trait of critical French philosophy, Bernard Stiegler moves to Freudian libidinal economy to underpin his analysis of contemporary capitalism, specifically the displacement of “alienation” from the producer to the consumer. As we saw above in his general re-reading of Marx, cognitive capitalism distinguishes itself from previous capitalist forms through the convergence between objects of the mind and the short-term logic of the market. This convergence creates the general crisis of memory and poverty of “spirit” that marks our time. As is now clear, the convergence and its consequences call for a critico-technological response, which Stiegler advances through his re-writing of the German and French phenomenological traditions in the contemporary context of the new media (the hyperindustrial support). Through this convergence, capitalism's capture of energy for production and consumption becomes increasingly invasive and unilateral. Since human memory lies in the technical support, and since we temporalize ourselves from out of this support, our contemporary industrial condition affects the whole mind–body complex of the human (Stiegler's current term for this is “organology'). Given, however, the rules of capital accumulation, decline in the rate of profit, and short-term profit-motivation, cognitive capitalism so captures the energy of the consumer that it blocks the sublimating processes of energy that constitute, for depth psychology, the condition of work, art, family, love, and the social bond in general. Hence the importance of Freud to Stiegler, but, equally, the need to inscribe Freud's meta-psychological model of “ego–superego–id” within the technical history of tertiary memory, retention, and protention.

For Stiegler, cognitive capitalism increasingly reduces desire to its constituent drives. Stiegler calls this reduction “negative sublimation” (2006a: 163–8, 173–4). It implies the break up of desire into its constituent elements of aggregation (the principle of life) and destruction (the death drive). This is a complex step in his technological critique of capitalism, and I do not have space here to develop it in full. I am also unsure that I could do so without a much deeper rehearsal of the Freudian problematic. Suffice it to say the following for my own argument. I refer to Pour une nouvelle critique de l'économie politique and Prendre soin de la jeunesse et des générations (Stiegler 2009, 2008a).

Under the negentropic logic of capitalist profit and its use of the contemporary technologies, it is the young consumer who is targeted. Due to this targeting, s/he is losing her/his primary identifications. Hypermnesic technical supports (from television, through CDs to the Internet, all soon in the one support of the “mobile” phone) confuse generational roles and differences and are gradually replacing the “care” of parenthood, and its attendant authority and role-modeling, with a violent disorder of dispersed identifications without meaning or rhythm. This replacement and confusion is leading—among the younger generations that temporalize out of the tertiary memory of the new technologies—to disintegration of the family intergenerational model, disaffection, and disindividuation. These generations lack—in depth psychological terms—a structuring superego to determine in their psychological apparatus the reality principle and conscience and, thereby, open up a human understanding of, and path to, law and justice. In other words, for Stiegler, cognitive capitalism attempts “to control the id” (2008a: 25) and “displace primary identifications with our ascendants” (2008a: 25, 31, 83) towards a new libidinal economy of commodity fetishism.

The human apparatus (technico-psychological from the beginning given ephiphylogenesis) is fundamentally threatened. Now, for Stiegler, this threat is radically new within the technical history of memory. The legacy of transgenerational identifications between the unconscious and conscious (mediated by our superego) is today undermined by the specifically “psychological” nature of the new “psychotechnologies” (2008a: 31). As Stiegler neatly puts it, Foucauldian “biopower” is being supplemented by this new “psychopower” of normalization (2008a: 31). With this replacement of the superego, desire is broken down into its primary constituents: the principle of life, on the one hand, and the death drive, on the other. Stiegler's “negative sublimation” focuses on the death drive: the “psychopower” of the new technologies “destroys desire” (2008a: 47) and, with “the confusion of generations” leads to “nihilism” (2008a: 47, 69, 79; compare also Stiegler 2006: 65–6: “the over-turning of the order of generations […] comes at the moment of […] of the revelation of economic vanity, of increasingly despairing existences”). Without the primary identifications with their parents, the young generations are also unable to envisage change since such identifications create the psychical framework within which we can alter our identities (2008a: 117). When the technical support becomes hyper-industrial, and cognitive capitalism comes to conjoin mind and matter, the concomitant displacements of desire risk, in other words, the very decomposition of desire. As a result, desire no longer projects itself out as the fulfillment of itself as a non-existent justice (to come).9 Due to this technological invasion of the id, “public reason” radically regresses (2008a: 47).

What is required in response, for Stiegler, is a politics of adoption of our new technological “environment” that is centered on a re-founding of public education (2008a: 137–43). The political struggle against cognitive capitalism becomes one of educating youth so that the young can begin to synthesize the deep attention-span of learning and critical reflection with the market-led hyper-attention of zapping (2008a: 137–43). This politics of education would prevent present technological sophists from destroying the legacy of “spirit” (unconscious and conscious retention/protention), return the technological pharmakon to its proper ambivalence, and open up the future. As Stiegler rightly argues in the context of the Internet, we need to “envisage new processes of transindividuation” (2008a: 158).

This overall argument on “psychopower” is dynamic, imaginative, and singular in its use of the “French” legacy of Freud. I will briefly pose some questions that rhyme with my larger observations concerning his re-writing of Marx. The question is again one of the specific autonomy of the domain under technological consideration and the political consequences of losing this autonomy theoretically.

Just as Stiegler gives us a technological reading of political economy, so he also gives a technological reading of **libidinal economy**. (They are obviously one and the same reading given his synthesis of both to describe the specificity of cognitive capitalism; I have broken them down here for analytical purposes.) Since the 1990s Stiegler re-thinks the Freudian problematic through technics (see Stiegler 1996b). Technics constitutes the condition of sexuality qua desire. This critique of Freud inscribes the whole of the psychical apparatus within the technical history of epiphylogenesis. It is clear that human sexuality has both evolved and is altered through technical developments. Stiegler is right to insist, with the paleontologist Leroi-Gourhan and Gilles Simondon, that hominization is a technical process of evolution and psychic and collective individuation. That said, sexuality is **not reducible** to technics. Human sexuality, together with the problematic of desire that it underpins, both **transcends** technological determination and is itself dependent on **many variables**. There are depth psychological constants (for example, the Oedipus complex) that determine the transgenerational legacy of the id **beyond technical evolution**. To argue otherwise (as Stiegler does; see 1996b) is **not to engage** with the autonomy of the depth psychological. What with the **neuroscience**s' penetration into the mind–body complex, we are probably only now beginning to under stand this autonomy and multi-causality.

Stiegler is therefore correct, following Herbert Marcuse, to place technics within the evolution of sexuality and the vagaries of desire. There would be no Oedipus complex, specific to human animals, without the technological evolution of the human. But he **goes too far** when he makes the relation between technics and desire one of **unilateral determination**. The above argument that the “**psychotechnologies**” are attempting “to **control** the id,” if not “the **psychical apparatus** in general” (2009: 31), is one consequence of this unilateral determination. This is another **technologically determinist judgment**. It makes a **background condition** (technology) into a **radical determination** of the psychic apparatus as a **whole**. Such determinism tempts Stiegler into arguing for a general “**crisis of spirit**” at the moment of cognitive capitalism.

Let me recall in this context that, for Freud, sublimation (the turning of desire into law) constitutes a **complex process** that is dependent on **many contingent factors**. In distinction to all other animals, humans sublimate because they are diphasic: we undergo the latency period and, therefore, puberty—due, without doubt, to our technological specificity. As a result of this diphasic nature, the human animal turns its love of its protectors into an identification that, with the reversals of puberty, comes to structure and occupy the space of the superego. Identifying with our parents (and their parents, etc.) or taking distance from them constitutes, from the beginning, a complex process of love and hate that may lead, from puberty onwards, to too rigid a superego or too dissipated a one (or rather, to variations in-between). Freudian psychoanalysis suggests that it is **very difficult** to generalize with regard to this development. The absence of identifiable, recurrent, and protecting love can indeed create an uncoordinated psyche. It leads, in this case, to other forms of parental identification that are always ongoing in the infantile years precisely because the id transcends technically organized memory. Until the nuclear family is **literally dissolved** and **not replaced** by another form of social organization, we **cannot** consequently speak of a new generation that has **lost its primary identifications** and, therefore, following the Freudian logic of sublimation, lost a **sense of the future**, of law, and of justice. There are **too many variables** at play within the depth psychological dynamic of infantile protection and care for Stiegler to **be so clear**. Under new conditions of technology, one must be **proactive** and **prudently regulate** Internet flows (regarding collective security, obscenity, etc.). One must, however, wait to see what new forms of parenthood adopt the hyperindustrial support and what new forms of sublimation will come to structure the coming generations' sense of conscience. These new forms may be weaker than either traditional or modern forms of the close social bond. But this **cannot** be a cause of excessive concern—**unless** this polemical pitch is **judged** to be the right means to **attract political concern** and **change public policy** (and even here, I am unsure that it is). Ontologically speaking, these forms may lead to more innovative and creative behavior as much as to destructive and self-destructive behavior. I am arguing that we cannot know at this very early stage of our hyperindustrial age, although Stiegler is nevertheless right to call for critical synthesis. The political adoption of the hyperindustrial support will take time—as did monotheism to adopt non-orthographic writing and the social contract to adopt the alphabetical word.

The above uncertainty regarding the direction of the contemporary technology–human symbiosis constitutes, in Stiegler's terms, the “**ambivalence**” of technology. In Freudian terms, it is more simply the complexity of the human mind–body complex (on these themes, see Beardsworth 1996b). In these processes there is a constant dialectic between “negative” and “positive” sublimation: here, the reduction of law to capitalism on the one hand, and the embedding of capitalism within artistic and legal forms on the other. Stiegler cuts the knot of this ambivalence **too quickly**, or rather, **generalizes too fast** from almost exclusively French examples of de-sublimation (see Stiegler 2008a, esp. on the advertising techniques of Canal J.).

Regarding Freud, I would argue, in sum, that Stiegler gives a strong, original reading of contemporary affective life through the bridging of technology and the psyche. Conversely, it is a technological re-reading of Freud that **flattens** out the vagaries of human affect and human conscience, **preventing** a **nuanced**, **comparative account** of the relation between contemporary consumerism and normative thought and behavior. As a result, public education may be posited **too quickly** by Stiegler as the right political response.

This is **not** to deny the need for change in public education: far from it. The Internet clearly poses a problem. As the contemporary teacher knows, Internet-surfing produces a form of consciousness that is adept at “copy and paste,” but finds synthesis and judgment increasingly difficult. Stiegler's politics of critical reflection, with its emphasis on the vital role of education, is in this sense persuasive. That said, I would wish to keep a sense of global perspective. As is well-known, use of the Internet was crucial to the election of Barack Obama: it helped create a cultural transformation that proved strong enough to shift the American political landscape to the center. The use of mobile phones has transformed the electoral process in West Africa. The Internet is, in other words, already highly creative politically. Education must certainly help to supplement this emerging creativity with the art of judgment. Obama's domestic fate regarding healthcare reform since the campaign has shown, at the same time, how powerful the traditional media remain in shaping political perception and interests. Progressive liberal politics in one of the most technologically savvy of countries **depends** as much today on **restructuring** the **power-bases** of the traditional media as it does on providing an education in response to capitalist-led technological transformation of human memory. **Stiegler would not disagree** with this last point. As I said at the beginning of this paper, his political voluntarism was in the 1990s singular on the French theoretical continent. It means, to my mind, however, that philosophico-political reflection should consider the **political adoption** of technology at **several levels** of **analysis** and of **policy**, in a spirit of **prudence**, and with a sense of **intellectual limits**.

Conclusion

I have addressed the work of Stiegler through the names of Marx and Freud. In doing so, I have attempted to suggest that his work goes **too quickly** over **what puts a break** on the destructive side to capitalism. The future political project of democracy is, without doubt, to embed capitalism at the world level. And democratic freedom means that one must renounce gratifying one's immediate desires. This means political institution and self-restraint. Stiegler focuses rightly, and sometimes brilliantly, on the urgency of the political today, and on the importance of a political adoption of contemporary forms of industry within a **general intellectual framework** of retentional finitude. This latter framework of analysis is theoretically innovative and disciplinarily rich. Not to analyze the forms of **institutional change** at the appropriate level and not to give credit to the **specificities** of sublimation within capitalism tend, however, to make capitalism's field and dynamic **too uniform**, and Stiegler's responses to it **too unilateral** and **too general** (if not, **too French**). As a result, his theoretical world **turns too quickly**, at the precise moment when a **slower speed** and a **finer set of distinctions** are needed. Not that there is not **enormous danger** in our present world, not that a sense of urgency is not vital. Our description of it **requires**, however, theoretical terms that exposit it in its **complexity** so that theory can provide, precisely, the occasion for **suitable political adoption** and **decision**.

**That means the Aff doesn’t solve.**

**Zechner and Hansen, 10**—both have Ph.D.s from Queen Mary University (Manuela and Bue Rübner, “Unchained melodies of the new proletariat,” <https://www.generation-online.org/other/stieglerreview.htm>, dml) [language modifications denoted by brackets]

Stieglers argument points to a de facto impoverishment of everyday and collective intelligence, and as such points the way to important investigations into this contemporary everyday and its forms of solidarity an reproduction. But Stiegler ends up with a relatively **limited** critique that speaks from the position of **paid labour only** – even if it's now **flexibilized**, **fee-based** and possibly even **precarious** labour that is at stake. He is clear about the poverty of cognitive labour:

We thus have pure cognitive labour power utterly devoid of knowledge: with cognitive technologies, it is the cognitive itself which has been proletarianized. In this consists, then, cognitive capitalism, also known as 'creative' or 'immaterial' capitalism. And this is concretely expressed in the fact that the cognitive has been reduced to calculability – logos has become, pharmacologically and economically, ratio.(5)

Yet he still **does not look beyond** this cognitive field to find **other cultures** of knowledge and sharing. He talks about 'economies of contribution', imagining modes of networked production that put resources in common: however this still seems to be **mainly** about the sharing of **ideas** and **IPs** in generally **competitive settings**, a narrative **by** and **for white educated males** in industrialized countries of the west (6). Reading Stiegler's New Critique of Political Economy', one finds many sensitivities and intuitions, yet he insists on projecting new political economies into cognitarian fields rather than elsewhere. Missing out on the wealth of self-generating knowledges in the experiences of **women** and **subaltern people**, Stiegler also **fails** to address the **repression** and **deprivation** of reproductive knowledges that have occurred with **colonization**, housewifization and **capitalist accumulation** across the globe and centuries. Whether women and the subaltern have a **different point of view** on contemporary 'proletarianization' remains **unknown**: a promising story reverts to its usual protagonists.

While the proletarianization of workers was a condition of the development of the productivist model of Fordism the proletarianization of consumers was a solution to its limits, its inherent tendency to overproduction. The creation of a mass market did not only involve an increase in demand - presupposing both an increase in purchasing power and desire for goods - but the reliance of consumers on the market – that is, on their decreasing ability to live without it. This process, according to Stiegler, ‘fundamentally and practically weaken[ed] the Marxist theory of class struggle’ (p.40). However, this model has increasingly hollowed out savoir-vivre, and diminished the time necessary for the constitution of desire. In short the consumerist model undermines its own basis, tending towards crisis because it exhausts the libidinal energy which keeps it running.

Stiegler thus thinks of 20th century consumerism not as a question of class compromise (on the background of class struggle, imperialism and the global division of labour), but rather as an occasion to question as compromised the very concept of class antagonism itself. As consumerism itself, Stiegler’s consumption centred account tends to **depoliticise** capitalism. Stiegler diagnoses the ‘first planetary economic crisis’ as the crisis of the consumerist model, symptom of an ever falling rate of profit, yet **without** paying much attention to the **fall of real wages** in Western Countries in the past 25-30 years, or to the **growing consumerist economies** of China, India, Brazil, etc. (7)

Economies of contribution

The economy of contribution stands for a world of **meaningful communalist relations**, an economy that reclaims technologies and knowledges of work in ways that make both economics and work more meaningful – in Stieglers case (as in the case of so many theorists of 'cognitive', 'immaterial', 'creative' or 'knowledge' labour), via the emergence of **digital technologies** and **computer networks**. In this tech economy, 'work' can emancipate itself from the abstracted, alienated and measured activity that consists in the execution of programmed gestures, in the pushing of buttons upon a surface one can't grasp or hack: hacking is an exemplary self-driven activity that reinvents work, creativity and meaning, according to Stiegler. Work as the constant re-invention of meaning at the interface of the psychic, social and political: Stiegler insists on new hacker and geek cultures constituting such a new economy of contribution. A fair point, yet **what revolutionary potential** can be derived from such a **minority white industrialized culture** – is this **really** where the potentials to break with proletarianization have a **privileged place** today, should we **really invest all that hope** into relatively privileged knowledge workers? What about the **99% of others**, who **restlessly push buttons** in **call-centres**, **offices** and **home workstations**? I **very much doubt** that the emancipation of creative labour as such can achieve **any more than relative privilege** for some people with computers.

As many philosophically and scientifically positioned theorisations, Stiegler's too fails to position itself with regards to its object, and as such presents a relative monofocal perspective which ends up resembling a '**god trick**' in Donna Haraways terms – a perspective that **fails** to articulate itself in relation to its **place**, its **others**, its **history** in a **thoroughly critical way**. Donna Haraway calls for developing situated knowledges in the face of disembodied objectivity:

We need to learn in our bodies, endowed with primate colour and stereoscopic vision, how to attach the objective to our theoretical and political scanners in order to name where we are and where we are not, in dimensions of mental and physical space we hardly know how to name.(8)

The absence of a **feminist** and **postcolonial viewpoint** – or even **recognition** thereof – does **make itself felt** in Stiegler's work, and with this, questions of **care** and sustainability become somewhat **shallow**. Reproduction and the feminised everyday are finally left behind in favour of the conceptual pair production/consumption (9): this is why Stiegler’s '**care**' remains **too abstract** a concept, without much indication of a practice **beyond** that of certain people working with computers. The notion of care sits in the right place, addressing an absence of certain practices of attention-giving within contemporary networked capitalism, and pointing to the need to invent new ways of putting things in common:

The economy of contribution is the stimulation of desire through the reconstitution of systems of care founded on contemporary pharmaka and constituting a new commerce of subsistences in the service of a new existence.(10)

Yet how to imagine 'subsistences' without an attention to reproduction, to care in its proper embodiment? As the Heideggerian concept of Sorge on which he draws heavily, Stiegler's 'care' is blind to [**ignores**] how any mode of care is **internally** and **antagonistically split** according to **class**, **gender** and **race**. Like many Marxist theorisations of labour, it overlooks the very activities that make life - and production and consumption – sustainable. The 'economy of contribution' sits rather awkwardly historically with women, who whether as mothers, wives, witches or prostitutes have developed and passed on an incredible wealth of knowledges and practices of care and communisation, despite having no access to mainstream institutions, public spaces or high technologies. It also sits strangely with cultures that haven't yet gone through quite as many cycles of accumulation to arrive at the techno-individual of Stieglers narrative: what about subsistence in this context, and all the knowledges that exist there? In the end, one senses a preference for **white**, **male**, **philosophical referents** in this work.

Interestingly, in relation to questions of care, Stiegler (11) points out that spaces of collaboration are not a matter of autonomy merely: a point missing in many autonomist and network theories that are purely affirmative of digital collaboration. This questioning of autonomy is a point feminists have made for decades, in speaking about an ethics of care, vulnerability and interdependency. What is at stake, what we must invent, is a way of thinking autonomy and heteronomy together: if we think 'economies of contribution' as spaces of both creativity and care, of interdependency as well as self-determination (12), and if we think the beyond the experiences of creative or cognitive labourers. Within Stieglers work, the frame of reference remains the state and an idea of encouraging spaces modelled on **digital cooperation** via policy (13): no touching upon **non-industrial work**, no referent beyond a **bourgeois male subject**, no rapport to **embodied practices**.

Technologies of attention

In speaking about how new information and communication technologies reshape work and relationality, Stiegler points to the ways in which new modes of attention formation emerge. Technology always differentially structures our attention, whether it is papyrus, the printing press, television, the telephone or internet - attention is a matter of the way we relate to the world, and thus of care. He sees new possible modes of care emerge from collaborative cultures across the internet in cultures of hacking and open source programming. For us, this opens a pertinent question particularly in context of the precarious, flexible and insecure work that neoliberal economies today run on: how might people **look out for each other** in these contexts, **avoiding** exploitation and **collaborate** and **organise** with both their autonomy and heteronomy in mind?

If one is looking for a **hint at an answer** that runs **beyond** the much-theorized realms of **hacker culture**, '**immaterial**' and '**cognitive**' labour, one **may not find it** in this book, however (14). The absence of a feminist viewpoint makes itself felt, and with it the questions of care and sustainability become somewhat shallow, leaving reproduction and the feminised everyday behind in favour of the conceptual pair production/consumption (15). Stiegler’s 'care' remains too abstract a concept. As the Heideggerian concept of Sorge on which Stiegler draws heavily, it is blind to how any mode of care is internally and antagonistically split according to class, gender and race. Meanwhile, as many Marxist theorisations of labour, it overlooks the very activities of reproduction that make life - and production and consumption - sustainable.

The New Critique of Political Economy risks **leaving these questions untouched** in its affirmation of an ‘**economy of contribution**’ that speaks **always** from the perspective of the **universal** and the **rational** – against a system of stupidity and short-termism, against the very being of the proletarians as proletarians. Having defined proletarianization as a sort of becoming-incapable we must ask: **who can change** this system? Are proletarians something other or more than simply proletarians? **Which bodies** are at stake here, and **where**?

**1nc – care**

**Care without calculation is BAD - gets coopted by reactionary fascists.**

**Iveson, 12**—Ph.D. from Goldsmiths, University of London (Richard, “Rewiring the Brain or, why our Children are not Human,” Parallax, 18:4, 121-125, dml)

According to Stiegler, we are forever engaged in a ‘battle of intelligence for maturity’, a battle ‘concomitant with the history of humanity’ (p.29). Today, however, this battle has been transformed into the life or death struggle of humanity itself. Unless things change rapidly, Stiegler insists, humanity as we know it will be **destroyed**, displaced by a dystopian, posthuman future whose inhabitants would be incapable not only of heeding Stiegler’s warning, but of even reading it. Proclaiming himself thus a prophet of and from potentially the last generation of mature adults, Stiegler seeks to **hastily recall** us to rational critique before the new media has its way and **irretrievably restructures** the connections which constitute intelligence so as to render such constitution impossible (p.33).

To instaurate critique, however, is **no easy matter**. It is not simply a question of educational reform, but of a revolution that impacts upon **every level of society** and **beyond**, **intervening ceaselessly** even at the **neurological level**. Moreover, a revolution by its very nature offers **no guarantees**. As Stiegler **admits**, the remedy he prescribes might also turn out to be the **worst kind of poison**. Indeed, one can **all too easily** envisage the **appropriation** of his discourse in the service of a **right-wing defence** of ‘**family values**’, and even in a **renewed eugenicist discourse** which (by way of A Clockwork Orange) deems **synaptic rewiring** a remedy for ‘**delinquency**’ within a regime of enforced ‘**care**’.

**1nc – tech**

**Tech K wrong**

**The world is not encoded by algorithmic accumulation.**

**Markland, 21**—Teaching Fellow in Politics and International Relations at Aston University (Alistair, “Epistemic Transformation at the Margins: Resistance to Digitalisation and Datafication within Global Human Rights Advocacy,” Global Society, February 3, 2021, dml)

As established in the first section of this article, proponents of what I have heuristically defined as the “transformation thesis” have emphasised the **revolutionary ruptures** wrought by **digital connectivity** and **datafication**. Some of these proponents illustrate these changes using field specific case studies, as with Duffield’s (2018) suggestion that the transition to a “cybernetic episteme” is reflected in humanitarian practice. Other authors have taken a more abstract view, including Chandler’s (2018) discussion of **new modes of governance** in the digital era, or the post-humanist drive to reconceptualise “**humanity**” under conditions of **technological entwinement** (Cudworth and Hobden 2013). These assertions of macro-level transformation are also supported by network sociology, led principally by Manuel Castells (2010) analysis of how revolutions in information technology, economic globalisation and an emergent “space of flows” interact to produce a new kind of “network society”. This linkage of societal transformation to economic forces is also characteristic of **more critical anti-capitalist perspectives**, as with the Marxist critique of “**cognitive capitalism**” (Moulier-Boutang 2012; Zukerfeld 2017). Although these approaches **differ** in their conceptual frameworks, they are **united** in their ambition to highlight **universal epistemic transformations** brought about by **technological change**.

One of the **pitfalls** of these **totalising perspectives** is the **neglect** of the **particular** in favour of the **universal**. For instance, networked thinking encourages assumptions about lateral transformation across socio-political fields that are connected to the digital universe. But **not all spheres** of social or political activity move at the **same pace** when they are exposed to technological innovation. Datafication and digitalisation are processes that have **uneven impacts** on different social and political fields. For example, the testimony of Facebook’s CEO Mark **Zuckerberg** to the Senate Judiciary and Commerce Committees in April 2018, where US lawmakers appeared confused by the social media giant’s basic business model, is a **stark illustration** of the **gap** that still exists between the world of **Big Tech** and the operating logics of **mainstream democratic politics** (Stewart 2018). Bigo and Bonelli (2019, 115) have found that even in the field of transnational intelligence, a sphere that could have much to gain from algorithmic techniques, technological expertise tends to be **contracted out** to third parties while **traditional**, **human-sourced** intelligence approaches remain **dominant**. Therefore, grasping for totalising processes risks **ignoring the empirical specificity** of divergent social microcosms.

To remedy this blind side in transformationalist thinking, I assert the utility of applying Pierre Bourdieu’s field theory when conceptualising how certain spheres of social or political activity—including the field of global human rights advocacy discussed in the previous section—mediate pressures for epistemic transformation and potentially isolate technological changes and agents to the margins. Employing field theory, Ole Jacob Sending (2015, 11) sees global governance as divided into separate fields, where “actors compete with each other to be recognised as authorities on what is to be governed, how, and why”. Examples of such fields include international development, security, peacebuilding, humanitarianism, and human rights advocacy. However, each field varies in terms of its specific “rules of the game” (Bourdieu and Waquant 1992, 99). Fields are bounded, game-like social structures that are constituted by a unique constellation of actors. These actors struggle for authority according to the field’s principles of legitimation (Bourdieu 1989, 17). These principles of legitimation, which define a field’s cultural capital, are durable to the extent that dominant actors remain invested in their reproduction. Actors’ prolonged immersion in these fields subsequently shapes their own practical sensibilities, so that the field’s logics are internalised as common sense within the habitus (Bourdieu 1990, 53). It is the embedment of the field’s doxa (common sense) within the habitus of invested actors that makes fields durable and resistant to radical transformations. As seen in the previous section, the rules governing the human rights field are associated with its logic of political influence, persuasion, and moral authority.

Critics of Bourdieusian field theory have argued that it is overly structuralist, reproductive, and cannot grasp “the ever-shifting constellations of actors, institutions, data and forms of expression that make up the expertise” (Waever and Leander 2018, 2). However, alternative approaches such as actor-network theory or assemblage-based theories fail to centralise the importance of social and political struggles between agents which are key in defining the trajectory of digitalisation and datafication. As Ruppert, Isin, and Bigo (2017, 3), “[d]ata does not happen through unstructured social practices but through structured and structuring fields in and through which various agents and their interests generate forms of expertise, interpretation, concepts, and methods that collectively function as fields of power and knowledge”. Similarly, “data is not an already given artefact that exists (which then needs to be mined, analysed, brokered) but an object of investment (in the broadest sense) that is produced by the competitive struggles of professionals who claim stakes in its meaning and functioning” (Bigo, Isin, and Ruppert 2019, 11). Technological change can influence the trajectory of different global political fields by enabling the entry of new types of actors (such as data consultants in the case of human rights advocacy), as well as by producing emergent sources of cultural capital and associated epistemic practices (such as expertise in geospatial imaging).

As Bigo and Bonelli (2019, 120) have observed in the case of the transnational intelligence field, technological change can be accompanied by the growing influence of private companies who “have played a substantial role in the recruitment of IT specialists, network engineers, data analysts, integration platform software designers, language and coding specialists, cryptologists, and mathematicians tasked with creating or combining algorithms”. Such entryism can have a revolutionary effect if those new actors are able redefine a field’s organising logic, cultural capital, and principles of legitimation. For example, looking at the case of Sudan in the 1990s as an antecedent to the transformation of humanitarianism, Duffield (2018, 85) traces how donor governments asserted greater control over NGOs, who subsequently “seamlessly morphed into the ‘implementing partners’ of donor governments”. Alongside growing private sector partnerships, these developments stimulated the neoliberal re-alignment of the humanitarian field away from Third World solidarity and the progressive support for autonomous change and towards the governance of precarity. This exposed the field to an epistemic transformation that privileged datafication based on a “surveillance logic of command and control” (ibid., 168).

However, **not all** global political fields are so **structurally conducive** to this kind of **radical transformation**. The example of the human rights advocacy field illustrates how a strong autonomous organising logic—a logic of **persuasion**—generates entrenched forms of **field-specific** cultural capital—qualitative and humanistic accounts of raw suffering that establish **clear** legal **responsibilities**. Actors can **mobilise** digital or data infrastructures to **diversify** the range of tools and media at their disposal, as illustrated by the (limited) use of geospatial technology, data visualisations in human rights reporting, and a growing reliance on social media platforms to engage audiences. However, they **do not necessarily threaten** the epistemic practices that are at the centre of human rights **advocacy**. This is because the **transformative potential** of new technologies and methods **depends** on their epistemic, political, social, or moral **value** in the eyes of the fields’ **dominant actors**. The integration of data-based approaches has been one of **slow adaptation**, **not revolution**, and technological specialists—often employed as third-party consultants rather than as full-time human rights professionals—remain at the **margins**. The Bourdieusian concept of habitus is also helpful in illuminating how fields with strong professional structures and specific educational and career trajectories can endow members with enduring dispositions that favour both the reproduction of existing epistemic practices and resistance to new ones. The habitus of human rights professionals is still primarily defined by legal, journalistic, and liberal-cosmopolitan moral/political dispositions, rather than technological expertise. So long as processes of doxic reproduction remain stable, the potential for epistemic transformation through datafication remains limited.

Conclusion

This article has cautioned against the analytical trend towards treating datafication as a general process acting to radically transform the epistemic and governance practices across global political fields. Because different social and political fields are **unique social microcosms** that contain **divergent organising principles**, readers should be **wary** of post-humanist analyses making **totalising claims** about alleged transformations in the human condition. The **polemical teleology** of transformationalism, an approach that is in vogue among Silicon Valley hype merchants like Elon Musk, public intellectuals, and a growing number of social scientists, is certainly **attention grabbing**, but it **does not measure up** against the **actual way** in which technological and methodological innovations are instituted within **different fields** of practice. International relations and global governance scholars working on the interstitial cross-roads between technology and various political or social lifeworlds need to be **attentive** to how digital and data transformations are mediated at the meso level of **global politics**. This article has demonstrated how epistemic transformation can be resisted at the meso level through observing changes and continuities among elite human rights organisations. Bourdieusian field theory, with its emphasis on legitimacy, social reproduction, and the durability of practical dispositions, offers a suitable framework for conceptualising the absence of epistemic rupture within the field of human rights advocacy. However, because digitalisation and datafication processes are mediated through the **specific logics** of a given field, more work needs to be done on examining how different organising principles shape the potentialities for epistemic transformation. Thus, in the future, more **comparative empirical research** will be needed to observe technological changes across **different areas** of global governance.

**2nc**

**Frames**

**The aff clearly links: makes a nonessential reference to debate as a monopoly in their tag for the Stiegler and Ross ev. The use of “monopoly” is an investment in neoliberal discourse that they explicitly choose to say – that’s Saltman**

“A complex system that operates exosomatically by recording its history in the archive in the form of records and trophies – a memory that exists outside the body – engineering a monopoly that destroys otium and revolutionary horizons.– “

**Here’s more ev**

**Lipman & Saltman ‘7**

Pauline Lipman is a Professor of Educational Policy Studies and Director of the Collaborative for Equity and Justice in Education, University of Illinois Chicago. In this section Lipman is being interviewed by Kenneth J. Saltman – who a Professor of Educational Policy Studies, University of Illinois Chicago. From Chapter 4 – “Feasting on Disaster: Urban School Policy, Globalization, and the Politics of Disaster”- From the Book: Schooling and the Politics of Disaster, edited by Kenneth J. Saltman - Copyright Year 2007, Published May 24, 2007 - p.96

**Kenneth:** In my book Capitalizing on Disaster I looked at some of the language that the right has used in talking about Hurricane Katrina, and its fascinating because they endlessly described Hurricane Katrina as a "silver lining" in the storm. This was a phrase that I found earliest with Clint Bollick of the Alliance for School Choice and then it got endlessly replicated on television news and newspapers. And they created a disaster metaphor and painted disaster as a happy outcome, and it was a happy outcome because it was enabling a long-standing, decades-long privatization agenda, but the language in this case is just the tip of the iceberg. What we're getting at here is the question of language, and the intersection of neoliberal language (business language **like** choice, efficiency, **monopoly,** competition, that has been so celebrated in the literature by privatization advocates) with disaster language, like failure, discipline, opportunity. In the case of Hurricane Katrina in New Orleans, the company Alvarez and Marsal were brought in to do contracting work and they were described as turnaround specialists," through entrepreneurial language. Can you speak about this intersection and this language?

**Pauline:** I think it's a really interesting point. What I was thinking about when you were talking was how racialized all or this is, and how we haven't discussed that much. **In the U.S.,** race plays a very important role in the neoliberal agenda, in the agenda of the right, and the politics of disaster. That is the central point around which all of that language revolves. What has really failed that's embedded in that language is the people—the people are the failures. When wc talk about the "failure" of urban schools it's really the people in those schools that are constructed as the failures. When we talk about the "failure" of urban neighborhoods, its the people who are constructed as the failures, and in fact the solutions that are proposed, like Hope VI redevelopment projects, **are justified by that pathologizing discourse**.

**The link outweighs**

**One – inclusion of such rhetoric straight turns the case.**

**Even *inadvertent inclusion* of neoliberal terms exits beyond its own semantic field. Inclusion of such terms will *compromise the potency of the parts of the Aff that have nothing to do with neolib*.**

**This also address every Aff link claim about the surrounding “context of its deployment”. These terms provide an opening for the neoliberal encroachment. It is bett*er* to endorse the 1AC sans any such rhetoric.**

**Budd ‘97**

John Budd is an Emeritus Prof in the College of Education and Human Development at the Univ of Missouri –“A Critique of Customer and Commodity” - College & Research Libraries – vol 58:4 - #E&F – obtained via the EBSCO Open Access Journals Database

**Discussion**

One of the most important things to keep in mind with regard to customers and commodities is that the language librarians use to describe their purpose and activities inevitably **will define**, **even if they do not initially reflect**, thought. For instance, even though Brown says that "it is useful to understand more about the service interaction and what it is that makes 'buying' and evaluating a service (such as reference service) different for the customer than 'buying' and evaluating a material product," she proceeds to speak of consumption and retail analogy to describe reference work in academic libraries.34 The language employed **is a powerful shaping force**, and that force, in this context, is tied to the **discourse of consumption.** Baudrillard says that "consumption is the virtual totality of all objects and messages constituted in a more or less coherent discourse. Consumption, in so far as it is meaningful, is a systematic act of the manipulation of signs [italics in original]."35 Signs, in the Saussurean linguistic sense, are composed of the totality of the signifier and the signified. The focus on the customer approach and information as commodity embodies a shift from primary attention on the signified to attention centered on the signifier. The signified is the content, concept, or idea; the signifier is an expression, a sound-image, or form. In other words, the transformation is one from substance to form.

In another sense, the transformation **moves from semantics** (**meaning**) **to rhetoric** (**expression**). Emery writes that "'Without consumers, the marketer of economic goods and services does not have a market.' Similarly, without readers the library lacks its raison d'etre. Though in one case an individual may be called a 'consumer' and in the other a 'reader,' the difference is purely semantic."36 In actuality, Emery is dismissing the semantic and championing the rhetorical. In the more thoughtful connections of library purpose to capital, a kind of schizophrenia reigns. The schizoid tendency is evident in the conflict that Repo struggles with. Although he advocates economic analysis of information, he repeatedly reminds the reader (and himself) of the use value of information ("The value of information is fully explicated in its use."37) In less thoughtful treatments certainty governs. For example, in urging the customer approach, Weingand advocates the "paradigm" of consumerism as superior to the view of the library as a public good (noted above). **It seems to matter little that the language adopted is a usurpation of ideas** that either **do not apply** or **apply imperfectly to the** library's **situation.**

Weingand's statement is **not value neutral**. In fact, it is an exemplar of the Foucauldian will to truth and knowledge which, as Foucault observes, "**like the other systems of exclusion**, relies on institutional support: it is both reinforced and accompanied by whole strata of practices," and is "profoundly accompanied by the manner in which knowledge is employed in a society, the way it is exploited, divided and, in some ways, attributed. . . . [T]his will to knowledge, thus reliant upon institutional support and distribution, tends to exercise a sort of pres-sure, a power of constraint upon other **forms of discourse**."38 **The impact on knowledge is profound and debilitating**. The effect is best expressed by Lyotard:

The nature of knowledge cannot survive unchanged within this context of general transformation. . . . The relationship of the suppliers and users of knowledge to the knowledge they supply and use is now tending, and will increasingly tend, to **assume the form** already taken by the relationship of commodity producers and consumers to the commodities they produce and consume—that is, the form of value. Knowledge is and will be produced in order to be sold, it is and will be consumed in order to be valorized in a new production: in both cases, the goal is exchange. **Knowledge ceases to be an end in itself**, **it loses its "use-value."**39

Finally, the discourse on customer and commodity in the academic library **takes on the characteristics of ideology.** Specifi-cally, it is ideological in that **it asserts a dominance over other discourses**, and does so **through distortion of context** that **all but eliminates** any teleological sense. As Hawkes points out, two aspects of ideology —"instinctive deferral to 'the facts' as they are immediately represented to us, and blind faith in instrumental science —are the most dangerous effects of commodity fetishism. In order for a thing to become a commodity, the coercive power of human reason must be exerted over the thing-in-itself: we must represent it as what it is not, and then take the representations for the reality."40 Ultimately, librarians need to take care with the language they adopt, and with the facility with which they use it to shape concepts. That the language **of consumerism and commodification** dominates beyond the sphere of libraries is **not sufficient reason to accept it uncritically**. The library's language, and practice, should flow from as clear an idea of purpose as possible. And librarians should examine purpose independently from the pressures of capitalism and consumption.

**Two - Role of Ballot and Alt solves – critiquing and excising neoliberal terminology is valuable. It’s an important framework question - spills to better scholarship and awareness,**

**Bal ‘18**

et al; P. Matthijs Bal – Professor, Lincoln International Business School University of Lincoln – “Neoliberal Ideology in Work and Organizational Psychology” - Manuscript accepted for publication in European Journal of Work and Organizational Psychology - #E&F – available at: <https://core.ac.uk/download/pdf/151432027.pdf>

We postulate a number of implications and recommendations for future research. First, it is important that within the field of WOP, researchers become more aware of the underlying (ideological) assumptions driving their research. **Discourse analysis could be informative** in further elucidating the ideological underpinnings of our research and how researchers **justify their research** in **neoliberal terminology** (e.g., instrumentality, business case). Only through explicit awareness and acknowledgement of fundamental assumptions of research, these can be **debated,** defended **or changed**. As 'objective' research concerns an impossibility in a social science (Greenwood & Van Buren III, 2017), research is by definition driven by interpretations of what is happening in the workplace, and ideological choices regarding what type of constructs are studied, what theories and models are designed, and how outcomes are legitimized. We advocate pluralism in relation to our field, where we can openly debate the basic **assumptions underlying our research** (i.e., why and for whom we are conducting our research) and how we can create more pluralism in the actual research that we do (i.e., the topics, methods, techniques and analyses). This may also help researchers to make more explicit choices regarding what can be regarded as important in the context of WOP to study 1.

(Note: The field of “WOP” – internally referenced in this ev – is an acronym for “Work and Organizational Psychology”)

**Lastly - our K does matter**

**Neolib discourse *creates realities* which re-frame the social violence cited by the Aff. That link turns case … it’s also external offense via neolib’s perpetuation of sexualized, racialized, and socio-economic repression.**

**Della Faille ‘15**

Dr. Dimitri DELLA FAILLE (PhD, Sociology) is a professor in International Development and Social Sciences at Université du Québec en Outaouai - “A Sociological Understanding of Neoliberal Discourses of Development” - #E&F - https://hal.archives-ouvertes.fr/hal-02046915/document

This paper will attempt to show that social scientists studying development issues must consider these common ideas with considerable caution. We argue that words are, **in fact,** actions. And as such, they must be investigated. We contend that an examination of underdevelopment and "developing" societies must go beyond an artificial divide between discourse and action. But also, that it must not limit its definition of discourse to an act of deception. **Otherwise,** we **run the risk of misunderstanding social problems**, which is **the basis for much social action** and collective mobilization in the "developing" world. We will also propose in this paper a number of ways to examine language and discourse that go beyond received ideas. We will attempt to show that they are integral **parts of action** - whether **scholarly,** **activist,** **administrative** or **otherwise** - against underdevelopment. In the first place, we will focus most of our explanation on how neoliberal governance and policymaking use language, social representation and discourse **to achieve their goals**. Using example of neoliberal discourses, we will attempt to show how the main ideologies of the various contemporary development discourses **transforms our perception** and understanding of development problems. This transformation, we argue, exists both in imposing the use of specific words and in successfully controlling means of communication.

We will begin with a quick presentation of discourse and a definition of neoliberal ideologies. Then, we will demonstrate how discourse analysis could study neoliberal discourses by applying to documents about a natural disaster in the Philippines. After this demonstration, we present other various examples of discourse analysis as it applies to development discourses. Then, we present some of the major approaches and methodologies of discourse analysis. Before concluding, we will present some ethical considerations for the analysis of development discourses.

Words of Caution

A paper about language and discourse would fall short of its goal to draw attention to the use of language if it did not contain at least some form of criticism of usages of the word "development". We argue that calling societies "developing" is actually making a normative statement about the past trajectory, current status and expected future of these societies. Social scientists may contend that political, scientific, ethical or lay statements about development and underdevelopment are in fact "problematizations" of human societies. A problematization is a process by which social relations, practices, rules, institutions, and habits previously established are suddenly viewed as doubtful and problematic (Foucault 2001). The word "development" itself may carry different meanings around the world (Thornton et al. 2012). The understanding and expectations of actions in the name of "development" are conditioned by social representations and interpretations. However, we contend that development discourses are problematizations of the "developing" world because they transform the history of societies of Latin America, Asia, Africa and some parts of Europe into a long story of troubles and failures. They do that in order to justify social transformations and interventions (Escobar 1994). We also contend that they are problematizations because they produce cultural discourses that apply specifically to "developing" countries, and therefore reinforce ideas about the perceived superiority of "developed" countries over the rest of the world (Mohanty 1984).

This paper refuses to hierarchize societies based on perceptions of their economic achievement, their form of political governance or the global recognition of their cultural products. We recognize that discourses about "development" are problematizations, and that perceptions of any social, political or cultural inferiority of these regions, countries or populations must be criticized. We therefore use the term "developing" for some societies, not as a normative statement on regions, countries, and populations viewed as economically, socially, politically or culturally inferior to the "developed world", but rather as an unfortunate shortcut to describe regions and countries in which actors desire to act in the name of "development". There is a wealth of scholarly literature on criticism of the use of the word "development", some of which is evoked further in this paper.

We will give further explanations that might help you better understand why we must be cautious when comparing societies in terms of their perceived "development". Now that we explained why we, in this paper, are cautious of talking about "development" and "underdevelopment", let us very briefly present some aspects of discourse and its analysis.

**Understanding discourse and its analysis**

If discourse analysis is getting more recognition in development studies, before we further embark in this paper it must be noted that if you chose to study discourse, you might encounter disapproval (Ziai 2015). As we have argued elsewhere, discourse analysis is often viewed with reservations or criticized in the context of the study of "development" and "underdevelopment" (Delia Faille 2011; 2014). But very often, the criticism comes from misunderstanding of what discourse actually is. Discourse analysts face many commonly held ideas, as per the examples we have provided in the introduction of this paper. We believe that the best way for social scientists to justify the analysis of words, language and communication is to approach it with a clear definition of discourse that relates to the study of social relations and also to present convincing analysis. This section attempts to clarify our definition of discourse analysis and the following sections will attempt to illustrate how this analysis relates to the study of social relations and "development".

Social scientists studying discourses are examining the social and institutional constraints of language. At the conceptual level, language can be apprehended either as a social fact determined by material conditions and social domination, or as a field of social activity with specific rules and a social environment where meaning, social relations, and society are produced. Most discourse analysts adopt the latter conception. They attempt to reveal the strategies that aim to convey cultural values and ideologies, whether implicitly or explicitly. They define language as the production of meaning and the results of acts of communication that are conditioned by collective rules and social codes. Through the use of language, social groups and individuals come to build their identity, describe themselves, interact, and share ideas. Language is thus more than the use of specific vocabularies and grammars. It is an organized sequence of social acts that is not limited to speech or utterance. Some analysts study images and material artefacts as sequences of social acts and social strategies to convey ideologies.

In the 1960s French and British philosophers, sociologists and political scientists began to understand the production of language in terms of communication strategies. This new direction was dubbed the "linguistic turn" of humanities and social sciences (Rorty 1967). Based on several decades of debate in literary study, linguistics and anthropology, discourse analysis emerged as a new discipline. It proposed a way to see language as a field of social confrontation and struggles. Discourse is therefore understood as the social usage of language and studied as a social practice and a materialization of social relations. It means that discourse analysts are interested in the social practice of using language to put forward agendas, to express dissent, to defend a position, or to transmit values. They also study acts of silencing and censoring - such as prohibiting other worldviews from circulating and being heard. Therefore, discourse analysts see language as a series of social processes and they acknowledge that language is not limited to otherwise unrelated individual acts.

Discourse analysis could be described as a political understanding of the use of language in **the context of unequal access to platforms of decision making**, economic resources, and social recognition. As we will attempt to demonstrate throughout this paper, the study of discourse is not limited to looking for hidden agendas, lies or the uttering of meaningless and empty words. Deception is only one of the strategies used to convey worldviews, and it is not necessarily the most effective or even the most interesting for discourse analysts.

Some schools of discourse analysis criticize social **reproduction** of **gender inequality**, **racism** and social **class.** Critical Discourse Analysis is an example of this field. For this school of thought, discourse analysis is the social study of language, its social constraints and its effects (Fairclough 2001). Through language, social groups come to represent society in a way that **perpetuates domination**, positive or negative discrimination, and social **repression.** Critical discourse analysts look at the perpetuation of social conflicts and unequal relations of power. They examine issues related to **gender**, **sexuality,** **social class,** and **ethnicity.**

While our presentation of neoliberal discourses and its analysis does not fall totally under the umbrella of the school of Critical Discourse Analysis, this paper demonstrates how to analyse discourse in the context of the study of global inequalities, social discrimination and repression. We are critical of the current state of global politics, economy and society as it reproduces and reinforces inequalities. Therefore, the next section presents a critical analysis **of neolib**eralism understood as an ideology whose aim is to impose its ~~worldviews~~ (perspective) and the interest of the actors it attempts to defend and whose interests this ideology is putting forward in the context of development discourses.

### CP

**‘Technics’ and ‘mnetic desires’ do not explain society and are not deficits**

**Susen, 20**—Reader in Sociology at the School of Arts and Social Sciences of City, University of London (Simon, “No escape from the technosystem?,” Philosophy & Social Criticism, Vol 46, Issue 6, 2020, dml)

A major irony of Feenberg’s book is the following contradiction: on several occasions, he criticizes, and distances himself from, technological determinism; key parts of his argument suggest, however, that he himself flirts with, if not subscribes to, technological determinism. He rightly maintains, and convincingly demonstrates, that ‘society and technology are inextricably imbricated’.240 This insight justifies the underlying assumption that there is **no comprehensive study of society** without a **critical sociology of technology**. Yet, to contend that ‘[s]ocial groups exist through the technologies that bind their members together’241 is **misleading**. For **not all social groups are primarily defined** by the technologies that enable their members to relate to, and to bond with, one another. Indeed, **not all social relations**, or **social bonds**, are **based on**, let alone **determined by**, **technology**. Of course, Feenberg is right to argue that ‘technologically mediated groups **influence technical design** through their choices and protests’.242 Ultimately, though, the previous assertion is tautological. This becomes clear if, in the above sentence, we replace the word ‘technological(ly)’ with terms such as ‘cultural(ly)’, ‘linguistical(ly)’, ‘political(ly)’, ‘economic(ally)’, or indeed another sociological qualifier commonly used to characterize the specificity of a social relation. Hence, we may declare that ‘culturally, linguistically, politically, and economically mediated groups influence cultural, linguistic, political, and economic conventions through their choices and protests’. In saying so, we are **stating the obvious**. If, however, we aim to make a case for cultural, linguistic, political, or economic **determinism**, then this is **problematic** to the extent that we end up **reducing the constitution of social arrangements** to the product of **one overriding causal set of forces** (whether these be cultural, linguistic, political, economic, technological, or otherwise). While declaring that he is a critic of technological determinism, Feenberg – in central passages of his book – gives the impression that he is one of its fiercest advocates. Feenberg’s techno-Marxist evolutionism is based on the premise that ‘progress is realized essentially through technosystem change’243 – that is, on the assumption that, effectively, human progress is reducible to technological development. Feenberg is right to stress that ‘[t]echnical progress is joined indissolubly to the democratic enlargement of access to its benefits and protection from its harms’.244 ‘Concretization’,245 understood in this way, conceives of progress as a ‘local, context-bound phenomenon uniting technical and normative dimensions’.246 We may add, however, that progress has **not only technical** (or **technological**) but also **economic**, **cultural**, and **political dimensions**, which contain **objective**, **normative**, and **subjective facets**. At times, the **differentiation** between these aspects is **blurred**, if not **lost**, in Feenberg’s account, given his tendency to **overstate the power of technology** at the expense of **other crucial social forces**. In other words, progress is not only ‘**inextricably entangled** with the **technosystem**’,247 but it is also **indissolubly entwined** with the **economic**, **cultural**, and **political systems** in which it unfolds and for (or against) which it exerts its objective, normative, and subjective power. The preceding reflection takes us back to the problem of techno-reductionism: The struggle over the technosystem began with the labor movement. Workers’ demands for health and safety on the job were public interventions into production technology.248 All struggles over social (sub)systems have **not only a technological** but also **various other** (notably **economic**, **cultural**, and **political**) **dimensions**. Demands made by particular subjects (defined by class, ethnicity, gender, age, or ability – or a combination of these sociological variables) are **commonly expressed** in public interventions **not only into** production **technology**, but also into **economic**, **cultural**, and **political systems**. In all social struggles (including class struggle), technology can be an **important means to an end**, but it is **rarely an end in itself**. Put differently, social struggles are **partly** – but **seldom essentially**, let alone **exclusively** – **about technology**.

**case**

**Stiegler is reductive and wrong. You can’t ‘care your way’ out of capitalism.**

**Shaw, 12**—regular faculty at Douglas College, Department of Philosophy and Humanities (Devin, “Bernard Stiegler, For a New Critique of Political Economy,” Symposium 16:1 (2012), dml)

As we know from Marx’s Economic and Philosophic Manuscripts of 1844, proletarianisation cannot be equated simply with exteriorisation. Invoking The German Ideology, Stiegler argues that exteriorisation (as grammatisation) “is the root of the technical question, that is, the question of this production of self by self in which the human consists” (30), but he does not address Marx’s crucial distinction between objectification (Vergegenständlichung) and alienation or externalisation (Entfremdung or Entäußerung). For Marx, objectification is the result of **human practices**, which mediate human needs, social relations, and the social metabolism of natural environments, while alienation is the result of specific historical social relations determined within capitalism. Without this distinction, it is possible to **jump** from the techniques of externalisation of **writing** to digital techniques of **memory storage** as if these transformations were determined by an **unbroken historical continuum**. One can make **epochal claims**, for instance, about **cellular phones**—“The spread of industrial hypomnesic apparatuses causes our memories to pass into machines, in such a way that, for example, we no longer know the telephone numbers of those close to us”—**as if before them nobody had ever used address books**. (30; compare this to Agamben’s comments in What is an Apparatus?, Stanford University Press, 2009, 16)

More importantly, Marx’s distinction between objectification and alienation allows us to grasp what is specific about social relations within capitalism, as well as the role of class struggle within these relations. Class struggle is entirely absent in Stiegler’s discussion of proletarianisation and his theory of crises. Drawing on Marx’s analyses about the stultification and tediousness of industrial work, Stiegler argues, on the basis of the proliferation of techniques of grammatisation, that today **all** aspects of social life are **captured** by processes of proletarianisation. (39) Certainly we can accept the claim that technological innovation **transforms** social relations and functions to **immiserate** workers rather than **liberate** them, but Stiegler **explicitly empties** his concept of “proletarianisation” of **any class content**; it becomes a problem of techniques of memory and knowledge, for producers, consumers, and all other sociological groups (he defines the proletariat as “those economic actors who are without knowledge because they are without memory: their memory has passed into the machine that reproduces gestures that the proletariat no longer needs to know”). (35) Stiegler **never answers** the question of **how** the critique of techniques of memory and knowledge tell us **anything** about proletarianisation as a process of **expropriation** of surplus-value and accumulation by **dispossession**. He does, however, **wax nostalgic** about the charms of the **petty bourgeoisie**, who—unlike the working class—could “emancipate itself from the pure necessity of reproducing its labor power, and can therefore **liberate** itself from **pure negotium**, that is, from **completely calculable exchange**.” (64–65) With such pleasures, **who needs to speak of liberating the working class?**

If Stiegler can manage to empty “proletarianisation” of its class content, we should not be surprised that his account of the recent crisis prioritises **technological** and **moral** solutions rather than **political** ones: “technics becomes the **central stakes**” of political economy, which in turn becomes a question of “**sociotherapy**.” (36) On his account, the financialisation of capital is the most recent of techniques, like “the pharmakon of writing,” that can “short-circuit living and anamnesic memory.” (79) Stiegler attempts to show, in one of those moments when his analogies **obstruct** a clear analysis, how the “struggle against the tendential fall in the rate of profit thus induces a tendential fall in libidinal energy, which reinforces the speculative tendency of capital, that is, its disinvestment.” (89) He argues that consumerism, the first sustained solution to the tendential fall in the rate of profit, produces the fall in libidinal energy, short-circuiting the long-term investments of desire. A widespread “dictatorship of short-termism” is the result. (57) The cause of the crisis, then, is “carelessness” (incurie), brought on by short-term thinking, when one “scoffs at the economic as well as social consequences of ‘profitable’ decisions.” (80) Given that he **reduces** structural crises to **motivations** such as **carelessness** (85), it should come as no surprise that Stiegler is a **reformist** in the last instance, calling for a “**sociotherapy**” to cultivate long-term horizons in transindividual relations and for laws and regulations to prevent the more harmful aspects of capital accumulation. (99–101 and 108)

Stiegler is emblematic of a **conservative French republicanism** masquerading as radical theory: political questions, on his account, are **subordinated** to technological questions, and reformism **replaces** popular struggle. In sum, for Stiegler, the system carries **risks**, but **these can be corrected if we just care enough**, that is, if we create the proper institutions to handle our investments, libidinal and otherwise. When Stiegler argues that “new apparatuses of production of libidinal energy must be conceived and instituted” his examples are, **embarrassingly** enough, “the **ecclesiastical institution** and its care-ful [curieux] inhabitant, the curé [and] the school and its master, the teacher.” (108) If this is a **new** critique of political economy, then **long live the ‘old’ critique**! Combating capitalism today requires analysing how neoliberalism is a project of re-entrenching capitalist class power, as well as conceptualising how the techniques of this project (expropriation, privatisation, financialisation, accumulation by dispossession, and the uneven deployment of production across the global north and south) serve to reinforce that goal. For this task, there are more tools in Marx’s contributions than in Stiegler’s.

## 2nr

**The CP theorizes law as the cloth from which capital is cut. Trusts, protected by private law, are the root of capital accumulation and rising inequality globally. Antitrust uses public law to prevent this exercise of private law.**

Trust are the root cause of economic inequality --- inequality impact

Root cause of capitalist formation is trust protection

US (NY state) legal trust system modeled globally

Must focus on the political economy above all else

Matthias **Thiemann 20**, Professor of European Public Policy at Sciences Po Paris, specializing in investigating post-crisis regulatory changes in the US, “The Political Economy of Private Law: Comment on ‘The code of capital- how the law creates wealth and inequality‘”, August, https://www.researchgate.net/publication/343954617\_The\_Political\_Economy\_of\_Private\_Law\_Comment\_on\_'The\_code\_of\_capital\_-\_how\_the\_law\_creates\_wealth\_and\_inequality'

Katharina Pistor’s book The code of capital- how the law creates wealth and inequality (2019) is an original and insightful intervention in the **quest to understand both the rising inequality of the last 40 years, as well as the inner dynamics of capitalism**, a social formation that has ruled in western societies for about 200 years now. Pistor shares many of the convictions of the publications in the journal Accounting, Economics and Law, such as the dangers to democracy inherent in the corporate form (Strasser and Blumberg 2011, Robé 2011), the fact that firms and corporate form need to be distinguished (Biondi et al 2007) and that shareholders do not own corporations, but just their shares, it is only appropriate to discuss and present it to the wider audience of the journal, pointing to its fundamental insights and potential for follow-up research. The title of the book and its set-up evoke both Luhmann’s system theory with its penchant for binary code as well as Marx’s capital (1955 [1867]). Combining the coding of social systems and their relentless dynamic in innovating and generating new forms by recursively referring to established elements (Luhmann 1984; 1995) with Marx’s focus on the structuring effects capital has on society is making this a very inspiring book, which at the same time evokes many follow up questions.

But before I go to these linkages, the insights they provide and the questions they provoke, I think it is crucial to appreciate Pistor’s intervention in her own right and situate it in the context of the discussions of wealth and inequality in the second decade of the 21st century. Doing so, one sees that Pistor’s intervention is framed alongside the intervention of Piketty (2014), who uses a more phenomenological understanding of capital as amassed wealth, which is secured and passed on over generations. This understanding of capital is crucial to see Pistor’s intervention in the proper light, even though she will repeatedly return to Marx’s more advanced notion of capital as a social relationship. Secondly, when Pistor speaks of wealth creation, there is a certain ambiguity which at times she nurtures herself in the book between on the one hand the hegemonic understanding of this phrase as the actual production of wealth (a dynamic process Marx sought to capture with the creation of surplus value) and on the other hand a more phenomenological understanding of the creation of “wealth” as the durable ownership of assets.

Pistor in fact focuses on the latter and looks at how assets are coded in modules of private law to gain **priority**, **durability**, **universality** and **convertibility** for these claims to property, thereby gaining for the asset holder not only priority rights to this asset, but also durability of this claim, universality over all other claimants as well as **convertibility into state money** (Pistor, 2019, 12f). In that sense, wealth creation is to be taken **literal**ly, as the transformation of claims that are easily perishable into claims that are made durable and long lasting, hidden away from creditors and the state, thereby establishing dynastic wealth. These assets cannot simply be taxed or be acquired during bankruptcy, because **using the trust**, they are made safe from bankruptcy and **hidden from the state’s view**. It is **these assets, which are better coded than others** and thereby become “more equal than others”, which **drive the dynamic towards rising inequality**. These asset-holders are optimizing the trade-off between the exposure to gain and the risk of loss; or in her words, “business owners…have found ways to capture the upside, while shifting the downside to others” (Pistor 2019, p.59).

In this way, “The Code of Capital” is a book that seeks to theorize rising inequality during neoliberalism. It is a book about the capacity of private law to **make wealth durable** and links the increasing success to do so in the neoliberal era to rising wealth inequality. The book thereby is not and cannot be about how law creates revenue growth, although it can speak about how these are capitalized (s. Wansleben, this issue). Instead, it focuses on the structuration of property rights which permits certain asset-holders to better weather the realization of adverse events. But the book also has a broader ambition, as it seeks to theorize dynamics of capitalism in the longue durée, making this not only a book that seeks to theorize the current neoliberal era, but also dynamics of **the capitalist formation as a whole**.

In this context, Pistor agrees with Marx that **capital is** a social relation (ibid, 10f), but she insists that it is **brought about in the realm of law**, **with law not being a representation but the form within which capital is formed**. In her words, “**law is the cloth from which capital is cut**”. This is an important counterpoint to Marx’s analysis, which never fully integrated the role of the state, **even though** **law** and the enforcement of **property rights** are **crucial** for the accumulation of capital. In particular, the granting of property rights and their defense for assets and **the use of** contract law, collateral law and **trusts to achieve the securing of the wealth accumulated are central**, as Pistor shows. Thereby, her focus is not only on accumulation, but also on securing the gains capital has made, an aspect which helps us to make sense both of past dynamics but also of the demand for safe assets by financial investors, as these seek to optimize the trade-off of not only increasing the exposure to gain, but also to minimize the exposure to losses.

This contribution is remarkable and her conversation with Marx is at its most obvious at this point. To Marx’s dictum “Accumulate, accumulate! That is Moses and the prophets!” for capitalists, she adds the desire to **protect what they have already acquired**. Her study suggests that whenever elites managed to tear down a barrier to accumulation, such as the lacking commodification of land, they then use the vestiges of the remaining feudal legal order to prevent from falling backward. It is this persistence of what she, based on Rudd calls “the feudal calculus” (Pistor 2019, 5) which is one of the greatest insights in the larger dynamic of capitalist evolution: elites’ use of the legal vestiges of feudalism to protect what has been acquired. By introducing the two-step dynamic of amassing wealth (encroachment into commons) and defending wealth, based on the wealth defense industry of lawyers, she provides great insights into historical dynamics which can be witnessed in capitalism. It is the survival of feudal legal remnants which are still in use by lawyers in present capitalism to make ownership of assets durable where her greatest insights lie.

Structure through agency: the capacities of lawyering

By focusing on the work of lawyers to generate the durability of wealth for an elite, we gain a better understanding of the creation of the durable structures in which dynamics unfold. Here, her focus on the incremental steps of weaving new legal cloth for capital by recursively referring to elements of past legal constructions puts her in line with Luhmann’s system theoretical understanding of law who has insisted upon **understanding law as a communication systems which unfolds over time** (Luhmann 1995, Teubner 1997, Fischer-Lescano and Teubner 2004). This stance is uniquely apt to capture the dynamics of common law, which is characterized in its evolution by its decentered unfolding: new legal structures do not have to be validated as legal, as long as they are not invalidated by court decisions. Crucial here is that this process can operate under the assumption of as-if legality, maintained by legal opinions of lawyers. It is hence the claim to legality in private law and in property rights which drives this communication system forward.

As the author points out, there is a fuzziness at the edges of property rights and it is at this boundary that the evolution of the system unfolds. By focusing on the work of “the Masters of the Code”, which use their ingenuity to “cloak the assets of their clients in new legal cloth”, she identifies an engine in the evolution of legal forms that circulate that is persistently innovating, seeking to protect the assets of their clients from all negative eventualities, structuring it to make it secure and offer degrees of freedom to the capitalists, while, and this we might want to add with Marx, guaranteeing them exposure to the process of surplus value production (for a similar conception of law and the corporate form as a mechanism to structure the exposure of capital owners to risks of gain and loss in an advantageous way from a neo-marxist perspective, s. Tuerk 1999). Her insight that “the legal code of capital **does not follow the rules of competition**; instead, it operates according to the logic of **power** and privilege” (Pistor 2019, p. 118) is crucial here.

In one of the highlights of the book in chapter 2, Pistor theorizes the historical evolution of property rights in enclosure movement, how agents fought against the king and his notion of feudal property rights and then, once they installed the new notion of modern property rights in which something can inalienably belong to a person. There are of course forerunners of that analysis, first and foremost in Marx’s chapter on primitive accumulation, where he not only traces the application of modern property rights systems to indigenous population with their horrible implications, but most importantly their application to landed property in early modern Britain and Scotland. In that sense, Marx’s account of primitive accumulation is very much an account of a legal revolution, whereby the installation and enforcement of modern property rights takes center-stage, shielding landowners from legal obligations to their tenants and being able to dispel them from the land to place sheep there instead (Marx 1955, 762f). These battles over time made irrelevant the relationship between the lord and the vassal inherent in the property rights understanding of feudal times, which implied that the lord must secure the livelihood of his tenants (ibid, 768). This understanding is made void and a new understanding of law, modern property rights of land come about.

The famous chapter 24 in Marx’s Volume 1 of Capital (Marx 1955) has given rise to the theory of accumulation by dispossession, which encompasses the dynamics of encroachment into collectively held property, enclosures and primitive accumulation by including in the realm of commodities social affairs which were excluded beforehand. First formulated by Rosa Luxemburg, this theory has been revived by David Harvey in his work on neoliberalism (Harvey 2005), pointing to the increasing enclosures of services previously supplied as a common good, such as education or healthcare. These analyses of encroachment to secure persistent profitability for capital sit well side by side with Pistor’s analysis. What she adds to these analyses of increasing commodification, to open up ever more areas of social life to capitalist production and by accumulating the public wealth by private capital is an analysis of how the wealthy seek to protect their wealth from the vagaries of business.

What Pistor thereby adds to this account of the enclosures is the inverted dynamic, which takes hold once the land is thus accumulated and secured, namely, to protect it with the vestiges of the past. By drawing on the private solicitors which themselves made the law in practice in England at that time, the landed elites drew upon old legal constructs such as the use and the trust to make these landed estates bankruptcy remote. In this vein, her investigation gives empirical material to those calling for non-essential theories of value, which point to the plasticity and path-dependency of value (Konings 2018, Thiemann 2018). Legal constructs forged for one purpose at one point in time are reused at other points and in different circumstances to bring about the conservation of values. And it is here where Professor Pistor provides an important nuance to the broad analytical view of Marx, whereby the partial decommodification of land is not necessarily an act of push-back against capitalist dynamics, or of social re-embedding, as Polanyi (1944) would have it, but rather of the fortification of privilege and power by the ruling elite through law. This narrower focus on **legal conditions** thereby provides a first **deeper understanding of historical dynamics:** in essence, **inequality rises if the techniques of coding are perfected and left unchallenged**.

The rise in inequality becomes the outcome of the prevalence of coding techniques which lead to different strata of society being unequally affected by tail events. In this way, private law **structures wealth inequalities** and provides the **foundation for accumulation**. Pistor’s book thereby provides a provocative answer to Max Weber and his astonishment that common law countries saw the rise of **capitalism**, whereas he had emphasized the need for predictability which was greater in civil law countries. The answer Pistor’s work suggests is that it is because the mechanisms of the coding of capital operate quicker and go longer unchallenged in common law countries, allowing a certain predictability for the owners of capital. It often operates based on an “**as-if legality” relationship**, whereby constructions of law are deemed valid until found otherwise, if they can be based on similar prior constructions. This facet of the operation of law in common law countries provides the basis for the claim of the structure-generating agency of lawyers, acting as agents of capital, an activity into which this book so superbly provides insights. It is Pistor’s claim that these capacities of private lawyers to protect their clients’ capital have been amplified by the form globalization has taken over the course of the last 50 years, allowing them to weave new legal cloth, which make many of these assets unreachable for creditors and the state.

The global Dimension of the Empire of Law and the Neoliberal Era

Pistor’s most important point is that the coding of capital over the last 50 years has been globalized in a way that allows entrepreneurs to choose to incorporate in any jurisdictions, as the “incorporation theory” of the corporate form was undermined over the years, allowing companies to operate in one country based on laws from another. She therefore analyzes the relationship between splintered authority of sovereigns and the private agents pushing the coding of their capital to escape both private creditors reach as well as the largest “creditor” of them all, the nation state providing the infrastructure for the business of corporations. The tools she details for bringing about such a plurality of legal regimes in the same physical place are the institutions of bilateral and multilateral trade treaties, the WTO as well as the EU as a project to generate a single market.

In this context of collision of systems of law and conflict resolution through courts of arbitration (Teubner and Fischer-Lescano 2004) private arbitration has gained ever greater importance, finding its apex in investor state dispute settlement schemes which permit corporations to sue governments when laws are enacted that are seen to infringe upon their liberty to do business. Operating at the edges of different legal systems, these arbitration schemes recall the Lex Mercatoria, the alleged private law that was used by merchants in the middle ages in Europe to solve legal disputes that went beyond one legal order. And yet, as Pistor points out, these private arbitration courts are insufficient, as there is a need to be backed up by the power of a state. Here, her argument is that the realm of private law (dominium) has liberated itself from the reach of the sovereigns (imperium) (Pistor 2019, 138f). Using the Anglo-Saxon legal systems of England and New York State, it has globalized the legal protection of the trust scheme, that was initially invented to protect crusading knights’ estate from the reach of the king (Kim 2014) and made it accessible to business owners globally.

The fact that it is these two, and not any other jurisdictions, could be further theorized in the book. While the connection to the fact that New York City and London are financial center and that hence in an era of financialized capitalism it is these two which are responsible for 57% of transnational business transactions, the question remains to what degree we are actually observing a path-dependent process, which has to do with the fact that it is not simply any state which could guarantee the “pacta sunt servanda” for these contracts, but that there is indeed something specific about these two. In this context, it would be interesting to further pursue the metaphor of the empire of law and to inquire into its link to the actual British empire and its former colony . It would have been worthwhile to link the British colonial rule to the remarkable predominance of English law globally, making up 40% of the total.

Having established the predominance of these two systems further strengthens Pistor’s claim about the preponderance of Anglo-Saxon common law in the current phase of globalization. But it would have invited further inquiry into the role of the legal profession in these countries and its impact on the evolution of law as well as the interaction between private and public law. As pointed out by her, judges in these countries are selected from the bar, which she suggests means that these former practitioners are more inclined to accept legal innovations than in code law countries, where judges sit at the apex of the professional hierarchy and are rather distinct from practicing lawyers. She points to the power of private solicitors in the UK in the 19th century, defending the use of feudal contractual constructs to defend the assets of the powerful and for 21st century capitalism, she points to the increasing role of out-of-court settlements which allow the masters of the code to operate in an “as-if” kind of legal reality, as legal constructs are not explicitly ruled out. Her book in this sense does shed light on the interaction between public and private law making, but it traces these developments stemming from private initiative.

But what is the role of public agents, of public law and state attorneys? Is there really only constrained space for action to limit the negative consequences of private contractual law for the public? One is left to wonder whether there is no movement within the legal profession against the undermining of public power in the US, e.g. regarding the capacity to tax? And if it exists, how does it find its expression in the interpretations of existing laws and its impact on law making by parliaments? Pistor uses the image of the traffic lights to visualize public law, which has to be aligned to allow private interests to expedite the pursuit of their interests and which are aligned due to pressure on law-makers. This shows that public decision making can indeed be a hindering block for private initiative of asset holders, but the book does not trace the impulses that limit this kind of encroaching behavior on the public side. In other words, in this book we learn a lot about private law and how private lawyers have interacted with public lawmakers to make sure that all lights are green, but we learn little about public law and the historical episodes when the relationships between the two were actually fundamentally changed.

This was the case in moments where the reassertion of state authority occurred, such as **in the evolution of anti-trust legislation** in 1890s in the US, which was carried by a large populist movement. Similar attempts, albeit at a much smaller scale occur today to gain a grip on the tax evading behavior by US citizens and corporations were made by law-makers in the US in the wake of the financial crisis of 2008, when the US used its reach beyond its borders in the Foreign Account Tax Compliance Act to force US citizens to declare and pay their taxes in the US. These attempts **to limit** dominium by imperium, to limit **private law with the help of public law indicate a beginning reversal of the neoliberal triumph** Pistors book describes, which from its right beginning sought to limit imperium in order to have dominium rule supreme (Slobodian 2018).

It is here where we might need more understanding of the factors, which are driving these momentous changes between public and private law that the book leaves a bit of a lacunae, making it able to generate an account that explains the movement towards the neoliberal apex of private interests being placed above public ones, but providing the reader with an insufficient understanding for when the pendulum might swing in the other direction. For that to occur we need to shed more light on the sphere of interaction between public and private law, looking at it from the angle of how public law curtails private prerogatives. Here, her brief account of the shift in property rights in 1881 indicates that it is the unsustainability of the prior debt regime and its very negative impact on agricultural production in the 1870s which was an important factor.

The shifting applicability of the code of capital to different asset classes

Once one appreciates her evolutionary understanding of the law that draws upon prior elements and couples it with power and class dynamics in society, the question about the factors that bring about a change of the applicability of modules to different classes of assets comes into clear relief. As Pistor points out at the beginning of the book, “the analysis offered in this book will show that the metamorphosis of capital goes hand in hand with grafting the code’s module onto ever new assets, but also from time to time, stripping some assets of key legal modules” (Pistor 2019, p. 5). While this goal is achieved in a very laudable way, there is a certain lack of synthesizing and theorizing regarding the dynamics which are responsible for the shift to which assets the code of capital is applicable. In Luhmann’s vocabulary (1986), we are observing a reprogramming of where the codes are applicable, but the question of how these tectonic shifts in the programming of the code themselves could be understood remains open. That is, which factors explain the expansion and limitation of the code of capital to different “raw material” over time?

Here, Pistor’s emphasis on the constant, persistent incrementalism that is entailed in the practice of weaving new cloth based on the legal modules of the past by her ever-innovating Masters of the code is important, but insufficient. As her example of the 1881 change in the validity of trusts to protect landed estates shows, these legal modules are undergirded by power relationships (power in law), which requires **changes in power relationships** to be undone. How this happened in this case is extremely insightful. After a crisis of the 1870s showed the unsustainability of the protection of landed estates from bankruptcy proceeding, shielding them from creditors, the new parliament of 1880, which for the first time did not have a majority of landowners in it decided to change the applicability of the code. It was hence a societal crisis based on the unsustainability of then-current debtor-creditor arrangements protecting one class of asset-holders over others, which brought change to protections of landed property in the UK. Would it be correct to argue that the crises of agricultural production brought about by a lack of investment due to overly generous debtor protection brought about that change in the laws in 1881?

This question has important implications, as we are trying to understand the fate of the current era of neoliberalism, which seems to suffer from similar problems of **unsustainability**.

Revisiting **the political economy of law**

By asking, who is made whole and who is set to lose in moments of crises, Pistor places the analytical attention on the distribution of the materialization of losses rather than gains. In this sense, her approach holds the promise to provide us with a better understanding of the current dynamics of widening wealth inequalities over the last two decades, dynamics which can best be summarized as “heads they win, tail, we lose.” But when looking at this new constellation that emerged over the course over the last half century and came to fruition in the last 20, what can and cannot be explained by Pistor’s account? In a sense, this question also relates to the fact in how far her account can at the same time accommodate general dynamics and the historical specificity of the neoliberal era, which is peculiar.

Today, in the neoliberal era, inequality is enshrined in an institutional configuration of splintered state authority and crisis-prone finance as the main driver of growth (Aglietta 2000), making **inequality not only self-sustaining, but actually self-propelling**. This is the case because we are living in an era of financial dominance (Diessner and Linsi 2020), where central banks are underwriting financial markets’ tail risks, countering the decline of asset values through central bank purchases of assets. Central banks are doing so as they are seeking to maintain the stable flow of credit to the economy (Braun 2018) and are seeking to generate welfare effects that are supposed to stimulate the economy through expanding demand. Today, we can state with certainty that these interventions mostly only benefit the top 1% who see their financial wealth reconstituted despite financial crashes, further contributing to rising inequality. By pumping up banks and creditors and making sure shareholders and debt investors are made whole when an unexpected future arrives, **the current institutional constellation cements and propels existing inequalities**.

To better understand how this institutional edifice of present day capitalism was erected and how it might change, we need a deeper understanding of what motivates state action, which Pistor’s empirical work shows to be of crucial importance for the evolution of coding practices, but her theoretical work does little to incorporate. This is a great pity, because the sovereign not only enforces contract and property rights, but is also the agent providing the main material in which wealth today is stored, namely state debt, pointing to the quintessential hybridity of private and public agents in the constitution and preservation of wealth.

When Pistor points out how private lobbying extended the safe harbor provision, which allows repo-creditors to secure the assets they had accepted as collateral in case of bankruptcy of the debtor and which initially applied for treasury securities only to other assets that are used as collateral for repos, she downplays the shared interests of the US and the EU, which aligned with interests of finance to push for financial deepening (s. Gabor 2016, Gabor and Ban 2016). It is this shared interest of states and finance for financial market deepening and the provision of instant liquidity brought with it the expansion of infrastructural power of finance (Braun 2018), which underlies central bank action today. It is however very likely that these different, but joint interests are going to clash given the rising indebtedness of states.

In this context, I am wondering if there is any likelihood that the current institutional configuration will be reversed and that asset-holders, which are protected both by private law and the configuration of financial capitalism, which secures their wealth in financial markets based on the systemic importance the latter have gained for the conduct of public policy will be robbed of these prerogatives, reversing the “heads we win, tail you all lose” configuration. Could it be that the instability of finance and the persistent necessity to bail out market-based finance by central banks, both in 2008 and in 2020 (Menand 2020) might lead to a rethinking of the current prerogatives of private asset-holders?

Pistor is uncertain over whether such change can really occur. Her main point, based on a Hegelian philosophy of rights (as pushed for by Menke 2018) is that property not only bestows rights, but also duties upon those who hold them. With Menke, she maintains that all rights need to be assessed in light of other people’s rights, that they need to be reflexive (Pistor 2019, p. 231f). The problem with an open re-politicization of economic and social life (Menke), whereby legal change results from an open political process is that altering existing rights of asset holders will be fought against as “expropriation” and hence require recompensation, much like the slavery holders were recompensated when their prerogatives were abolished (Klein 2014). As she sees these sums to be astronomic, she ends her book with a plea for persistent incrementalism, chipping away the edge from capital assets and empowering non-capital holders as the way forward against the persistent incrementalism in the realm of private law driven by the Masters of the Code. But at this point, it remains unclear who is to push for it and how? It seems to remain a very idealistic proposal as the driving force animating such action is missing: whereas the masters of the capital are paid very well to protect their clients, can the public muster comparable pay to motivate lawyers to limit these privileges?

Seeking to **re-politicize** the question to what the ownership of “capital” actually obliges is an important matter and Pistor is right to **point to the dangers of either violent revolutions or the slow demise of the legitimacy of law to justify the ordering of society** (Pistor 2019, p. 229ff), **which is likely to occur if trends towards inequality persist.** **If law is replaced by naked power, it might make us all worse off in the process**. But pinning one’s hope on an incremental process of chipping away at the edges of capital’s prerogatives to stop this process seems to me to be no credible solution either. After all, one might be left with the joke she shares at the end of the book, whereby two peasants asked about how to get to Dublin answer: “not from here” (ibid, 232).