## T

#### Restrictions are a limitation that prohibits an action.  It excludes terms for acting

Court of Appeals 12 STATE OF WASHINGTON DEPARTMENT OF HEALTH, THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I, RANDALL KINCHELOE Appellant. vs. Respondent, BRIEF OF APPELLANT, [http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe's.pdf](http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf)
3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put.¶ The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as;¶ To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.¶

**“On” means directly targeted at and focused on production**

**Oxford Dictionary** online, **12**The World’s most trusted Dictionary, http:~/~/oxforddictionaries.com/definition/american\_english/[com/definition/american\_english/on](http://opencaselist.paperlessdebate.com/xwiki/bin/create///oxforddictionaries/com/definition/american_english/on?parent=Emory.Pesce%2DSigalos+Neg)

5.  having (the thing mentioned) as a target, aim, or focus: *five*air raids on the city, thousands marching on Washington ,*her*eyes were fixed *on his dark profile*

#### Production restrictions must be on the extraction of gas or natural gas.

Smith 08 [Adjunct Fellow with the Competitive Enterprise Institute, where she focuses on trade and international issues affecting consumers]

Frances B., "Energy Dependence and the Role of Government," September 25-26, 2008, www.hillsdale.edu/images/userImages/rvanopstal/Page\_6542/Smith\_2\_Final.doc, p. 11¶ **While today there are no production restrictions on oil and gas companies, in the earlier days, the Texas Railroad Commission acted as a cartel to control prices by limiting Texas’ oil and gas production**. Founded in 1891, the Commission originally had jurisdiction over railroads, wharves, terminals, and express services. However, **in 1917 until the 1970s, it regulated oil pipelines and oil and gas production. With a huge drop in oil prices in the 1930s, and with Texas as the country’s largest oil-producing state, the Commission began to restrict the volume of oil that could be produced.** Up into the 1950s, it controlled an estimated 40 percent of U.S. crude oil production and about 50 percent of proven reserves. The Commission is considered to be the model for the Organization of the Petroleum Exporting Countries (OPEC).

**They are removing restrictions on LAND, not on production.
THEIR 1AC EVIDENCDE- Penderey 10**

Public lands are aable for oil and gas leasing only after they have been evaluated through the BLM's multiple-use planning process. In areas where development of oil and gas resources would conflict with the protection or management of other resources or public land uses, mitigating measures are identified and may appear on leases as either stipulations to uses or as restrictions on surface occupancy.

#### C. REASONS TO PREFER.

#### 1. Limits.

**They opens aff case choice to changing anything that might discourage energy production. They could improve the European economy, or stop a war with Iran. Unlimited case possibilities make negative preparation too difficult.**

#### 2. Ground- allowing regulations, especially when they are not directly on production, explodes the research burden and allows infinite random advantages

#### D. TOPICALITY AND EXTRATOPICALITY ARE VOTERS.

For reasons of education, fairness and jurisdiction.

## 1NC Courts CP

Text: The 562 Native American tribal governments should rule that the Bureau of Land Management does not have sovereign authority to regulate *indian* lands in the context of oil and gas leasing.

The aff begins from the recognition of US sovereign authority, which turns the case- rearranging BLM procedures isn’t going to get it done, only a reclamation of native sovereignty by removing natives from the yoke of federal oversight solves

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Yet, as of February 2011, only one commercial scale renewable energy project is operating in Indian country. 9 What gives?¶ On April 1, 2011, the U.S. House of Representatives, Committee on Natural Resources, set out to find the answer. 10 In his opening statement, Committee Chairman Don Young set the tone for testimony to follow: “[B]ecause of outdated or duplicative federal regulations and laws, tribes often feel that the federal government is treating them unfairly…. These rules and policies often slow energy development and discourage businesses to invest on tribal lands.” 11 Tribal officials identified the following impediments:¶ • Erroneous Bureau of Indian Affairs (BIA) records, which cause significant delay in the preparation of environmental documents and overall land records necessary for the approval of business transactions. 12¶ • A lack of BIA staffing necessary to review and approve the required instrumentalities within a timely fashion. 13¶ • The inability to enter into long-term fixed price contracts necessary to underpin the commercial framework needed for long-term projects. 14¶ • A lack of standardization and coordination between Department of the Interior (DOI) offices. 15¶ • A lack of DOI communication with state and local governments – with tribes bearing the brunt of the cost via legal attacks on their sovereignty. 16¶ • General apprehension to issue National Environmental Protection Act (NEPA) compliance decisions at the Environmental Protection Agency, likely due to fear of litigation. 17¶ • BIA delays in approving Rights-of-Way. 18¶ • The practical inability to tax non-Indian energy developments on leased lands due to state and local governments in many instances already taxing the project. 19¶ • Tribes’, as owners, inability to take advantage of the production/investment tax credits and accelerated depreciation incentives available to non-Indian project investors. 20¶ Stripped down, many the hindrances referred to in Hearing testimony are a direct result of the federal approval process. Pursuant to 25 U.S.C. § 415, transactions involving the transfer of an interest in Indian trust land must be approved by the BIA. 21 But even where the tribe structures the project without leasing its land, 25 U.S.C. § 81 requires that the BIA approve contracts that could “encumber” Indian lands for a period of seven or more years. 22 Secretarial approval is also necessary for rights of-way on Indian lands. 23 In these instances the BIA approval process constitutes a “federal action,” which triggers a slew of federal laws that the BIA must comply with. 24 This includes NEPA, the National Historic Preservation Act, and the Endangered Species Act, among others. Compliance with NEPA alone can take over 12 years to complete and can generate millions of dollars in additional cost 25 – not to mention the inevitable litigation that will ensue. 26 Although there has been some headway in removal of the outdated tribal energy regime, according to recent congressional testimony there is much work to be done.¶ The Road to Nowhere¶ Congress began to address the development of renewables in Indian country in the early nineties. Such legislation included the EPAct of 1992, 27 which authorized the Department of Energy (DOE) to provide grants and loans to tribes wishing to develop solar and wind energy; the Indian Energy Resource Development Program, 28 which awarded development grants, federally-backed loans, and purchasing preferences to Indian tribes pursuing energy development projects 29 ; culminating in the Indian Energy Act of 2005 (IEA), 30 the most comprehensive Indian-specific energy legislation to date.¶ Until 2005, much of the federal push for energy development had focused on creating incentives for investment rather than a restructuring of the antiquated legal structures involved. 31 Much of the IEA, however, was devoted to the creation of a new framework for the management and oversight of energy development in Indian country – the Tribal Energy Resource Agreement (TERA). 32 This section of the IEA allowed a tribe to enter into a master agreement (the TERA) with the Secretary of the Interior, granting the tribe the ability to enter into leases and other business agreements and to grant rights of way across tribal lands without Secretarial approval. 33¶ To date, however, no tribe has entered into a TERA. For many tribes, the cost simply outweighs the benefits 34 – TERAs allow tribes the leeway to skip secretarial approval for specific projects, “but only on terms dictated by the federal government rather than on the tribes’ own terms.” 35 First, in applying for the TERA, the tribe must consult with the director of the DOI before submitting the application. 36 The director must hold a public comment period on the proposed TERA application and may conduct a NEPA review of the activities proposed. 37 Thereafter, the DOI has 270 days to approve the TERA. 38 Second, the TERA requires that tribes create a NEPA-like environmental review process. 39 This “tribal NEPA” must have a procedure for public comment and for “consultation with affected States regarding off-reservation impacts” of the project. 40 Third, the TERA must include a clause guaranteeing that the tribe and its partner will comply “with all applicable environmental laws.” 41 In so doing, tribes must allow the Secretary to review the tribe’s performance under the TERA – annually for the first three years and biannually thereafter. 42 If in the course of such a review the Secretary finds “imminent jeopardy to a physical trust asset,” the Secretary is allowed to take any action necessary to protect the asset, including assuming responsibility over the project. 43 Fourth, the TERA must address public availability of information and record keeping by designating “a person … authorized by the tribe to maintain and disseminate to requesting members of the public current copies of tribal laws, regulations or procedures that establish or describe tribal remedies that petitioning parties must exhaust before instituting appeals ….” 44 Finally, agreements for developing alternative energies are subject to a 30-year limit, renewable only once for another 30-year term. 45¶ Roadblocks¶ Commentators have noted that the TERA imposes more stringent environmental standards upon tribes than non-Indian developers elsewhere. 46 But even where a tribe is compelled to go through the burdensome TERA process – which may still be a good idea 47 – many tribes simply do not have the resources necessary to fulfill the TERA requirements. The regulations impose an extremely heavy burden on tribal governments to demonstrate that they have the requisite expertise, experience, laws, and administrative structures in place to assume the responsibility of a TERA. “Few tribes at present have the in-house geologists, engineers, hydrologists, and other experts, or the financial wherewithal to hire or train them,” in order to provide the tribe with the capacity necessary to obtain secretarial approval under the TERA regulations. 48¶ The irony is that those tribes with TERA capacity are likely in a position to skip the approval process altogether by implementing alternative energy projects on their own, which do not require secretarial approval. 49 Where no lease, contract, or right-of-way is involved, the approval process – and the insurmountable burdens of federal law that come along with it – is not necessary. 50 The majority of tribes, however – tribes that are most in need of economic development and would most benefit from the implementation of an alternative energy project – have to seek an outside partner, which puts them “at a terrific disadvantage for developing their own resources.” 51¶ The Road Ahead¶ The doctrine of self-determination acknowledges that tribal control over development is the best way to strengthen tribal governance and improve economic selfsufficiency. 52 According to much of the testimony offered at the recent Hearing before the Subcommittee on Indian and Alaska Native Affairs, self-determination must also include freedom from the yoke of federal energy oversight and regulation.¶ On May, 4-5, 2011, the U.S. Department of Energy (DOE) held its first Tribal Summit. 53 The goal of the Summit, much like that of the most recent Hearing, is to identify and “break down bureaucratic barriers that have prevented tribal nations from developing clean energy with the ultimate goal of prosperity and energy security for both Indian country and the nation as a whole.” 54 For many, the Summit reflects the nation’s “continued commitment to partnering with Native Americans to support the development of clean energy projects on tribal lands ….” 55 But will it be enough?¶ Having identified “unnecessary laws and regulations” hindering alternative energy development in Indian country, it is now time for Congress to write necessary legislation to allow tribes to pursue energy self-determination. 56 If the words of Doc Hastings, Chairman of the House Committee on Natural Resources, hold any bearing, the current regulation of energy resources in Indian country may soon be upset: “Tribes know best how to meet their own land management objectives.” 57 This axiom should not be lost. Indeed, in order to effectively realize the twin goals of promoting tribal self-determination and encouraging the efficient development of tribal energy resources, 58 it will be necessary to emphasize the former to bring about the latter.

#### **There is no solvency deficit possible- the only act of self-determination in the debate is the counterplan- the aff is still paternalism, even if it is well-meaning. There is no legitimate US federal government claim to regulate native lands.**

## 1NC Marx

Liberalized notions of soveirgnty and subjectivity normalize universal systems of domination. This hides the production of all forms of oppression through capitalism by fragmenting individual identity.
BROWN 93

[Wendy, Professor and Genius, “Wounded Attachments”, Political Theory, Aug]

Although this détente between universal and particular within liberalism is potted with volatile conceits, it is rather thoroughly unraveled by two features of late modernity, spurred by developments in what Marx and Foucault, respectively, reveal as liberalism's companion powers: capitalism and disciplinarity. On one side, the state loses even its guise of universality as it becomes ever more transparently invested in particular economic interests, political ends, and social formations. This occurs as it shifts from a relatively minimalist "night watchman" state to a heavily bureaucratized, managerial, fiscally complex, and highly interventionist welfare-warfare state, a transmogrification occasioned by the combined imperatives of capital and the autoproliferating characteristics of bureaucracy.6 On the other side, a range of economic and political forces increasingly disinter the liberal subject from substantive nation-state identification: deterritorializing demo- graphic flows; disintegration from within and invasion from without of family and community as (relatively) autonomous sites of social production and identification; consumer capitalism's marketing discourse in which individual (and subindividual) desires are produced, commodified, and mo- bilized as identities; and disciplinary productions of a fantastic array of behavior-based identities ranging from recovering alcoholic professionals to unrepentant crack mothers. These disciplinary productions work to conjure and regulate subjects through classificatory schemes, naming and normaliz- ing social behaviors as social positions. Operating through what Foucault calls "an anatomy of detail," "disciplinary power" produces social identifies (available for politicization because they are deployed for purposes of political regulation) that crosscut juridical identities based on abstract right. Thus, for example, the welfare state's production of welfare subjects-themselves subdi- vided through the socially regulated categories of motherhood, disability, race, age, and so forth-potentially produce political identity through these categories, produce identities as these categories. In this story, the always imminent but increasingly politically manifest failure of liberal universalism to be universal-the transparent fiction of state universality-combines with the increasing individuation of social subjects through capitalist disinternments and disciplinary productions. Together, they breed the emergence of politicized identity rooted in disciplinary pro- ductions but oriented by liberal discourse toward protest against exclusion from a discursive formation of universal justice. This production, however, is not linear or even but highly contradictory: although the terms of liberalism are part of the ground of production of a politicized identity that reiterates yet exceeds these terms, liberal discourse itself also continuously recolonizes political identity as political interest-a conversion that recasts politicized identity's substantive and often deconstructive cultural claims and critiques as generic claims of particularism endemic to universalist political culture. Similarly, disciplinary power manages liberalism's production of politicized subjectivity by neutralizing (re-depoliticizing) identity through normalizing practices. As liberal discourse converts political identity into essentialized private interest, disciplinary power converts interest into normativized social identity manageable by regulatory regimes. Thus disciplinary power politi- cally neutralizes entitlement claims generated by liberal individuation, whereas liberalism politically neutralizes rights claims generated by disciplinary identities. In addition to the formations of identity that may be the complex effects of disciplinary and liberal modalities of power, I want to suggest one other historical strand relevant to the production of politicized identity, this one hewn more specifically to recent developments in political culture. Although sanguine to varying degrees about the phenomenon they are describing, many on the European and North American Left have argued that identity politics emerges from the demise of class politics consequent to post-Fordism or pursuant to May 1968. Without adjudicating the precise relationship between the breakup of class politics and the proliferation of other sites of political identification, I want to refigure this claim by suggesting that what we have come to call identity politics is partly dependent on the demise of a critique of capitalism and of bourgeois cultural and economic values. In a reading that links the new identity claims to a certain relegitimation of capitalism, identity politics concerned with race, sexuality, and gender will appear not as a supplement to class politics, not as an expansion of Left categories of oppression and emancipation, not as an enriching complexification of pro- gressive formulations of power and persons-all of which they also are-but as tethered to a formulation of justice which, ironically, reinscribes a bour- geois ideal as its measure. If it is this ideal that signifies educational and vocational opportunity, upward mobility, relative protection against arbitrary violence, and reward in proportion to effort, and if it is this ideal against which many of the exclusions and privations of people of color, gays and lesbians, and women are articulated, then the political purchase of contemporary American identity politics would seem to be achieved in part through a certain discursive renaturalization of capitalism that can be said to have marked progressive discourse since the 1970s. What this suggests is that identity politics may be partly configured by a peculiarly shaped and peculiarly disguised form of resentment-class resent- ment without class consciousness or class analysis. This resentment is displaced onto discourses of injustice other than class but, like all resent- ments, retains the real or imagined holdings of its reviled subject-in this case, bourgeois male privileges-as objects of desire. From this perspective, it would appear that the articulation of politicized identities through race, gender, and sexuality require, rather than incidentally produce, a relatively limited identification through class. They necessarily rather than incidentally abjure a critique of class power and class norms precisely because the injuries suffered by these identities are measured by bourgeois norms of social acceptance, legal protection, relative material comfort, and social indepen- dence. The problem is that when not only economic stratification but other injuries to body and psyche enacted by capitalism (alienation, cornmodifica- tion, exploitation, displacement, disintegration of sustaining, albeit contra- dictory, social forms such as families and neighborhoods) are discursively normalized and thus depoliticized, other markers of social difference may come to bear an inordinate weight. Absent an articulation of capitalism in the political discourse of identity, the marked identity bears all the weight of the sufferings produced by capitalism in addition to that bound to the explicitly politicized marking.

Opening up native lands for drilling furthers the capitalist exploitation of oppressed people and nature.
Palast 09 (Greg, Journalist for Chicago Tribune, June 12, 2009 http://www.gregpalast.com/oil-and-indians-dont-mix/)

There's an easy way to find oil. Go to some remote and gorgeous natural sanctuary, say Alaska or the Amazon, find some Indians, then drill down under them.¶ If the indigenous folk complain, well, just shoo them away. Shooing methods include: bulldozers, bullets, crooked politicians and fake land sales.¶ But be aware. Lately, the natives are shooing back. Last week, indigenous Peruvians seized an oil pumping station, grabbed the nine policemen guarding it and, say reports, executed them. This followed the government's murder of more than a dozen rain forest residents, who had protested the seizure of their property for oil drilling.¶ Again and again, I see it in my line of work of investigating fraud. Here are a few pit stops on the oily trail of tears:¶ In the 1980s, Charles Koch was found to have pilfered about $3 worth of crude from Stanlee Ann Mattingly's oil tank in Oklahoma. Here's the weird part. Koch was (and remains) the 14th richest man on the planet, worth about $14 billion. Stanlee Ann was a dirt-poor Osage Indian.¶ Stanlee Ann wasn't Koch's only victim. According to secret tape recordings of a former top executive of his company, Koch Industries, the billionaire demanded that oil tanker drivers secretly siphon a few bucks worth of oil from every tank attached to a stripper well on the Osage Reservation where Koch had a contract to retrieve crude.¶ Koch, according to the tape, would "giggle" with joy over the records of the theft. Koch's own younger brother Bill ratted him out, complaining that, in effect, brothers Charles and David cheated him out of his fair share of the looting, which totaled over three-quarters of a billion dollars from the native lands.¶ The FBI filmed the siphoning with hidden cameras, but criminal charges were quashed after quiet objections from Republican senators.¶ Then there are the Chugach natives of Alaska. The Port of Valdez, Alaska, is arguably one of the most valuable pieces of real estate on earth, the only earthquake-safe, ice-free port in Alaska that could load oil from the giant North Slope field. In 1969, Exxon and British Petroleum companies took the land from the Chugach and paid them one dollar. I kid you not.¶ Wally Hickel, the former governor of Alaska, dismissed my suggestion that the Chugach deserved a bit more respect (and cash) for their property. "Land ownership comes in two ways, Mr. Palast." explained the governor and pipeline magnate, "Purchase or conquest. The fact that your granddaddy chased a caribou across the land doesn't make it yours." The Chugach had lived there for 3,000 years.¶ No oil company would dream of digging on the Bush family properties in Midland, Texas, without paying a royalty. Or drilling near Malibu without the latest in environmental protections. But when natives are on top of Exxon's or BP's glory hole, suddenly, the great defenders of private property rights turn quite Bolshevik: Lands can be seized for The Public's Need for Oil.¶ Some natives are "re-located" through legal flim-flam, some at gunpoint. The less lucky are left to wallow, literally, in the gunk left by the drilling process.¶ Chief Emergildo Criollo told me how oil company executives helicoptered into his remote village and, speaking in Spanish - which the Cofan didn't understand - "purchased" drilling rights with trinkets and cheese. The natives had never seen cheese. ("The cheese smelled funny, so we threw it in the jungle.")¶ After drilling began, Criollo's son went swimming in his usual watering hole, came up vomiting blood and died.¶ I asked Chevron about the wave of poisonings and deaths. According to an independent report, 1,401 deaths, mostly of children, mostly from cancers, can be traced to Chevron's toxic dumping.¶ Chevron's lawyer told me, "And it's the only case of cancer in the world? How many cases of children with cancer do you have in the States? ... They have to prove that it is our crude," which, he noted with glee, "is absolutely impossible."¶ Big Oil treats indigenous blood like a cheap gasoline additive. That's why the Peruvians are up in arms. The Cofan of Ecuador, unlike their brothers in Peru, have taken no hostages. Rather, they have heavily armed themselves with lawyers.¶ But Chevron and its Big Oil brethren remain dismissive of the law. This week, Shell Oil, got rid of a nasty PR problem by paying $15 million to the Ogoni people and the family of Ken Saro-Wiwa for the oil giant's alleged role in the killing of Wiwa and his associates, activists who had defended these Nigeria Delta people against drilling contamination. Shell pocketed $31 billion last year in profits and hopes the payoff will clear the way for a drilling partnership with Nigeria's government.¶ Congratulations, Shell. $15 million: For a license to kill and drill, that's a quite a bargain.

Failure to recognize class as qualitatively more important ensures that successful opposition is impossible. Race and gender oppression are both formed and sustained by capitalism.

gimenez 2001

[Martha, Prof. Of Sociology at CU Boulder, “Marxism and Class, Gender and Race”, Race Gender and Class, Vol. 8, p. online]

There are many competing theories of race, gender, class, American society, political economy, power, etc. but no specific theory is invoked to define how the terms race, gender and class are used, or to identify how they are related to the rest of the social system. To some extent, race, gender and class and their intersections and interlockings have become a mantra to be invoked in any and all theoretical contexts, for a tacit agreement about their ubiquitousness and meaning seems to have developed among RGC studies advocates, so that all that remains to be dome is empirically to document their intersections everywhere, for everything that happens is, by definition, raced, classed, and gendered. This pragmatic acceptance of race, gender and class, as givens, results in the downplaying of theory, and the resort to experience as the source of knowledge. The emphasis on experience in the construction of knowledge is intended as a corrective to theories that, presumably, reflect only the experience of the powerful. RGC seems to offer a subjectivist understanding of theory as simply a reflection of the experience and consciousness of the individual theorist, rather than as a body of propositions which is collectively and systematically produced under historically specific conditions of possibility which grant them historical validity for as long as those conditions prevail. Instead, knowledge and theory are pragmatically conceived as the products or reflection of experience and, as such, unavoidably partial, so that greater accuracy and relative completeness can be approximated only through gathering the experiential accounts of all groups. Such is the importance given to the role of experience in the production of knowledge that in the eight page introduction to the first section of an RGC anthology, the word experience is repeated thirty six times (Andersen and Collins, 1995: 1-9). I agree with the importance of learning from the experience of all groups, especially those who have been silenced by oppression and exclusion and by the effects of ideologies that mystify their actual conditions of existence. To learn how people describe their understanding of their lives is very illuminating, for "ideas are the conscious expression -- real or illusory -- of (our) actual relations and activities" (Marx, 1994: 111), because "social existence determines consciousness" (Marx, 1994: 211). Given that our existence is shaped by the capitalist mode of production, experience, to be fully understood in its broader social and political implications, has to be situated in the context of the capitalist forces and relations that produce it. Experience in itself, however, is suspect because, dialectically, it is a unity of opposites; it is, at the same time, unique, personal, insightful and revealing and, at the same time, thoroughly social, partial, mystifying, itself the product of historical forces about which individuals may know little or nothing about (for a critical assessment of experience as a source of knowledge see Sherry Gorelick, "Contradictions of feminist methodology," in Chow, Wilkinson, and Baca Zinn, 1996; applicable to the role of experience in contemporary RGC and feminist research is Jacoby's critique of the 1960s politics of subjectivity: Jacoby, 1973: 37- 49). Given the emancipatory goals of the RGC perspective, it is through the analytical tools of Marxist theory that it can move forward, beyond the impasse revealed by the constant reiteration of variations on the "interlocking" metaphor. This would require, however, a) a rethinking and modification of the postulated relationships between race, class and gender, and b) a reconsideration of the notion that, because everyone is located at the intersection of these structures, all social relations and interactions are "raced," "classed," and "gendered." In the RGC perspective, race, gender and class are presented as equivalent systems of oppression with extremely negative consequences for the oppressed. It is also asserted that the theorization of the connections between these systems require "a working hypothesis of equivalency" (Collins, 1997:74). Whether or not it is possible to view class as just another system of oppression depends on the theoretical framework within class is defined. If defined within the traditional sociology of stratification perspective, in terms of a gradation perspective, class refers simply to strata or population aggregates ranked on the basis of standard SES indicators (income, occupation, and education) (for an excellent discussion of the difference between gradational and relational concepts of class, see Ossowski, 1963). Class in this non-relational, descriptive sense has no claims to being more fundamental than gender or racial oppression; it simply refers to the set of individual attributes that place individuals within an aggregate or strata arbitrarily defined by the researcher (i.e., depending on their data and research purposes, anywhere from three or four to twelve "classes" can be identified). From the standpoint of Marxist theory, however, class is qualitatively different from gender and race and cannot be considered just another system of oppression. As Eagleton points out, whereas racism and sexism are unremittingly bad, class is not entirely a "bad thing" even though socialists would like to abolish it. The bourgeoisie in its revolutionary stage was instrumental in ushering a new era in historical development, one which liberated the average person from the oppressions of feudalism and put forth the ideals of liberty, equality and fraternity. Today, however, it has an unquestionably negative role to play as it expands and deepens the rule of capital over the entire globe. The working class, on the other hand, is pivotally located to wage the final struggle against capital and, consequently, it is "an excellent thing" (Eagleton, 1996: 57). While racism and sexism have no redeeming feature, class relations are, dialectically, a unity of opposites; both a site of exploitation and, objectively, a site where the potential agents of social change are forged. To argue that the working class is the fundamental agent of change does not entail the notion that it is the only agent of change. The working class is of course composed of women and men who belong to different races, ethnicities, national origins, cultures, and so forth, so that gender and racial/ethnic struggles have the potential of fueling class struggles because, given the patterns of wealth ownership and income distribution in this and all capitalist countries, those who raise the banners of gender and racial struggles are overwhelmingly propertyless workers, technically members of the working class, people who need to work for economic survival whether it is for a wage or a salary, for whom racism, sexism and class exploitation matter. But this vision of a mobilized working class where gender and racial struggles are not subsumed but are nevertheless related requires a class conscious effort to link RGC studies to the Marxist analysis of historical change. In so far as the "class" in RGC remains a neutral concept, open to any and all theoretical meanings, just one oppression among others, intersectionality will not realize its revolutionary potential. Nevertheless, I want to argue against the notion that class should be considered equivalent to gender and race. I find the grounds for my argument not only on the crucial role class struggles play in processes of epochal change but also in the very assumptions of RGC studies and the ethnomethodological insights put forth by West and Fenstermaker (1994). The assumption of the simultaneity of experience (i.e., all interactions are raced, classed, gendered) together with the ambiguity inherent in the interactions themselves, so that while one person might think he or she is "doing gender," another might interpret those "doings" in terms of "doing class," highlight the basic issue that Collins accurately identifies when she argues that ethnomethodology ignores power relations. Power relations underlie all processes of social interaction and this is why social facts are constraining upon people. But the pervasiveness of power ought not to obfuscate the fact that some power relations are more important and consequential than others. For example, the power that physical attractiveness might confer a woman in her interactions with her less attractive female supervisor or employer does not match the economic power of the latter over the former. In my view, the flattening or erasure of the qualitative difference between class, race and gender in the RGC perspective is the foundation for the recognition that it is important to deal with "basic relations of domination and subordination" which now appear disembodied, outside class relations. In the effort to reject "class reductionism," by postulating the equivalence between class and other forms of oppression, the RGC perspective both negates the fundamental importance of class but it is forced to acknowledge its importance by postulating some other "basic" structures of domination. Class relations -- whether we are referring to the relations between capitalist and wage workers, or to the relations between workers (salaried and waged) and their managers and supervisors, those who are placed in "contradictory class locations," (Wright, 1978) -- are of paramount importance, for most people's economic survival is determined by them. Those in dominant class positions do exert power over their employees and subordinates and a crucial way in which that power is used is through their choosing the identity they impute their workers. Whatever identity workers might claim or "do," employers can, in turn, disregard their claims and "read" their "doings" differently as "raced" or "gendered" or both, rather than as "classed," thus downplaying their class location and the class nature of their grievances. To argue, then, that class is fundamental is not to "reduce" gender or racial oppression to class, but to acknowledge that the underlying basic and "nameless" power at the root of what happens in social interactions grounded in "intersectionality" is class power.

### THE DETERMINISM OF CAPITAL IS RESPONSIBLE FOR THE INSTRUMENTALIZATION OF ALL LIFE—IT IS THIS LOGIC THAT MOBILIZES AND ALLOWS FOR THE 1AC’S SCENARIOS

dyer-witherford 99

[Nick, Prof at U. of Western Ontario, Cyber Marx: Cycles and Circuits of Struggle in High Technology Capitalism ]

For capitalism, the use of machines as organs of “will over nature” is an imperative. The great insight of the Frankfurt School—an insight subsequently improved and amplified by feminists and ecologists—was that capital’s dual project of dominating both humanity and nature was intimately tied to the cultivation of “instrumental reason” that systematically objectifies, reduces, quantifies and fragments the world for the purposes of technological control. Business’s systemic need to cheapen labor, cut the costs of raw materials, and expand consumer markets gives it an inherent bias toward the piling-up of technological power. This priority—enshrined in phrases such as “progress,” “efficiency,” “productivity,” “modernization,” and “growth”—assumes an automatism that is used to override any objection or alternative, regardless of the environmental and social consequences. Today, we witness global vistas of toxification, deforestation, desertification, dying oceans, disappearing ozone layers, and disintegrating immune systems, all interacting in ways that perhaps threaten the very existence of humanity and are undeniably inflicting social collapse, disease, and immiseration across the planet. The degree to which this project of mastery has backfired is all too obvious.

### Vote Negative to validate and adopt the method of structural/historical criticism that is the 1NC.

### THIS IS NOT THE ALTERNATIVE, BUT IN TRUTH THE ONLY OPTION— METHOD IS THE FOREMOST POLITICAL QUESTION BECAUSE ONE MUST UNDERSTAND THE EXISTING SOCIAL TOTALITY BEFORE ONE CAN ACT ON IT—GROUNDING THE SITES OF POLITICAL CONTESTATION ON KNOWLEDGE OUTSIDE OF LABOR AND SURPLUS VALUE MERELY SERVE TO HUMANIZE CAPITAL AND PREVENT A TRANSITION TO A SOCIETY BEYOND OPPRESSION

tumino 2001

[Stephen, Prof English at Pitt, ““What is Orthodox Marxism and Why it Matters Now More than Ever”, Red Critique, p. online]

Any effective political theory will have to do at least two things: it will have to offer an integrated understanding of social practices and, based on such an interrelated knowledge, offer a guideline for praxis. My main argument here is that among all contesting social theories now, only Orthodox Marxism has been able to produce an integrated knowledge of the existing social totality and provide lines of praxis that will lead to building a society free from necessity. But first I must clarify what I mean by Orthodox Marxism. Like all other modes and forms of political theory, the very theoretical identity of Orthodox Marxism is itself contested—not just from non-and anti-Marxists who question the very "real" (by which they mean the "practical" as under free-market criteria) existence of any kind of Marxism now but, perhaps more tellingly, from within the Marxist tradition itself. I will, therefore, first say what I regard to be the distinguishing marks of Orthodox Marxism and then outline a short polemical map of contestation over Orthodox Marxism within the Marxist theories now. I will end by arguing for its effectivity in bringing about a new society based not on human rights but on freedom from necessity. I will argue that to know contemporary society—and to be able to act on such knowledge—one has to first of all know what makes the existing social totality. I will argue that the dominant social totality is based on inequality—not just inequality of power but inequality of economic access (which then determines access to health care, education, housing, diet, transportation, . . . ). This systematic inequality cannot be explained by gender, race, sexuality, disability, ethnicity, or nationality. These are all secondary contradictions and are all determined by the fundamental contradiction of capitalism which is inscribed in the relation of capital and labor. All modes of Marxism now explain social inequalities primarily on the basis of these secondary contradictions and in doing so—and this is my main argument—legitimate capitalism. Why? Because such arguments authorize capitalism without gender, race, discrimination and thus accept economic inequality as an integral part of human societies. They accept a sunny capitalism—a capitalism beyond capitalism. Such a society, based on cultural equality but economic inequality, has always been the not-so-hidden agenda of the bourgeois left—whether it has been called "new left," "postmarxism," or "radical democracy." This is, by the way, the main reason for its popularity in the culture industry—from the academy (Jameson, Harvey, Haraway, Butler,. . . ) to daily politics (Michael Harrington, Ralph Nader, Jesse Jackson,. . . ) to. . . . For all, capitalism is here to stay and the best that can be done is to make its cruelties more tolerable, more humane. This humanization (not eradication) of capitalism is the sole goal of ALL contemporary lefts (marxism, feminism, anti-racism, queeries, . . . ). Such an understanding of social inequality is based on the fundamental understanding that the source of wealth is human knowledge and not human labor. That is, wealth is produced by the human mind and is thus free from the actual objective conditions that shape the historical relations of labor and capital. Only Orthodox Marxism recognizes the historicity of labor and its primacy as the source of all human wealth. In this paper I argue that any emancipatory theory has to be founded on recognition of the priority of Marx's labor theory of value and not repeat the technological determinism of corporate theory ("knowledge work") that masquerades as social theory.

### AND NEXT, RESISTANCE TO CAPITAL MUST BE A TOTAL NEGATION OF THE SYSTEM FROM OUT-SIDE OF GOVERNMENT—WHILE SOME INSIDE POLITICAL GAINS ARE POSSIBLE, THEY ARE TRUMPED BY THE ABILITY OF THE SYSTEM TO USE REFORMS TO RESTABILIZE CAPITAL AND MARGINALIZE LABOR AS A SOCIAL ALTERNATIVE

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[Istavan, Prof. Emeritus at Sussex, Beyond Capital: Towards a Theory of Transition]p. 738

Thus the role of labour’s extra-parliamentary movement is twofold. On the one hand, it has to assert its strategic interests as a social metabolic alternative by confronting and forcefully negating in practical terms the structural determinations of the established order as manifest in the capital-relation and in the concomitant subordination of labour in the socioeconomic reproduction process, instead of helping to restabiize capital in crisis as it happened at important junctures of the reformist past. At the same time, on the other hand, the political power of capital which prevails in parliament needs to be and can be challenged through the pressure which extra-parliamentary forms of action can exercise on the legislative and executive, as witnessed by the impact of even the ‘single issue’ anti-poll-tax movement which played a major role in the fall of Margaret Thatcher from the top of the political pyramid. Without a strategically oriented and sustained extra-parliamentary challenge the parties alternating in government can continue to function as convenient reciprocal alibis for the structural failure of the system towards labour, thus effectively confining the role of the labour movement to its position as an inconvenient but marginalizable afterthought in capital’s parliamentary system. Thus in relation to both the material reproductive and the political domain, the constitution of a strategically viable socialist extra-parliamentaty mass movement — in conjunction with the traditional forms of labour’s, at present hopelessly derailed, political organization, which badly needs the radicalizing pressure and support of such extra-parliamentary forces — is a vital precondition for countering the massive extra-parliamentary power of capital.

## Case

### Case

**Aff doesn’t solve paternalism-**

1. **Culture- changing a leasing restriction has no impact on the way most people live their lives- only a very small portion of people will come into contact with oil revenues**

**B.) Dutch disease- reliance on extraction-based economic recovery is not a sustainable development strategy- African post-colonial development issues prove- it crushes diversification- means inevitably reliant on US federal assistance**

**C.) No spillover- no evidence or reasonable argument why overriding oil and gas restrictions overwhelms all of the horrible and exploitive things the US has done to natives- just because they have evidence that the restriction is bad doesn’t mean that removing that restriction materially changes anything about paternalism**

1. **The aff might be necessary but not sufficient --- institutional illegitimacy make paternalism inevitable**

**Cornell and Kalt** **‘6** – Cornell – director of the Udall Center for Studies in Public Policy AND\*\* Kalt – Ford Foundation Professor of International Political Economy (Cornell. Stephen. Joseph P.Kalt. “Two Approaches to Economic Development on American Indian Reservations: One Works, the Other Doesn’t.” http://jopna.net/pubs/jopna\_2005-02\_Approaches.pdf)

In the nation-building approach, Indian nations back up sovereignty with effective governing institutions. But sovereignty alone is not enough. If sovereignty is to lead to economic development, it has to be exercised effectively. This is a matter of governing institutions. Why should governing institutions be so important in economic development? Among other things, governments put in place the “rules of the game”: the rules by which the members of a society make decisions, cooperate with each other, resolve disputes, and pursue their jointly held objectives. These rules are captured in constitutions, by-laws, or shared understandings about appropriate distributions of authority and proper ways of doing things: they represent agreement among a society’s members about how collective life should be organized. These rules—these patterns of organization—make up the environment in which development has to take hold and flourish. Some rules discourage development. For example, a society whose rules allow politicians to treat development as a way to enrich themselves and their supporters will discourage development. A society in which court decisions are politicized will discourage development. A society in which day-to-day business decisions are made according to political criteria (for example, according to who voted for a particular official in the last election) instead of merit criteria (for example, according to who has the necessary skills to run a good business, regardless of who their friends or relatives are) will discourage development. And the reverse is true as well. Where societies prevent politicians from enriching themselves from the public purse, provide fair court decisions, reward ability instead of voting records, and support other such rules, sustainable development is much more likely. In other words, having effective governing institutions means putting in place “rules of the game” that encourage economic activity that fits tribal objectives. Whatever those objectives might be, our research indicates that several features of institutional organization are key to successful development. • Governing institutions have to be stable. That is, the rules don’t change frequently or easily, and when they do change, they change according to prescribed and reliable procedures. • Governing institutions have to separate politics from day-to-day business and program management, keeping strategic decisions in the hands of elected leadership but putting day- to-day management decisions in the hands of managers. • Governing institutions have to take the politics out of court decisions or other methods of dispute resolution, sending a clear message to tribal citizens and outsiders that their investments and their claims will be dealt with fairly. • Governing institutions have to provide a bureaucracy that can get things done reliably and effectively. Again, there is substantial evidence in support of these requirements. For example, Harvard Project studies of tribally owned and operated businesses on Indian reservations found that those enterprises in which day-to-day business management is insulated from tribal council or tribal presidential interference are far more likely to be profitable—and to last—than those without such insulation. In the long run, this means more jobs for reservation citizens. Similarly, research shows that tribes whose court systems are insulated from political interference—in which the tribal council has no jurisdiction over appeals and in which judges are not council-controlled—have significantly lower levels of unemployment—other things equal— than tribes in which the courts are under the direct influence of elected officials. This is because an independent court sends a clear message to potential investors—whether outsiders or tribal citizens—that their investments will not be hostage to politics or corruption. 17 When tribes back up sovereignty with stable, fair, effective, and reliable governing institutions, they create an environment that is favorable to sustained economic development. In doing so, they increase their chances of improving tribal welfare. 3. In the nation-building approach, governing institutions match indigenous political culture. To be effective, governing institutions have to be legitimate in the eyes of the people. One of the problems that Indian nations have had is their dependence on institutions that they did not design and that reflect another society’s ideas about how authority ought to be organized and exercised. The governments organized under the Indian Reorganization Act, for example, tend to follow a simple pattern: strong chief executive, relatively weak council, no independent judicial function, and political oversight of economic activity. This approach has been applied across tribes with very different political traditions, leading to a mismatch, in many cases, between formal governing institutions and indigenous beliefs about authority. 18 Historically, some tribes had strong chief executive forms of government in which decision-making power was concentrated in one or a few individuals, while others dispersed power among many individuals or multiple institutions with sophisticated systems of checks and balances and separations of powers. Still others relied on spiritual leaders for political direction, while some relied on broad-based, consensus decision- making. Indian political traditions were diverse. But tradition is not the issue here. In some cases, indigenous political traditions are long gone. But in many nations, distinctive ideas about the appropriate organization and exercise of authority still survive and often are starkly at odds with IRA structures or other structures imposed on Indian nations. The crucial issue is the degree of match or mismatch between formal governing institutions and contemporary indigenous ideas—whatever their source—about the appropriate form and organization of political power. Where cultural match is high, economic development tends to be more successful. Where cultural match is low, the legitimacy of tribal government also is low, the governing institutions consequently are less effective, and economic development falters.

**Renewable projects now solve the aff**

**Kaushik ‘12**

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Renewable energy projects on tribal lands are **fast becoming a reality**. Tribal communities in the Southwestern United States reside on lands that are known to be rich with potential for the development of solar, wind, biomass, and geothermal facilities on a large commercial scale. Studies have found that tribal lands nationwide have the potential for producing up to 10 percent of the United States' renewable energy. This development could mean lower rates for electricity, new directions for the nation's energy industry and a new economic reality for some Native American tribes and their neighboring communities. To that end, tribal communities such as the Navajo Nation have begun to own and develop renewable energy projects on tribal lands. This is no small feat. For decades, tribal communities in this region have suffered high unemployment, poor social conditions and widespread poverty. As the demand in the West for renewable energy grows, tribes have now recognized that **they can diversify their resources and sell renewable energy and leverage their assets** to spur economic development. This could create an emerging, domestic market that would serve as a **vehicle for economic development** and a **source of long-term revenue** for tribal communities.Critics often dismiss the viability of renewable projects on tribal lands, stating that projects are subject to delays, regulatory hurdles, and lack of expertise by the tribes to develop renewable projects. These are **myths that reflect a misunderstanding of tribal communities and ignore the efforts underway to clear the hurdles** to renewable energy development. In reality, tribes are working with Congress to clear federal regulatory hurdles to development on their lands, and successfully partnering with renewable energy developers or developing projects on their own.

**Status quo solves native energy development – solves the entire aff**

**MacCourt ‘10**

Douglas C. MacCourt Chair, Indian Law Practice Ater Wynne LLP – Renewable Energy Development in Indian Country: A Handbook for Tribes – June 2010 – http://apps1.eere.energy.gov/tribalenergy/pdfs/indian\_energy\_legal\_handbook.pdf

Many **tribes are already involved in energy development**. The Tribal Energy Program of the United States Department of Energy (DOE) participated in **funding 93 tribal energy projects** between 2002 and 2008 and the number continues to rise. Of these 93 projects, 34 were in the “planning and prefeasibility stage,” 51 were performing “feasibility studies,” and eight were proceeded to “development and demonstration” Several tribes have developed commercial scale wind projects and others are in the process of developing commercial scale biomass and solar projects. In addition to the significant tribal control of land and resources in the U.S. and the national focus on renewable energy, tribal interest in renewable energy projects will also likely **be fueled** by each tribe’s long-term goals **relating to sovereignty, sustainability, and financial security**. In Indian country the past decade has brought with it a renewed focus on tribal self-determination, with tribes asserting more control over their land, resources and self-governance. Renewable energy may support a wide range of tribal economic activities, from tourism and gaming to manufacturing and telecommunications. Many tribes have also begun to experiment with their unique legal status to accelerate their economic development efforts. Energy development is one way tribes are creating the infrastructure and capacity to achieve economic independence.

**Aff is a short-term fix – doesn’t solve the case**

**Cornell and Kalt** **‘6** – Cornell – director of the Udall Center for Studies in Public Policy AND\*\* Kalt – Ford Foundation Professor of International Political Economy (Cornell. Stephen. Joseph P.Kalt. “Two Approaches to Economic Development on American Indian Reservations: One Works, the Other Doesn’t.” http://jopna.net/pubs/jopna\_2005-02\_Approaches.pdf)

That effort has taken a number of different forms over the years as the federal government tried different reservation development strategies. In the last quarter of the twentieth century, a growing number of tribes—faced with desperate economic conditions and operating under the federal policy of self-determination—also joined the effort. Many tribal governments moved economic development to the top of their policy agendas, sometimes complementing federal efforts, sometimes operating at cross-purposes. But in most cases, **a *single* approach** dominated both federal and tribal activities. We call this approach the “standard” approach. Characteristics of the Standard Approach This approach has five primary characteristics: it **is short-term and non-strategic**; it lets persons or organizations other than the Indian nation set the development agenda; it **views development as *primarily an economic problem***; it views indigenous culture as an obstacle to development; and it encourages narrowly defined and often **self-serving leadership**. These are generalizations. Not every case of reservation economic development that we describe as following the standard approach follows it in its entirety. Some aspects of the approach might be apparent in some cases while others may be missing. Additionally, Indian nations seldom talk about development in exactly these terms. Nonetheless, these characteristics provide a general description of what federal and tribal development efforts, regardless of intent, frequently have looked like. Far too often, consciously or otherwise, this is how development has been done in Indian Country. Each characteristic of the standard approach deserves elaboration. 1. In the standard approach, decision-making is short-term and non-strategic. Viewed as a single population, reservation Indians **are among the very poorest** Americans, with high indices of unemployment, ill health, inadequate housing, and an assortment of other problems associated with poverty. The need for jobs and income is enormous. In an era of self- determination, this situation puts intense pressure on tribal politicians to “get something going!” Grim social and economic conditions, combined with disgruntled and often desperate constituents, **encourage a *focus* on short-term fixes** instead of fundamental issues. “**Get something going!” becomes “get *anything* going!**” It leaves strategic questions such as “what kind of society are we trying to build?” or “How do we get there from here?” or “How do all these projects fit together?” **for another day that seldom comes**, **overwhelmed by the need to *generate immediate results*** for reservation residents. Short terms of elected office, common in many tribal governments, have similar effects. With only two years in which to produce results, **few politicians have incentives to think about long-term strategies**. They will face reelection long before most such strategies become productive. These same factors also encourage a **focus on starting businesses instead of sustaining them**. It’s grand openings, ribbon-cuttings, and new initiatives, not second rounds of investment or fourth- year business anniversaries, that gain media attention, community support, and votes at election time. Newly-elected leaders who want to make their mark on the community are going to be more interested in starting something new than in sustaining what the previous administration—whom they probably opposed at election time—put in place. This means that prospective businesses, whether genuinely promising or not, often get more attention from tribal leadership than established ones do. Finally, there is a tendency to look for home-runs: where’s the killer project that will transform the local economy? Grandiose plans take the place of potentially more effective—if less dramatic— incremental building of a broadly based economy.