# 1NC versus Harker RM

### 1NC – Th

#### Interpretation: Debaters must disclose affirmative frameworks, advocacy texts, and advantage areas thirty minutes before round if they haven’t read the affirmative before

#### Violation: They didn’t

#### Standards:

#### 1] Clash- Not disclosing incentivizes surprise tactics and poorly refined positions that rely on artificial and vague negative engagement to win debates. Their interpretation discourages third- and fourth-line testing by limiting the amount of time we have to prepare and forcing us to enter the debate with zero idea of what the affirmative is. Negatives are forced to rely on generics instead of smart contextual strategies destroying nuanced argumentation.

#### 2] Shiftiness- Not knowing enough about the affirmative coming into round incentivizes 1ar shiftiness about what the aff is and what their framework/advocacy entails. That means even if we could read generics or find prep, they’d just find ways to recontextualize their obscure advocacy in the 1ar.

#### The shell is offense under their ROTB- Breaking this aff new without disclosing parts of it means they intentionally want to bracket engagement against their strategy and it means their movement is only accessible to them. It also means we can’t robustly test their strategy so we don’t know if their method is a good idea.

#### Drop the debater to deter future abuse

#### Competing interps – reasonability is arbitrary and invites judge intervention which outweighs since it takes the debate out of the debaters hands

#### No RVI- A] Illogical B] Exclusions are inevitable-

### 1NC – T

#### Interp: The affirmative may only garner offense from the hypothetical defense that the appropriation of outer space by private entities is unjust and may not garner any offense external to that.

#### Resolved indicates a policy action.

Parcher 1. [Jeff. 2/26/01. “Re: Jeff P--Is the resolution a question?” <https://web.archive.org/web/20050122044927/http://www.ndtceda.com/archives/200102/0790.html>] Justin

(1) Pardon me if I turn to a source besides Bill. American Heritage Dictionary: Resolve: 1. To make a firm decision about. 2. To decide or express by formal vote. 3. To separate something into constiutent parts See Syns at \*analyze\* (emphasis in orginal) 4. Find a solution to. See Syns at \*Solve\* (emphasis in original) 5. To dispel: resolve a doubt. - n 1. Frimness of purpose; resolution. 2. A determination or decision.

(2) The very nature of the word "resolution" makes it a question. American Heritage: A course of action determined or decided on. A formal statemnt of a deciion, as by a legislature.

(3) The resolution is obviously a question. Any other conclusion is utterly inconcievable. Why? Context. The debate community empowers a topic committee to write a topic for ALTERNATE side debating. The committee is not a random group of people coming together to "reserve" themselves about some issue. There is context - they are empowered by a community to do something. In their deliberations, the topic community attempts to craft a resolution which can be ANSWERED in either direction. They focus on issues like ground and fairness because they know the resolution will serve as the basis for debate which will be resolved by determining the policy desireablility of that resolution. That's not only what they do, but it's what we REQUIRE them to do. We don't just send the topic committtee somewhere to adopt their own group resolution. It's not the end point of a resolution adopted by a body - it's the prelimanary wording of a resolution sent to others to be answered or decided upon.

(4) Further context: the word resolved is used to emphasis the fact that it's policy debate. Resolved comes from the adoption of resolutions by legislative bodies. A resolution is either adopted or it is not. It's a question before a legislative body. Should this statement be adopted or not.

#### Violation: cross

#### Vote neg for competitive equity and clash: changing the topic favors the aff because it destroys the only predictable stasis point which makes prep impossible because any ground we receive is self-serving, concessionary, and from distorted literature bases. Also means assume the AFF is false because they haven’t been subject to well-researched objections. Filter this through debate’s competitive nature of being a game where both teams want to win, which becomes meaningless without constraints: defining a role for negation is key to sustaining competition and outweighs.

#### Impacts:

#### 1] Procedural fairness is a voter and outweighs—a) intrinsicness—debate is a game and equity is necessary to sustain the activity b) probability—debate can’t alter subjectivity, but it can rectify skews c) metaconstraint—all your arguments concede fairness since you assume they will be evaluated fairly

#### 2] TVA – defend appropriation of outer space as

#### 3] Switch Side Debate – they can read it as a K against affirmatives – proves they can still research and cut the exact same argument but it forces debaters to consider issues from multiple perspectives. Non-topical affs allow individuals to establish their own metrics for what they want to debate leading to dogmatism.

#### 4] Legal solutions rupture the intelligibility of settler colonialism and creates meaningful progress and reinterpretation of the liberal rights they criticize – politicizing state-corporate relations avoids cooption.

Bhandar 13 – lecturer at Kent Law School and Queen Mary School of Law – her areas of research and teaching include property law, equity and trusts, indigenous land rights, post-colonial and feminist legal theory, multiculturalism and pluralism, critical legal theory, and critical race theory Brenna, “Strategies of Legal Rupture: the politics of judgment” [http://www.forensic-architecture.org/wp-content/uploads/2013/02/BHANDAR-Brenna.-Strategies-of-Legal-Rupture.pdf] //

In this article, my aim is to consider the use of law as a political strategy of rupture in colonial and post - colonial nation states. The question of whether and how to use law in order to transform and potentially shatter an existing political - legal order is one that continues t o plague legal advocates in a variety of places, from Australia, to India, to Canada to Israel/Palestine. For example, the struggle for the recognition of indigenous rights in the context of colonial settler regimes has often produced pyrrhic victories. 21 T he question of indigenous sovereignty is ultimately quashed, and aboriginal rights are paradoxically recognised as an interest that derives from the prior occupation of the land by aboriginal communities but is at the same time parasitic on underlying Crow n sovereignty; an interest that can be justifiably limited in the interests of settlement. 22 Thus, the primary and inescapable question remains: how does one utilise the law without re - inscribing the very colonial legal order that one is attempting to break down? 23 I argue that this is an inescapable dilemma; as critical race theorists and indigenous scholars have shown, to not avail ourselves of the law in an effort to ameliorate social ills, and to promote and protect the rights of oppressed minorities is to essentially abrogate one’s political responsibilities. Moreover, the reality of political struggle (particularly of the anti - colonial variety) is that it is of a diffuse and varied nature, engaging multiple different tactics in order to achieve its ends.¶ The notion of the ruptural defence emerges from the work of Jacques Vergès, a French advocate and subject of a film by Barbet Schroder entitled Terror’s Advocate . The film is as much a portrait of Vergès ’ life as it is a series of vignettes of armed anti - colonial and anti - imperial struggle during the decades between the late 1940s and the 1980s. I should say at the beginning that I do not perceive Vergès as a heroic figure or defender of the oppressed; we can see from his later decisions to defend Klaus Barbie, for instance, that his desire to reveal the violence wrought by European imperial powers was pursued at any cost. But in tracing the development of what Vergès called the ruptural defence, the film takes us to the heart of the inescapable paradoxes and contradictions involved in using law as a means of political resistance in colonial and post - colonial contexts. I want to explore the strategy of rupture as developed by Vergès but also in a broader se nse, to consider whether there is in this defence strategy that arose in colonial, criminal law contexts, something that is generalisable, something that can be drawn out to form a notion of legal rupture more generally.¶ To begin then, an exploration of Vergès’ ‘rupture defence’, or rendered more eloquently, a strategy of rupture. At the beginning of the film, Vergès comments on his strategy for the trial of Djamila Bouhired, a member of the FLN, who was tried in a military court for planting a bomb in a cafe in Algiers in 1956. Vergès states the following in relation to the trial:¶ The problem wasn’t to play for sympathy as left - wing lawyers advised us to do, from the murderous fools who judged us, but to taunt them, to provoke incidents that would reac h people in Paris, London, Brussels and Cairo...¶ The refusal to play for sympathy from those empowered to uphold the law in a colonial legal order hints at the much more profound refusal that lies at the basis of the strategy of rupture, which we see unf old throughout the film. In refusing to accept the characterisation of Djamila’s acts as criminal acts, Vergès challenges the very legal categories that were used to criminalise, condemn and punish anti - colonial resistance. The refusal to make the defendan ts’ actions cognisable to and intelligible within the colonial legal framework breaks the capacity of the judges to adjudicate in at least two senses. First, their moral authority is radically undermined by an outright rejection of the legal terms of refer ence and categories which they are appointed to uphold. The legal strategy of rupture is a politics of refusal that calls into question the justiciability of the purported crime by challenging the moral and political jurisdiction of the colonial legal order itself.¶ Second, the refusal of the legal categorisation of the FLN acts of resistance as criminal brought into light the contradictions inherent in the official French position and the reality of the Algerian context. This was not, as the official line would have it, simply a case of French criminal law being applied to French nationals. The repeated assertion that the defendants were independent Algerian actors fighting against colonial brutality, coupled with repeated revelations of the use of torture on political prisoners made it impossible for the contradictions to be “rationally contained” within the normal operations of criminal law. The revelation and denunciation of torture in the courtroom not to prevent statements or admissions from being admis sable as evidence (as such violations would normally be used) but to challenge the legitimacy of the imposition of a colonial legal order on the Algerian people made the normal operation of criminal law procedure virtually impossible . 24 And it is in this ma king impossible of the operation of the legal order that the power of the strategy of rupture lies. ¶ In refusing to render his clients’ actions intelligible to a colonial (and later imperial) legal framework, Vergès makes visible the obvious hypocrisy of the colonial legal order that attempts to punish resistance that employs violence, in the same spatial temporal boundaries where the brute violence of colonial rule saturates everyday life. In doing so, this is a strategy that challenges the monopoly of le gitimate violence the state holds. Vergès aims to render visible the false distinction between common crimes and political crimes, or more broadly, the separation of law and politics. 25 The ruptural defence seeks to subvert the order and structure of the tr ial by re - defining the relation between accuser and accused. This illumination of the hypocrisy of the colonial state questions the authority of its judiciary to adjudicate. But more than this, his strategy is ruptural in two senses that are fundamental to the operation of the law in the colonial settler and post - colonial contexts. The first is that the space of opposition within the legal confrontation is reconfigured. The second, and related point, is that the strictures of a legal politics of recognition are shattered.¶ In relation to the first point, a space of opposition is, in the view of Fanon, missing in certain senses, in the colonial context. A space of opposition in which a genuinely mutual struggle between coloniser and colonised can occur is de nied by spatial and legal - political strategies of containment and segregation. While these strategies also exhibit great degre es of plasticity 26 , the control over such mobility remains to a great degree in the hands of the colonial occupier. The legal strat egy of rupture creates a space of political opposition in the courtroom that cannot be absorbed or appropriated by the legal order. In Christodoulidis’ view, this lack of co - option is the crux of the strategy of rupture.¶ This strategy of rupture also poin ts to a path that challenges the limits of a politics of recognition, often one of the key legal and political strategies utilised by indigenous and racial minority communities in their struggles for justice. Claims for recognition in a juridical frame ine vitably involve a variety of onto - epistemological closures. 27 Whether because of the impossible and irreconciliable relation between the need for universal norms and laws and the specificities of the particular claims that come before the law, or because of the need to fit one’s claims within legal - political categories that are already intelligible within the legal order, legal recognition has been critiqued, particularly in regards to colonial settler societies, on the basis that it only allows identities, legal claims, ways of being that are always - already proper to the existing juridical order to be recognised by the law. In the Canadian context, for instance, many scholars have elucidated the ways in which the legal doctrine of aboriginal title to land im ports Anglo - American concepts of ownership into the heart of its definition; and moreover, defines aboriginality on the basis of a fixed, static concept of cultural difference. The strategy of rupture elides the violence of recognition by challenging the legitimacy of the colonial legal order itself.¶ In an article discussing Vergès’ strategy of rupture, Emilios Christodoulidis takes up a question posed to Vergès by Foucault shortly after the publication of Vergès’ book, De La Stratégie Judiciare, as to wh ether the defence of rupture in the context of criminal law trials in the colony could be generalised more widely, or whether it was “not in fact caught up in a specific historical conjuncture.” 28 In exploring how the strategy of rupture could inform practices and theory outside of the courtroom, Christodoulidis characterises the strategy of rupture as one mode of immanent critique. As individuals and communities subjected to the force of law, the law itself becomes the object of critique, the object that ne eds to be taken apart in order to expose its violence. To quote from Christodoulidis:¶ Immanent critique aims to generate within these institutional frameworks contradictions that are inevitable (they can neither be displaced nor ignored), compelling (they necessitate action) and transformative in that (unlike internal critique) the overcoming of the contradiction does not restore, but transcends, the ‘disturbed’ framework within which it arose. It pushes it to go beyond its confines and in the process, fam ously in Marx’s words, ‘enables the world to clarify its consciousness in waking it from its dream about itself’. 29¶ Christodoulidis explores how the strategy of rupture can be utilised as an intellectual resource for critical legal theory and more broadl y, as a point of departure for political strategies that could cause a crisis for globalised capital. Strategies of rupture are particularly crucial when considering a system, he notes, that has been so successful at appropriating, ingesting and making its own, political aspirations (such as freedom, to take one example) that have also been used to disrupt its most violent and exploitative tendencies. Here Christodoulidis departs from the question of colonialism to focus on the operation of capitalism in po st - war European states. It is also this bifurcation that I want to question, and rather than a distinction between colonialism and capitalism, to consider how the colonial (as a set of economic and political relations that rely on ideologies of racial diff erence, and civilisational discourses that emerged during the period of European colonialism) is continually re - written and re - instantiated through a globalised capitalism. As I elaborate in the discussion of the Salwa Judum judgment below, it is the combi nation of violent state repression of political dissent that finds its origins (in the legal form it takes) during the colonial era, and capitalist development imperatives that implicate local and global mining corporations in the dispossession of tribal p eoples that constitutes the legal - political conflict at issue.¶ After the Trial: From Defence to Judgment¶ In response to a question from Jean Lapeyrie (a member o f the Action Committee for Prison - Justice) during a discussion of De La Stratégie Judiciare published as the Preface to the second edition, Vergès remarks that there are actually effective judges, but that they are effective when forgetting the essence of what it is to be a judge. 31 The strategy of rupture is a tactic utilised to subvert the order and structure of a trial; to re - define the very terms upon which the trial is premised. On this view, the judge, charged with the obligation to uphold the rule o f law is of course by definition not able to do anything but sustain an unjust political order.¶ In the film Terror’s Advocate , one is left to wonder about the specificities of the judicial responses to the strategy deployed by Vergès. (Djamila Bouhired , for instance, was sentenced to death, but as a result of a worldwide media campaign was released from prison in 1962). While I would argue that the judicial response is clearly not what is at stake in the ruptural defence, I want to consider the potentia lity of the judgment to be ruptural in the sense articulat ed by Christodoulidis, discussed above. Exposing a law to its own contradictions and violence, revealing the ways in which a law or policy contradicts and violates rights to basic political freedoms , has clear political - legal effects and consequences. Is it possible for members of the judiciary to expose contradictions in the legal order itself, thereby transforming it? Would the redefinition, for instance, of constitutional provisions guaranteeing r ights that come into conflict with capitalist development imperatives constitute such a rupture? In my view, the re - definition of the limitations on the guarantees of individual and group freedom that are inevitably and invariably utilised to justify state repression of rights in favour of capitalist development imperatives, security, or colonial settlement have the potential to contribute to the re - creation of political orders that could be more just and democratic.¶ We may be reluctant to ever claim a ju dgment as ruptural out of fear that it would contaminate the radical nature of this form of immanent critique. Is to describe a judgment as ruptural to belie the impossibility of justice, the aporia that confronts every moment of judicial decision - making? I want to suggest that it is impossible to maintain such a pure position in relation to law, particularly given its capacity (analogous to that of capital itself) for reinvention. Thus, I want to explore the potential for judges to subvert state violence e ngendered by particular forms of political and economic dispossession, through the act of judgment. In my view, basic rights protected by constitutional guarantees (as in the Indian case) have been so compromised in the interests of big business and develo pment imperatives, that re - defining rights to equality, dignity and security of person, and subverting the interests of the state - corporate nexus is potentially ruptural, in the sense of causing a crisis for discrete tentacles of global capitalism.¶ At th is juncture, we may want to explicitly account for the specific differences between criminal defence cases and Vergès‘ basic tactic, which is to challenge the very jurisdiction of the court to adjudicate, to define the act of resistance as a criminal one, and constitutional challenges to the violation of rights in cases such as Salwa Judum . While one tactic seeks to render the illegitimacy of the colonial state bare in its confrontation with anti - colonial resistance, the other is a tactic used to re - define the terms upon which political dissent and resistance take place within the constitutional bounds of the post - colonial state. These two strategies appear to be each other’s opposite; one challenges the legitimacy of the state itself through refusing the ju risdiction of the court to criminalise freedom fighters, while the other calls on the judiciary to hold the state to account for criminalising and violating the rights of its citizens to engage in political acts of dissent and resistance**.** However, the common thread that situates these strategies within a singular political framework is the fundamental challenge they pose to the state’s monopoly over defining the terms upon which anti - colonialand anti - capitalist political action takes place. ¶ Here I will turn to consider a post - colonial context in which the colonial is continually being re - written, juridically speaking, in light of neo - liberal economic imperatives unleashed from the late 1980s onwards. A recent judgment of the Indian Supreme Court provide s an opportunity to consider a moment in which capitalist development imperatives and the exploitation of tribal peoples by the state of Chattisgarh are put on trial by a group of three plaintiffs. The judgment provides, amongst other things, an opportunit y to consider the strategy of the plaintiffs and also the judicial response. As I argue below, this judgment presents an instance of rupture precisely because the fundamental freedoms of the people of Chattisgarh are redefined by the Court in such a way as to challenge and condemn the capitalist development imperatives that have put their lives and livelihoods at risk.¶ Salwa Judum¶ The Indian Supreme Court rendered judgment in the case of Nandini Sundar and others v the State of Chhattisgarh on July 5th, 2011. In this case, Sundar, a professor of Sociology at the Delhi University, along with Ramachandra Guha, an eminent Indian historian, and Mr. E.A.S. Sarma, former Secretary to Government of India and former Commissioner, Tribal Welfare, Government of And hra Pradesh, petitioned the Supreme Court of India alleging, inter alia , that widespread violations of human rights were occurring in the State of Chattisgarh, on account of the ongoing Naxalite/Maoist insurgency and the counter - insurgency activities of th e State government and the Union of India (or the national government). More specifically, the petitioners alleged that the State was in violation of Articles 14 and 21 of the Indian Constitution. Article 14 guarantees equality before the law of each citiz en and freedom from discrimination on the basis of race, religion, caste, sex or place of birth. Article 21 of the Constitution guarantees the protection of life and personal liberty.¶ While a comprehensive overview of the Naxalbari movement is beyond the scope of this article, I provide a very brief description of the movement here, by way of explaining the political and legal background of the judgment. The Naxalites are revolutionary communists (Maoists) who split from the Communist Party of India short ly after independence. The movement includes a social base comprised of “landless, small peasants with marginal landholdings,” and adivasis. 32 Bhatia notes that in the state of Bihar, many people join the movement in order to pursue short - term goals, such as better education, food and housing, and employment, with revolution a distant concept if not altogether foreign to more immediate objectives of radical change. 33 Regardless of whether revolution is the immediate or long - term objective of members of the N axalite movement, it is clear that along with economic and social rights lies the desire for freedom from violence and fear in a political context described by some as semi - feudal. One young Naxalite described the hangover of feudal attitudes towards lowe r castes by stating “the landlord’s moustache has got burnt but the twirl still remains.” 34¶ With a powerful and unrelenting presence in tribal areas, arguably amongst the most impoverished parts of the country, Naxalites have engaged in nonviolent and dir ect armed action against state and national governments intent on pursuing capitalist modes of development at the expense of the poor, throughout nine different states in India. Specifically, the Naxals have focused on land rights, minimum wages for labour ers, common property resources and housing rights. 35 The strategy of armed resistance has met with criticism across the political spectrum 36 , and it is difficult to gauge the level of support for the Naxalites amongst left and progressive communities in Indi a. However, the ascription by India’s Prime Minister Manmohan Singh to the Naxals as the “singlest greatest threat to India’s national security” 37 was the precursor to a vicious campaign of repression called Operation Greenhunt that has attracted criticism by political progressives.¶ This is the background to the petition brought by Sunder, Guha and Sarma. The petition alleged, inter - alia, the widespread violation of human rights of people of Dantewada District and neighboring areas in Chattisgarh. Specifica lly, the petitioners alleged that the State of Chattisgargh was supporting the activities of an armed vigilante group called ‘Salwa Judum’ (‘Purification Hunt’ in the Gondi language). The State was actively promoting the Salwa Judum through the appointment of Special Police Officers. The government of Chattisgargh, along with the Union of India government, was alleged to have employed thousands of ‘special police officers’ as a part of their counter - insurgency strategies. The SPOs, a category that finds its origins in colonial policing legislation 38 , are members of the tribal communities, and are often minors. The SPOs, as the Court notes, are armed by the State and given little or no training, to fight the battles against the Naxalites. At the time the Court passed down its judgment, 6500 tribal youth have been conscripted into the Salwa Judum (para 44). He writes that the “wholesale militarisation of the movement since the 1990s has culminated in a vanguard war trapped in an expanding culture of counterinsur gency.” 3¶ The State of Chattisgargh recruits SPOs (also known as Koya Commandos) under the provisions of the Chattisgargh Police Act 2007. Under this Act, the SPOs, as the Court notes, “enjoy the ‘same powers, privileges and perform same duties as coordinate constabulary and subordinate of the Chattisgargh Police.” 40 The Union Government of India sets the limit of the number of SPOs that each state can appoint for the purposes of reimbursement of an honorarium under the Security Rated Expenditure Scheme. The State argued on its behalf that the SPOs receive two months of training covering such things as the use of arms, community policing, UAC and Yoga training, and the use of scientific and forensic aids in policing. 41 The Union Government argued that the SPOs “have played a useful role in the collection of intelligence, protection of local inhabitants and ensuring security of property in d isturbed areas.” 42 Despite these attempts at a defence, the Court found in favour of the petitioners.¶ The Court contrasts the provisions of the 2007 Act that provide for the conditions under which the Superintendant of Police may appoint “any person” as an SPO with the parallel provisions in the British era legislation. They find that the 2007 Act, unlike its predecessor, fails to delimit the circumstances under which such appointments can be made. The circumstances however, do include “terrorist/extremist” incidents, and the Court thus finds that the SPOs are “intended to be appointed with the responsibilities of engaging in counter - insurgency activities.” 43 The Court agrees with the allegations of the petitioners, that thousands of tribal youth are being ap pointed by both the State and Union governments to engage in armed conflict with the Naxalites, and that this placing the lives of tribal youth in “grave danger.” 44 Given that youth being conscripted have very low levels of education and are often illiterat e, and that they themselves have likely been the victims of state and Naxal violence, the Court found that they could not “under any conditions of reasonableness” assume that the youth are exercising the requisite degree of free will and volition in relati on to their comprehension of the conditions of counter - insurgency and the consequences of their actions, and thus, were not viewed by the court as freely deciding to join the police force as SPOs. 45 After a very thorough analysis of the conditions under whi ch tribal youths become SPOs and the use and abuse of the SPOs by the State, the Court found the State of Chattisgarh to be in violation of Articles 14 and 21 of the Constitution by appointing tribal youth as SPOs engaged in counter - insurgency.¶ The Court ’s findings in relation to the SPOs are remarkable insofar as they account for the socio - economic conditions and lived realities of the tribal youth. In their judgment, however, they go much further than engaging a contextualised and nuanced approach to the interpretation of the rights to equality, life and personal liberty. They enquire into the causes of Naxalite violence, and in doing so, hold capitalist development imperatives to account; the constitutional rights of tribals and others dispossessed of t heir lands and livelihoods are being violated in the interests of capital. Drawing on academic work critical of globalisation, the Court quotes the following:¶ ‘[T]he persistence of “Naxalism ”, the Maoist revolutionary politics, in India after over six decades of parliamentary politics is a visible paradox in a democratic “socialist” India.... India has come into the twenty - first century with a decade of departure from the Nehruvian socialism to a free - market, rapidly globalizing economy, which has created new dynamics (and pockets) of deprivation along with economic growth. Thus the same set of issues, particularly those related to land, continue to fuel protest politics, violent agitator pol itics, as well as armed rebellion....’ 46¶ The Court recognises that the capitalist development imperatives of the state are the cause of the armed resistance when they state that the problem lies not with the people of Chattisgarh, nor those who question th e conditions under which the conflict has been produced, but “[t]he problem rests in the amoral political economy that the State endorses, and the resultant revolutionary politics that it unnecessarily spawns.” 47 Quoting from a report written by an expert g roup appointed by the Planning Commission of India, the Court takes note of the “irreparable damage” caused to marginalised communities by the development paradigm adopted by the national governmen t since independence . 48 The economic development pursued has “inevitably caused the displacement” of these communities and “reduced them to a sub - human existence”. 49 The Expert Group also noted their surprise at the refusal of the State to recognise the reasons for the political dissent expressed by the Naxalites, a nd the disruption of law and order. The Court adopts this observation, and notes that:¶ Rather than heeding such advice [to address the dehumanisation wreaked by capitalist development policies], which echoes the wisdom of our Constitution, what we have wi tnessed in the instant proceedings have been repeated assertions of inevitability [sic] of muscular and violent statecraft. 50¶ Following this remarkable assertion of Constitutional values that are opposed to the state violence used to repress political dis sent, the Court accounts for the violence rendered by capitalist development imperatives:¶ The culture of unrestrained selfishness and greed spawned by modern neo - liberal economic ideology, and the false promises of ever increasing spirals of consumption l eading to economic growth that will lift everyone, under - gird this socially, politically and economically unsustainable set of circumstances in India in general, and Chattisgarh in particular.” 51¶ The exploitation of natural resources violate principles t hat are “fundamental to governance” and this violation eviscerates the promise of equality before the law, and dignit y of life (Article 21) . 52 Capitalist development imperatives and neo - liberalism “necessarily tarnish” and “violate in a primordial sense” Ar ticles 14 and 21 of th e Indian Constitution . 53 The Court thus positions the rights to equality and dignity in opposition to capitalist development imperatives, and most significantly, do not find that the violation can be justifiably limited. Economic polic ies that violate the spirit of the Constitution, and run counter to the “primary task of the state” which is to provide security for all of its citizens “without violating human dignity” cause levels of social unrest that ultimately amount to an “abdicatio n of constitutional r esponsibilities” . 54 In their finding that neo - liberal ideology amongst other economic policies are the root causes of the social unrest and Naxal militancy, the Court re - values the constitutional and human rights of its citizens and as serts a radically different vision of the role of the state in promoting and protecting democracy. Based on the spirit of the Constitution as enacted at the time of independence, the Court clearly puts forth a view that the conditions for democracy begin w ith state protection and enhancement of human dignity and equality, education, and freedom from violence, rights and values that are contrary to the capitalist economic policies embraced by the State of Chattisgarh.¶ Constitutional rights claims, whether we are looking at state of the art constitutions in Canada, South Africa or elsewhere, do not often go beyond a liberal conception of rights. And indeed, utilising human rights as a means of provoking political ruptures (as opposed to ameliorating existin g conditions) surely seems like a rather bankrupt endeavor, in light of how rights to freedom and liberty have been effectively co - opted by market imperatives. 55 The ISC judgment thus seems all the more compelling, in its condemnation of developmental terro rism, and capitalist greed. The judgment finds in favour of the petitioners. In doing so, they explicitly critique the capitalist model of development that has impoverished so many millions of people. They express the view that people do not rise up in arm ed insurgency against the state without cause, and find the failure of the State to affirmatively fulfill its obligation to protect the life and liberty of the SPOs is a breach and violation of the Constitution. They find, significantly, that the very econ omic policies pursued by the government, coupled with the treatment of tribals as nothing more than cannon fodder in the war against the Naxalites, have dehumanised those most vulnerable t o poverty. The Court adopts the words of Joseph Conrad in their cond emnation of the impoverishment and exploitation of the tribals by both the state and union governments. Drawing parallels with Conrad’s characterisation of the colonial exploitation of the Congo in the late 19th and early 20th centuries, the Court relates the “vilest scramble for loot that ever disfigured the history of human conscience” to the “scouring of the earth by the unquenchable thirst for natural resources by imperialist powers”. 56¶ The Court also alludes to the virulent auto - immune reaction that e xists like a germ, waiting to explode, amongst the tribal youths. With no established mechanism for getting the arms back from the tribal youths, the Court predicts the possibility of these youths becoming “roving groups of armed men endangering the societ y, and the people in those areas as a third front.” They write that it “entirely conceivable that those youngsters refuse to return the arms Consequently, we would then have a large number of armed youngsters, running scared for their lives, and in violati on of the law. It is entirely conceivable that they would then turn against the State, or at least defend themselves using those firearms, against the security forces themselves; for their livelihoo d, and subsistence...” 57¶ In finding the government respons ible for the socio - economic conditions that have led to revolutionary activity, and in condemning their brutal and inhumane use of tribal youth in the armed struggle against the Naxalites, (caused, in the view of the Court, by policies of privatisation tha t leave the state ideologically and actually incapable of dealing with the social unrest) the Court engages in an immanent critique of the political ideology and legal policies of the government. In critiquing the violence of capitalist development imperat ives pursued by the state, and the inhumane violence utilised by the state to counter its natural consequences (armed unrest), the Court re - invests concepts of liberty, life, and equality with political meaning that goes beyond their usual liberal interpel lations. The concept of security is reinterpreted with the interests of the poor in mind, the market logic of efficiency condemned as a guiding principle and objective of government policy.¶ Conclusion¶ Outside of a criminal or military law context, a strategy of rupture might involve an exposure of the contradictions that inhere in colonial, capitalist legal orders that eviscerate the potentiality that rights hold to enable ind ividuals to live lives free of fear, violence and exploitation. In considering how this rupture might occur through the act of judgment, it may be through challenging the authority of the state to engage its citizens in ways that violate political and ethi cal norms of freedom. In the judgment analysed here, the Court seizes the power to define the constitutional norms and crucially, the meaning of the rights to life, personal liberty and security. They engage an act of radical re - definition of democratic ri ghts with the lived conditions of the poorest communities at the forefront of their analysis.¶ In this judgment the Indian Supreme Court redefines the imperatives of security as a State obligation to its citizens, to “secure for our citizens conditions of social, economic, and political justice for a ll who live in India...” . 58 Without this, the Court notes that the State will not have achieved human dignity for its citizens. This, for the court, is an essential truth, and “policies which cause vast disaffectio n amongst the poor” not only exist in opposition to this truth but are also “necessarily destructive of national unity and integration” . 59 The Court thus identifies Indian democracy as what is at stake in the revaluing and reinterpretation of rights to life and security of the person.¶ In directing their analysis at the ways in which neo - liberal capitalism as a political and economic rationality “has launched a frontal assault on the fundaments of liberal democracy, displacing its basic principles of consti tutionalism, legal equality, political and civil liberty, political autonomy, and universal inclusion with market criteria...”, 60 the ISC attempts to recuperate the deracinated vision of democracy that Indian corporateers and government ministers appear to ha ve in mind. Surely, in a time when even the most basic conditions for a democracy that attends to the political, social and economic needs of the common, those with basic common needs of education, freedom of association and movement, freedom from deprivat ion and dispossession, are absent, charting such legal terrain opens a space for political rupture.¶ In considering whether legal judgments can be ruptural in the sense elucidated by Christodoulidis, and reflecting on Sundar et al , it is clear that an ind ependent judiciary does have the power to disturb the monopoly of violence exercised by the government, and to transcend this disturbed framework by offering a radically different interpretation of security and freedom. Security as the insurance of egoism reflects a Benthamite definition of law’s raison d’être as nothing other than the security of private property. The law exists in order to provide security for the property - owning classes, security for their actual wealth and also feelings of security; the law provides freedom from the fear of loss. In moving far from Benthamite concerns with the protection of private property, the Court redefines security, a concept fundamental to law’s being, and more particularly, a concept too often used and abused in t he interests of private corpora tions . ¶ Although this use of the law does not refuse the authority of the court in the way that Vergès’ strategy of rupture did in the colonial - criminal law context, it most certainly redefines the ambit of what is an intel ligible rights claim. By bringing the socio - economic conditions of the adivasis and tribal peoples to the forefront of their interpretations of the rights at issue , the Court opens the space for a legal consciousness that can no longer remain caught up in a fantasy about it’s own effectiveness in actually protecting the rights of the poorest and most vulnerable. This movement by the Indian Supreme Court charts an av enue that holds promise for the anti - colonial struggles of legal advocates elsewhere.

### 1NC – K

#### The 1AC is a misdiagnosis of the university – their techniques are enfolded within logistical transparency in which the worlds visibility and mappability is taken as ontological presumption to be achieved by techniques of resistance. The aff’s praxis of resistance is articulated through a grammar of concrete planning utilized by state governance and the neoliberal university that reproduces logistics as the terrain of the political – only a refusal of the aesthetics of planning, logistics, and transparency can facilitate fugitivity

Moten & Harney 9 – Fred Moten, professor of Performance Studies at New York University and has taught previously at University of California, Riverside, Duke University, Brown University, and the University of Iowa, and Stefano Harney, Professor of Strategic Management Education at Singapore Management University, 2009 (“Policy and Planning” Social Text 100 • Vol. 27, No. 3 • Fall 2009 Pages 182-186)

Policy is correction. Policy distinguishes itself from planning by distinguishing those who dwell in policy and x things, from those who dwell in planning and must be xed. This is the first rule of policy. It xes others. In an extension of Michel Foucault, we might say of this first rule that it remains concerned with how to be governed just right, how to x others in a position of equi- librium, even if this today requires constant recalibration. But the objects of this constant adjustment provoke this attention because they just don’t want to govern at all. And because such policy emerges materially from post-Fordist oppor- tunism, policy must optimally, for each policy maker, x others as others, as those who have not just made an error in planning (or indeed an error by planning) but who are themselves in error. And from the perspective of policy, of this post-Fordist opportunism, there is indeed something wrong with the multitude. They are out of joint — instead of constantly positing their position in contingency, they seek solidity, a place from which to plan, some ground on which to imagine, some love on which to count. Nor is this just a political problem from the point of view of policy, but an ontological one. Seeking xity, nding a steady place from which to launch a plan, hatch an escape, signals a problem of essentialism, of beings who think and act like they are something in particular, like they are somebody, although at the same time that something is, from the perspective of policy, whatever you say I am. To get these planners out of this problem of essentialism, this x- ity and repose, this security and base, they have to come to imagine they can be more, they can do more, they can change, they can be changed. Because right now, there is something wrong with them. We know there is something wrong with them because they keep making plans. And plans fail. Plans fail because that is policy. Plans must fail because planners must fail. Planners are static, essential, just surviving. They do not see clearly. They hear things. They lack perspective. They fail to see the complexity. Planners have no vision, no real hope for the future, just a plan here and now, an actually existing plan. They need hope. They need vision. They need to have their sights lifted above the furtive plans and night launches of their despairing lives. Vision. Because from the perspective of policy, it is too dark in there to see, in the black heart of the multitude. You can hear something, you can feel something, feel people going about their own business in there, feel them present at their own making. But hope can lift them above ground into the light, out of the shadows, away from these dark senses. Whether the hope is Fanonian redemption or Arendtian revaluation, policy will x these humans. Whether they lack consciousness or politics, utopianism or common sense, hope has arrived. With new vision, planners will become participants. And participants will be taught to reject essence for contingency, as if planning and improvisation, flexibility and fixity, and complexity and simplicity were opposed within an imposed composition there is no choice but to inhabit, as some exilic home. All that could not be seen in the dark heart of the multitude will be supposed absent, as policy checks its own imagination. But most of all they will participate. Policy is a mass effort. Left intellectuals will write articles in the newspapers. Philosophers will hold conferences on new utopias. Bloggers will debate. Politicians will surf. Change is the only constant here, the only constant of policy. Participating in change is the second rule of policy. Now hope is an orientation toward this participation in change, this participation as change. This is the hope policy gives to the multitude, a chance to stop digging and start circulating. Policy not only offers this hope, but enacts it. Those who dwell in policy do so not just by invoking contingency but riding it, by, in a sense, proving it. Those who dwell in policy are prepared. They are legible to change, liable to change, lendable to change. Policy is not so much a position as a disposition, a disposition toward display. This is why policy’s chief manifestation is governance. Governance should not be confused with government or governmen- tality. Governance is the new form of expropriation. It is the provocation of a certain kind of display, a display of interests as disinterestedness, a display of convertibility, a display of legibility. Governance offers a forum for policy, for bidding oneself, auctioning oneself, to post-Fordist production. Gover- nance is harvesting of immaterial labor, but a willing harvest, a death drive of labor. As capital cannot know directly affect, thought, sociality, imagi- nation, it must instead prospect for these in order to extract and abstract them as labor. This is the real bioprospecting. Governance, the voluntary but dissociative offering up of interests, willing participation in the general privacy and privation, grants capital this knowledge, this wealth-making capacity. Who is more keen on governance than the dweller in policy? On the new governance of universities, hospitals, corporations, governments, and prisoners, on the governance of NGOs, of Africa, of peace processes? Policy offers to help by offering its own interests, and if it really seeks to be valuable, provoking others to offer up their own interests, too. But governance despite its own hopes to universality is for the initi- ated, for those who know how to articulate interests disinterestedly, who know why they vote (not because someone is black or female but because he or she is smart), who have opinions and want to be taken seriously by serious people. In the meantime, policy also orders the quotidian sphere of aborted plans. Policy posits curriculum against study, child develop- ment against play, careers against jobs. It posits voice against voices, and gregariousness against friendship. Policy posits the public sphere, and the counterpublic sphere, and the black public sphere, against the illegal occupation of the illegitimately privatized. Policy is not the one against the many, the cynical against the roman- tic, or the pragmatic against the principled. It is simply baseless vision. It is against all conservation, all rest, all gathering, cooking, drinking, and smoking, if they lead to marronage. Policy’s vision is to break it up, move along, get ambition, and give it to your children. Policy’s hope is that there will be more policy, more participation, more change. However, there is also a danger in all this participation, a danger of crisis. When the multitude participates in policy without first being xed, this leads to crisis: participation without fully entering the enlightenment, without fully functioning families, without financial responsibility, with- out respect for the rule of law, without distance and irony; participation that is too loud, too fat, too loving, too full, too owing, too dread. This leads to crisis. People are in crisis. Economies are in crisis. We are facing an unprecedented crisis, a crisis of participation, a crisis of faith. Is there any hope? Yes, there is, if we can pull together, if we can share a vision of change. For policy, any crisis in the productivity of radical contingency is a crisis in participation, which is to say, a crisis provoked by the wrong participation of the multitude. This is the third rule of policy. The crisis of the credit crunch caused by subprime debtors, the crisis of race in the U.S. elections produced by Reverend Wright and Bernie Mac, the crisis in the Middle East produced by peace movements, the crisis of obesity produced by unhealthy eaters, the crisis of the environ- ment produced by Chinese and Indians, are all instances of uncorrected, unmanaged participation. If the multitude is to stop its sneaky plans only to participate in this way, crisis is inevitable. But policy diagnoses the problem: participation must be hopeful, it must have vision, it must embrace change. Participants must be fashioned who are hopeful, visionary change agents. Those who dwell in policy will lead the way, toward concrete changes in the face of the crisis. Be smart. Believe in change. This is what we have been waiting for. It’s time for the Left to offer solutions. Now’s the time, before it’s night again, and you start hearing D.O.C. They got a secret plan of their own and they won’t be corrected. Before you get stopped by KRS-One and asked for your plan, before Storm says “holla if you understand my plan ladies.” Before you start singing another half-illiterate fantasy. Before you are in the ongoing amplification at the dark heart of the multitude, the operations in its soft center. Before someone says let’s get together and get some land where we’ll still plan to be communist about communism, still plan to be unreconstructed about reconstruction, and still plan to be absolute about abolition. Policy can’t see it, policy can’t read it, but it’s intelligible if you got a plan.

#### Their investment into the university is a tool of speed-elitism. The move for more transparent discussions about revolutionary praxis mystifies the reliance on the highly exclusive and unethical technologies of the university. By figuring those technics as the metrics for liberatory strategization, that expands debate’s state of exploitation.

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Cries announcing the **demise** of the university abound, in particular in Europe and North America. Those who utter these cries often do this in an admirable attempt to **renew** the original mandate of the university, namely the fostering of **truth**, **justice** and **democratic debate**. Giving up on the now largely neoliberal and managerial university system that plagues Europe and the United States, some such critics try to mobilise a renewal of this mandate **outside academia’s institutional walls** with people and groups who represent an alternative to neoliberal globalisation. Much of this mobilisation is in turn done through technologies and discourses of mobility and tele-communication. Examples here are the European anti-Bologna ‘new university’ projects like Edu-Factory, the various autonomous virtual universities, and the intellectual collaboration with local and international activists and non-Western academics. I am referring here in particular to the promising formation of various extra-academic ‘activist-research’ networks and conferences over the last years, like Facoltà di Fuga (Faculty of Escape), Mobilized Investigation, Rete Ricercatori Precari (Network of Precarious Researchers), Investigacció (Research), Universidad Nómada (Nomadic University), and Glocal Research Space. Characteristically, these projects organise events that try to set up dialogues between non-Western and anti-neoliberal activists and academics, and carve out spaces for offline and web-based discussion and participation. Initiators and participants of these projects often conceptualise their positions as relating closely to **alter-globalist activism** – positions which hence are **hoped** to effectively **subvert neo-liberalism** as well as the **elitist-managerial university space** and its problematic method of scientific objectification for capitalist innovation. In this paper, I will explain how such announcements of **the university’s demise**, the conceptualisation of its current situation as **one of crisis**, as well as the mobilisation of **the true academic mandate** today which often segues into a **nostalgia for the original university** of independent thought, truth and justice, are themselves paradoxically **complicit in the techno-acceleration that** precisely **grounds and reproduces neo-liberalism.** This is because the playing out of such nostalgia typically runs through the problematic invocation of **the humanist opposition between doing and thinking.** This causes the terms and their mode of production to become increasingly intertwined under contemporary conditions of capitalist simulation in which ‘thinking’ is more and more done in service of an economist form of ‘doing’. The aforementioned commendable projects thus paradoxically appear foremost as symptoms of acceleration. Moreover, I will argue that this acceleration increasingly renders certain groups and individuals as **targets of techno-academic scrutiny and violence.** This increasing objectification that runs through the contemporary prostheses of the humanist subject hence spells disaster for non-technogenic forms of **gendered**, **raced** and **classed otherness.** I therefore suggest that this disastrous state of affairs is precisely carried out by the humanist promise of transcendence, democracy and justice that currently speeds up institutions like the university, and vice versa. Following this line of thought through, I claim that technological acceleration then surprisingly also harbours the promise of the coming of **a radical alternative** to neo-liberalism, and that it is precisely through the eschatological performance of this promise – arguably a repetition of the Christian belief in the apocalypse – that these activist-research projects and their neo-liberal mode of production may fruitfully **become the future objects of their own critique.** In short then, this paper attempts to affirm and displace the projects’ call for reinstating the original ‘true’ or transcending the current ‘spoilt’ university, in the hope of gesturing towards yet another alterity, through its own accelerated argument. I argue that the complicity of projects like Edu-Factory and Facoltà di Fuga in technological acceleration should primarily be understood in terms of what I in my work call **speed-elitism** (Hoofd, 2009: 201). I extrapolate the idea of speed-elitism largely from the work of John Armitage on the discursive and technocratic machinery underlying current neoliberal capitalism. In turn, I will argue that these activist-academic projects exacerbate speed-elitism by connecting the latter to Jacques Derrida’s ideas on technology and thought, as well as the late Bill Readings’ and Fred Moten and Stefano Harney’s critiques of the contemporary university. In ‘Dromoeconomics: Towards a Political Economy of Speed’, Armitage and Phil Graham suggest that due to the capitalist need for the production of excess, there is a strong relationship between the forces of communication and the logic of speed. They connect the logic of speed specifically to a certain militarisation of society under neoliberalism. In line with Virilio’s Speed and Politics, they argue that the areas of war, communication and trade are today intimately connected through the technological usurpation and control of space (and territory), and through the compression and regulation of time. Eventually, Armitage and Graham suggest that ‘**circulation** has become **an essential process** of capitalism, **an end in itself**’ (Armitage and Graham, 2001: 118) and that therefore any form of cultural production increasingly finds itself tied up in this logic. Neoliberal capitalism is hence a system in which the most intimate and fundamental aspects of human social life – in particular, forms of thought and linguistic difference – are formally subsumed under this system by being **circulated** as capital. In “Resisting the Neoliberal Discourse of Technology’, Armitage elaborates on this theme of circulation by pointing out that the current mode of late-capitalism relies on the continuous extension and validation of the infrastructure and the optimistic discourses of the new information technologies. Discourses that typically get repeated in favour of what I designate as the emerging speed-elite are those of connection, instantaneity, liberation, transformation, multiplicity and border crossing. **Speed-elitism**, I therefore argue, **replaces Eurocentrism** today as the primary nexus around which global and local disparities are organised, even though it largely builds on the formalisation of Eurocentric conceptual differences like doing versus thinking, and East versus West. Under speed-elitism, the utopian emphasis on the transparent mediation through technologies of instantaneity gives rise to the fantasy of the networked spaces ‘outside’ the traditional academic borders as radical spaces, as well as the desire for a productive dialogue or alliance between activism and academia. This would mean that activism and academia have become *relative* others under globalisation, in which the (non-Western or anti-capitalist) activist figures as some kind of *hallucination* of radical otherness for the Western intellectual. This technological hallucination serves an increasingly aggressive neo-colonial and patriarchal economic state of exploitation, despite – or perhaps rather *because of* – such technologies of travel and communication having come to figure as tools for liberation and transformation. So the discourses of techno-progress, making connections, heightened mobility and crossing borders in activist-academic alliances often go hand in hand with the (implicit) celebration of highly mediated spaces for action and communication between allied groups. Such **discourses** however **suppress** the **violent colonial, capitalist and patriarchal history** of those technological spaces and the subsequent unevenness of any such alliance. More severely, they **foster an oppressive** sort of **imaginary ‘collective’ or ‘unity of struggles’ through the myth of ‘truly’ allowing for radical difference and multiplicity within that space** – a form of **techno-inclusiveness that** in turn **excludes** a variety of **non-technogenic groups and slower classes**. That these highly mediated spaces of thought and knowledge production are exclusivist is also shown by Sheila Slaughter and Gary Rhoades’ study of the transformation of higher education in ‘The Academic Capitalist Knowledge/Learning Regime’. Slaughter and Rhoades argue that new technologies allow the neo-liberal university to precisely cross the borders of universities and external for-profit and non-profit agencies in the name of development, production and efficacy, resulting in ‘new circuits of knowledge’. These ‘opportunity structures’ (Slaughter and Rhoades, 2004: 306) that the neoliberal economy creates, I in turn argue, become precisely those spaces of imagination that come to signify as well as being resultant of the university’s humanist promise of reaching-out to alterity. This paradoxically also **leads to** what Slaughter and Rhoades accurately identify as a ‘**restratification among and within** **colleges** and **universities’** (2004: 307). *Thought* is then increasingly exercised in, and made possible through, spaces that are just as much spaces of acceleration and militarisation. The increasing complicity of the humanities in the applied sciences within the contemporary university, and hence the integration of critical thinking and neo-liberalist acceleration, is also a major theme running through Jacques Derrida’s *Eyes of the University*. Derrida there suggests that neo-liberalisation entails a militarisation of the university, claiming that ‘never before has so-called basic research been so deeply committed to ends that are at the same time military ends’ (Derrida, 2004: 143). The intricate relation between the military (‘missiles’) and the imperatives of the humanities (‘missives’) also pervades Derrida’s ‘No Apocalypse, Not Now’, in which he argues that the increasing urgency with which intellectuals feel compelled to address disenfranchisement and crisis **paradoxically** leads to a differential acceleration of such oppression through technologies of instantaneous action. But the relationship between new technologies and the subject’s *perception* of and subsequent desire for the incorporation of otherness that speed-elitism engenders, is best illustrated through Derrida’s *Archive Fever* and *Monolingualism of the Other*. Derrida’s concerns here are not so much directly with the contemporary university, but rather with the link between how thought is situated in technologies of communication (like language) and the emergence of authority as well as (academic and activist) empowerment.

#### **The conditioning of debate as a sight for liberal discussions about our orientations towards revolution merely engenders a semiotic fantasy of radicalism that paves over very real conditions of pain and death that make this space possible. Its try or die for a semiotic insurrection.**

Occupied UC Berkeley 09 – Occupied University of California, Berkeley, 11/18/09 (“Civic Life, Social Death, and the UC,” The Necrosocial, Anti-Capitalist Projects, <https://anticapitalprojects.wordpress.com/2009/11/19/the-necrosocial/>) Justin

Yes, very much a cemetery. Only here there are no dirges, no prayers, only the repeated testing of our threshold for anxiety, humiliation, and debt. The classroom just like the workplace just like the university just like the state just like the economy manages our social death, translating what we once knew from high school, from work, from our family life into academic parlance, into acceptable forms of social conflict. Who knew that behind so much civic life (electoral campaigns, student body representatives, bureaucratic administrators, public relations officials, Peace and Conflict Studies, ad nauseam) was so much social death? What postures we maintain to claim representation, what limits we assume, what desires we dismiss? And in this moment of crisis they ask us to twist ourselves in a way that they can hear. Petitions to Sacramento, phone calls to Congressmen—even the chancellor patronizingly congratulates our September 24th student strike, shaping the meaning and the force of the movement as a movement against the policies of Sacramento. He expands his institutional authority to encompass the movement. When students begin to hold libraries over night, beginning to take our first baby step as an autonomous movement he reins us in by serendipitously announcing library money. He manages movement, he kills movement by funneling it into the electoral process. He manages our social death. He looks forward to these battles on his terrain, to eulogize a proposition, to win this or that—he and his look forward to exhausting us. He and his look forward to a reproduction of the logic of representative governance, the release valve of the university plunges us into an abyss where ideas are wisps of ether—that is, meaning is ripped from action. Let’s talk about the fight endlessly, but always only in their managed form: to perpetually deliberate, the endless fleshing-out-of—when we push the boundaries of this form they are quick to reconfigure themselves to contain us: the chancellor’s congratulations, the reopening of the libraries, the managed general assembly—there is no fight against the administration here, only its own extension. Each day passes in this way, the administration on the look out to shape student discourse—it happens without pause, we don’t notice nor do we care to. It becomes banal, thoughtless. So much so that we see we are accumulating days: one semester, two, how close to being this or that, how far? This accumulation is our shared history. This accumulation—every once in a while interrupted, violated by a riot, a wild protest, unforgettable fucking, the overwhelming joy of love, life shattering heartbreak—is a muted, but desirous life. A dead but restless and desirous life. The university steals and homogenizes our time yes, our bank accounts also, but it also steals and homogenizes meaning. As much as capital is invested in building a killing apparatus abroad, an incarceration apparatus in California, it is equally invested here in an apparatus for managing social death. Social death is, of course, simply the power source, the generator, of civic life with its talk of reform, responsibility, unity. A ‘life,’ then, which serves merely as the public relations mechanism for death: its garrulous slogans of freedom and democracy designed to obscure the shit and decay in which our feet are planted. Yes, the university is a graveyard, but it is also a factory: a factory of meaning which produces civic life and at the same time produces social death. A factory which produces the illusion that meaning and reality can be separated; which everywhere reproduces the empty reactionary behavior of students based on the values of life (identity), liberty (electoral politics), and happiness (private property). Everywhere the same whimsical ideas of the future. Everywhere democracy. Everywhere discourse to shape our desires and distress in a way acceptable to the electoral state, discourse designed to make our very moments here together into a set of legible and fruitless demands. Totally managed death. A machine for administering death, for the proliferation of technologies of death. As elsewhere, things rule. Dead objects rule. In this sense, it matters little what face one puts on the university—whether Yudof or some other lackey. These are merely the personifications of the rule of the dead, the pools of investments, the buildings, the flows of materials into and out of the physical space of the university—each one the product of some exploitation—which seek to absorb more of our work, more tuition, more energy. The university is a machine which wants to grow, to accumulate, to expand, to absorb more and more of the living into its peculiar and perverse machinery: high-tech research centers, new stadiums and office complexes. And at this critical juncture the only way it can continue to grow is by more intense exploitation, higher tuition, austerity measures for the departments that fail to pass the test of ‘relevancy.’ But the ‘irrelevant’ departments also have their place. With their ‘pure’ motives of knowledge for its own sake, they perpetuate the blind inertia of meaning ostensibly detached from its social context. As the university cultivates its cozy relationship with capital, war and power, these discourses and research programs play their own role, co-opting and containing radical potential. And so we attend lecture after lecture about how ‘discourse’ produces ‘subjects,’ ignoring the most obvious fact that we ourselves are produced by this discourse about discourse which leaves us believing that it is only words which matter, words about words which matter. The university gladly permits the precautionary lectures on biopower; on the production of race and gender; on the reification and the fetishization of commodities. A taste of the poison serves well to inoculate us against any confrontational radicalism. And all the while power weaves the invisible nets which contain and neutralize all thought and action, that bind revolution inside books, lecture halls. There is no need to speak truth to power when power already speaks the truth. The university is a graveyard– así es. The graveyard of liberal good intentions, of meritocracy, opportunity, equality, democracy. Here the tradition of all dead generations weighs like a nightmare on the brain of the living. We graft our flesh, our labor, our debt to the skeletons of this or that social cliché. In seminars and lectures and essays, we pay tribute to the university’s ghosts, the ghosts of all those it has excluded—the immiserated, the incarcerated, the just-plain-fucked. They are summoned forth and banished by a few well-meaning phrases and research programs, given their book titles, their citations. This is our gothic—we are so morbidly aware, we are so practiced at stomaching horror that the horror is thoughtless. In this graveyard our actions will never touch, will never become the conduits of a movement, if we remain permanently barricaded within prescribed identity categories—our force will be dependent on the limited spaces of recognition built between us. Here we are at odds with one another socially, each of us: students, faculty, staff, homebums, activists, police, chancellors, administrators, bureaucrats, investors, politicians, faculty/ staff/ homebums/ activists/ police/ chancellors/ administrators/ bureaucrats/ investors/ politicians-to-be. That is, we are students, or students of color, or queer students of color, or faculty, or Philosophy Faculty, or Gender and Women Studies faculty, or we are custodians, or we are shift leaders—each with our own office, place, time, and given meaning. We form teams, clubs, fraternities, majors, departments, schools, unions, ideologies, identities, and subcultures—and thankfully each group gets its own designated burial plot. Who doesn’t participate in this graveyard? In the university we prostrate ourselves before a value of separation, which in reality translates to a value of domination. We spend money and energy trying to convince ourselves we’re brighter than everyone else. Somehow, we think, we possess some trait that means we deserve more than everyone else. We have measured ourselves and we have measured others. It should never feel terrible ordering others around, right? It should never feel terrible to diagnose people as an expert, manage them as a bureaucrat, test them as a professor, extract value from their capital as a businessman. It should feel good, gratifying, completing. It is our private wet dream for the future; everywhere, in everyone this same dream of domination. After all, we are intelligent, studious, young. We worked hard to be here, we deserve this. We are convinced, owned, broken. We know their values better than they do: life, liberty, the pursuit of happiness. This triumvirate of sacred values are ours of course, and in this moment of practiced theater—the fight between the university and its own students—we have used their words on their stages: Save public education! When those values are violated by the very institutions which are created to protect them, the veneer fades, the tired set collapses: and we call it injustice, we get indignant. We demand justice from them, for them to adhere to their values. What many have learned again and again is that these institutions don’t care for those values, not at all, not for all. And we are only beginning to understand that those values are not even our own. The values create popular images and ideals (healthcare, democracy, equality, happiness, individuality, pulling yourself up by your bootstraps, public education) while they mean in practice the selling of commodified identities, the state’s monopoly on violence, the expansion of markets and capital accumulation, the rule of property, the rule of exclusions based on race, gender, class, and domination and humiliation in general. They sell the practice through the image. We’re taught we’ll live the images once we accept the practice. In this crisis the Chancellors and Presidents, the Regents and the British Petroleums, the politicians and the managers, they all intend to be true to their values and capitalize on the university economically and socially—which is to say, nothing has changed, it is only an escalation, a provocation. Their most recent attempt to reorganize wealth and capital is called a crisis so that we are more willing to accept their new terms as well as what was always dead in the university, to see just how dead we are willing to play, how non-existent, how compliant, how desirous. Every institution has of course our best interest in mind, so much so that we’re willing to pay, to enter debt contracts, to strike a submissive pose in the classroom, in the lab, in the seminar, in the dorm, and eventually or simultaneously in the workplace to pay back those debts. Each bulging institutional value longing to become more than its sentiment through us, each of our empty gestures of feigned-anxiety to appear under pressure, or of cool-ambivalence to appear accustomed to horror, every moment of student life, is the management of our consent to social death. Social death is our banal acceptance of an institution’s meaning for our own lack of meaning. It’s the positions we thoughtlessly enact. It’s the particular nature of being owned. Social rupture is the initial divorce between the owners and the owned. A social movement is a function of war. War contains the ability to create a new frame, to build a new tension for the agents at play, new dynamics in the battles both for the meaning and the material. When we move without a return to their tired meaning, to their tired configurations of the material, we are engaging in war. It is November 2009. For an end to the values of social death we need ruptures and self-propelled, unmanaged movements of wild bodies. We need, we desire occupations. We are an antagonistic dead. Talk to your friends, take over rooms, take over as many of these dead buildings. We will find one another.

#### The alternative is

#### Voting neg is a withdrawal from the instrumental game of call-and-response into an aesthetic under-commons of redaction, opacity, and fugitive resonance. The refusal of demands for transparent or professionalized alternative frustrates the professional logistics of academia. Redaction is an aesthetic embodiment of indecision, a critical strategy of resistance that cannot be captured on a wiretap because it’s always on the tip of the tongue.

Moten & Harney 13 – Fred Moten, professor of Performance Studies at New York University and has taught previously at University of California, Riverside, Duke University, Brown University, and the University of Iowa, and Stefano Harney, Professor of Strategic Management Education at Singapore Management University, 2013 (Undercommons: Fugitive Planning and Black Study, pgs. 28-32)

In that undercommons of the university one can see that it is not a matter of teaching versus research or even the beyond of teaching ver- sus the individualisation of research. To enter this space is to inhabit the ruptural and enraptured disclosure of the commons that fugitive enlightenment enacts, the criminal, matricidal, queer, in the cistern, on the stroll of the stolen life, the life stolen by enlightenment and stolen back, where the commons give refuge, where the refuge gives commons. What the beyond of teaching is really about is not finishing oneself, not passing, not completing; it’s about allowing subjectivity to be unlawfully overcome by others, a radical passion and passivity such that one becomes unfit for subjection, because one does not possess the kind of agency that can hold the regulatory forces of subjecthood, and one cannot initiate the auto-interpellative torque that biopower subjection requires and rewards. It is not so much the teaching as it is the prophecy in the organization of the act of teaching. The prophecy that predicts its own organization and has therefore passed, as commons, and the prophecy that exceeds its own organization and therefore as yet can only be organized. Against the prophetic organization of the undercommons is arrayed its own deadening labor for the university, and beyond that, the negligence of professionalization, and the professionalization of the critical academic. The undercommons is therefore always an unsafe neighborhood. As Fredric Jameson reminds us, the university depends upon “Enlightenment-type critiques and demystification of belief and committed ideology, in order to clear the ground for unobstructed planning and ‘development.’” This is the weakness of the university, the lapse in its homeland security. It needs labor power for this “enlightenment- type critique,” but, somehow, labor always escapes. The premature subjects of the undercommons took the call seriously, or had to be serious about the call. They were not clear about planning, too mystical, too full of belief. And yet this labor force cannot reproduce itself, it must be reproduced. The university works for the day when it will be able to rid itself, like capital in general, of the trouble of labor. It will then be able to reproduce a labor force that understands itself as not only unnecessary but dangerous to the development of capitalism. Much pedagogy and scholarship is already dedicated in this direction. Students must come to see themselves as the problem, which, counter to the complaints of restorationist critics of the university, is precisely what it means to be a customer, to take on the burden of realisation and always necessarily be inadequate to it. Later, these students will be able to see themselves properly as obstacles to society, or perhaps, with lifelong learning, students will return having successfully diagnosed themselves as the problem. Still, the dream of an undifferentiated labor that knows itself as superfluous is interrupted precisely by the labor of clearing away the burn- ing roadblocks of ideology. While it is better that this police function be in the hands of the few, it still raises labor as difference, labor as the development of other labor, and therefore labor as a source of wealth. And although the enlightenment-type critique, as we suggest below, informs on, kisses the cheek of, any autonomous development as a re- sult of this difference in labor, there is a break in the wall here, a shal- low place in the river, a place to land under the rocks. The university still needs this clandestine labor to prepare this undifferentiated labor force, whose increasing specialisation and managerialist tendencies, again contra the restorationists, represent precisely the successful in- tegration of the division of labor with the universe of exchange that commands restorationist loyalty. Introducing this labor upon labor, and providing the space for its de- velopment, creates risks. Like the colonial police force recruited un- wittingly from guerrilla neighborhoods, university labor may harbor refugees, fugitives, renegades, and castaways. But there are good reasons for the university to be confident that such elements will be exposed or forced underground. Precautions have been taken, book lists have been drawn up, teaching observations conducted, invitations to contribute made. Yet against these precautions stands the immanence of transcendence, the necessary deregulation and the possibilities of criminality and fugitivity that labor upon labor requires. Maroon communities of composition teachers, mentorless graduate students, adjunct Marxist historians, out or queer management professors, state college ethnic studies departments, closed-down film programs, visa- expired Yemeni student newspaper editors, historically black college sociologists, and feminist engineers. And what will the university say of them? It will say they are unprofessional. This is not an arbitrary charge. It is the charge against the more than professional. How do those who exceed the profession, who exceed and by exceeding escape, how do those maroons problematize themselves, problematize the university, force the university to consider them a problem, a dan- ger? The undercommons is not, in short, the kind of fanciful com- munities of whimsy invoked by Bill Readings at the end of his book. The undercommons, its maroons, are always at war, always in hiding. There is no distinction between the American University and Professionalization But surely if one can write something on the surface of the univer- sity, if one can write for instance in the university about singularities – those events that refuse either the abstract or individual category of the bourgeois subject – one cannot say that there is no space in the university itself ? Surely there is some space here for a theory, a con- ference, a book, a school of thought? Surely the university also makes thought possible? Is not the purpose of the university as Universitas, as liberal arts, to make the commons, make the public, make the na- tion of democratic citizenry? Is it not therefore important to protect this Universitas, whatever its impurities, from professionalization in the university? But we would ask what is already not possible in this talk in the hallways, among the buildings, in rooms of the university about possibility? How is the thought of the outside, as Gayatri Spivak means it, already not possible in this complaint? The maroons know something about possibility. They are the condition of possibility of the production of knowledge in the university – the singularities against the writers of singularity, the writers who write, publish, travel, and speak. It is not merely a matter of the secret labor upon which such space is lifted, though of course such space is lifted from collective labor and by it. It is rather that to be a critical academic in the university is to be against the university, and to be against the university is always to recognize it and be recognized by it, and to institute the negligence of that internal outside, that unas- similated underground, a negligence of it that is precisely, we must insist, the basis of the professions. And this act of being against always already excludes the unrecognized modes of politics, the beyond of politics already in motion, the discredited criminal para-organiza- tion, what Robin Kelley might refer to as the infrapolitical field (and its music). It is not just the labor of the maroons but their prophetic organization that is negated by the idea of intellectual space in an organization called the university. This is why the negligence of the critical academic is always at the same time an assertion of bourgeois individualism. Such negligence is the essence of professionalization where it turns out professionalization is not the opposite of negligence but its mode of politics in the United States. It takes the form of a choice that excludes the prophetic organization of the undercommons – to be against, to put into question the knowledge object, let us say in this case the university, not so much without touching its founda- tion, as without touching one’s own condition of possibility, with- out admitting the Undercommons and being admitted to it. From this, a general negligence of condition is the only coherent position. Not so much an antifoundationalism or foundationalism, as both are used against each other to avoid contact with the undercom- mons. This always-negligent act is what leads us to say there is no distinction between the university in the United States and profes- sionalization. There is no point in trying to hold out the university against its professionalization. They are the same. Yet the maroons refuse to refuse professionalization, that is, to be against the university. The university will not recognize this indecision, and thus professionalization is shaped precisely by what it cannot acknowledge, its internal antagonism, its wayward labor, its surplus. Against this wayward labor it sends the critical, sends its claim that what is left beyond the critical is waste. But in fact, critical education only attempts to perfect professional education. The professions constitute themselves in an opposition to the unregulated and the ignorant without acknowledging the unregulated, ignorant, unprofessional labor that goes on not opposite them but within them. But if professional education ever slips in its labor, ever reveals its condition of possibility to the professions it supports and reconstitutes, critical education is there to pick it up, and to tell it, never mind – it was just a bad dream, the ravings, the drawings of the mad. Because critical education is precisely there to tell professional education to rethink its relationship to its opposite – by which criti- cal education means both itself and the unregulated, against which professional education is deployed. In other words, critical education arrives to support any faltering negligence, to be vigilant in its negli- gence, to be critically engaged in its negligence. It is more than an ally of professional education, it is its attempted completion. A professional education has become a critical education. But one should not applaud this fact. It should be taken for what it is, not progress in the professional schools, not cohabitation with the Universitas, but counterinsurgency, the refounding terrorism of law, coming for the discredited, coming for those who refuse to write off or write up the undercommons.

## Case

### 1NC – Presumption

#### Presumption flips neg against K affs – they have the burden of proof since they aren’t defending the rez. That’s key to ensure the neg has a shot at engagement.

#### Vote neg on presumption:

#### 1] Systems--the 1AC says institutions create social realities that replicate violence but in-round discourse does nothing to alter conditions. All you do is encourage teams to write better framework blocks.

#### 2] Spillover--they are missing an internal link as to why they need the ballot or why the reading of the aff forwards change. Empirically denied – judges vote on these affs all the time and nothing happens.

#### 3] Competition--debate is the wrong forum for change and competition moots any ethical value of the aff. Winning rounds just makes it seem like you want to win and a loss is internalized as a technical mistake.

### 1NC – Ontology

Their analysis of the settler psyche is ahistorical and nonfalsfiable –

#### **1) That drives exist doesn’t imply that they are totalizing---psychological processes are internally diffuse and contradictory**

Adrian Johnston 5, Philosophy Professor @ University of New Mexico, Time Driven: Metapsychology and the Splitting of the Drive, Northwestern University Press, Jul 27, 2005, pg. 340-341

In terms of the basic framework of metapsychology, Freud delineates two fundamental types of conflict disturbing yet organizing mental life—the conflict between drives and reality (as, most notably, the struggle In-tween the id and civilization) and the conflict between the drives themselves in la the story of Eros against the Todrstrieb). In both cases, the individual lends lo be portrayed as the overdetermined play-thing of powerful forces fighting semi-covert wars with each other just out of the ego's sight. However, Freud fails to discover a third dimension of conflict in relation to the libidinal economy—the conflict within each and every drive. The theoretical contribution of this project could easily be summarized as the identification of this distinct type of conflict and the explication of its sobering consequences for an understanding of the psyche. Despite the apparent bleakness and antiutopianism of an assessment of human nature as being perturbed by an irreducible inner antagonism, there is. surprisingly, what might be described as a liberating aspect to this splitting of the drives. Since drives are essentially dysfunctional, subjects are able to act otherwise than as would be dictated by in-stinctually compelled pursuits of gratification, satisfaction, and pleasure. In fact, subjects are forced to be free, since, for such beings, the mandate of nature is forever missing. Severed from a strictly biological master-program and saddled with a conflict-ridden, heterogeneous jumble of contradictory impulses—impulses mediated by an inconsistent, unstable web of multiple representations, indicated by Lacan's "barring" of the Symbolic Other—the parletre has no choice but to bump up against the unnatural void of its autonomy. The confrontation with this raid is frequently avoided. The true extent of one's autonomy is, due to its sometimes-frightening implications, just as often relegated to the shadows of the unconscious as those heteronomous factors secretly shaping conscious thought and behavior. The contradictions arising from the conflicts internal to the libidi-nal economy mark the precise places where a freedom transcending mundane materiality has a chance to briefly flash into effective existence; such points of breakdown in the deterministic nexus of the drives clear the space for the sudden emergence of something other than the smooth continuation of the default physical and sociopsychical "run of things." Moreover, if the drives were fully functional—and. hence, would not prompt a mobilization of a series of defensive distancing mechanisms struggling to transcend this threatening corpo-Real—humans would be animalistic automatons, namely, creatures of nature. The pain of a malfunctioning, internally conflicted libidinal economy is a discomfort signaling a capacity to be an autonomous subject. This is a pain even more essential to human autonomy than what Kant identifies .is the guilt-inducing burden of duty and its corresponding pangs of anxious, awe-inspiring respect. Whereas Kant treats the discomfort associated with duty as a symptom-effect of a transcendental freedom inherent to rational beings, the reverse might (also) be the case: Such freedom is the symptom-effect of a discomfort inherent to libidinal beings. Completely "curing" individuals of this discomfort, even if it were possible, would be tantamount to divesting them, whether they realize it or not, of an essential feature of their dignity as subjects. As Lacan might phrase it, the split Trieb is the sinthome of subjectivity proper, the source of a suffering that, were it to be entirely eliminated, would entail the utter dissolution of subjectivity itself. Humanity is free precisely insofar as its pleasures are far from perfection, insofar as its enjoyment is never absolute.

#### 2) It particularly doesn’t imply settler-colonial ontologies---both colonial and colonized societies are constituted by a variety of intersecting and malleable histories.

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Apprehending this history as what Jodi Byrd has called the “transit” over which the international “postwestern” cityscape of Las Vegas is realized leads us into a reading of a very different type of frontier than the one memorialized on Fremont Street (Transit xv). Read this way, as a site of Indigenous dispossession, the West cannot be seen as a dynamic site of pure possibility, as Gilles Deleuze and Félix Guattari have represented it, as “a rhizomatic West, with its Indians without ancestry, its ever- receding limit, its shifting and displaced frontiers” (19). The repetitive revisitation of frontier tropes recalls what critic Hamish Dalley calls “the frozen temporality of settler- colonial narrative,” which, “fixated on the moment of the frontier, recalls nothing so much as Freud’s description of the ‘repetition compulsion’ attending trauma” (Dalley). The “hyperreal West” in this context emerges as a fantasy (Lewis 194), in the sense that theorist Jacqueline Rose describes in her work on Israel/Palestine. “Never completely losing its grip, fantasy is always heading for the world it only appears to have left behind” (3).5 Of course settler colonialism is but one of the “secret histories of Las Vegas” that underwrite the postmodern wonderland visitors fi nd on Fremont Street and the strip, and but one of many structures of violence that shape life in the contemporary western United States.6 Nonetheless, it remains a structure central to the consideration of “westness.” As the postwestern critics argue, “westness” is neither contained by geography (as the popularity of the Western genre internationally attests), nor necessarily representative of cultural production being produced within the western United States (Kollin x– xi). When we speak of a cultural production as “Western,” we are speaking of a work that addresses the process and consequences of settler conquest, whether we are discussing a California memoir, an Australian novel, or an Italian fi lm.7 This is not to say that Western cultural production is always a result of settler colonial ideology, but rather that it is engaged with questions pertaining to it. Th e problem of the West is, in a crucial sense, the problem of settler colonialism. Imagining postwestern futures thus requires a critical outlook that is more than just inclusive in its politics, transnational in its scope, and poststructuralist in its methodology. Our movement toward the “post” in the conceptual space of the Western must be decolonial in its orientation. Such a critique would abandon unilateral settler attempts at postnational place-making in order to critique settler colonial structures of violence. Such a critique would not work to reify these structures as permanent or inevitable, but rather to probe their contradictions, and to promote the Indigenous intellectual traditions that have long been at work critiquing the settler colonial present in order to shape a decolonial future.8 We hope that this special issue of Western American Literature, which features critical readings of western American film and literature by three scholars from different fields and national backgrounds, can contribute toward this effort.

#### Shallow disavowals of the state create a pessimism trap – this card ends the debate.

Lightfoot 20—Associate professor in First Nations and Indigenous Studies and the Department of Political Science, University of British Columbia, Ojibwe (Sheryl, “The Pessimism Traps of Indigenous Resurgence,” *Pessimism in International Relations*, Chapter 9, pp 162-170, SpringerLink, dml)

Pessimism Trap 2: The State is Unified, Deliberate and Unchanging in Its Desire to Dispossess Indigenous Peoples and Gain Unfettered Access to Indigenous Lands and Resources In other words, colonialism by settler states is a constant, not a variable, in both outcome and intent. Further, the state is not only intentionally colonial, but it is also unifed in its desire to co-opt Indigenous peoples as a method and means of control. In 2005’s Wasase, Alfred presents the state as unitary, intentional and unchanging in its desire to colonise and oppress Indigenous peoples noting, ‘I think that the only thing that has changed since our ancestors first declared war on the invaders is that some of us have lost heart’.22 Referring to current state policies as a ‘self-termination movement’, Alfred states, ‘It is senseless to advocate for an accord with imperialism while there is a steady and intense ongoing attack by the Settler society on everything meaningful to us: our cultures, our communities, and our deep attachments to land’.23 Alfred’s Peace, Power, Righteousness (2009) also argues that the state is deliberate and unchanging, stating quite plainly that ‘it is still the objective of the Canadian and US governments to remove Indians, or, failing that, to prevent them from benefitting, from their ancestral territories’.24 Contemporary states do this, he argues, not through outright violent control but ‘by insidiously promoting a form of neo-colonial self-government in our communities and forcing our integration into the legal mainstream’.25 According to Alfred, the state ‘relegates indigenous peoples’ rights to the past, and constrains the development of their societies by allowing only those activities that support its own necessary illusion: that indigenous peoples today do not present a serious challenge to its legitimacy’.26 Linking back to the aim of co-option, Alfred argues that while the state’s desire to control Indigenous peoples and lands has never changed, the techniques for doing so have become subtler over time. ‘Recognizing the power of the indigenous challenge and unable to deny it a voice’, due to successful Indigenous resistance over the years, ‘the state has (now) attempted to pull indigenous people closer to it’.27 According to Alfred, the state has outwitted Indigenous leaders and ‘encouraged them to reframe and moderate their nationhood demands to accept the fait accompli of colonization, (and) to collaborate in the development of a “solution” that does not challenge the fundamental imperial lie’.28 In a similar vein, Coulthard’s central argument is centred on his understanding of the dual structure of colonialism. Drawing directly from Fanon, Coulthard finds that colonialism relies on both objective and subjective elements. The objective components involve domination through the political, economic and legal structures of the colonial state. The subjective elements of colonialism involve the creation of ‘colonized subjects’, including a process of internalisation by which colonised subjects come to not only accept the limited forms of ‘misrecognition’ granted through the state but can even come to identify with it.29 Through this dual structure, colonial power now works through the inclusion of Indigenous peoples, actively shaping their perspectives in line with state discourses, rather than merely excluding them, as in years past. Therefore, any attempt to seek ‘the reconciliation of Indigenous nationhood with state sovereignty is still colonial insofar as it remains structurally committed to the dispossession of Indigenous peoples of our lands and self-determining authority’.30 Concerning the state in relation to Indigenous peoples on the international level, Corntassel argues that states and global organisations, for years, have been consistently framing Indigenous peoples’ self-determination claims in ways that ‘jeopardize the futures of indigenous communities’.31 He claims that states frst compartmentalise Indigenous self-determination by separating lands and resources from political and legal recognition of a limited autonomy. Second, he notes, states sometimes deny the existence of Indigenous peoples living within their borders. Thirdly, a political and legal entitlement framing by states deemphasises other responsibilities. Finally, he claims that states, through the rights discourse, limit the frameworks through which Indigenous peoples can seek self-determination. Like Alfred and Coulthard, Corntassel has concluded that states are deliberate and never changing in their behaviour. With this move, Corntassel limits and actually demeans Indigenous agency, overlooking the reality that Indigenous organisations themselves chose the human rights framework and rights discourse as a target sphere of action precisely because, as was evident in earlier struggles like slavery, civil rights or women’s rights, these were tools available to them that had a proven track record of opening up new possibilities and shifting previous state positions and behaviour. Indigenous advocates also cleverly realised, by the 1970s, that the anti-discrimination and decolonisation frames could be used together against states. States did, in no way, nefariously impose a rights framework on Indigenous peoples. Rather, Indigenous organisations and savvy Indigenous political actors deliberately chose to frame their self-determination struggles within the human rights framework in order to bring states into a double bind where they could not credibly claim to adhere to human rights and claim that they uphold equality while simultaneously denying Indigenous peoples’ human rights and leaving them with a diminished and unequal right of self-determination. But, because he is caught in the pessimism trap of seeing the state only as unified, deliberate and unchanging, Corntassel overlooks and diminishes the clear story of Indigenous agency and the potential for positive change in advancing self-determination in a multitude of ways. Pessimism Trap 3: Engagement with the Settler State is Futile, if Not Counter-Productive Since the state always intends to maintain, if not expand, colonial control, and is seeking to co-opt as many Indigenous peoples as possible in order to maintain or expand its dispossession and control, it is therefore futile, at best, and actually dangerous to Indigenous existence to engage with the state. Furthermore, all patterns of engagement will lead to co-optation as the state is cunning and unrelenting in its desire to co-opt Indigenous leaders, academics and professionals in order to gain or maintain control of Indigenous peoples. Alfred argues, in both his 2005 and 2009 books, that any Indigenous engagement with the state, including agreements and negotiations, is not only futile but fundamentally dangerous, as such pathways do not directly challenge the existing colonial structure and ‘to argue on behalf of indigenous nationhood within the dominant Western paradigm is self-defeating’.32 Alfred states that a ‘notion of nationhood or self-government rooted in state institutions and framed within the context of state sovereignty can never satisfy the imperatives of Native American political traditions’33 because the possibility for a true expression of Indigenous self-determination is ‘precluded by the state’s insistence on dominion and its exclusionary notion of sovereignty’.34 Worst of all, according to Alfred, when Indigenous communities frame their struggles in terms of asserting Aboriginal rights and title, but do so within a state framework, rather than resisting the state itself, it ‘represents the culmination of white society’s efforts to assimilate indigenous peoples’.35 Because it is impossible to advance Indigenous self-determination through any sort of engagement with the state, Coulthard also advocates for an Indigenous resurgence paradigm that follows both his mentor Taiaiake Alfred but also Anishinaabe feminist theorist Leanne Simpson.36 As Coulthard writes, ‘both Alfred and Simpson start from a position that calls on Indigenous peoples and communities to “turn away” from the assimilative reformism of the liberal recognition approach and to instead build our national liberation efforts on the revitalization of “traditional” political values and practices’.37 Drawing upon the prescriptive approach of these theorists, Coulthard proposes, in his concluding chapter, five theses from his analysis that are intended to build and solidify Indigenous resurgence into the future: 1. On the necessity of direct action, meaning that physical forms of Indigenous resistance, like protest and blockades, are very important not only as a reaction to the state but also as a means of protecting the lands that are central to Indigenous peoples’ existence; 2. Capitalism, No More!, meaning the rejection of capitalist forms of economic development in Indigenous communities in favour of land-based Indigenous political-economic alternative approaches; 3. Dispossession and Indigenous Sovereignty in the City, meaning the need for Indigenous resurgence movements ‘to address the interrelated systems of dispossession that shape Indigenous peoples’ experiences in both urban and land-based settings’38; 4. Gender Justice and Decolonisation, meaning that decolonisation must also include a shift away from patriarchy and an embrace of gender relations that are non-violent and refective of the centrality of women in traditional forms of Indigenous governance and society; and 5. Beyond the Nation-State. While Coulthard denies that he advocates complete rejection of engagement with the state’s political and legal system, he does assert that ‘our efforts to engage these discursive and institutional spaces to secure recognition of our rights have not only failed, but have instead served to subtly reproduce the forms of racist, sexist, economic, and political confgurations of power that we initially sought…to challenge’.39 He therefore advocates expressly for ‘critical self-refection, skepticism, and caution’ in a ‘resurgent politics of recognition that seeks to practice decolonial, gender-emancipatory, and economically nonexploitative alternative structures of law and sovereign authority grounded on a critical refashioning of the best of Indigenous legal and political traditions’.40 Corntassel also demonstrates the third pessimism trap, that all engagement with the state is ultimately futile. For the most part, however, Corntassel’s observation is that the UN system operates like a reverse Keck and Sikkink ‘boomerang model’ and ‘channels the energies of transnational Indigenous networks into the institutional fiefdoms of member countries’, by which an ‘illusion of inclusion’ is created.41 He argues that, in order to be included or their views listened to, Indigenous delegates at the UN must mimic the strategies, language, norms and modes of behaviour of member states and international institutions. Corntassel fnds that ‘what results is a cadre of professionalized Indigenous delegates who demonstrate more allegiance to the UN system than to their own communities’.42 In his final analysis, he charges that the co-optation of international Indigenous political actors is highly ‘effective in challenging the unity of the global Indigenous rights movement and hindering genuine dialogue regarding Indigenous self-determination and justice’.43 Finding that states deliberately co-opt and provide ‘illusions of inclusion’ to Indigenous political actors in UN settings, Corntassel comes to the same conclusion as Alfred concerning the futility of engagement, arguing that because transnational Indigenous networks are ‘channeled’ and ‘blunted’ by colonial state actors, ‘it is a critical time for Indigenous peoples to rethink their approaches to bringing Indigenous rights concerns to global forums’.44 Imagining a Post-Colonial Future: Pessimistic ‘Resurgence’ Versus the Optimism and Tenacity of Indigenous Movements on the Ground All of these writers advocate Indigenous resurgence, through a combination of rejecting the current reconciliation politics of settler colonial states, coupled with a return to land-based Indigenous expressions of governance as the only viable, ‘authentic’ and legitimate path to a better future for Indigenous peoples, which they refer to as decolonisation. While inherently critical in their orientation, these three approaches do make some positive and productive contributions to Indigenous movements. They help shed light on the various and subtle ways that Indigenous leaders and communities can become co-opted into a colonial system. They help us to hold leadership accountable. They also help us keep a strong focus on our traditional, cultural and spiritual values as well as our traditional forms of governance which then also helps us imagine future possibilities. As I have pointed out here, however, all three theorists are also caught in the same three pessimism traps: authenticity versus co-option; a vision of the state as unified, deliberate and never changing in its desire to colonise and control; and a view of engagement with the state as futile, if not dangerous, to Indigenous sovereignty and existence. When combined, these three pessimism traps aim to inhibit Indigenous peoples’ engagement with the state in any process that could potentially re-imagine and re-formulate their current relationship into one that could be transformative and post-colonial, as envisioned by the UN Declaration on the Rights of Indigenous Peoples. The pessimism traps together work to foreclose any possibility that there could be credible openings of opportunity to negotiate a fairer and just relationship of co-existence with even the most progressive state government. This pessimistic approach is not innocuous. By overemphasising structure and granting the state an enormous degree of agency as a unitary actor, this pessimistic approach does a remarkable disservice to Indigenous resistance movements by proscribing, from academia, an extremely narrow view of what Indigenous self-determination can and should mean in practice. By overlooking and/or discounting Indigenous agency and not even considering the possibility that Indigenous peoples could themselves be calculating, strategic political actors in their own right, and vis-à-vis states, the pessimistic lens of the resurgence school unnecessarily, unproductively and unjustly limits the field of possibility for Indigenous peoples’ decision-making, thus actually countering and inhibiting expressions of Indigenous self-determination. By condemning—writ large—all Indigenous peoples and organisations that wish to seek peaceful co-existence with the state, negotiate mutually beneficial agreements with the state, and/or who have advocated on the international level for a set of standards that can provide a positive guiding framework for Indigenous-state relations, the pessimistic lens of resurgence forecloses much potential for new and improved relations, in any form, and is very likely to lead to deeper conflicts between states and Indigenous peoples, and potentially, even violent action, which Fanon indicated was the necessary outcome. The pessimism traps of the resurgence school are therefore, likely self-defeating for all but the most remote and isolated Indigenous communities. Further, this approach is quite out of step with the actions and vision of many Indigenous resistance movements on the ground who have been working for decades to advance Indigenous self-determination, both domestically and globally, in ways that transform the colonial state into something more just and may eventually present creative alternatives to the Westphalian state form in ways that could respect and accommodate Indigenous nations. Rather, it aims to shame and blame those who wish to explore creative and innovative post-colonial resolutions to the colonial condition. The UN Declaration on the Rights of Indigenous Peoples (the Declaration or UN Declaration) was adopted by the General Assembly in 2007 after 25 years of development. The Declaration is ground-breaking, given the key leadership roles Indigenous peoples played in negotiating and achieving this agreement.45 Additionally, for the first time in UN history, the rights holders, Indigenous peoples, worked with states to develop an instrument that would serve to promote, protect and affirm Indigenous rights, both globally and in individual domestic contexts.46 Many Indigenous organisations and movements, from dozens of countries around the world, were involved in drafting and negotiating the UN Declaration and are now advocating for its full implementation, both internationally and in domestic and regional contexts. In Canada, some of the key organisational players—the Grand Council of the Crees (Eeyou Istchee), the Assembly of First Nations, and the Union of British Columbia Indian Chiefs, or their predecessor organisations—were involved in the drafting and lengthy negotiations of the UN Declaration during the 1980s, 1990s and 2000s. In the United States, organisations like the American Indian Law Alliance and the Native American Rights Fund have been involved as well as the Navajo Nation and the Haudenosaunee Confederacy, who represent themselves as Indigenous peoples’ governing institutions. From Scandinavia, the Saami Council and the Sami Parliaments all play a key role in advancing Indigenous rights. In Latin America, organisations like the Confederación de Nationalidades Indígenas del Ecuador (CONAIE) and the Consejo Indio de Sud America (CISA) advocate for implementation of the UN Declaration. The three, major transnational Indigenous organisations— the World Council of Indigenous Peoples, the International Indian Treaty Council and the Inuit Circumpolar Council—were all key members of the drafting and negotiating team for the UN Declaration, and the latter two, which are still in existence, continue their strong advocacy for its full implementation. Implementation of the UN Declaration on the Rights of Indigenous Peoples requires fundamental and significant change, on both the international and domestic levels. Because implementation of Indigenous rights essentially calls for a complete and fundamental restructuring of Indigenous-state relationships, it expects states to enact and implement a signifcant body of legal, constitutional, legislative and policy changes that can accommodate such things as Indigenous land rights, free, prior and informed consent, redress and a variety of self-government, autonomy and other such arrangements. States are not going to implement this multifaceted and complex set of changes on their own, however. They will require significant political and moral pressure to hold them accountable to the rhetorical commitments they have made to support this level of change. They will also require ongoing conversation and negotiation with Indigenous peoples along the way, lest the process becomes problematically one-sided. Such processes ultimately require sustained political will, commitment and engagement over the long term, to reach the end result of radical systemic change and Indigenous state relationships grounded in mutual respect, co-existence and reciprocity. This type of fundamental change requires creative thinking, careful diplomacy, tenacity, and above all, optimistic vision, on the part of Indigenous peoples. The pessimistic approaches of the resurgence school are ultimately of little use in these efforts, other than as a cautionary tale against state power, of which the organisational players are already keenly aware. Further, by dismissing and discouraging all efforts at engagement with states, and especially with the blanket accusations that all who engage in such efforts are ‘co-opted’ and not ‘authentically’ Indigenous, the resurgence school actually creates unnecessary negative feelings and divisions amongst Indigenous movements who should be pooling limited resources and working together towards better futures