

OLIGARCHY, STATE, AND CRYPTOPIA

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Theoretical accounts of power in networked digital environments typically do not give systematic attention to the phenomenon of oligarchy—to extreme concentrations of material wealth deployed to obtain and protect durable personal advantage. The biggest technology platform companies are dominated to a singular extent by a small group of very powerful and extremely wealthy men who have played uniquely influential roles in structuring technological development in particular ways that align with their personal beliefs and who now wield unprecedented informational, sociotechnical, and political power. Developing an account of oligarchy and, more specifically, of tech oligarchy within contemporary political economy therefore has become a project of considerable urgency. This Article undertakes that project.

As I will show, tech oligarchs' power derives partly from legal entrepreneurship related to corporate governance and partly from the infrastructural character of the functions the largest technology platform firms now perform. It is transnational and multidimensional, producing a wide range of consequences that are impossible for millions (and sometimes billions) around the globe to avoid. And it is personal; tech oligarchs have never been required to trade increased scale for increased accountability.

This account of tech oligarchy has important implications for three large categories of hotly debated issues. First, it sheds new light on the much-remarked inability of nation states to govern giant global technology platform firms effectively using the traditional tools of economic regulation. Tech oligarchs' power is—by design—largely impervious to such tools.

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Second, it illuminates an important difference between the way capitalists approach projects for regulatory capture and the way tech oligarchs approach them. The ordinary capture projects of most interest to oligarchs revolve around protecting their ongoing personal enrichment activities. In the extraordinary experiment that the United States is now witnessing, however, tech oligarchs are working to reconfigure institutions for finance and public administration in ways more directly amenable to oligarchic control. Third, it counsels more careful attention to an array of other oligarchic projects—including especially dreams of space colonization and the quest to develop artificial general intelligence—that have struck many observers as fantastical. Through such projects, tech oligarchs are working to dismantle existing forms of social, economic, and political organization and define a human future that they alone determine.

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INTRODUCTION

The precise nature of the relationship between networked digital technologies and power is hotly contested. According to some scholars and activists, networked digital technologies have structural and conceptual features that inevitably enable and entrench vast and increasingly unaccountable concentrations of power.¹ Some focus on the ways that digital

1. See generally KATE CRAWFORD, *ATLAS OF AI: POWER, POLITICS, AND THE PLANETARY COSTS OF ARTIFICIAL INTELLIGENCE* (2021); Jennifer Cobbe, Michael Veale & Jatinder Singh, *Understanding Accountability in Algorithmic Supply Chains*, in *PROCEEDINGS OF THE 2023 ACM CONFERENCE ON FAIRNESS, ACCOUNTABILITY, AND TRANSPARENCY* 1186 (2023); DAVID GOLUMBIA, *THE CULTURAL LOGIC OF COMPUTATION* 129–77, 209–20 (2009); Blagovesta Kostova, Seda Gürses & Carmela Troncoso, *Privacy Engineering Meets Software Engineering. On the Challenges of Engineering Privacy by Design* (arXivLabs at Cornell

technologies amplify state power, facilitating surveillance, tracking, sorting, censorship, and incarceration.² Others cite the unprecedented dominance of gigantic technology platform companies, whose de facto control over the conditions of economic, social, and political interaction poses an increasingly intractable problem for lawmakers around the world.³ New capabilities for real-time biometric surveillance and generative artificial intelligence—requiring sprawling installations of interconnected sensors, large datasets to train, and large concentrations of compute to operate—promise to compound both of these phenomena by reinforcing the advantages that the most dominant states and tech firms already hold.⁴ Other influential groups of thinkers, entrepreneurs, and activists, however, argue that networked digital technologies and the firms that operate them also represent important mechanisms for counteracting and neutralizing state power. Overly intrusive regulation, some hold, would ultimately undermine the fundamental rights and freedoms of users around the world.⁵

Featuring centrally in these debates is a deeply rooted imaginary that stresses both the foundational importance of individual liberty and the risks to human freedom emanating from the state. As many readers will have recognized, the title of this Article alludes to the famous meditation by Robert Nozick on the relationship between the state and individual freedom.⁶ Nozick defined utopia as pure individual liberty and posited that, so defined, utopia is unattainable because a society without enforceable protection against interpersonal aggression will devolve to anarchy. He argued, however, that state power also represents an equally potent threat to individual liberty. To the greatest extent possible, the state should leave

Univ., Working Paper No. 2007.08613v1, 2020), <https://doi.org/10.48550/arXiv.2007.08613> [<https://perma.cc/JZ3H-DUQD>].

2. See generally SARAH BRAYNE, *PREDICT AND SURVEIL: DATA, DISCRETION, AND THE FUTURE OF POLICING* (2020); REBECCA MACKINNON, *CONSENT OF THE NETWORKED: THE WORLDWIDE STRUGGLE FOR INTERNET FREEDOM* (2012).

3. See generally ANU BRADFORD, *DIGITAL EMPIRES: THE GLOBAL BATTLE TO REGULATE TECHNOLOGY* (2023); JULIE E. COHEN, *BETWEEN TRUTH AND POWER: THE LEGAL CONSTRUCTIONS OF INFORMATIONAL CAPITALISM* (2019); ULISES A. MEJIAS & NICK COULDRY, *DATA GRAB: THE NEW COLONIALISM OF BIG TECH AND HOW TO FIGHT BACK* (2024); MARIETJE SCHAAKE, *THE TECH COUP: HOW TO SAVE DEMOCRACY FROM SILICON VALLEY* (2024).

4. See generally Laura K. Donohue, *Bio-manipulation*, 113 *GEO. L.J.* 475 (2025); Fernando van der Vlist, Anne Helmond & Fabian Ferrari, *Big AI: Cloud Infrastructure Dependence and the Industrialisation of Artificial Intelligence*, *BIG DATA & SOC'Y*, Jan.–Mar. 2024, <https://doi.org/10.1177/20539517241232630> [<https://perma.cc/7BCM-S4SE>]; Jai Vipra & Sarah Myers West, *Computational Power and AI*, *AI NOW INST.* (Sep. 27, 2023), <https://ainowinstitute.org/publication/policy/compute-and-ai> [<https://perma.cc/4EPS-4GMT>].

5. See generally, e.g., Anupam Chander, *When the Digital Services Act Goes Global*, 38 *BERKELEY TECH. L.J.* 1067 (2023); Anupam Chander & Uyên P. Lê, *Data Nationalism*, 64 *EMORY L.J.* 677 (2015); Eric Goldman, *The United States' Approach to 'Platform' Regulation* (Santa Clara Univ. Legal Studies Rsch. Paper, Paper No. 4404374, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4404374 [<https://perma.cc/8HF2-XE8S>]; Genevieve Lakier, *The TikTok Ban and the Limits of the First Amendment*, *LPE PROJECT* (Jan. 22, 2025), <https://lpeproject.org/blog/the-tiktok-ban-and-the-limits-of-the-first-amendment/> [<https://perma.cc/4EPS-4GMT>].

6. ROBERT NOZICK, *ANARCHY, STATE, AND UTOPIA* (1974).

individuals free to pursue their own self-interested aims—or, as specified in a later modification to the argument, aims defined consensually with other individuals and pursued through mutual cooperation.⁷ Like Nozick, and for some similar reasons, tech industry leaders in particular tend to be alarmed about state overreach and urgently concerned with limiting it.⁸

For many tech industry observers, of course, matters are slightly more complicated. As critics have long charged, the libertarian dream of a night watchman state largely overlooks the problem of private power. In particular, large concentrations of private power may arise via the very mutual cooperation that Nozick was keen to facilitate. Concentrated, unaccountable private power can pose acute threats to human well-being, and private power also is adept at capturing and reinventing state institutions for its own benefit.⁹ The neoliberal turn in political economy that began in the mid-twentieth century and continues today has amply demonstrated all these propositions. Vibrant and growing literatures in multiple fields map the emergence of giant and unfathomably dominant firms in technology, finance, healthcare, agribusiness, and many other sectors; the economic and social dysfunctions they have created; and their endlessly creative efforts to remake the state in their own image.¹⁰ Some commentators therefore urge more intensive regulatory oversight of the dominant technology firms' various operations. Others, however, counsel continued regulatory exceptionalism, arguing that intensified oversight of platform-based information exchange deprives global publics of beneficial innovation and sets states on a slippery slope toward authoritarianism.

The ongoing debates about global tech platform companies, state authority, and networked power, however, typically do not give systematic

7. ROBERT NOZICK, *THE EXAMINED LIFE: PHILOSOPHICAL MEDITATIONS* 286–96 (1989); ROBERT NOZICK, *INVARIANCES: THE STRUCTURE OF THE OBJECTIVE WORLD* 259 (2001).

8. See, e.g., Marc Andreessen, *The Techno-Optimist Manifesto*, ANDREESSEN HOROWITZ (Oct. 16, 2023), <https://a16z.com/the-techno-optimist-manifesto/> [<https://perma.cc/D9FN-4BUJ>]; Alex McShane, *Tesla CEO Elon Musk: Bitcoin and Crypto Take Aim at Centralized Government*, BITCOIN MAG. (Sep. 29, 2021), <https://bitcoinmagazine.com/culture/elon-musk-speaks-on-bitcoin-and-crypto-regulation> [<https://perma.cc/W62X-MC7V>]; Peter Thiel, *The Education of a Libertarian*, CATO UNBOUND (Apr. 13, 2009), <https://www.cato-unbound.org/2009/04/13/peter-thiel/education-libertarian/> [<https://perma.cc/KW3X-N4FJ>]; Josh Vandiver, *Hard Men, Hard Money, Hardening Right: Bitcoin, Peter Thiel, and Schmittian States of Exception*, in *FAR-RIGHT NEWSPEAK AND THE FUTURE OF LIBERAL DEMOCRACY* 205, 205–30 (A. James McAdams & Samuel Piccolo eds., 2024).

9. See, e.g., Thomas Nagel, *Libertarianism Without Foundations*, 85 *YALE L.J.* 136, 138–40 (1975), reprinted in *READING NOZICK: ESSAYS ON ANARCHY, STATE, AND UTOPIA* 191 (Jeffrey Paul ed., 1981); see also JOSEPH FISHKIN & WILLIAM E. FORBATH, *THE ANTI-OLIGARCHY CONSTITUTION: RECONSTRUCTING THE ECONOMIC FOUNDATIONS OF AMERICAN DEMOCRACY* 319–49 (2022); K. SABEL RAHMAN, *DEMOCRACY AGAINST DOMINATION* 80–88 (2017).

10. For some good entry points, see generally SCOTT AQUANNO & STEPHEN MAHER, *THE FALL AND RISE OF AMERICAN FINANCE: FROM J.P. MORGAN TO BLACKROCK* (2024); Loka Ashwood, Andy Pilny, John Canfield, Mariyam Jamila & Ryan Thomson, *From Big Ag to Big Finance: A Market Network Approach to Power in Agriculture*, 39 *AGRIC. & HUM. VALUES* 1421 (2022); NICK SRNICEK, *PLATFORM CAPITALISM* (2017); TIM WU, *THE CURSE OF BIGNESS: ANTITRUST IN THE NEW GILDED AGE* (2018).

attention to the phenomenon of oligarchy—extreme concentrations of material wealth deployed to obtain and protect durable personal advantage. Popular and press accounts of the power of “big tech” tell a different story. The biggest tech companies are dominated to a singular extent by a small group of very powerful and extremely wealthy men who now wield unprecedented informational, sociotechnical, and political power.¹¹ Those men have increasingly espoused an activist political agenda directed toward advancing their views about the importance of unfettered technological development.¹² At the same time, though, they also have played uniquely influential roles in structuring technological development—and, more recently, the reorganization of financial systems and arrangements for public administration—in particular ways that align with their personal beliefs. Developing an account of oligarchy and, more specifically, of tech oligarchy within contemporary political economy has become a project of considerable urgency.

This Article undertakes that project, developing a speculative ontology of an emergent, understudied form of political economic power amassed and wielded through networked information infrastructures. Drawing on literatures in political science and technology studies, Part I supplies a provisional definition of oligarchy and poses some questions about its relationship(s) to evolving political economy. Part II takes up those questions, interrogating the ways that networked digital technologies and associated business models have both enabled the accumulation of oligarchic power and afforded that power new outlets. It spotlights the emergence of a powerful class of technology oligarchs, their outsized influence on sociotechnical development and political economy, their commitment to an extreme strain of techno-futurist ideology, and their increasingly antagonistic relationship to government.

Part III brings the insights from Part II to bear on a set of important questions about what technology oligarchs mean when they advocate deregulation and how they pursue capture. For over a decade, tech oligarchs and their hangers-on have urged an end to state control of money and finance,

11. See generally BEN LITTLE & ALISON WINCH, *THE NEW PATRIARCHS OF DIGITAL CAPITALISM: CELEBRITY TECH FOUNDERS AND NETWORKS OF POWER* (2021); Rachel Sandler, *Inside the Trillion Dollar Tech World*, FORBES (Jan. 5, 2022, at 04:00 ET), <https://www.forbes.com/sites/rachelsandler/2021/11/10/inside-the-trillion-dollar-tech-factory/> (on file with the *Fordham Law Review*); Michael Scherer & Sarah Ellison, *How a Billionaires Boys' Club Came to Dominate the Public Square*, WASH. POST (Mar. 1, 2022), <https://www.washingtonpost.com/politics/2022/05/01/billionaires-politics> (on file with the *Fordham Law Review*); Naina Bajekal & Billy Perrigo, *CEO of the Year 2023: Sam Altman*, TIME (Dec. 6, 2023, at 07:42 ET), <https://time.com/6342827/ceo-of-the-year-2023-sam-altman/> [<https://perma.cc/5RN9-DMQK>].

12. See Andreessen, *supra* note 8; Nitish Pahwa, *Silicon Valley Billionaires Know Exactly How They Want the Election to Go*, SLATE (July 17, 2024, at 11:54 ET), <https://slate.com/technology/2024/07/jd-vance-donald-trump-elon-musk-silicon-valley-tech-billionaires-vice-president.html> [<https://perma.cc/XQ7Z-38F7>]; Derek Robertson, *Crypto Shifts the Political Playing Field*, POLITICO (Aug. 1, 2024, at 04:00 ET), <https://www.politico.com/newsletters/digital-future-daily/2024/08/01/crypto-shifts-the-political-playing-field-00172308> [<https://perma.cc/YTB5-GB4U>].

and through them state control of political economy.¹³ They also have envisioned dismantling institutions for public administration that (or so they claim) serve as a drag on processes of private innovation—a goal now being pursued more directly and aggressively in the United States via the Department of Government Efficiency (DOGE).¹⁴ Neither of these efforts, though, is exactly what it seems. In particular, although oligarchs profess enthusiastic allegiance to the idea of deregulation, decentralization of power is not really what oligarchs want. Tech oligarchs depend on the state for their personal enrichment; the continued existence of a strong and wealthy state is therefore essential. Through their ventures in decentralized finance (“DeFi”) and government reorganization, however, they are working to reconfigure state institutions and the state-oligarchy relationship in ways more conducive to their particular interests.

Part IV explores what the techno-futurist ideological commitments espoused by tech oligarchs tell us about the desired endpoints of this reengineering project. The futurist ventures of technology oligarchs—which range from space exploration to gene editing to the quest to develop artificial general intelligence—advance the traditional oligarchic project of promoting personal advantage alongside another that is far more radical. The latter project entails hollowing out a wide range of existing institutions and reinventing them around privately controlled, data-driven logics deployed in the service of a quasi-religious ideology that blends elements of technological determinism, manifest destiny, and hyperrationalism. Put simply, technology oligarchs are working to define a human future that they and they alone control.

I. THE OLIGARCHY QUESTION

It is useful to begin by defining terms. Who are oligarchs, and what do they do? Although it is increasingly common to see oligarchy mentioned in reporting and commentary on contemporary economic and political dysfunctions, rigorous treatments of these questions in the legal and law-adjacent literatures are surprisingly rare. Here, I take as a starting point

13. See, e.g., Marc Andreessen, *Why Bitcoin Matters*, N.Y. TIMES (Jan. 21, 2014, at 11:54 ET), <https://archive.nytimes.com/dealbook.nytimes.com/2014/01/21/why-bitcoin-matters/> [<https://perma.cc/7NXH-9B9R>]; Julia Tourianski, *The Declaration of Bitcoin’s Independence*, BITCOIN MAG. (May 14, 2014), <https://bitcoinmagazine.com/culture/declaration-bitcoins-independence> [<https://perma.cc/X7CR-MCNH>]. See generally Jon Baldwin, *In Digital We Trust: Bitcoin Discourse, Digital Currencies, and Decentralized Network Fetishism*, 4 PALGRAVE COMM’NS 14 (2018); Brett Scott, *Visions of a Techno-Leviathan: The Politics of the Bitcoin Blockchain*, E-INT’L RELS. (June 1, 2014), <https://www.e-ir.info/2014/06/01/visions-of-a-techno-leviathan-the-politics-of-the-bitcoin-blockchain> [<https://perma.cc/4SYV-GZGZ>]; Lana Swartz, *What Was Bitcoin, and What Will It Be?: The Techno-Economic Imaginaries of a New Money Technology*, 32 CULTURAL STUD. 623 (2018).

14. See, e.g., Theodore Schleifer & Madeleine Ngo, *Inside Elon Musk’s Plan for DOGE to Slash Government Costs*, N.Y. TIMES (Jan. 23, 2025), <https://www.nytimes.com/2025/01/12/us/politics/elon-musk-doge-government-trump.html> (on file with the *Fordham Law Review*); Makena Kelly et al., *Inside Elon Musk’s ‘Digital Coup’*, WIRED (Mar. 13, 2025, at 14:49 ET), <https://www.wired.com/story/elon-musk-digital-coup-doge-data-ai/> [<https://perma.cc/CYD3-P99L>].

the work of political scientist Jeffrey Winters, which links oligarchy to extreme material power deployed for personal gain and which supplies an important foundation for the project of understanding oligarchy, its relationship(s) to law and legal institutions, and its entanglement with techno-utopian ventures.¹⁵ As I will explain, it is also important to consider how evolving conditions of political economy have enabled new strategies for the accumulation and assertion of oligarchic power.

One approach to the question of oligarchy might be to characterize it generally as a form of political power that has coevolved with all manner of other political systems and entails the accumulation of influence by wealthy elites.¹⁶ Prevailing forms of government have changed considerably over the centuries. At different times and in different places, they have included tribal chiefdoms, medieval fiefdoms, city-states, monarchies, democracies, and authoritarian party-states. In all those systems, however, there have been individuals or families who have wielded extraordinary power and influence. Find those individuals and families; those are the oligarchs. Such an account, however, is not very precise about the kind of power that oligarchs exercise or its relationship to the prevailing form of government—indeed and notably, oligarchic power seems to have no necessary relation to any particular form of government. It is worth noting, though, that this view of oligarchy contains an important embedded lesson about the state of anarchy that was so important for Nozick’s thought exercise. It would appear that human societies conduce to the accumulation of political power, and anarchy is not an especially good description of the kinds of dysfunction that result.

A related, well-known approach to the question of oligarchy is functional and tracks the accumulation of effective decisional power within institutions and organizations of all sorts. Follow the power and identify those who exercise it; those are the oligarchs. Something of this sort seems to be what was intended by the sociologist Robert Michels in his famous formulation of the “Iron Law of Oligarchy.”¹⁷ According to Michels, because large and complex organizations cannot function as direct democracies and require power to be delegated to small groups, all eventually develop into oligarchies. In this definition, oligarchy is a term used to refer to political and operational control of any organization by a small circle of designated or self-appointed elites.

Oligarchs, however, are not simply political elites. To see this point, it is instructive to consider other accounts of the ways political elites work to maintain their influence and, relatedly, their cultural capital. Political elites

15. JEFFREY A. WINTERS, *OLIGARCHY* (2011).

16. The discussion here and in the next few paragraphs generally tracks the analysis provided by Winters. *See id.* at 1–32. For a careful account of the shifting meanings of the term oligarchy and its counterpart, democracy, in political theory and commentary, see David Singh Grewal, *Oligarchy Ancient and Modern*, in *CAPITAL IN CLASSICAL ANTIQUITY* 311 (M. Koedijk & N. Morley eds., 2022).

17. ROBERT MICHELS, *POLITICAL PARTIES: A SOCIOLOGICAL STUDY OF THE OLIGARCHICAL TENDENCIES OF MODERN DEMOCRACY* 377–92, 401 (Eden Paul & Cedar Paul trans., 1915) (“Who says organization, says oligarchy.”).

do engage in various cooperative strategies to enable their own dominance at the expense of non-elites, and those behaviors are robust even across otherwise deep partisan divides.¹⁸ But elites also fight among themselves over markers of cultural capital—prestigious appointments, spots at elite universities, and so on—that are in limited supply.¹⁹ The latter behavior is hard to square with the reality of continuing, conserved political power by a smaller number of extremely powerful individuals.

A third approach to oligarchy might be to emphasize economic power and political economy. Prevailing modes of political economy also have changed considerably over the centuries. The emergence of first industrial capitalism and then informational capitalism facilitated new kinds of enterprises that required large amounts of capital to operate at scale. Those enterprises (some more than others) represent large concentrations of economic power. Follow the money and identify those who control it; those are the oligarchs.²⁰ This approach, which equates oligarchs with capitalists and oligarchic power with economic power, also is not very precise about what makes an oligarch and why some individuals or families come to wield a kind of power that other highly placed individuals do not.

Far more useful are the definitions developed by Winters in his landmark analysis of oligarchy as a particular form of concentrated power based on the accumulation of extreme material wealth and the use of such wealth to obtain systemic, inescapable advantage within a political system or community. According to Winters, oligarchs are “actors who command and control massive concentrations of material resources that can be deployed to defend or enhance their personal wealth and exclusive social position.”²¹ So defined, oligarchs are not the same as elites; the latter is a general designation applicable to the powerful actors that exist in all societies, but the former can exist only when extreme personal wealth and extreme wealth disparity are possible. Oligarchs also are not the same as capitalists; the latter “deploy material resources *economically* with important social and political effects,” whereas the former “deploy material resources *politically* with important economic effects.”²² Oligarchy, meanwhile, “refers to the politics of wealth defense by materially endowed actors.”²³ Such activity differs from ordinary self-preferment in that it produces systemic effects that cannot be avoided.²⁴ These distinctions suggest that, if one wants to identify oligarchs and trace

18. See generally DANIEL MARKOVITS, *THE MERITOCRACY TRAP: HOW AMERICA'S FOUNDATIONAL MYTH FEEDS INEQUALITY, DISMANTLES THE MIDDLE CLASS, AND DEVOURS THE ELITE* (2019).

19. See *id.* at 30–45.

20. See, e.g., FISHKIN & FORBATH, *supra* note 9, at 3, 8–9; Sanjukta Paul, *Beyond Neoclassical Antitrust*, BOS. REV. (June 23, 2022), https://www.bostonreview.net/forum_response/beyond-neoliberal-antitrust/ (on file with the *Fordham Law Review*); Zephyr Teachout & Lina M. Khan, *Market Structure and Political Law: A Taxonomy of Power*, 9 DUKE J. CONST. L. & PUB. POL'Y 37, 37–38 (2014).

21. WINTERS, *supra* note 15, at 6.

22. *Id.* at 9 (emphasis in original).

23. *Id.* at 7.

24. *Id.* at 4.

the imprint of oligarchic power within a particular system of political economy, one should pay careful attention to the ways that powerful individuals assert power and to the apparent motivations and expected gains.

Return to the observation that oligarchy seems to have no necessary relation to any particular form of government. Winters concurs but observes that oligarchies considered across history fall into a series of regular patterns based on four variables, which relate to the nature of their involvement in coercion, the nature of their involvement in government, the extent to which oligarchic behavior is unified or fragmented, and the extent to which oligarchic wealth defense behaviors are “tamed”—i.e., constrained in at least some respects by the prevailing system of government.²⁵ Different combinations of these characteristics yield four core types: warlords (directly coercive, fragmented, and untamed); ruling oligarchies (directly coercive but ruling collectively through institutions); sultanistic oligarchies (coercive power exercised by a single individual whose continuing rule depends on providing wealth defense for the other oligarchs); and civil oligarchies (coercive power surrendered to a system of rule of law that provides for property and income defense).²⁶ The core types, however, are not offered as rigid categories. Rather, they define the corners of a conceptual map within which specific examples may be located based on the extent to which they manifest different combinations of the variables.

For purposes of this Article, this approach has notable strengths. One is simple descriptive power. Examples with which readers may be familiar are readily located along the various gradients. So, for example, Winters locates the oligarchies that flourished in Indonesia under the Suharto regime and in the Philippines under the regime of Ferdinand Marcos near the sultanistic corner of the map; the ancient Athenian oligarchy, which played an important role in shaping governance institutions that also provided other, more democratically directed protections, sits partway between the corners allotted to ruling and civil oligarchies.²⁷ Attention to the interplay between oligarchy and institutions for property and income defense, meanwhile, explains how oligarchy can come to exist within a democratic political system if the baseline conditions—extreme personal wealth and its use to obtain systemic, inescapable advantage—are met.²⁸

Last but not least—and of urgent relevance to the contemporary situation in the United States—the map envisions dynamism in the relationships between specific groups of oligarchs and the forms and institutions of government. So, for example, oligarchs still exist in contemporary Indonesia and the Philippines, but their wealth defense behavior is less sultanistic and more closely bound up with institutions that the oligarchs control

25. *Id.* at 36–38.

26. *Id.* at 32–38.

27. *Id.* at 34.

28. See generally Martin Gilens & Benjamin I. Page, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens*, 12 *PERSPS. ON POL.* 564 (2014).

collectively.²⁹ The more contemporary example of Russian oligarchy in the post-Soviet era points in the opposite direction, with initial movements along several of the map's gradients followed by a decidedly sultanistic—though periodically uneasy—settlement under Vladimir Putin's rule.³⁰ And if, for example, a powerful group of civil oligarchs existing within a democratic political system were to decide that surrendering their coercive power to the rule of law within that system no longer served their interests, the map and the examples suggest various other possible directions for concerted action.

I will return to the evolving position of oligarchs relative to the U.S. government in Part III. First, though, it is worth considering the relationship(s) between oligarchy and political economy more carefully. Begin with the fact that many kinds of sociotechnical development require sustained cooperation and enabling institutional structures. You cannot have (or at least, not for long) anarchy and have railroads, airplanes, refrigeration, telephones, or internet-connected computers that continue to function. Functioning markets also presuppose underlying, common mechanisms for assigning value and mediating exchanges.³¹ Over time, technical, social, and economic processes reshape each other, producing new patterns of habitual behavior and flow.³² Institutional structures for far-flung cooperation are especially pronounced within the political economy of informational capitalism, which revolves around networked, informational modes of development and production that require conformity to shared standards and protocols for data exchange. Reciprocally, capabilities for networked digital interaction have powerfully reshaped patterns of economic, social, and political activity around the world.³³

These observations, in turn, suggest two important questions for investigation, which I take up in Part II. First, because technological development is not simply an inert facilitator of economic and social activities—because such development is always *sociotechnical*—it is also

29. WINTERS, *supra* note 15, at 34, 182–206.

30. *Id.* at 277–78. See generally Stanislav Markus, *Oligarchs and Corruption in Putin's Russia: Of Sand Castles and Geopolitical Volunteering*, 18 GEO. J. INT'L AFFS. 26 (2017); CATHERINE BELTON, *PUTIN'S PEOPLE: HOW THE KGB TOOK BACK RUSSIA AND THEN TOOK ON THE WEST* (2020).

31. See MICHEL CALLON, *MARKETS IN THE MAKING: RETHINKING COMPETITION, GOODS, AND INNOVATION* (Martha Poon ed., Olivia Custer trans., 2021); Michel Callon & Fabian Muniesa, *Peripheral Vision: Economic Markets as Calculative Collective Devices*, 26 ORG. STUD. 1229 (2005).

32. See Madeleine Akrich, *The De-Description of Technical Objects*, in *SHAPING TECHNOLOGY, BUILDING SOCIETY: STUDIES IN SOCIOTECHNICAL CHANGE* 205 (Wiebe E. Bijker & John Law eds., 1992). See generally Benjamin K. Sovacool & David J. Hess, *Ordering Theories: Typologies and Conceptual Frameworks for Sociotechnical Change*, 47 SOC. STUD. SCI. 703 (2017).

33. See generally 1 MANUEL CASTELLS, *THE INFORMATION AGE: ECONOMY, SOCIETY, AND CULTURE* (1996); MANUEL CASTELLS, *COMMUNICATION POWER* (2009); Thomas Poell, David Nieborg & José van Dijck, *Platformisation*, *INTERNET POL'Y REV.*, Nov. 2019, at 1; Laurel Smith-Doerr & Walter W. Powell, *Networks and Economic Life*, in *THE HANDBOOK OF ECONOMIC SOCIOLOGY* 379 (Neil J. Smelser & Richard Swedberg eds., 2d ed. 2005); SRNICEK, *supra* note 10; JOSÉ VAN DIJCK, *THE CULTURE OF CONNECTIVITY: A CRITICAL HISTORY OF SOCIAL MEDIA* (2013).

unlikely to function simply as an inert facilitator of wealth defense. This point is particularly important where civil oligarchs are concerned. According to Winters, civil oligarchs rely on state institutions for property defense and devote their efforts principally to avoiding taxation.³⁴ One might draw an analogy to conventional wisdom about the way that capitalists and the powerful companies that they have created work to avoid inconvenient regulation—except that it is now well understood that capitalists and their companies do far more. They co-opt and reshape legal and governance institutions in the ways best suited to their own purposes, they deploy new information technologies systematically within regularized arrangements designed to aid in surplus extraction, and they channel sociotechnical development equally systematically in ways calculated to advance their own particular economic aims.³⁵ It would be surprising if civil oligarchs did not follow a similar playbook. As we will see, they have done precisely that.

Second and relatedly, return to the puzzle with which this Article began—the emergence of unfathomably dominant technology platform companies that are increasingly unaccountable and that also enable and amplify the exercise of increasingly unaccountable state power. An explanation of the behaviors of these companies that ignores their very powerful founders would be incomplete, and Winters’s theory of oligarchy helps to explain why. But the emergence of large tech platform empires also has extended scope for the exercise of both governance power and oligarchic power into novel informational and infrastructural dimensions. And the oligarchs who control large tech platform empires increasingly do not seem to be concerned only with preserving their own advantaged positions. Instead, marching under the banner of ideologies such as singularity, longtermism, and transhumanism, technology oligarchs have systematically pursued a particular vision of technological progress that aims to advance by leaving messy humanity and messy humans behind. These developments suggest that closer attention to technology oligarchs as a distinct group may be necessary for a fuller understanding of oligarchy, its modes of action, and its implications for long-term political (and planetary) stability.

34. WINTERS, *supra* note 15, at 208–74.

35. On capitalism and legal-institutional entrepreneurship, see generally KATHARINA PISTOR, *THE CODE OF CAPITAL: HOW THE LAW CREATES WEALTH AND INEQUALITY* (2019); COHEN, *supra* note 3. On capitalism and managerial rearrangement of organizations facilitated by information technology, see generally JAMES BENIGER, *THE CONTROL REVOLUTION: TECHNOLOGICAL AND ECONOMIC ORIGINS OF THE INFORMATION SOCIETY* (1986); Julie E. Cohen, *From Lex Informatica to the Control Revolution*, 36 *BERKELEY TECH. L.J.* 1017 (2021); ARI EZRA WALDMAN, *INDUSTRY UNBOUND: THE INSIDE STORY OF PRIVACY, DATA, AND CORPORATE POWER* (2021). On capitalism and trajectories of sociotechnical development, see generally *ASSETIZATION: TURNING THINGS INTO ASSETS IN TECHNOSCIENTIFIC CAPITALISM* (Kean Birch & Fabian Muniesa eds., 2020) [hereinafter BIRCH & MUNIESA]; CRAWFORD, *supra* note 1; MEJIAS & COULDRY, *supra* note 3.

II. OLIGARCHY  THE STATE

When behaviors and strategies afforded by the political economy of informational capitalism are factored into the equation, Winters's description of civil oligarchy turns out to be important for explaining the behavior of dominant tech platform companies but also incomplete in three interesting ways. First, civil oligarchs do not only engage in wealth defense; they also engage in sociotechnical entrepreneurship to advance strategies for private wealth multiplication accessible only to oligarchs. For simplicity's sake, I will refer to behaviors in the latter category as "wealth offense." Strategies for wealth offense, moreover, do not seek night watchman behavior from the state but rather depend on the existence of complex sets of public regulatory activities. Second, one such strategy has enabled the emergence of the new and extraordinarily powerful class of technology oligarchs—oligarchs who control both extreme personal wealth and infrastructures for communication and control—whose relationships to coercion, to one another, and to government are different from those of the four core types of oligarchy in Winters's taxonomy. Tech oligarchy is a hybrid mode that combines elements of the civil, sultanistic, and ruling oligarchy models but also differs from each of them. Third, the distinctive nature of tech oligarchy helps to explain certain features of the evolving, contested relationship between powerful tech platform companies and sovereign states that have otherwise defied explanation.

A. The Rinse Cycle

In the era of informational capitalism, civil oligarchs practice not only wealth defense but also rarefied forms of wealth offense. They have developed elaborate structures for private wealth management that systematically exploit both carefully constructed tax loopholes and opportunities for cross-jurisdictional arbitrage.³⁶ They have also developed and systematically exploited highly lucrative, market-adjacent investment arenas for their own exclusive use. The impulse to seek advantage, of course, is as old as human societies. What has changed is the ability to engage in technologically facilitated pursuit of advantage—an ability that the very wealthiest enjoy in some ways that others do not. The combination of extreme personal wealth and access to powerful and sophisticated information processing capabilities has enabled a set of new and highly entrepreneurial investment strategies. Both wealth defense and wealth offense strategies also have brought different types of oligarchs into closer personal alignment.

As public securities markets have become increasingly regulated for transparency, the wealthiest increasingly shelter and grow their assets outside

36. BROOKE HARRINGTON, CAPITAL WITHOUT BORDERS: WEALTH MANAGERS AND THE ONE PERCENT 233–67 (2016); *Pandora Papers: Biggest Ever Leak of Offshore Data Exposes Financial Secrets of Rich and Powerful*, GUARDIAN (Oct. 3, 2021, at 12:30 ET), <https://www.theguardian.com/news/2021/oct/03/pandora-papers-biggest-ever-leak-of-offsho-re-data-exposes-financial-secrets-of-rich-and-powerful> [https://perma.cc/2UN6-QC75].

or around the edges of those markets, practicing technologically enabled strategies of arbitrage and fragmentation that make their activities more difficult to see.³⁷ These strategies, moreover, are most effective when practiced in complex regulatory environments. Much as poachers might benefit from a game preserve with entrance and exit routes through which migratory wild game predictably travels, the rules and institutions established for ordinary people constitute the playing field for oligarchic wealth extraction. Technologically facilitated strategies for wealth offense are also dynamic and interrelated. Together they constitute a rinse cycle in which surplus is systematically and repeatedly wrung out of the regulated markets around which they operate.

Consider three examples, which together account for over \$2 trillion in invested assets, equivalent to approximately one-tenth of total U.S. annual gross domestic product. The first major component of the rinse cycle, totaling over \$1.5 trillion, is hedge fund investment.³⁸ Generally speaking, a hedge fund is an investment vehicle managed using strategies that, in combination, hedge overall asset value—for example, by using options or combining long positions and short sales.³⁹ Some such activities are institutional; examples include bank-owned portfolios of currency swaps or credit default swaps. The universe of private hedge funds, however, is extensive and comparatively lightly regulated.⁴⁰ Its participants pursue aggressive investment strategies while using sophisticated hedging techniques to offset their increased risk exposure.

A second major component of the rinse cycle, totaling approximately \$200 billion to \$250 billion in the United States and another \$100 billion to \$200 billion worldwide, is the tech startup investment pipeline.⁴¹ The

37. See generally WALTER MATTLI, *DARKNESS BY DESIGN: THE HIDDEN POWER IN GLOBAL CAPITAL MARKETS* (2019); Rogé Karma, *The Secretive Industry Devouring the U.S. Economy*, ATLANTIC (Oct. 30, 2023), <https://www.theatlantic.com/ideas/archive/2023/10/private-equity-publicly-traded-companies/675788/> (on file with the *Fordham Law Review*); Allison Herren Lee, Comm'r, U.S. Sec. Exch. Comm'n, Remarks at The SEC Speaks in 2021: Going Dark: The Growth of Private Markets and the Impact on Investors and the Economy (Oct. 12, 2021), <https://www.sec.gov/news/speech/lee-sec-speaks-2021-10-12> [<https://perma.cc/D4YY-9GGE>].

38. Ben Snider, Jenny Ma, David J. Kostin, Ryan Hammond, Cormac Connors, Lily Calcagnini & Daniel Chavez, *Hedge Fund Trend Monitor*, GOLDMAN SACHS (Nov. 20, 2023), <https://www.gspublishing.com/content/research/en/reports/2023/11/20/c1c0208f-e17d-4152-ac01-22aa849e10dc.html> [<https://perma.cc/4TBS-48M6>].

39. THOMAS P. LEMKE, GERALD T. LINS, KATHRYN L. HOENIG & PATRICIA S. RUBE, *HEDGE FUNDS AND OTHER PRIVATE FUNDS: REGULATION AND COMPLIANCE* § 1:1 (2024).

40. Colleen Honigsberg, *Hedge Fund Regulation and Fund Governance: Evidence on the Effects of Mandatory Disclosure Rules*, 57 J. ACCT. RSCH. 845, 846 (2019); Snider et al., *supra* note 38.

41. Eric P. Hanson et al., *WilmerHale 2024 Venture Capital Report*, WILMERHALE (Mar. 2024), <https://launch.wilmerhale.com/research/news-publications/2024-venture-capital-report> [<https://perma.cc/2TDK-ATNL>]; *Venture Capital—United States*, STATISTA (Mar. 2024), <https://www.statista.com/outlook/fmo/capital-raising/traditional-capital-raising/venture-capital/united-states> [<https://perma.cc/RG4U-VX2C>]; KPMG Q2'24 Venture Pulse Report—Global Trends, KPMG PRIV. ENTER. (July 17, 2024), <https://kpmg.com/xx/en/our-insights/operations/q2-venture-pulse-report-global.html> [<https://perma.cc/4QFN-WFU2>].

widespread popular perception of “venture capital” as a freewheeling and largely unstructured activity, intended to identify promising young innovators and help them launch their creations on public stock markets, is increasingly inaccurate. The startup investment pipeline is highly structured, comprising a set of regularized institutional processes that include qualifying for access to successive rounds of financing and substantial assistance in developing business models and regularized management structures.⁴² Developing business models for soundness and sustainability over the long run is not necessarily a priority. Instead, following what has become known as the “blitzscaling” playbook, many startup business plans seek rapid, exponential growth rates designed to preempt competition.⁴³ Many of the most successful ventures will never enter public capital markets at all. Instead, they will be acquired by existing companies, particularly the largest tech firms.⁴⁴ Those that do go public, however, are often structured to produce prearranged, high payoffs to venture investors to the extent that subsequent market performance permits them to cash out.⁴⁵ Their governing documents may also reserve ongoing control to founding innovators and/or venture investors, a topic to which I return in Part II.B below. Meanwhile, the profits from successful venture capital investments are frequently recycled into new startup ventures.⁴⁶

The third major component of the rinse cycle, totaling over \$450 billion, is private equity investment generally (excluding venture capital).⁴⁷ Generally speaking, the private equity model entails buying existing firms, reorganizing them, and injecting them (whole or in pieces) back into the

42. See generally Yael V. Hochberg, *Accelerating Entrepreneurs and Ecosystems: The Seed Accelerator Model*, 16 INNOVATION POL’Y & ECON. 25 (2016); Dominik K. Kanbach & Stephen Stubner, *Corporate Accelerators as Recent Form of Startup Engagement: The What, the Why, and the How*, 32 J. APPLIED BUS. RSCH. 1761 (2016); Michael Sable, *Catalysts of Startup Success: How Accelerators Drive Entrepreneurial Finance*, GOINGVC (Jan. 18, 2024), <https://www.goingvc.com/post/catalysts-of-startup-success-how-accelerators-drive-entrepreneurial-finance> [<https://perma.cc/ABS8-TUQ3>].

43. See generally REID HOFFMAN & CHRIS YEH, *BLITZSCALING: THE LIGHTNING-FAST PATH TO BUILDING MASSIVELY VALUABLE COMPANIES* (2018).

44. Florian Ederer & Bruno Pellegrino, *The Great Start-Up Sellout and the Rise of Oligopoly*, 113 AEA PAPERS & PROC. 274, 275–77 (2023); Carolin Ioramashvili, Maryann Feldman, Frederick Guy & Simona Iammarino, *Gathering Round Big Tech: How the Market for Acquisitions Concentrates the Digital Sector*, 17 CAMBRIDGE J. REGIONS, ECON. & SOC’Y 293, 295–96 (2024); Mark A. Lemley & Andrew McCreary, *Exit Strategy*, 101 B.U. L. REV. 1, 14 (2021).

45. See generally Sarina Liu, *The Role of Contracts in Venture Capital Returns*, 24 J. ALTERNATIVE INVS. 68 (2021).

46. See Bernard S. Black & Ronald J. Gilson, *Does Venture Capital Require an Active Stock Market?*, 11 J. APPLIED CORP. FIN. 36, 40–41 (1999). See generally D. Gordon Smith, *The Exit Structure of Venture Capital*, 53 UCLA L. REV. 315 (2005); Erasmus Elsner, *Fund Recycling: Hitting the Extra Shots in Venture Capital*, MEDIUM (July 14, 2021), <https://medium.com/sand-hill-road/fund-recycling-hitting-the-extra-shots-in-venture-capital-7e4326de60e5> [<https://perma.cc/GAT2-ZD8R>].

47. *Forecast of the Private Equity (PE) Market Size in the United States in 2025 and 2030 (in Billion U.S. dollars)*, STATISTA (Mar. 2024), <https://www.statista.com/statistics/280255/private-equity-market-size-forecast-us> (on file with the *Fordham Law Review*).

market, at which point the investors earn a prearranged cut of the profits.⁴⁸ As originally pioneered in the 1980s, private equity investment targeted publicly traded companies that were posting low profit margins.⁴⁹ Today's private equity investors, however, are also gobbling up and consolidating an increasingly wide swath of privately owned small businesses—medical practices, real estate rental companies, and so on.⁵⁰ Many of the target firms—especially those involved in providing medical services or furnishing housing—operate within regulatory frameworks intended to provide some protections to, for example, patients or tenants. Such protections still technically apply, but the reorganizations typically make them much more difficult to access. Medical patients interact with impersonal call centers, third-party electronic health record providers, and third-party payment providers, while residential and business tenants interact with their landlords via dashboards and sometimes biometric systems for authenticating access to leased premises.⁵¹ The results parallel those described by Duncan Kennedy decades ago in his perceptive analysis of residential rent control regulation as an enabling framework for landlords seeking to milk buildings of every feasible drop of revenue.⁵² Networked, data-driven technologies, however, vastly increase the scope for such milking by enabling systematic unbundling and intermediation of different functions.

If the players in these specialized investment ecosystems were ordinary market participants pursuing other ventures on the side, these might be ordinary stories about the development of new investment arenas, perhaps warranting new types of regulation to protect investors. Initial public regulatory efforts targeting these sectors have treated them precisely that

48. See JOHN GILLIGAN & MIKE WRIGHT, PRIVATE EQUITY DEMYSTIFIED: AN EXPLANATORY GUIDE 1–15 (2020); Chris Morran & Daniel Petty, *What Private Equity Firms Are and How They Operate*, PROPUBLICA (Aug. 3, 2022, at 05:00 ET), <https://www.propublica.org/article/what-is-private-equity> [<https://perma.cc/7SYQ-EHRU>].

49. See generally Carolyn A. Carroll, Leonard V. Zumpano & Harold W. Elder, *Acquisitions of the 1980's: A Multiple Logit Analysis of Leveraged Buyout Candidates*, 24 REV. BUS. & ECON. RSCH. 20 (1998); Bengt Holmstrom & Steven N. Kaplan, *Corporate Governance and Merger Activity in the United States: Making Sense of the 1980s and 1990s*, 15 J. ECON. PERSP. 121 (2001).

50. Morran & Petty, *supra* note 48.

51. Erin C. Fuse Brown & Mark A. Hall, *Private Equity and the Corporatization of Health Care*, 76 STAN. L. REV. 527, 539–46 (2024). See generally Caitlin Henry & Jessa M. Loomis, *Healthcare as Asset: Private Equity Investment and the Changing Geographies of Care in the United States*, GEOFORUM, Nov. 2023, at 1; LAURA KATZ OLSON, ETHICALLY CHALLENGED: PRIVATE EQUITY STORMS U.S. HEALTH CARE (2022); Hitan Samtani, *It's a House, Not a Home: Inside the Commodification of Residential Real Estate*, REAL DEAL (Sep. 8, 2021, at 07:00 ET), <https://therealdeal.com/magazine/national-september-2021/its-a-house-not-a-home/> (on file with the *Fordham Law Review*); Heather Vogell, *When Private Equity Becomes Your Landlord*, PROPUBLICA (Feb. 7, 2022, at 10:25 ET), <https://www.propublica.org/article/when-private-equity-becomes-your-landlord> [<https://perma.cc/A4ZE-DMTF>].

52. Duncan Kennedy, *The Effect of the Warranty of Habitability on Low Income Housing: "Milking" and Class Violence*, 15 FLA. STATE U. L. REV. 485, 486 (1987).

way, emphasizing disclosure to potential investors but little else.⁵³ But the investors in hedge funds, venture capital, and private equity are a rarefied group. Activity in all three areas is overwhelmingly concentrated in a handful of behemoth private investment firms structured as limited partnerships and controlled by a small number of extremely wealthy individuals.⁵⁴ Becoming an investor requires a very substantial buy-in, and cashing out profits often does not seem to be the point. To be sure, some such investors have more public-spirited motivations—in recent decades, public institutional investors such as state pension funds have invested significantly in all three areas—and at least some venture capitalists and lawyers care deeply about both fostering productive innovation and installing responsible management.⁵⁵ But many participants in the rinse cycle and in the venture ecosystem are practicing wealth accumulation, pure and simple.

Meanwhile, the component strategies of the rinse cycle have brought oligarchs from different parts of Winters's conceptual map into closer contact and, perhaps, closer interest alignment with each other. In particular, the relatively unregulated U.S. venture capital arena has become a magnet for global investors ranging from very wealthy individuals to Middle Eastern sovereign wealth funds.⁵⁶ As the economic sociologist Brooke Harrington has documented, the networked, global wealth management industry also serves oligarchs (largely) without regard to their nationality or other classification.⁵⁷ The globalization of oligarchic wealth defense and offense, in turn, may alter the perception of common interest that has tended to tie civil and ruling oligarchs, in particular, to their societies and governance institutions. At least arguably, these developments are constituting a global class of apex predators whose perceptions of greater commonality with one another are increasingly strong. The question of perceived common interest

53. Wulf A. Kaal & Dale A. Oesterle, *Hedge Fund Regulation*, in HEDGE FUNDS: STRUCTURE, STRATEGIES, AND PERFORMANCE 359, 362–67 (H. Kent Baker & Greg Filbeck eds., 2017).

54. See generally David J. BenDaniel, Jesse E. Reyes & Michael R. D'Angelo, *Concentration in the Venture Capital Industry*, 3 J. PRIV. EQUITY 7 (2000); *Global Private Markets Report 2024: Private Markets in a Slower Era*, MCKINSEY & CO. (Mar. 28, 2024), <https://www.mckinsey.com/industries/private-capital/our-insights/global-private-markets-report-2024> [<https://perma.cc/EM55-GD42>]; David Dawkins, *Fundraising in Review: The Big Got Bigger, the Smaller Struggled*, PREQIN (Feb. 19, 2024), <https://www.preqin.com/insights/research/factsheets/fundraising-in-review-the-big-got-bigger-the-smaller-struggled> [<https://perma.cc/55AB-9GVG>]. See also John Hyatt, *These Four Billionaires Are Investing in a Startup Aimed at Making Them (and Others) Richer*, FORBES (Jan. 27, 2022, at 13:53 ET), <https://www.forbes.com/sites/johnhyatt/2022/01/27/these-four-billionaires-are-investing-in-a-startup-aimed-at-making-them-and-others-richer/> (on file with the *Fordham Law Review*).

55. For a comprehensive defense of the venture capital system encompassing both its technological and its economic effects, see generally SEBASTIAN MALLABY, *THE POWER LAW: VENTURE CAPITAL AND THE MAKING OF THE NEW FUTURE* (2022).

56. Drew Wilson, *A 5-Year Sector View of Global Limited Partner Co-Investments with Private Equity*, S&P GLOBAL (May 22, 2023), <https://www.spglobal.com/market-intelligence/en/news-insights/research/a-5-year-sector-view-of-global-limited-partner-co-investments-with-private-equity> [<https://perma.cc/669E-VQPR>].

57. HARRINGTON, *supra* note 36, at 233–67; BROOKE HARRINGTON, *OFFSHORE: STEALTH WEALTH AND THE NEW COLONIALISM* 15–57 (2024); see also GUARDIAN, *supra* note 36.

is particularly important where tech oligarchy is concerned, and I return to it in Part IV. First, however, I explore tech oligarchy's origins and signal characteristics.

B. L'infrastructure, C'est Moi

Like capitalists but to very different effect, oligarchs engage in institutional entrepreneurship to adapt governance structures for their own purposes. The venture capital sector has emerged as a focal point for such activity. One result is that, even as some companies emerging from the venture pipeline have become publicly traded, they have remained under the effective control of their founders. Those companies include most of today's dominant U.S.-based global tech platform firms. The astonishing power that those companies have amassed and that their leaders now wield—not just as capitalists but also, and more fundamentally, as oligarchs—necessitates some rethinking of Winters's taxonomy of core oligarchic types. In important ways, those individuals, whom I will call technology oligarchs, do not behave like civil oligarchs at all.

Consider a group of technology companies that have become household names: Google (and its parent holding company Alphabet Inc.). Amazon. Facebook (and its parent holding company Meta, also owner of Instagram and WhatsApp). Oracle. Apple. Microsoft (now part-owner of OpenAI). X Corp. (formerly Twitter) and SpaceX. Palantir. One especially notable characteristic of these companies is that—to an extent decidedly not true of leading firms in other fields—their founders and chief executive officers (CEOs) are household names as well: Sergey Brin, Larry Page, and Sundar Pichai, the cofounders and the current CEO of Google and Alphabet. Jeff Bezos of Amazon. Mark Zuckerberg of Facebook and Meta. Larry Ellison of Oracle. The late Steve Jobs and Tim Cook, the founder and the current CEO of Apple. Bill Gates, the late Paul Allen, and Satya Nadella, the cofounders and the current CEO of Microsoft. Sam Altman, a cofounder and the current CEO of OpenAI. Elon Musk, the current owner of X and founder of electronic vehicle pioneer Tesla, satellite company Starlink, AI company xAI, and commercial space pioneer SpaceX. Peter Thiel of Palantir.

With two notable exceptions, the firms listed above are alike in another very important way. They have used increasingly sophisticated corporate governance strategies to reserve ongoing control to their “founding innovators.” Initially, some tech startups simply structured their initial public offerings (IPOs) to give their founders majority ownership. Microsoft and Oracle fell into this category (one of the exceptions, Apple, whose founders had already diluted their ownership stakes during rounds of pre-IPO fundraising, did not).⁵⁸ Some newer platform startups, notably including

58. Nathan Reiff, *Top Microsoft Shareholders*, INVESTOPEDIA (Sep. 16, 2024), <https://www.investopedia.com/articles/investing/122215/top-4-microsoft-shareholders.asp> [<https://perma.cc/AP8R-XCSJ>]; Andrew Bary, *A Key to Larry Ellison's Wealth Creation: Years of Oracle Stock Buybacks*, BARRON'S (Sep. 10, 2025, at 14:56 ET), <https://www.barrons.com/articles/oracle-stock-larry-ellison-buybacks-f700429e> (on file with the *Fordham*

Amazon, also have elected this approach.⁵⁹ When Musk acquired then-Twitter, he inherited a single-class ownership structure (in which he became the majority owner), but he has subsequently diluted minority investors' power via a stock-for-stock merger with xAI, in which his majority ownership stake is even larger.⁶⁰

In recent decades, however, many tech IPOs have used a dual-class stock ownership structure that has allowed their founders to retain more than 50 percent voting control of the publicly traded entity even while owning a smaller fraction of the firm's overall equity. Originally developed by corporate lawyers as a transitional strategy for closely held firms operating in specialized industries (such as publishing) and wishing to access the resources of capital markets, the two-tier structure was repurposed in the 1980s as a defense strategy against hostile takeover bids by private equity-funded outsiders and then again around the turn of the twenty-first century as a way to enable continuing control of tech startups by founding innovators and (in some cases) venture investors.⁶¹ Today it operates principally as a legal strategy for converting the fruits of premarket startup activities into durable personal control of publicly traded entities operating in high technology fields.⁶² It is an effective strategy; firms such as Google, Facebook, and Palantir have remained securely in their founders' pockets.⁶³

Law Review); Christoph Dernbach, *How the Founders of Apple Got Rich*, MAC HIST. (Jan. 30, 2020), <https://mac-history.net/2020/01/30/how-the-founders-of-apple-got-rich/> [https://perma.cc/2XGK-CST4].

59. Amazon.com, Inc., Prospectus Filed Pursuant to Rule 424(b)(1) (Form 424B1) (May 15, 1997); Howard Berkower, *March to the Beat of Your Own Drummer: Amazon's Executive Compensation Practices*, HARV. L. SCH. F. ON CORP. GOVERNANCE (May 9, 2021), <https://corpgov.law.harvard.edu/2021/05/09/march-to-the-beat-of-your-own-drummer-amazons-executive-compensation-practices/> [https://perma.cc/E658-CC6K].

60. Sonia Boolchandani, *The Hidden Reason Elon Musk Merged X and xAI and Why It Changes Everything*, VESTED (Apr. 2, 2025), <https://vestedfinance.com/blog/us-stocks/the-hidden-reason-elon-musk-merged-x-and-xai-and-why-it-changes-everything/> [https://perma.cc/TRB3-QNLM]; see also Matt Hopkins & William Lazonick, *Musk and Tesla: Compensation or Control?*, INST. FOR NEW ECON. THINKING (June 18, 2024), <https://www.ineconomics.org/perspectives/blog/musk-and-tesla-compensation-or-control> [https://perma.cc/PP23-ZXXZ].

61. Blair Nicholas & Brandon Marsh, *Dual Class: The Consequences of Depriving Institutional Investors of Corporate Voting Rights*, HARV. L. SCH. F. ON CORP. GOVERNANCE (May 17, 2017), <https://corpgov.law.harvard.edu/2017/05/17/dual-class-the-consequences-of-depriving-institutional-investors-of-corporate-voting-rights/> [https://perma.cc/JHJ6-E7BW]; Jill E. Fisch & Steven Davidoff Solomon, *Dual Class Stock* (Univ. of Pa. Inst. for L. & Econ. Rsch., Working Paper No. 23-21, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4436331 [https://perma.cc/FUY2-7F7M]; Dhruv Aggarwal, Ofer Eldar, Yael V. Hochberg & Lubomir P. Litov, *The Rise of Dual-Class Stock IPOs* (J. Fin. Econ., Eur. Corp. Governance Inst.—Finance Working Paper No. 806/2021, 2022), <https://dx.doi.org/10.2139/ssrn.3690670> [https://perma.cc/RJZ9-MUGZ].

62. See generally Aggarwal et al., *supra* note 61.

63. Emily Chasan, *Google's Multi-Class Stock Structure Made Alphabet Move Unique*, WALL ST. J. (Aug. 12, 2015, at 16:49 ET), <https://wsj.com/articles/BL-CFOB-8866> (on file with the *Fordham Law Review*); Emily Stewart, *Mark Zuckerberg Is Essentially Untouchable at Facebook*, VOX (Dec. 19, 2018, at 11:19 ET), <https://vox.com/technology/2018/11/19/18099011/mark-zuckerberg-facebook-stock-nyt-wsj/> (on file with the *Fordham Law Review*). Palantir's three founders together own a third tier of stock that guarantees them control of

SpaceX, which remains privately owned, has a dual-tier structure for investor buy-in that similarly permits Musk to retain effective control.⁶⁴ The other exception, OpenAI, is controlled by an independent board, but questions remain about whether its increasingly complex structure represents a transition to some other ownership structure and about the extent of Altman's financial interest.⁶⁵ More recently still, two dominant tech platform firms (Google and Facebook) have restructured using the holding company—which first rose to prominence as a monopolization device in the United States during the Gilded Age—as a device for owning controlling interests in multiple, interrelated operations. Those tech platform holding companies (Alphabet and Meta) also employ the dual-class ownership structure.⁶⁶

To be clear, dual-class ownership is not a hard-and-fast recipe for global dominance; many high technology ventures fail, and as just noted, some of today's dominant firms have different ownership structures. Effective current control of a giant tech platform company also is not a hard-and-fast requirement for membership in the technology oligarchs' club. By most accounts, that club also includes former tech entrepreneur Marc Andreessen, who founded and sold three highly successful internet search startups in the early years of the digital era and now wields dominant power within the venture capital ecosystem.⁶⁷

For high tech ventures that succeed, however, and especially for the dominant tech platform firms, the dual-class ownership structure has thrown a wrench into conventional understandings of corporate governance. The traditional bargain—increased scale in exchange for increased accountability—no longer holds. Dominant tech platform companies seem to make more than the usual number of questionable decisions, engaging in some behaviors that any competent counsel would flag as clearly illegal and others that are, to put it politely, inexplicable from a business standpoint.⁶⁸

49.99 percent of the company's voting shares. Lizette Chapman, *Palantir's Peter Thiel Keeps Control While Keeping Invisible*, L.A. TIMES (Sep. 29, 2020, at 15:36 PT), <https://www.latimes.com/business/technology/story/2020-09-29/palantirs-peter-thiel-keeps-control-while-keeping-invisible> (on file with the *Fordham Law Review*).

64. Jason Bush, *Guide to SpaceX Stock: Backdoor Ways to Profit from Space Exploration*, CHART GUYS (Feb. 9, 2025), <https://www.chartguys.com/articles/guide-to-spacex-stock> [<https://perma.cc/K7FL-JY95>].

65. Cade Metz, *OpenAI Backtracks on Plans to Drop Nonprofit Control*, N.Y. TIMES (May 5, 2025), <https://nytimes.com/2025/05/05/technology/openai-nonprofit.html> (on file with the *Fordham Law Review*); *Restructuring Concerns*, THE OPENAI FILES, <https://www.openaifiles.org/restructuring> [<https://perma.cc/MX93-B6QY>] (last visited Aug. 27, 2025).

66. Gregory H. Shill, *The Social Costs (and Benefits) of Dual-Class Stock*, 75 ALA. L. REV. 221, 223–24 & nn.3–5 (2023). See generally Naomi R. Lamoreaux, *Antimonopoly and State Regulation of Corporations in the Gilded Age and Progressive Era*, in *ANTIMONOPOLY AND AMERICAN DEMOCRACY* 119 (Daniel A. Crane & William J. Novak eds., 2023).

67. Marc Andreessen, ANDREESSEN HOROWITZ, <https://a16z.com/author/marc-andreessen/> [<https://perma.cc/4GYA-V29B>] (last visited Aug. 13, 2025); Marc Andreessen, ENCYCLOPEDIA BRITANNICA (July 23, 2025), <https://www.britannica.com/biography/Marc-Andreessen> [<https://perma.cc/4XZF-PNS2>].

68. See KATE CONGER & RYAN MAC, CHARACTER LIMIT: HOW ELON MUSK DESTROYED TWITTER (2024); Cat Zakrzewski, Joseph Menn & Naomi Nix, *Twitter Dissolves Trust and*

When the companies in question are publicly traded, the public securities markets do not always punish them in the ways one otherwise might expect, and shareholders remain largely passive. Commentators have flagged the unaccountability of much tech firm decision-making and puzzled over the durability of the arrangements that facilitate it.⁶⁹

A partial explanation for the governance dilemma, to which I will return in Part II.C below, is that due to the dual-class ownership structure and the control it reserves to founders and funders, corporate choices are personal choices. Second-tier shareholders recognize their own powerlessness but are generally content with the profits that they accrue. Venture investors, who might have power to change the rules for new startups, see little to complain about—and, as noted above, the venture investors in question are often the very same individuals who benefit from the current arrangements.

These developments on the corporate governance front have coincided with and helped to propel a seismic sociotechnical shift. The architectures and services provided by dominant tech platform firms have become essential *infrastructures* for an increasingly wide variety of computing, communication, and control-based functions that now underlie and infuse

Safety Council, WASH. POST (Dec. 12, 2022), <https://www.washingtonpost.com/technology/2022/12/12/musk-twitter-harass-yoel-roth/> (on file with the *Fordham Law Review*); Ed Zitron, *RIP Metaverse*, BUS. INSIDER (May 8, 2023, at 06:02 ET), <https://www.businessinsider.com/metaverse-dead-obituary-facebook-mark-zuckerberg-tech-fad-ai-chatgpt-2023-5/> [<https://perma.cc/L6S8-ALXY>]; Daniel J. Weitzner, *How Cambridge Analytica, Facebook and Other Privacy Abuses Could Have Been Prevented*, LAWFARE (Apr. 4, 2018, at 07:00 ET), <https://www.lawfaremedia.org/article/how-cambridge-analytica-facebook-and-other-privacy-abuses-could-have-been-prevented> [<https://perma.cc/ME6J-FEJG>]; David C. Vladeck, *Facebook, Cambridge Analytica, and the Regulator's Dilemma: Clueless or Venal?*, HARV. L. REV. BLOG (Apr. 4, 2018), <https://harvardlawreview.org/blog/2018/04/facebook-cambridge-analytica-and-the-regulators-dilemma-clueless-or-venal/> [<https://perma.cc/22RB-TNM3>]; Jonathan Stempel, *Google Settles \$5 Billion Consumer Privacy Lawsuit*, REUTERS (Dec. 29, 2023, at 10:35 ET), <https://www.reuters.com/legal/google-settles-5-billion-consumer-privacy-lawsuit-2023-12-28/> (on file with the *Fordham Law Review*); Daisuke Wakabayashi & Cade Metz, *Another Firing Among Google's A.I. Brain Trust, and More Discord*, N.Y. TIMES (May 2, 2022), <https://www.nytimes.com/2022/05/02/technology/google-fires-ai-researchers.html> (on file with the *Fordham Law Review*); Paresh Dave, *Google Violated U.S. Labour Laws in Clampdown on Worker Organising, Regulator Says*, REUTERS (Dec. 2, 2020, at 22:17 ET), <https://www.reuters.com/article/business/google-violated-us-labour-laws-in-clampdown-on-worker-organising-regulator-sa-idUSKBN28D0C2/> (on file with the *Fordham Law Review*); Will Evans, *Inside Amazon's Failures to Protect Your Data: Internal Voyeurs, Bribery Scandals and Backdoor Schemes*, REVEAL NEWS (Nov. 18, 2021), <https://revealnews.org/article/inside-amazons-failures-to-protect-your-data-internal-voyeurs-bribery-schemes-and-backdoor-access/> [<https://perma.cc/LR9F-CHXY>]; Jack McCordick, *Inside the Brutal Business Practices of Amazon—and How It Became “Too Toxic to Touch”*, VANITY FAIR (Apr. 23, 2024), <https://www.vanityfair.com/news/story/inside-amazon-business-practices/> (on file with the *Fordham Law Review*); Michael Sainato, *They're More Concerned About Profit': OSHA, DOJ Take on Amazon's Grueling Working Conditions*, GUARDIAN (Mar. 2, 2023, at 02:00 ET), <https://www.theguardian.com/technology/2023/mar/02/amazon-safety-citations-osha-department-of-justice/> [<https://perma.cc/XX2X-J8A2>].

69. See, e.g., Zohar Goshen & Assaf Hamdani, *Corporate Control and Idiosyncratic Vision*, 125 YALE L.J. 560 (2016); Lindsay Sain Jones & Tim. R. Samples, *On the Systemic Importance of Digital Platforms*, 25 U. PA. J. BUS. L. 141, 175–77 (2023). See generally Renee Jones, *The Unicorn Governance Trap*, 166 U. PA. L. REV. ONLINE 165 (2017); Shill, *supra* note 66.

every conceivable domain of human and social activity. Infrastructures, as the name suggests, “do not simply facilitate individual and social activities but also shape them by virtue of the affordances and constraints that they incorporate and continually reinscribe.”⁷⁰ As one influential group of scholars has put it, infrastructures “articulate social relations to make a variety of social, institutional, and material things (im)possible.”⁷¹ The architectures and services provided by the dominant tech platform firms perform this articulation on a global scale.

The men who wield controlling interests in the dominant tech platform companies are not simply titans of industry; they are, in every way that counts, oligarchs—and they are oligarchs who wield unprecedented power over the conditions of economic, social, and political interaction. They increasingly top lists of the wealthiest people in the world, and their wealth is, in Winters’s words, “unusually resistant to dispersion.”⁷² Unlike the Gilded Age tycoons to whom they are frequently compared, they wield a type of power that is multidimensional, combining de facto control of programmable infrastructures for computing, communication, and control with highly granular, continually replenished data about the economic, social, and political activities that rely on those infrastructures. They provide enterprise software and cloud storage for government agencies, multinational companies, educational institutions, media entities, and civil society organizations. They shape flows of goods, services, information, and public discourse. They can tank economies, sway elections, and sow chaos. The scope of their power over ongoing technological development is equally profound. Both personally and via their corporate alter egos, technology oligarchs play increasingly dominant roles in the venture capital system, acquiring startups in areas they view as promising before they can become (or be acquired by) competitors.⁷³ Last but not least, and also unlike the Gilded Age tycoons, technology oligarchs’ power over the conditions of economic, social, and political interaction extends across the globe, producing consequences that are impossible for their millions or sometimes billions of users to avoid.⁷⁴

Returning to Winters’s taxonomy of oligarchic modes, technology oligarchs present something of a puzzle. They remain, in some ways, civil oligarchs: they convene board meetings, file corporate disclosures, file flight plans for their personal jets, and so on. They pay taxes, after a fashion. They do not maintain standing personal armies.⁷⁵ But the scaled-up, data-driven

70. Julie E. Cohen, *Infrastructuring the Digital Public Sphere*, 25 *YALE J.L. & TECH.* 1, 15 (2023).

71. Nikhil Anand, Akhil Gupta & Hannah Appel, *Introduction: Temporality, Politics, and the Promise of Infrastructure*, in *THE PROMISE OF INFRASTRUCTURE* 1, 4 (Nikhil Anand, Akhil Gupta & Hannah Appel eds., 2018).

72. WINTERS, *supra* note 15, at 4.

73. See sources cited *supra* note 44.

74. See WINTERS, *supra* note 15, at 4.

75. But see Kirsten Grind & Jack Ewing, *Inside Elon Musk’s Mushrooming Security Apparatus*, *N.Y. TIMES* (Sep. 13, 2024), <https://www.nytimes.com/2024/09/13/technology/elon-musk-security.html> (on file with the *Fordham Law Review*).

infrastructures that the dual-class ownership device has enabled them to construct and control are, in another important sense, personal sultanates of their founding innovators. On important questions of strategy, the dominant tech platform firms act as their founding innovators decree. Yet technology oligarchs (or most of them, at any rate) also seem a bit more concerned with rules and institutions than the prototypical petty despot. To take two examples, they have acquiesced in the creation of elaborate operations for content moderation and participate in several high-profile, joint efforts to remove certain, especially troubling kinds of content.⁷⁶ Under other circumstances, this might signal a shift toward the ruling oligarchy mindset that Winters situates in opposition to sultanistic control; unlike sultans, ruling oligarchs are, after their own fashion, deeply concerned with institutions and accountable governance.⁷⁷ Nor would such characterization rule out occasional hostilities; ruling oligarchs have also been known to kneecap one another from time to time.⁷⁸ As many capable critics have documented, however, and as the next section will discuss, tech oligarchs' concern for public accountability stretches only so far.

Technology oligarchs, in short, seem to be enacting hybrid modes of oligarchic wealth defense and offense that blend elements of three of Winters's four categories. They do so, moreover, on a global playing field. As we will see next, this helps to explain why the relationships between technology platform companies and sovereign states are increasingly fraught and contested.

C. Impunity and Its Discontents

As many observers have remarked, the dominant tech platform companies have unusual and highly fraught relationships with states. Giant

76. On the former, see Daphne Keller & Paddy Leerssen, *Facts and Where to Find Them: Empirical Research on Internet Platforms and Content Moderation*, in SOCIAL MEDIA AND DEMOCRACY 220 (Nathaniel Persily & Jonathan Tucker eds., 2020); Nicolas Suzor, *Understanding Content Moderation Systems: New Methods to Understand Internet Governance at Scale, Over Time, and Across Platforms*, in COMPUTATIONAL LEGAL STUDIES 168 (Ryan Whalen ed., 2020). *But see* NORA BENAVIDEZ, FREE PRESS, BIG TECH BACKSLIDE: HOW SOCIAL-MEDIA ROLIBACKS ENDANGER DEMOCRACY AHEAD OF THE 2024 ELECTIONS (Dec. 2023), https://www.freepress.net/sites/default/files/2023-12/free_press_report_big_tech_backslide.pdf [<https://perma.cc/4MPT-86ZA>]. On the latter, see generally SHELBY GROSSMAN ET AL., THE STRENGTHS AND WEAKNESSES OF THE ONLINE CHILD SAFETY ECOSYSTEM, STAN. INTERNET OBSERVATORY (2024), <https://purl.stanford.edu/pr592kc5483> [<https://perma.cc/AP7G-YPNW>]; *Technical Products*, GLOB. INTERNET F. TO COUNTER TERRORISM, <https://gifct.org/tech/> [<https://perma.cc/27NA-SPYM>] (last visited Aug. 24, 2025).

77. WINTERS, *supra* note 15, at 35.

78. *Id.* (citing medieval Italian city-states and modern-day mafia organizations as examples); see, e.g., Sara Morrison, *The Winners and Losers of Apple's Anti-Tracking Feature*, VOX (Apr. 29, 2022, at 08:00 ET), <https://www.vox.com/recode/23045136/apple-app-tracking-transparency-privacy-ads> (on file with the *Fordham Law Review*); Kate O'Flaherty, *Apple Issues Stunning New Blow to Facebook as Google Joins the Battle*, FORBES (Apr. 14, 2022, at 06:30 ET), <https://www.forbes.com/sites/kateoflahertyuk/2022/02/19/apple-issues-stunning-new-blow-to-facebook-as-google-joins-the-battle/> (on file with the *Fordham Law Review*).

multinational companies are not new, but tech platform companies conduct themselves with an outsized sense of entitlement, skirting the reach of many laws and regulations and simply flouting others. In part, these firms' de facto impunity results from the fact that they wield new kinds of informational and infrastructural power that present novel regulatory challenges. States are also unusually dependent on the services that tech platform companies supply—including not only capabilities for pervasive surveillance but also more mundane kinds of operational support—and such dependence sets the stage for behind-the-scenes bargaining and enforcement forbearance. Those explanations, though, take us only so far. In previous eras, regulatory countermovements following periods of economic transformation have eventually produced corporate acquiescence, more or less, to new legal realities.⁷⁹ The account of tech oligarchy developed above helps considerably to fill the gap.

The challenges confronting global tech platform companies are in some senses unique. Operating simultaneously within many different political economies and political systems, such companies routinely find themselves subject to competing and irreconcilable sovereign demands.⁸⁰ One might argue, then, that they are simply doing their best. Some commentators take this position. In particular, those who view global tech platform companies as free speech actors first and foremost and/or who view the open internet as a normative good that outweighs all other goals one might hope to achieve via regulation of technology companies argue that the companies are right to resist regulatory demands that would entail (more) embedded censorship, surveillance, and/or internet balkanization.⁸¹

Dominant tech platform companies, however, are also uniquely positioned to comply with regulatory demands even when those demands are burdensome or when they require different approaches in different jurisdictions. To name just a few such demands, copyright takedowns,

79. Acquiescence may, of course, be followed by sustained periods of legal and institutional entrepreneurship designed to regain the upper hand for extractive activities and enterprises. *See generally* MORTON J. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW, 1870-1960: THE CRISIS OF LEGAL ORTHODOXY* (1992); THOMAS O. MCGARITY, *FREEDOM TO HARM: THE LASTING LEGACY OF THE LAISSEZ FAIRE REVIVAL* (2013); QUINN SLOBODIAN, *GLOBALISTS: THE END OF EMPIRE AND THE BIRTH OF NEOLIBERALISM* (2018). My point is that such efforts are far more adaptive than corresponding responses by oligarchs and that, if one is trying to understand the behavior of powerful private entities and achieve more effective enforcement of public mandates, the difference matters.

80. *See generally* BRADFORD, *supra* note 3.

81. *See, e.g.*, Chander, *supra* note 5; Chander & Lê, *supra* note 5; Eric Goldman & Jess Miers, *Why Can't Internet Companies Stop Awful Content?*, *ARS TECHNICA* (Nov. 27, 2019, at 08:45 ET), <https://arstechnica.com/tech-policy/2019/11/why-cant-internet-companies-stop-awful-content/> [<https://perma.cc/4MX4-Y9FS>]; Daphne Keller, *Lawful but Awful?: Control Over Legal Speech by Platforms, Governments, and Internet Users*, *U. CHI. L. REV. ONLINE* (June 28, 2022), <https://lawreviewblog.uchicago.edu/2022/06/28/keller-control-over-speech/> [<https://perma.cc/RTA8-9HG7>]; Daphne Keller, *Amplification and Its Discontents: Why Regulating the Reach of Online Content Is Hard*, *KNIGHT FIRST AMEND. INST.* (June 8, 2021), <https://knightcolumbia.org/content/amplification-and-its-discontents> [<https://perma.cc/R3VN-3ARZ>].

removals of unlawful content, data protection compliance operations, and data production in response to law enforcement and national security requests each necessitate complex, costly internal bureaucracies.⁸² Dominant tech platform firms, however, command access to vast pools of talent, vast stores of compute, and vast cash reserves. One might reasonably conclude, as many other commentators do, that with great power comes great responsibility.⁸³

What is striking, then, is not simply the fact that tech platform companies often choose, instead, to violate national laws but rather the way they go about violating them. Both the companies and their leaders practice routine and flamboyant defiance. The attitude is encapsulated in slogans that have become both Silicon Valley mantras and more widely celebrated cultural touchstones: “Move fast and break things.” “Ask forgiveness, not permission.” It encompasses everything from performative, neutered compliance operations to deliberate defiance of enforcement orders issued by regulators and courts to the systematic pursuit of so-called “reg-neg” strategies designed to undermine the state’s ability to exercise oversight authority over particular activities and industries.⁸⁴

Such behaviors are easier to explain (though not to justify) if one pays attention to all the ways in which tech platform company leaders are not like ordinary corporate leaders. Recall that, for many practical purposes, dealing with tech platform companies amounts to dealing with their founding and/or currently controlling oligarchs. In particular, because of the way the dual-class governance structure intersects with other longstanding doctrines relating to the accountability of (ordinary) corporate leaders, legal constraints on the choices of technology oligarchs who control such firms are few and far between. The dual-class structure mostly insulates them against shareholder calls for their removal and renders them correspondingly impervious to oversight by their boards of directors. Meanwhile, in the United States, corporate officers generally are not personally accountable for torts and civil regulatory violations committed by their companies. Fines for the companies do not routinely translate into personal liability for corporate

82. See generally Hannah Bloch-Wehba, *Content Moderation as Surveillance*, 36 BERKELEY TECH. L.J. 1297 (2022); evelyn douek, *Content Moderation as Systems Thinking*, 136 HARV. L. REV. 526 (2022); Yan Fang, *Internet Technology Companies as Evidence Intermediaries*, 110 VA. L. REV. 1227 (2024); Maayan Perel & Niva Elkin-Koren, *Accountability in Algorithmic Copyright Enforcement*, 19 STAN. TECH. L. REV. 473 (2016); WALDMAN, *supra* note 35, at 130–48.

83. See generally Jack M. Balkin, *To Reform Social Media, Reform Informational Capitalism*, in SOCIAL MEDIA, FREEDOM OF SPEECH AND THE FUTURE OF OUR DEMOCRACY 233 (Lee Bollinger & Geoffrey R. Stone eds., 2022); Danielle Keats Citron & Benjamin Wittes, *The Internet Will Not Break: Denying Bad Samaritans Section 230 Immunity*, 86 FORDHAM L. REV. 401 (2017); Neil M. Richards & Woodrow Hartzog, *A Duty of Loyalty for Privacy Law*, 99 WASH. U. L. REV. 961 (2021); SCHAAKE, *supra* note 3.

84. On performative compliance, see COHEN, *supra* note 3, at 135–36; WALDMAN, *supra* note 35, at 211–29. On defiance of enforcement orders, see Vladeck, *supra* note 68; European Commission Press Release IP/24/1689, Commission Opens Non-Compliance Investigations Against Alphabet, Apple and Meta Under the Digital Markets Act (Mar. 25, 2024). On reg-neg strategies, see generally Elizabeth Pollman & Jordan M. Barry, *Regulatory Entrepreneurship*, 90 S. CAL. L. REV. 383 (2017).

officers, and officers rarely incur other restrictions or obligations.⁸⁵ A doctrine allowing criminal prosecution of senior corporate officers for systemic corporate malfeasance has rarely been applied in digital technology contexts.⁸⁶ This arrangement of obligations and immunities may or may not make sense generally, but it was instituted when giant tech platform firms with dual-class governance structures did not exist. Tech platform companies also benefit from another kind of exceptionalism: broad statutory immunity from liability for harms caused by information provided by users of their services, which renders them mostly impervious to private claims for damages.⁸⁷

On the increasingly frequent occasions when they are thrust involuntarily into the spotlight and called to account by governments in Europe and (until recently) in the United States for the misdeeds of their corporate alter egos, tech platform company CEOs also do not behave like ordinary corporate leaders. Invited to summits at the White House or in Brussels, they have accepted but also maintained strategic distance, taking care to position their enterprises as separate and coequal sovereigns.⁸⁸ When called before

85. Two notable exceptions prove the rule. *See* Stipulated Order for Civil Penalty, Monetary Judgment, and Injunctive Relief, *In re* Facebook, Inc., No. 19-cv-2184 (D.D.C. July 24, 2019) (requiring establishment of new independent privacy committee selected by and reporting to the board of directors and quarterly certifications by both compliance officers and CEO Mark Zuckerberg); Dissenting Statement of Commissioner Rohit Chopra, FTC File No. 1823109 (July 24, 2019) (describing Zuckerberg's power and arguing that it remains undiminished); Press Release, U.S. Fed. Trade Comm'n, FTC Proposes Blanket Prohibition Preventing Facebook from Monetizing Youth Data (May 3, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-proposes-blanket-prohibition-preventing-facebook-monetizing-youth-data> [<https://perma.cc/2SS7-3TF8>] (alleging repeated violations of the earlier order); Decision and Order, *In re* Drizly, LLC, No. C-4780 (F.T.C. Jan. 10, 2023) (imposing data security compliance requirements on both the company and its CEO).

86. *See generally* Samuel W. Buell, *The Responsibility Gap in Corporate Crime*, 12 CRIM. L. & PHIL. 471 (2018); Kimberly Kessler Ferzan, *Probing the Depths of the Responsible Corporate Officer's Duty*, 12 CRIM. L. & PHIL. 455 (2018); Michael W. Peregrine, *The "Responsible Corporate Officer Doctrine" Survives to Perplex Corporate Boards*, HARV. L. SCH. F. ON CORP. GOVERNANCE (July 5, 2017), <https://corpgov.law.harvard.edu/2017/07/05/the-responsible-corporate-officer-doctrine-survives-to-perplex-corporate-boards/> [<https://perma.cc/2NKS-8ZDH>].

87. 47 U.S.C. § 230(c); *see* COHEN, *supra* note 3, at 97–101; Citron & Wittes, *supra* note 83.

88. Tony Romm, *Zuckerberg, Tech Execs Meet Obama*, POLITICO (Mar. 21, 2014, at 19:28 ET), <https://www.politico.com/story/2014/03/mark-zuckerberg-barack-obama-tech-ceos-nsa-104907> [<https://perma.cc/4Y4G-SBL6>]; Nancy Scola & Steven Overly, *Tech CEOs Descend on White House to Talk Fixing Federal IT*, POLITICO (June 19, 2017, at 19:58 ET), <https://www.politico.com/story/2017/06/19/white-house-technology-ceo-meeting-239708> [<https://perma.cc/W8CX-3VAB>]; Adam Satariano, *Silicon Valley Heads to Europe, Nervous About New Rules*, N.Y. TIMES (Feb. 16, 2020), <https://www.nytimes.com/2020/02/16/technology/europe-new-AI-tech-regulations.html> (on file with the *Fordham Law Review*); *EU Antitrust Chief Meets Apple, Alphabet, and Qualcomm Chiefs*, REUTERS (Jan. 12, 2024, at 16:49 ET), <https://www.reuters.com/technology/eu-antitrust-chief-meets-apple-alphabet-qualcomm-chiefs-2024-01-12/> (on file with the *Fordham Law Review*); Matt Egan, *Mr ChatGPT and Other AI Power Players Are Going to the White House to Discuss AI's Massive Thirst for Energy*, CNN BUS. (Sep. 12, 2024, at 09:11 ET), <https://www.cnn.com/2024/09/12/tech/ai-chatgpt-white-house-power-energy/index.html> [<https://perma.cc/EA39-U97N>]; *see also* Rahul Bhatia, *The Inside Story of Facebook's Biggest Setback*, GUARDIAN (May 16, 2016, at

Congress to answer for perceived ethical violations or to opine on possible responses to technology-generated risks and harms, tech oligarchs have postured and deflected.⁸⁹ When informed that regulation is imminent and cannot be avoided, they have resorted to mass messaging in an attempt to stoke populist anger.⁹⁰ When confronted with inconvenient facts or with opinions they dislike, they have used their power over the conditions of networked communication to suppress them.⁹¹

01:00 ET), <https://www.theguardian.com/technology/2016/may/12/facebook-free-basics-india-zuckerberg> [<https://perma.cc/469M-3CSV>].

89. See Jessi Hempel, *Mark Zuckerberg Is Sorry—Again*, WIRED (Apr. 9, 2018, at 16:42 ET), <https://www.wired.com/gallery/mark-zuckerberg-apology-history/> [<https://perma.cc/T2AT-948D>]; Jessi Hempel, *Congress Is Unearthing Facebook’s Terrible Power*, WIRED (Apr. 11, 2018, at 13:52 ET), <https://www.wired.com/story/congress-is-unearting-facebooks-terrible-power/> [<https://perma.cc/3G5K-6CDS>]; Geoffrey A. Fowler, *The 5 Biggest Little Lies Tech CEOs Told Congress—and Us*, WASH. POST (July 29, 2020), <https://www.washingtonpost.com/technology/2020/07/29/big-tech-ceo-hearing-lies/> (on file with the *Fordham Law Review*); Tony Romm, Robin Givhan, Cat Zakrzewski, Reed Albergotti, Jay Greene, Elizabeth Dvoskin, Rachel Learman & Heather Kelly, *Amazon, Apple, Facebook, and Google Grilled on Capitol Hill Over Their Market Power*, WASH. POST (July 29, 2020, at 18:55 ET), <https://www.washingtonpost.com/technology/2020/07/29/apple-google-facebook-amazon-congress-hearing/> (on file with the *Fordham Law Review*).

90. See William McGeeveran, *In Defeat of SOPA and PIPA, Washington Learns Not to Meddle with ‘West Coast Code’ (and Technology Advocates Learn the Public Is with Them)*, POLITICO (Jan. 20, 2012, at 17:35 ET), <https://www.politico.com/media/story/2012/01/indefeat-of-sopa-and-pipa-washington-learns-not-to-meddle-with-west-coast-code-and-technology-advocates-learn-the-public-is-with-them-000168/> [<https://perma.cc/92G7-NUQN>]; Rosalind S. Helderan, *Uber Pressures Regulators by Mobilizing Riders and Hiring Vast Lobbying Network*, WASH. POST (Dec. 13, 2014), https://www.washingtonpost.com/politics/uber-p pressures-regulators-by-mobilizing-riders-and-hiring-vast-lobbying-network/2014/12/13/3f4395c6-7f2a-11e4-9f38-95a187e4c1f7_story.html (on file with the *Fordham Law Review*); Heather Somerville, *Airbnb to Create 100 Clubs to Advocate for Home-Sharing*, REUTERS (Nov. 4, 2015, at 19:11 ET), www.reuters.com/article/us-airbnb-sanfrancisco-idUSKCN0ST2RL20151105 (on file with the *Fordham Law Review*); Bhatia, *supra* note 88; Cecilia King, *See How Tech Companies Got Together for a Day of Online Protest*, N.Y. TIMES (July 12, 2017), <https://www.nytimes.com/2017/07/12/technology/see-how-tech-companies-got-together-for-a-day-of-online-protest.html> (on file with the *Fordham Law Review*); John D. McKinnon, *Tech Companies Make Final Push to Head Off Tougher Regulation*, WALL ST. J. (Dec. 19, 2022, at 05:30 ET), <https://www.wsj.com/articles/tech-companies-make-final-push-to-head-off-tougher-regulation-11671401283> (on file with the *Fordham Law Review*); Felicity Lawrence & Jon Henley, “Violence Guarantees Success”: *How Uber Exploited Taxi Protests*, GUARDIAN (July 10, 2022, at 12:00 ET), <https://www.theguardian.com/news/2022/jul/10/violence-guarantees-success-how-uber-exploited-taxi-protests> [<https://perma.cc/2YZ4-XS2Y>]; Konrad Putzier & Allison Pohle, *Airbnb’s Secret Weapon to Fight State Laws: Its Hosts*, WALL ST. J. (June 3, 2024, at 05:30 ET), <https://www.wsj.com/real-estate/airbnb-expedia-hosts-local-law-1aeed43c> (on file with the *Fordham Law Review*).

91. Bhatia, *supra* note 88; Timothy Karr, *Elon Musk Is Absolutely an Enemy of Free Speech*, FREE PRESS (July 31, 2023), <https://www.freepress.net/blog/elon-musk-absolutely-enemy-free-speech> [<https://perma.cc/E3GB-9Q3V>]; Kari Paul, *TechScape: Are Social Media Giants Silencing Online Content?*, GUARDIAN (Nov. 21, 2023, at 07:37 ET), <https://www.theguardian.com/technology/2023/nov/21/techscape-israel-gaza-war-social-media-content-censorship> [<https://perma.cc/DJ2Q-8GYC>]; Trisha Thadani, Will Oremus & Eva Dou, *X Suspends ‘White Dudes for Harris’ Account After Massive Fundraiser*, WASH. POST (July 31, 2024), <https://www.washingtonpost.com/technology/2024/07/30/white-dudes-harris-suspend-ed-x-twitter/> (on file with the *Fordham Law Review*); Allison Morrow, *Almost Anything Goes on Social Media—as Long as It Doesn’t Make Billionaires Feel Even a Little Bit Unsafe*, CNN

In short, technology oligarchs behave more like authoritarian dictators than traditional titans of industry; they make clear that they do not consider themselves to be either role models bound by a shared understanding of the responsibility that comes with privilege or fellow citizens bound by a shared social compact. This point may seem obvious or trifling, but it is enormously important. Whereas powerful capitalists historically have been readier to acquiesce in legislated course corrections at important junctures, accurately pegging such corrections as essential to the continued stability of a common enterprise, oligarchs are more volatile.⁹² Winters links oligarchy to armed violence in countries such as Brazil and Chile that have made direct efforts to dismantle oligarchic power.⁹³ Technology oligarchs have seemed far less likely to resort directly to armed violence for a host of reasons, the most important of which may simply be that they are nerds whose weapons of choice are words, ideas, and executable code.⁹⁴ They have not, however, hesitated to use all of the weapons at their disposal when resisting state demands. And those weapons—which include the power to direct flows of information, ideas, goods, and people—have proved powerful indeed.

Technology oligarchs also differ from ordinary corporate leaders in a third way that is important for our story: they fancy themselves misunderstood idealists, devoted to improving the human condition via the inevitable forward march of technological progress. At least some additionally view themselves as humanitarians in a narrower and more specific sense. A philosophical movement known as Effective Altruism (EA), which commands widespread adherence in Silicon Valley, advocates allocating resources in ways impartially calculated to achieve the greatest level of long-term, positive impact.⁹⁵ According to this way of thinking, funds

BUS. (Oct. 24, 2024, at 06:00 ET), <https://www.cnn.com/2024/10/24/business/meta-zucker-berg-private-jet-nightcap/index.html> [<https://perma.cc/J8UA-VUUZ>].

92. See, e.g., Adi Ignatius, *Managers Don't Have All the Answers*, HARV. BUS. REV. (July-Aug. 2018), <https://hbr.org/2018/07/managers-dont-have-all-the-answers> [<https://perma.cc/JB7R-XCWH>]; Roger Lowenstein, *Jamie Dimon: America's Least-Hated Banker*, N.Y. TIMES (Dec. 1, 2010), <https://www.nytimes.com/2010/12/05/magazine/05Dimon-t.html> (on file with the *Fordham Law Review*); Timothy L. O'Brien & Landon Thomas Jr., *It's Cleanup Time at Citi*, N.Y. TIMES (Nov. 7, 2004), <https://www.nytimes.com/2004/11/07/business/yourmoney/its-cleanup-time-at-citi.html> (on file with the *Fordham Law Review*). See generally, e.g., PHILLIP L. ZWEIG, WRISTON: WALTER WRISTON, CITIBANK, AND THE RISE AND FALL OF AMERICAN FINANCIAL SUPREMACY (1995).

93. WINTERS, *supra* note 15, at 25–26.

94. At the risk of stating the obvious, this characterization is not meant to trivialize but simply to describe.

95. Rebecca Ackermann, *Inside Effective Altruism, Where the Far Future Counts a Lot More than the Present*, MIT TECH. REV. (Oct. 17, 2022), <https://www.technologyreview.com/2022/10/17/1060967/effective-altruism-growth> (on file with the *Fordham Law Review*); Robert McMillan & Deepa Seetharaman, *How a Fervent Belief Split Silicon Valley—and Fueled the Blowup at OpenAI*, WALL ST. J. (Nov. 22, 2023, at 14:25 ET), <https://www.wsj.com/tech/ai/openai-blowup-effective-altruism-disaster-f46a55e8> (on file with the *Fordham Law Review*). See generally WILLIAM MACASKILL, DOING GOOD BETTER: HOW EFFECTIVE ALTRUISM CAN HELP YOU HELP OTHERS, DO WORK THAT MATTERS, AND MAKE SMARTER CHOICES ABOUT GIVING BACK (2016). In its Silicon Valley iteration, this philosophy also draws on a common and very old cultural imaginary, which the historian of technology David E. Nye called the American technological sublime: an automatic and

donated in smaller amounts to ameliorate current ills (such as, for example, homelessness or food insecurity) or given directly to those burdened by such ills are largely wasted. And amassing great wealth is a necessary first step to achieving great and long-lasting social change.⁹⁶ This way of thinking about social ills and their possible cures effectively routes around many presentist concerns sounding in equity, distributive justice, or ordinary, unsophisticated empathy. It sanctions starkly unequal distribution of material resources—a precondition for oligarchy—as a precondition to achieving long-term human betterment. In its most extreme version, known as longtermism, it places a heavy thumb on the scale in favor of unproven social reengineering schemes, investing them with moral certainty.⁹⁷ For longtermism’s true believers, business models encoding such schemes represent far more than the mere potential for jaw-dropping profit; they also represent a path toward enlightenment that mediocre, benighted politicians, anal-retentive regulators, and endlessly yapping social justice activists are incapable of understanding.

This ideological overlay helps to explain why, as state regulatory demands have manifested in various entirely predictable ways, technology oligarchs have seemed to feel more and more misunderstood and persecuted. From within the bubble that has come to surround Silicon Valley thinking about how to identify, finance, develop, and commercialize promising new technologies, regulatory goals and tools that seem unremarkable to lawyers and policymakers look different. Proposals to unwind the dominance of big tech (grounded in a tradition of antimonopoly regulation extending back more than a century), to restrict the processing of personal data (grounded in decades-long traditions of data protection and protection for fundamental human rights), and to conduct precautionary regulation of artificial intelligence (informed by decades-long traditions of precautionary regulation in environmental and food and drug law) are existential threats to a brightly beckoning, data-driven future.

And here is where it begins to matter that technology oligarchs have unprecedented control over both the conditions of economic and social interaction and the terms of ongoing digital innovation. The question whether technology might enable them to dispense with the state and/or with some of its traditional functions is not just a subject of idle curiosity but rather a matter for active experimentation. The close relationship between tech platform company leaders and the second administration of President Donald Trump has turbo-charged that process, signaling both a new phase of the

unquestioning faith in the transformative power of technological progress. DAVID NYE, *AMERICAN TECHNOLOGICAL SUBLIME* (1994).

96. See generally William MacAskill, *Replaceability, Career Choice, and Making a Difference*, 17 *ETHICAL THEORY & MORAL PRAC.* 269 (2013). See Kelsey Piper, *The Case for Earning Lots of Money—and Giving Lots of It Away*, *VOX* (Nov. 23, 2024, at 08:30 ET), <https://www.vox.com/future-perfect/387190/earn-to-give-capitalism-effective-altruism-philanthropy-charity> (on file with the *Fordham Law Review*).

97. Emile P. Torres, *Understanding “Longtermism”*: *Why This Suddenly Influential Philosophy Is So Toxic*, *SALON* (Aug. 20, 2022, at 12:00 ET), <https://www.salon.com/2022/08/20/understanding-longtermism-why-this-suddenly-influential-philosophy-is-so/> [<https://perma.cc/HA4U-V239>].

evolving state-platform relationship and a new mode (in the United States, at least) of oligarchic self-preferment.

III. BREAKING UP IS HARD TO DO

We have seen that technology oligarchs are extraordinarily powerful, committed to an extreme techno-futurist ideology, and increasingly disenchanting with the state and its demands. It is therefore unsurprising that they frame deregulation as an urgent moral imperative. It is equally unsurprising that, concurrently, they work to achieve regulatory capture, including continued entrenchment of the forms of regulatory exceptionalism from which they already benefit. None of this, moreover, distinguishes technology oligarchs from garden-variety capitalists, who long ago learned to talk the talk of deregulation while walking the walk of capture and incumbent self-preferment.

But the capture strategies of technology oligarchs and capitalists differ in two important ways. The first follows straightforwardly from the wealth defense and wealth offense imperatives that Parts I and II described. For technology oligarchs (as for all oligarchs), the highest and best function of the state is to ensure their continued personal enrichment. As a general matter, then, technology oligarchs are relatively more interested in facilitating unencumbered flows of revenue and relatively less interested in working with regulators to reach stable settlements involving more direct oversight of their activities (even when those settlements might involve the sorts of nonrevenue advantages that incumbents in regulated industries regularly receive). This orientation, though, creates a paradox. When the state itself is an important source of revenue, as it is for technology oligarchs, the state is both hateful and necessary.

The second way in which technology oligarchs' capture strategies differ from those of capitalists is ultimately far more significant and concerns tech oligarchs' increasingly profound disenchantment with the terms of the civil oligarchy bargain—which, as Part I explained, entails the surrender of coercive power to a system of rule of law that provides for property and income defense. Changing that bargain requires more than simple regulatory capture. It requires changing the structure of the oligarch-state relationship. As we will see in this Part, tech oligarchs are working to do exactly that. In the domain of finance, they are working to attenuate state control while asserting their own centrality within newly “decentralized” processes of investment and exchange. In the domain of public administration, they are working to appropriate for themselves the authority to determine how the state's resources and operations will be directed.

A. The Night Watchman State in the Age of Computational Verification

The evolving story of oligarchic capture and reconfiguration of finance begins with protocols for decentralized cryptocurrencies and culminates in the emergence of new, oligarchically controlled structures for “decentralized

finance.” At a high level of abstraction, the thinking informing DeFi ventures is libertarian. Recall the Nozickian dream of the night watchman state described above—and recall that, according to the moral creed of libertarianism, the night watchman state is a second-best solution to be tolerated grudgingly and only to the extent it affords the broadest possible scope to pursue individual and/or mutually determined aims. What if new technologies could be harnessed to eliminate state control of political economy altogether? For more than a decade, a powerful constellation of venture funders and venture-backed entrepreneurs has identified the state’s monopoly over exchange value—or “fiat currency”—as the cornerstone of its invidious power. They have touted blockchain-based cryptocurrency systems for decentralized economic exchange as viable and morally necessary alternatives. In their telling, only shared computing protocols and agreement expressed through initial buy-in are required to reinvent foundational, centuries-old infrastructures for economic exchange in ways that serve the people directly. Reality has been messier. Governance institutions have proved more essential than parties to the new arrangements had understood, and centralized control points have proved more difficult to eliminate than they had imagined. Technology oligarchs, meanwhile, have been quick to grasp the advantages that centralization (of certain functions and features) creates for the well-resourced. Gradually and inevitably, crypto has morphed into its more platformized cousin, DeFi. And oligarchs have been there every step of the way.

Cryptocurrencies share certain essential features but vary in other details. The original cryptocurrency protocol, known as Bitcoin, is a peer-to-peer system for securely generating and authenticating cryptographic tokens and recording them in a tamper-proof, publicly accessible ledger called the blockchain. Within the Bitcoin network, new tokens are validated based on their claimants’ successful execution of increasingly complex calculations; this protocol is known as “proof of work.”⁹⁸ Some cryptocurrencies, such as Ethereum, use different validation protocols that are designed to use less compute and therefore less energy. Ethereum’s protocol, known as “proof of stake,” assigns validation privileges to nodes that have already accumulated significant currency and are willing to stake it as collateral.⁹⁹ Most cryptocurrencies fluctuate freely in value, but a few, called “stablecoins,” are pegged to the dollar in an attempt to minimize pricing volatility; the best-known example, Tether, is often used as a starting point for conversions into more esoteric cryptocurrencies.¹⁰⁰ Some cryptocurrency systems cap the overall supply of tokens (Bitcoin) or the rate at which new

98. ARVIND NARAYANAN, BITCOIN AND CRYPTOCURRENCY TECHNOLOGIES: A COMPREHENSIVE INTRODUCTION 61–67 (2016).

99. Amy Castor, *Ethereum Moved to Proof of Stake. Why Can’t Bitcoin?*, MIT TECH. REV. (Feb. 28, 2023), <https://www.technologyreview.com/2023/02/28/1069190/ethereum-moved-to-proof-of-stake-why-cant-bitcoin/> (on file with the *Fordham Law Review*).

100. Coryanne Hicks, *What Is Tether?: How Does It Work?*, FORBES (Aug. 15, 2023, at 10:09 ET), <https://www.forbes.com/advisor/investing/cryptocurrency/what-is-tether-usdt/> (on file with the *Fordham Law Review*).

tokens can be issued (Ethereum), whereas other systems do not.¹⁰¹ As of June 2025, the total value held in cryptocurrencies is estimated at over \$3 trillion.¹⁰²

In mainstream media reporting, cryptocurrencies are sometimes described as anonymous and untraceable, but the reality is slightly more complicated. Here again, it is instructive to begin with Bitcoin. Bitcoin tokens are pseudonymous; there is no central repository of information linking tokens directly to named accountholders. Each new token is, however, associated with the public cryptographic key of the party that generated it, and when it is transferred, it becomes associated with the purchaser's public key. Other information known about the public key and its holder or other details of a particular transaction may reveal the identity of either party.¹⁰³ Those wanting to keep their Bitcoin dealings anonymous can use mechanisms known as mixers or tumblers that obfuscate the details of particular transactions.¹⁰⁴ In theory, most cryptocurrencies work similarly. As we will see, however, implementation of cryptocurrency offerings within platformized DeFi environments—a key strategy for venture-backed profit extraction—can have implications for traceability and identifiability.

Many have chronicled the boom-and-bust dynamics of crypto markets and, especially, the chaos that ensued following the crypto crash of 2022.¹⁰⁵ Lured by promises of emancipation from big finance and seduced by numbers that appeared only to go up, investors at every level (including quite a few from big finance itself) made and lost millions in imaginary money. For some investors—rinse cycle participants able to absorb the hits—the end of a crypto bubble signaled a course correction (to which I will return below). For others—public pension funds seeking to outrun predictions of their own eventual bankruptcy and, later to the party, ordinary individuals seeking a way out of economic precarity—the economic losses were real and the consequences tragic.¹⁰⁶ The combination of extreme profits, magical

101. Daniel Gray, *Understanding Bitcoin and Ethereum Supply*, FID. DIGIT. ASSETS (Nov. 28, 2023), <https://www.fidelitydigitalassets.com/research-and-insights/understanding-bitcoin-and-ethereum-supply> [<https://perma.cc/UH56-EBHW>].

102. *Today's Cryptocurrency Prices by Market Cap*, COINMARKETCAP, <https://coinmarketcap.com/> [<https://perma.cc/5ZMF-N6RT>] (last visited Aug. 31, 2025).

103. Alex Biryukov & Sergei Tikhomirov, *Deanonymization and Linkability of Cryptocurrency Transactions Based on Network Analysis*, in PROC. 2019 IEEE EUROPEAN SYMPOSIUM ON SECURITY AND PRIVACY 172 (2019); NARAYANAN, *supra* note 98, at 166; Fergal Reid & Martin Harrigan, *An Analysis of Anonymity in the Bitcoin System*, in SECURITY AND PRIVACY IN SOCIAL NETWORKS 197 (Yaniv Altshuler et al. eds., 2013).

104. NARAYANAN, *supra* note 98, at 177–81. *See generally* Jaswant Pakki, Yan Shoshitaishvili, Ruoyu Wang, Tiffany Bao & Adam Doupe, *Everything You Ever Wanted to Know About Bitcoin Mixers (but Were Afraid to Ask)*, in FINANCIAL CRYPTOGRAPHY AND DATA SECURITY: PART I 117 (Nikita Borisov & Claudia Diaz eds., 2021).

105. *See generally* ZEKE FAUX, NUMBER GO UP: INSIDE CRYPTO'S WILD RISE AND STAGGERING FALL (2023); BEN MCKENZIE & JACOB SILVERMAN, EASY MONEY: CRYPTOCURRENCY, CASINO CAPITALISM, AND THE GOLDEN AGE OF FRAUD (2023).

106. *See, e.g.*, Heather Gillers, *Public Pension Systems Join Those Stung by Crypto Crash*, WALL ST. J. (Aug. 14, 2022, at 06:00 ET), <https://www.wsj.com/articles/public-pension-systems-join-those-stung-by-crypto-crash-11660425848> (on file with the *Fordham Law Review*); Alexander Osipovich & Caitlin Ostroff, *TerraUSD Crash Led to Vanished Savings*,

thinking by would-be investors, and the ability to achieve complete or near untraceability of assets and ownership proved a magnet for abuses ranging from garden-variety scams to elaborate Ponzi schemes to systematic money laundering by organized criminal and state enterprises.¹⁰⁷ On the supply end, cryptocurrency mining operations ranged globally in search of cheap sources of energy and compute, hacking into servers and destabilizing local energy grids.¹⁰⁸

Among legal commentators, one story commonly told about crypto's rise, fall, and reinvention emphasizes the inevitable reintroduction of governance institutions. As a practical matter, cryptocurrency schemes turn out to require trust in multiple, distinct senses. First, as the legal scholar Kevin Werbach was quick to recognize, the ongoing operation of any cryptocurrency system requires governance of shared protocols according to mutually agreed standards.¹⁰⁹ This is not inconsistent with the modified Nozickian account of how utopia can involve mutual cooperation. In practice, however,

Shattered Dreams, WALL ST. J. (May 27, 2022, at 16:04 ET), <https://www.wsj.com/finance/currencies/terrausd-crash-led-to-vanished-savings-shattered-dreams-11653649201?> (on file with the *Fordham Law Review*); Annie Lowrey, *The Black Investors Who Were Burned by Bitcoin*, ATLANTIC (Nov. 29, 2022), <https://www.theatlantic.com/ideas/archive/2022/11/black-investors-bitcoin-cryptocurrency-crash/671750/> (on file with the *Fordham Law Review*).

107. Peter J. Henning, *The Taming of Initial Coin Offerings*, N.Y. TIMES (Sep. 18, 2018), <https://www.nytimes.com/2018/09/18/business/dealbook/taming-initial-coin-offerings.html> (on file with the *Fordham Law Review*); Nathaniel Rich, *Ponzi Schemes, Private Yachts, and a Missing \$250 Million in Crypto: The Strange Tale of Quadriga*, VANITY FAIR (Nov. 22, 2019), <https://www.vanityfair.com/news/2019/11/the-strange-tale-of-quadriga-gerald-cotten> (on file with the *Fordham Law Review*); James Marson, *OneCoin Took in Billions. Then Its Leader Vanished.*, WALL ST. J. (Aug. 27, 2020, at 05:30 ET), <https://www.wsj.com/articles/onecoin-took-in-billions-then-its-leader-vanished-11598520601> (on file with the *Fordham Law Review*); David Yaffe-Bellany, Matthew Goldstein & Emily Flitter, *Prosecutors Say FTX Was Engaged in a "Massive, Yearslong Fraud"*, N.Y. TIMES (Dec. 13, 2022), <https://www.nytimes.com/2022/12/13/business/ftx-sam-bankman-fried-fraud-charges.html> (on file with the *Fordham Law Review*); Robert McMillan & Dustin Volz, *How North Korea's Hacker Army Stole \$3 Billion in Crypto, Funding Nuclear Program*, WALL ST. J. (June 11, 2023, at 09:00 ET), <https://www.wsj.com/articles/how-north-koreas-hacker-army-stole-3-billion-in-crypto-funding-nuclear-program-d6fe8782> (on file with the *Fordham Law Review*).

108. See generally Domnhall Carlin, Jonah Burgess, Philip O'Kane & Sakir Sezer, *You Could Be Mine(d): The Rise of Cryptojacking*, IEEE SEC. & PRIV., Mar.-Apr. 2020, at 16; Sergio Pastrana & Guillermo Suarez-Tangil, *A First Look at the Crypto-Mining Malware Ecosystem: A Decade of Unrestricted Wealth*, in IMC '19: PROC. INTERNET MEASUREMENT CONF. 73; Press Release, U.S. Att'y's Office, E.D.N.Y., Nebraska Man Indicted for Multi-Million Dollar "Cryptojacking" Scheme (Apr. 15, 2024), <https://www.justice.gov/usao-edny/pr/nebraska-man-indicted-multi-million-dollar-cryptojacking-scheme> [<https://perma.cc/3UZX-SCBX>]; Kevin Vu & Emily Foxhall, *Texas Bitcoin Miners Profit by Using Less Electricity; Advocates Say All Texans Should Get the Same Chance*, TEX. TRIB. (Jan. 3, 2024, at 05:00 CT), <https://www.texastribune.org/2024/01/03/texas-bitcoin-profit-electricity/> [<https://perma.cc/X2WY-7NVP>]; Peter Howson, *Climate Crises and Crypto-Colonialism: Conjuring Value on the Blockchain Frontiers of the Global South*, FRONTIERS IN BLOCKCHAIN, May 2020, at 1; *Crypto Cowboys Have Found Paradise in Paraguay*, ECONOMIST (July 18, 2024), <https://www.economist.com/the-americas/2024/07/18/crypto-cowboys-have-found-paradise-in-paraguay> (on file with the *Fordham Law Review*).

109. See generally KEVIN WERBACH, *THE BLOCKCHAIN AND THE NEW ARCHITECTURE OF TRUST* (2018).

standards arrangements for cryptocurrencies came to exemplify Michels's famous "iron law" (which, as noted in Part I, is not really a definition of oligarchy)—they became fulcrum points for the accumulation and assertion of power by small cadres of already-powerful insiders.¹¹⁰ Second, as cryptocurrency schemes designed for the technorati migrated into the mainstream consciousness, they encountered lower levels of technological literacy and correspondingly different expectations. Ordinary people are not interested in mastering the technical arcana of cryptocurrency mining. They are interested in buying and trading cryptocurrencies, and those activities require various kinds of trustworthy intermediation—secure wallets for storing tokens and/or passwords, exchanges that support trading via reasonably intuitive dashboards, behind-the-scenes settlement infrastructures, protocols for linking crypto exchange accounts to other accounts that permit investment and/or withdrawal of funds, and so on. As cryptocurrencies migrated into the mainstream, the unsurprising result was a proliferation of intermediaries designed to provide these functions, each of which in turn represented a degree of reintroduced centralization and, therefore, a point for reattaching governance authority.

A second, complementary story emphasizes the inevitable (though contested) reassertion of legal authority more specifically. As crypto-based scams and money laundering schemes have attracted the systematic attention of consumer protection and law enforcement authorities worldwide, crypto's new governance institutions and recentralization points have enabled reattachment of existing legal and regulatory frameworks. In the United States and Europe, securities regulators have insisted that many types of cryptographic tokens are, functionally, securities—investments whose value may rise or fall like any other.¹¹¹ Financial regulators around the world have insisted that operators of cryptocurrency exchanges comply with the "Know

110. See *supra* note 17 and accompanying text. See generally, e.g., Cesare Fracassi, Moazzam Khoja & Fabian Schar, Decentralized Crypto Governance?: Transparency and Concentration in Ethereum Decision-Making (Jan. 10, 2024) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4691000 [<https://perma.cc/ENA5-33WC>]; Paul Kiernan, *Bitcoin's Future Depends on a Handful of Mysterious Coders*, WALL. ST. J. (Feb. 16, 2023, at 17:20 ET), <https://www.wsj.com/articles/bitcoin-core-maintainers-crypto-7b93804> (on file with the *Fordham Law Review*).

111. Peter Gratton, *SEC Crypto Regulations: What Financial Advisors Need to Know*, INVESTOPEDIA (Oct. 4, 2024), <https://www.investopedia.com/crypto-regulations-for-financial-advisors-8402046> [<https://perma.cc/65XQ-B8QH>]; Declan Harty, *SEC's Gensler Turns Tide Against Crypto in Courts*, POLITICO (May 5, 2024, at 07:00 ET), <https://www.politico.com/news/2024/05/05/gary-gensler-sec-crypto-00154769> [<https://perma.cc/4WUB-UGVE>]; Robert A. Schwinger, *Crypto Tokens Held to Be "Securities" as a Matter of Law, in Big Win for SEC*, NORTON ROSE FULBRIGHT (Jan. 2024), <https://www.nortonrosefulbright.com/en-us/knowledge/publications/16178e2d/crypto-tokens-held-to-be-securities-as-a-matter-of-law-in-big-win-for-sec> [<https://perma.cc/C7HL-UD36>]; Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on Markets in Crypto-Assets, 2023 O.J. (L 150); Luz Parrondo, *Typology and Classification of Crypto-Assets Based on the MiCA Regulatory Framework: Contributions and Limitations*, in ELGAR RESEARCH HANDBOOK ON FINANCIAL ACCOUNTING 264, 264–82 (2024).

Your Customer” requirements that apply to banks.¹¹² Prosecutors have charged and convicted crypto scammers under existing anti-fraud statutes.¹¹³ Researchers and investigators have discovered new methods of analyzing transaction patterns to identify and trace the activities of criminal enterprises.¹¹⁴ At the other extreme, the Chinese party-state has attempted to ban Bitcoin mining altogether.¹¹⁵ Central bankers and bank regulators have begun working to develop secure central bank digital currencies that might, someday, underpin an updated, all-digital global financial system.¹¹⁶ The state is down, but not out.

Intertwined with both of these stories, though, has been the continuing growth and entrenchment of oligarchic power. One might have various views about the desirability of mass migration to an alternative common currency. Many (though not all) technology oligarchs profess personal allegiance to the libertarian ideals that cryptocurrencies are thought to further. For oligarchs, however, the wealth defense and offense imperatives are overriding constraints. Oligarchs could realize direct profits from cryptocurrency schemes (as investments) only if they could get ordinary people—lots of them—to buy in. This meant that it was not enough for experimental cryptocurrencies to undergo what technology theorists Kean Birch and Fabian Muniesa call assetization, gradually becoming subject to

112. See generally Xander Xueyang Peng, *Regulating Cryptocurrency: A Comparative Analysis of U.S. and EU Approaches*, 7 *CARDOZO INT'L & COMP. L. REV.* 709 (2024).

113. See, e.g., Press Release, U.S. Dep't of Just., *Binance and CEO Plead Guilty to Federal Charges in \$4B Resolution* (Nov. 21, 2023), <https://www.justice.gov/opa/pr/binance-and-ceo-plead-guilty-federal-charges-4b-resolution> [<https://perma.cc/V46R-HH26>]; Press Release, U.S. Sec. Exch. Comm'n, *SEC Charges Founder of \$1.7 Billion “HyperFund” Crypto Pyramid Scheme and Top Promoter with Fraud* (Jan. 29, 2024), <https://www.sec.gov/newsroom/press-releases/2024-11> [<https://perma.cc/F9UQ-SVEQ>]; Press Release, U.S. Dep't of Just., *Samuel Bankman-Fried Sentenced to 25 Years for His Orchestration of Multiple Fraudulent Schemes* (Mar. 28, 2024), <https://www.justice.gov/opa/pr/samuel-bankman-fried-sentenced-25-years-his-orchestration-multiple-fraudulent-schemes> [<https://perma.cc/6PTC-PHP2>]. But see Jonathan Stempel, *US SEC Dismisses Lawsuit Against Binance Crypto Exchange*, *REUTERS* (May 29, 2025, at 22:24 ET), <https://www.reuters.com/sustainability/boards-policy-regulation/us-sec-voluntarily-dismisses-lawsuit-against-binance-2025-05-29/> (on file with the *Fordham Law Review*).

114. Andy Greenberg, *How a 27-Year-Old Codebreaker Busted the Myth of Bitcoin's Anonymity*, *WIRED* (Jan. 17, 2024, at 06:00 ET), <https://www.wired.com/story/27-year-old-codebreaker-busted-myth-bitcoins-anonymity/> [<https://perma.cc/2QWL-2DLU>]; Andy Greenberg, *A Vast New Data Set Could Supercharge the AI Hunt for Crypto Money Laundering*, *WIRED* (May 1, 2024, at 09:00 ET), <https://www.wired.com/story/ai-crypto-tracing-model-money-laundering/> [<https://perma.cc/J6VN-F2DX>].

115. Roger Huang, *After China's Bitcoin Mining Ban, Bitcoin Is Stronger Than Ever*, *FORBES* (Nov. 1, 2023, at 12:04 ET), <https://www.forbes.com/sites/digital-assets/2023/10/31/after-chinas-bitcoin-mining-ban-bitcoin-is-stronger-than-ever/> (on file with the *Fordham Law Review*).

116. Tobias Adrian, Dong He, Tommaso Mancini-Griffoli & Tao Sun, *Central Bank Digital Currency Development Enters the Next Phase*, *IMF BLOG* (Nov. 20, 2023), <https://www.imf.org/en/Blogs/Articles/2023/11/20/central-bank-digital-currency-development-enters-the-next-phase> [<https://perma.cc/7EAV-4BUG>]; Central Bank Digital Currency Tracker, *ATL. COUNCIL*, <https://www.atlanticcouncil.org/cbdctracker/> [<https://perma.cc/PQK3-VAJB>] (last visited Aug. 24, 2025).

logics of durable investment and sustainable return.¹¹⁷ They needed to achieve rapid, widespread desirability capable of fueling boom-and-bust cycles from which coin issuers and their earliest investors could reap massive profits. At the same time, for crypto-based wealth offense strategies to work, cryptocurrencies needed to remain linked closely enough to the dollar to remain measurably valuable over the near term.¹¹⁸ And oligarchs could realize indirect profits from cryptocurrency schemes (via new, venture-funded instrumentalities) only if intermediation points could be developed and controlled. This made fully decentralized arrangements unattractive and platformized DeFi applications designed for various forms of rent extraction correspondingly more appealing.

For all these reasons, cryptocurrency ventures do double duty as experiments in the cultural production of mass movements, and crypto stories are never simply libertarian. Instead, they embody the uneasy blend of liberation ideology and dedication to material enrichment that is enshrined in the ideology of EA and that has become a hallmark of tech oligarchy more specifically. To institutional investors, DeFi evangelists armed with venture funding promise both riches and an opportunity to participate in scaled-up fundraising for human and social betterment.¹¹⁹ To retail investors, they offer a new, wired version of the social compact that is both populist and exclusive, yoked to an ideology about the necessary preconditions of authenticity that has deep suspicion of state and elite authority at its core.¹²⁰

117. BIRCH & MUNIESA, *supra* note 35.

118. I am far from the first to point this out. *See, e.g.*, David Gerard, *Bitcoin Myths: Immutability, Decentralisation, and the Cult of "21 Million"*, ATTACK OF THE 50 FOOT BLOCKCHAIN (June 27, 2021), <https://davidgerard.co.uk/blockchain/2021/06/27/bitcoin-myths-immutability-decentralisation-and-the-cult-of-21-million/> [<https://perma.cc/3B4E-TSXX>]; *see also* Gil Duran, *Big Crypto's Assault on Democracy*, THE NERD REICH (July 11, 2025), <https://www.thenerdreich.com/big-cryptos-assault-on-democracy/> [<https://perma.cc/253U-32PF>]. *See generally* Ulrich Bindseil & Jürgen Schaaf, *The Distributional Consequences of Bitcoin* (Nov. 4, 2024) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4985877 [<https://perma.cc/W2PS-MPVD>]. For a textbook recent example of the boom-and-bust strategy, *see* Shaurya Malwa, *TRUMP, MELANIA Memecoins Made Millions for Some, Less than \$100 for Many*, COINBASE (Jan. 24, 2025, at 03:58 ET), <https://www.coindesk.com/markets/2025/01/24/trump-melania-memecoins-made-millions-for-some-less-than-usd100-for-many> [<https://perma.cc/WJ4R-BCBU>].

119. Dylan Matthews, *How Effective Altruism Let Sam Bankman-Fried Happen*, VOX (Dec. 12, 2022, at 20:50 ET), <https://www.vox.com/future-perfect/23500014/effective-altruism-sam-bankman-fried-ftx-crypto> (on file with the *Fordham Law Review*); Nitasha Tiku, *The Do-Gooder Movement that Shielded Sam Bankman-Fried from Scrutiny*, WASH. POST (Nov. 17, 2022), <https://www.washingtonpost.com/technology/2022/11/17/effective-altruism-sam-bankman-fried-ftx-crypto/> (on file with the *Fordham Law Review*); Erin Griffith, *Coinbase's Public Listing Is a Cryptocurrency Coming-Out Party*, N.Y. TIMES (Apr. 15, 2021), <https://www.nytimes.com/2021/04/14/business/coinbase-ipo-stock.html> (on file with the *Fordham Law Review*). *See generally* Vitalik Buterin, Zoe Hitzig & E. Glen Weyl, *A Flexible Design for Funding Public Goods*, 65 MGMT. SCI. 5171 (2019).

120. Brian Armstrong, *How Crypto Enables Economic Freedom*, COINBASE (Sep. 23, 2021), <https://www.coinbase.com/blog/how-crypto-enables-economic-freedom> [<https://perma.cc/4CVP-RZA4>]; *Dogecoin (DOGE): The Cultural Significance of a Joke Crypto*, CRYPTOPEDIA (Nov. 1, 2023), <https://www.gemini.com/cryptopedia/dogecoin-joke-cryptocurrency> [<https://perma.cc/4Q9E-ZL64>]; Gaby Del Valle, *Trump Is Launching a Cryptocurrency Platform, and We Have No Idea What It Does*, THE VERGE (Aug. 22, 2024, at

To sovereign states across the Global South, they invoke themes of financial inclusion and anticolonialism, promising sovereign disentanglement from control by global financial institutions such as the World Bank and the International Monetary Fund.¹²¹ Buried in the fine print, however, has been the fact that these initiatives remain fundamentally profit-making ventures, featuring the opacity and lack of external accountability that have become the hallmarks of venture-funded projects more generally.¹²² Dreams of crypto-based, hard-coded decentralization have also become magnets for extremists of all sorts, who envision buying crypto as a prelude to the state's destruction and reinvention in the image of a preferred racial or religious elect.¹²³

At the same time, decentralization rhetoric has masked the gradual, inexorable development and entrenchment of venture-backed, platformized DeFi services. Wallets, exchanges, lending pools, payment gateways, and the like are centralized in certain respects, remain bound to the ostensibly detested fiat currencies, and insert oligarchic control at the point of profit extraction.¹²⁴ As of this writing, passage of legislation that would authorize

14:51 ET), <https://www.theverge.com/2024/8/22/24226184/trump-defiant-ones-cryptocurrency-platform> (on file with the *Fordham Law Review*); Marvie Basilan, *Trump-Backed World Liberty Financial to Begin \$WLF1 Sale, Crypto Users Slam Whitelist Requirements*, INT'L BUS. TIMES (Oct. 14, 2024, at 07:03 ET), <https://www.ibtimes.com/trump-backed-world-liberty-financial-begin-wlfi-sale-crypto-users-slam-whitelist-requirements-3746609> [<https://perma.cc/UR6B-QV7P>]; cf. WALTER BENJAMIN, ILLUMINATIONS 217–51 (Hannah Arendt ed., Harry Zohn trans., 1968) (exploring how then-new techniques for mass reproduction challenged preconceptions about artistic expression).

121. See, e.g., Alex Gladstein, *Fighting Monetary Colonialism with Open-Source Code*, BITCOIN MAG. (June 23, 2023), <https://bitcoinmagazine.com/culture/bitcoin-a-currency-of-decolonization> [<https://perma.cc/JXB8-F9T8>]; Greg White, *Bitcoin Is Anti-Colonial*, PRAGMATIC OPTIMISM (Dec. 4, 2022), <https://gregwhite.blog/bitcoin-is-anti-colonial> [<https://perma.cc/3W8X-CSS2>]; see also Ben Schreckinger, "The IMF is Evil": Rich Countries Take Aim at Nations Adopting Crypto, POLITICO (June 13, 2022, at 05:00 ET), <https://www.politico.com/news/2022/06/13/imf-rich-countries-adopting-crypto-00038975> [<https://perma.cc/2KXZ-GR9N>].

122. See Olivier Jutel, *Crypto Imperialism and Financial Inclusion in Africa*, BOT POPULI (Mar. 27, 2023), <https://botpopuli.net/techno-imperialism-and-the-financial-inclusion-play-how-africa-is-turning-into-the-new-playground-for-crypto-investors/> [<https://perma.cc/LC3W-PHKX>]; Olivier Jutel, *Blockchain Financialization, Neo-Colonialism, and Binance*, FRONTIERS IN BLOCKCHAIN, July 2023, at 1.

123. Baldwin, *supra* note 13, at 4; Shane Littrell, Casey Klofstad & Joseph E. Uscinski, *The Political, Psychological, and Social Correlates of Cryptocurrency Ownership*, PLOS ONE, July 2024, at 1; Vandiver, *supra* note 8.

124. See Daniel Palmer, *Marc Andreessen, Craft Ventures Back Crypto Hedge Fund Multicoïn*, COINDESK (Sep. 13, 2021, at 03:40 ET), <https://www.coindesk.com/markets/2018/03/09/marc-andreessen-craft-ventures-back-crypto-hedge-fund-multicoïn/> [<https://perma.cc/7Z4T-79PZ>]; Alex Konrad, *Andreessen Horowitz Is Blowing Up the Venture Capital Model (Again)*, FORBES (Apr. 2, 2019), <https://www.forbes.com/sites/alexkonrad/2019/04/02/andreessen-horowitz-is-blowing-up-the-venture-capital-model-again/> (on file with the *Fordham Law Review*); Holman W. Jenkins, Jr., *The Cryptocurrency Adventures of Mark Zuckerberg and SBF*, WALL ST. J. (Dec. 9, 2022, at 17:36 ET), <https://www.wsj.com/articles/the-cryptocurrency-adventures-of-mark-zuckerberg-and-sbf-facebook-bitcoin-libra-blockchain-innovation-regulation-11670621550> (on file with the *Fordham Law Review*); Billy Bambrough, *Elon Musk Revealed to Be 'Quietly' Funding Crypto Rival to Bitcoin Amid Price Crash*, FORBES (Sep. 4, 2023, at 07:53 ET), <https://www.forbes.com/sites/digital->

nonbank entities—including, notably, the dominant tech platform firms—to issue dollar-tethered stablecoins appears imminent.¹²⁵ Another especially high profile venture, the attempt by OpenAI founder Sam Altman to start a global “Worldcoin” authenticated by retinal scans of each participating user, also proposes to fuse DeFi with universal biometric surveillance. Altman has been less than forthcoming about the other uses envisioned for such data.¹²⁶ Last but hardly least, mining, recording, storing, and exchanging cryptocurrencies also requires access to large quantities of compute, a resource that promises to grow increasingly costly and that dominant tech platform firms increasingly control.¹²⁷

Emerging from the chaos and realignment is a continuing role for the state that is different from the one promised to retail investors, developing nations, and ethnonationalist ideologues but quite familiar in terms of its relationship to oligarchy generally and tech oligarchy more specifically. Like the various

assets/2023/09/04/elon-musk-revealed-to-be-quietly-funding-crypto-rival-to-bitcoin-amid-price-crash/ (on file with the *Fordham Law Review*); Yogita Khatri, *Peter Thiel’s Founders Fund Takes a Stake in Crypto Accelerator Alliance*, THE BLOCK (Apr. 24, 2024, at 10:00 ET), <https://www.theblock.co/post/290653/peter-thiel-founders-fund-crypto-accelerator-alliance> [<https://perma.cc/C7XF-77TC>]; Kristin N. Johnson, *Decentralized Finance: Regulating Cryptocurrency Exchanges*, 62 WM. & MARY L. REV. 1911, 1953–55 (2021); see also Richard Holden, *Bezos Bucks?: Get Ready for Corporate Digital Currency*, IEEE SPECTRUM (Dec. 1, 2023), <https://spectrum.ieee.org/private-digital-currency> [<https://perma.cc/V7VC-CPPC>]; Ian Bogost, *Cryptocurrency Might be a Path to Authoritarianism*, ATLANTIC (May 30, 2017), <https://www.theatlantic.com/technology/archive/2017/05/blockchain-of-command/528543> (on file with the *Fordham Law Review*).

125. Alice S. Hrdy, David Wake, Stacie Hartman, Erin E. Martin, Steven Lightstone, Rahul K. Patel, Robert A. Schwartz & Todd P. Zerega, *The Future of Payments: US Stablecoin Legislation Takes Shape*, MORGAN LEWIS (June 11, 2025), <https://www.morganlewis.com/pubs/2025/06/the-future-of-payments-us-stablecoin-legislation-takes-shape> [<https://perma.cc/DR38-QXWX>]. See generally Arthur E. Wilmarth, Jr., *Policy Brief: The Hagerty-Scott-Lummis-Gillibrand Stablecoin Bill Would Cause Great Harm to Consumers, Investors, Our Financial System, and Our Economy* (GW Legal Studs. Rsch. Paper, Paper No. 2025-14, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5156227 [<https://perma.cc/N4G3-HTRD>]; Leo Schwartz & Ben Weiss, *Exclusive: Meta in Talks to Deploy Stablecoins Three Years After Giving Up on Landmark Crypto Project*, FORTUNE (May 8, 2025, at 15:06 ET), <https://fortune.com/crypto/2025/05/08/meta-stablecoins-exploration-usdc-circle-diem-libra/> (on file with the *Fordham Law Review*); Ben Weiss & Leo Schwartz, *Apple, X, and Airbnb Among Growing Number of Big Tech Firms Exploring Crypto Adoption*, FORTUNE (June 6, 2025, at 08:46 ET), <https://fortune.com/crypto/2025/06/06/apple-x-airbnb-google-cloud-stablecoins-crypto-conversations/> (on file with the *Fordham Law Review*).

126. Angus Berwick, *Sam Altman’s Worldcoin Is Battling with Governments Over Your Eyes*, WALL ST. J. (Aug. 18, 2024, at 09:00 ET), <https://www.wsj.com/tech/sam-altman-openai-humanness-iris-scanning-4d0e1dab> (on file with the *Fordham Law Review*); Billy Perrigo, *The Orb Will See You Now*, TIME (May 27, 2025, at 07:00 ET), <https://time.com/7288387/sam-altman-orb-tools-for-humanity/> [<https://perma.cc/YN7E-8K42>].

127. See van der Vlist, Helmond & Ferrari, *supra* note 4, at 4–6; Vipra & Myers-West, *supra* note 4. A purist might object by pointing to the difference between proof of work, the energy-hogging protocol required to mine and authenticate each new Bitcoin, and proof of stake, the relatively economical protocol now used within the Ethereum system. It is true that the proof of stake protocol somewhat reduces the crushing advantage enjoyed by those with disproportionate access to compute and makes Ethereum a more energy-conscious choice. But it is also true that the proof of stake protocol tends to benefit those who have already amassed greater in-system wealth. And operating a DeFi ecosystem at scale requires lots of compute any way you slice it.

components of the rinse cycle described in Part II.A, the DeFi landscape is increasingly interdependent with regulatory activity. At the same time, as the legal scholar Hilary Allen has shown, the thickening web of DeFi intermediaries effectively attenuates state control of financial ecosystems, creating new threats to financial stability resulting from new and highly volatile sources of liquidity controlled (more or less) via opaque intermediation arrangements.¹²⁸ The provider of DeFi services needs the state—but a state whose governance authority is simultaneously asserted and undermined.

B. Government Efficiency for Whom?

Cryptocurrencies and DeFi represent an external attack on state control of political economy. The rapprochement between Silicon Valley and the second Trump administration has enabled a different, internal attack on institutions for public administration, initially personified in Elon Musk and undertaken through his brainchild, the unprecedented and ultra vires Department of Government Efficiency. Constituted during the post-election transition period and unleashed immediately following President Trump's second inauguration, DOGE has been working systematically to dismantle both executive and independent agencies and just as systematically to conceal the identities of its employees and obfuscate its internal lines of command. It has fired staff and terminated programs, but also, and more importantly, it has gained root access to the information systems through which the administrative state operates programs, authorizes payments, and processes the personal data of citizens and government employees.¹²⁹ In the popular press and among lawyers and legal scholars, DOGE has (rightly) excited intense emotions. Here, I bracket the many constitutional and statutory questions its creation and operation have raised and focus instead on its purposes.¹³⁰ For some commentators, it signifies neoliberal downsizing on steroids. That is partly right but also radically incomplete. Through DOGE, tech oligarchs are laying the groundwork for a far more durable realignment in the oligarchy-state relationship.

On its face, the DOGE playbook is about deregulation and downsizing writ large—curtailing regulatory oversight of a wide range of industries and activities while also radically retrenching government spending and, concurrently, disentangling government from many of the activities it funds

128. HILARY J. ALLEN, DRIVERLESS FINANCE: FINTECH'S IMPACT ON FINANCIAL STABILITY (2021); see also Johnson, *supra* note 124.

129. Kelly et al., *supra* note 14; Christopher Bing, Avi Asher-Schapiro & Annie Waldman, *Who's Running the DOGE Wrecking Machine: The World's Richest Man or a Little-Known Bureaucrat?*, PROPUBLICA (Mar. 14, 2025, at 13:30 ET), <https://www.propublica.org/article/doge-leadership-elon-musk-amy-gleason-trump-ethics-conflict-of-interest> [<https://perma.cc/M93K-5HUW>].

130. See *Litigation Tracker: Legal Challenges to Trump Administration Actions*, JUST SEC., <https://www.justsecurity.org/107087/tracker-litigation-legal-challenges-trump-administration/> [<https://perma.cc/G7KB-RR46>] (last visited Aug. 27, 2025).

and sponsors.¹³¹ In these respects, it aligns closely with another playbook known as Project 2025, developed in the corridors of conservative power and now endorsed full-throatedly by the Trump administration.¹³² The Project 2025 agenda for restructuring the federal government emphasizes themes of executive control, regulatory rollback, and administrative downsizing that have been staples of deregulatory discussions for decades.¹³³ Legal scholars and progressive policy advocates considering the Project 2025 agenda and what it portends for the ever-growing power of private economic actors tend to focus tightly on what the U.S. Constitution says (or does not say) about separation of powers, the extent of executive authority, and the like—which means they focus primarily on the constraints that bind public actors.¹³⁴ By natural extension, legal scholars and lawyers confronting DOGE have tended to focus on the ways in which its directives place the executive and federal agencies in violation of statutes (and underlying constitutional provisions) intended to constrain those entities.¹³⁵ To be clear, those issues are very important. If American democracy is to endure in anything resembling that form, its institutions for public administration, public policymaking, and representative government need to be both robust in themselves and constrained by robust accountability mechanisms.

When it comes to DOGE, however, the ongoing debates about the unitary executive, the future of the expert administrative state, the independence of Congress, and the authority of the judiciary unfolding among scholars and practitioners of public law are costly distractions. What these discussions, by their own terms, cannot quite fully encompass is that the process now being undertaken by DOGE serves two masters. Making government more

131. Schleifer & Ngo, *supra* note 14.

132. See Project 2025 Presidential Transition Project, *Mandate for Leadership: The Conservative Promise*, https://static.heritage.org/project2025/2025_MandateForLeadership_FULL.pdf [<https://perma.cc/5SM4-SS6U>] (last visited Sep. 10, 2025).

133. Michael Sozan & Ben Olinsky, *Project 2025 Would Destroy the U.S. System of Checks and Balances and Create an Imperial Presidency*, CTR. FOR AM. PROGRESS (Oct. 1, 2024), <https://www.americanprogress.org/article/project-2025-would-destroy-the-u-s-system-of-checks-and-balances-and-create-an-imperial-presidency/> [<https://perma.cc/5FNF-96HE>]. See generally MCGARITY, *supra* note 79; SLOBODIAN, *supra* note 79.

134. See, e.g., Jedediah Britton-Purdy, *The Political Economy of the Current Crisis*, LPE PROJECT (Feb. 19, 2025), <https://lpeproject.org/blog/the-political-economy-of-the-current-crisis/> [<https://perma.cc/4EXK-DZMT>]; James Goodwin, *The Administrative State in a Project 2025 World*, REGUL. REV. (Dec. 2, 2024), <https://www.theregreview.org/2024/12/02/goodwin-the-administrative-state-in-a-project-2025-world/> [<https://perma.cc/RU3A-ASPF>]; Cass R. Sunstein, *This Theory Is Behind Trump's Power Grab*, N.Y. TIMES (Feb. 26, 2025), <https://www.nytimes.com/2025/02/26/opinion/trump-roberts-unitary-executive-theory.html> (on file with the *Fordham Law Review*). But cf. FISHKIN & FORBATH, *supra* note 9, at 2–9, 363–79, 423–26 (urging recovery of a broader conception of constitutional political economy); Symposium on Joseph Fishkin and William Forbath, *The Anti-Oligarchy Constitution: Reconstructing the Economic Foundations of American Democracy—Collected Posts*, BALKINIZATION (June 22, 2022), <https://balkin.blogspot.com/2022/06/balkinization-symposium-on-joseph.html> [<https://perma.cc/F3U8-E4L5>].

135. See, e.g., Andrew Prokop, *All the Ways Elon Musk Is Breaking the Law, Explained by a Law Professor*, VOX (Feb. 6, 2025, at 12:05 ET), <https://www.vox.com/politics/398618/elon-musk-doge-illegal-lawbreaking-analysis> (on file with the *Fordham Law Review*); JUST SEC., *supra* note 130.

efficient in the neoliberal sense—smaller, feebler, and less effective at constraining the whims of powerful industries and an autocratic president—is certainly one intended function of DOGE. But it is not DOGE’s principal purpose.

For other commentators, DOGE is a personal enrichment project, full stop. Without question, personal enrichment was one of Musk’s particular goals for the DOGE-driven restructuring of government operations. This is most visible in the defense and aviation sectors, where Musk’s companies have racked up a wide range of lucrative contracts (although some are now in question following the highly-publicized June 2025 rift between Musk and President Trump).¹³⁶ More generally, tech oligarchs as a group have benefited handsomely from government contracts in defense, national security, and related (or arguably related) areas.¹³⁷ Observations about the importance of defense contracting for technology oligarchs also underscore (yet again) a central tension at the heart of oligarchic deregulatory projects. Like the provider of DeFi services, the provider of defense technologies needs the state—a state with imagined needs for security and policing that align closely with the very products and services it is equipped to offer. If DOGE’s early track record is any guide, Musk clearly understood as much. The state’s full-on destruction therefore does not seem to be in the cards.

But there is far more at stake in the DOGE-driven realignment of government than simple personal enrichment. Recall the conceptual map of oligarchic types described in Part I and the dynamism it envisions in the relationships between oligarchs and the forms and institutions of government in the places where they reside. Writing in 2011, Winters located U.S.-based oligarchs near the map’s civil oligarchy corner.¹³⁸ In 2025, that placement is inaccurate. With Musk in ascendancy and the Trump administration having positioned itself as a willing enabler of oligarchic wealth defense and offense projects more generally, the dot representing the United States is in motion—away from civil oligarchy and toward an oligarchy-state relationship that is structured rather differently.¹³⁹

136. On the Musk contracts, see *infra* notes 174, 176; Eric Lipton, *Musk Is Positioned to Profit Off Billions in New Government Contracts*, N.Y. TIMES (Mar. 23, 2025), <https://www.nytimes.com/2025/03/23/us/politics/spacex-contracts-musk-doge-trump.html> (on file with the *Fordham Law Review*). On the Musk-Trump rift, see Cat Zakrzewski, Faiz Siddiqui & Elizabeth Dwoskin, *The Epic Breakup of Trump and Musk’s White House Bromance*, WASH. POST (June 6, 2025), <https://www.washingtonpost.com/politics/2025/06/05/trump-musk-fight/> (on file with the *Fordham Law Review*); Cat Zakrzewski, Natalie Allison, Elizabeth Dwoskin, Jeff Stein & Emily Davies, *Inside the Battles that Shattered Trump and Musk’s Alliance*, WASH. POST (June 7, 2025), <https://www.washingtonpost.com/politics/2025/06/07/trump-elon-musk-fight-behind-scenes/> (on file with the *Fordham Law Review*) [hereinafter *Inside the Battles*].

137. See generally Andrea Coveri, Claudio Cozza & Dario Guarascio, *Big Tech and the US Digital-Military Industrial Complex*, 60 INTERECONOMICS 81 (2025).

138. WINTERS, *supra* note 15, at 34.

139. An important set of actions involving rollbacks of public corruption protections is especially noteworthy. See, e.g., Zeke Miller, Eric Tucker & Will Weissert, *Trump Uses Mass Firing to Remove Independent Inspectors General at a Series of Agencies*, ASSOC. PRESS (Jan. 25, 2025, at 22:33 ET), <https://apnews.com/article/trump-inspectors-general-fired-congress->

DOGE is a vehicle for transforming the federal government and its constituent institutions and processes into forms more amenable to oligarchic direction. There is another playbook of central relevance to that project, which those focused on the familiar public law debates about government structure have overlooked. Developed by Curtis Yarvin, a self-styled public intellectual backed by tech oligarch Peter Thiel and endorsed by Vice President JD Vance, another Thiel protégé, it calls for a hard “reboot” of government directed by a “CEO” appointed to run the government on the president’s behalf.¹⁴⁰ The CEO “will run the executive branch without any interference from the Congress or courts, probably also taking over state and local governments. Most existing important institutions, public and private, will be shut down and replaced with new and efficient systems.”¹⁴¹ This is to be achieved, in the first instance, through a program Yarvin dubbed “RAGE”: Retire All Government Employees.¹⁴² It must continue via a process of “De-Nazification, De-Baathification . . . De-woke-ification”—i.e., it must involve an ideological purge in addition to a personnel purge.¹⁴³ Subsequently, “[t]he regime must have the capacity to govern every institution it does not dismantle.”¹⁴⁴

The journey toward oligarchic control is incomplete and its precise trajectory is uncertain in one very important way. Two other corners of the map—occupied by ruling oligarchies and sultanistic oligarchies—loom large as possible destinations for the United States following the DOGE-driven realignment of government, and they are very different from each other. In a ruling oligarchy, oligarchs rule collectively through institutions that they develop and support, whereas in a sultanistic oligarchy, a lead oligarch

unlawful-4e8bc57e132c3f9a7f1c2a3754359993 [https://perma.cc/K4EK-5DCM]; Eric Berger, *Eric Adams, Trump, and a New York Story That’s Stress-Testing the Rule of Law*, GUARDIAN (Feb. 18, 2025, at 10:00 ET), https://www.theguardian.com/us-news/2025/feb/18/eric-adams-donald-trump-corruption-case [https://perma.cc/NYP9-WCVM]; Kenneth P. Vogel, *Moves by Trump and Bondi Raise Hopes of Those Accused of Foreign Corruption*, N.Y. TIMES (Feb. 14, 2025), https://www.nytimes.com/2025/02/14/us/politics/trump-bondiforeign-corruption.html (on file with the *Fordham Law Review*).

140. Gil Duran, *‘Reboot’ Revealed: Elon Musk’s CEO-Dictator Playbook*, THE NERD REICH (Feb. 5, 2025), https://www.thenerdreich.com/reboot-elon-musk-ceo-dictator-doge/ [https://perma.cc/L69M-MPRX]; see also David Marchese, *‘The Interview’: Curtis Yarvin Says Democracy Is Done. Powerful Conservatives Are Listening.*, N.Y. TIMES (Jan. 18, 2025), https://www.nytimes.com/2025/01/18/magazine/curtis-yarvin-interview.html (on file with the *Fordham Law Review*).

141. Marchese, *supra* note 140 (quoting BILTALKS, *BIL2012 - Mencius Moldbug: How to Reboot the US Government*, at 17:07 (YouTube, Oct. 20, 2012), https://www.youtube.com/watch?v=ZluMysK2B1E&t=1027s (on file with the *Fordham Law Review*)). For an illuminating example of Trump administration lawyers stonewalling the courts in aid of this mandate, see Anna Bower, *Who Is Running the U.S. DOGE Service?*, LAWFARE (Feb. 25, 2025, at 15:07 ET), https://www.lawfaremedia.org/article/who-is-running-the-u.s.-doge-service [https://perma.cc/H9RY-CLPE].

142. Duran, *supra* note 140.

143. *Id.* (quoting Vice President JD Vance, endorsing Yarvin’s vision in 2021); see also Marchese, *supra* note 140; Gil Duran, *With J.D. Vance on Trump Ticket, the Nerd Reich Goes National*, THE NERD REICH (July 30, 2024), https://www.thenerdreich.com/with-j-d-vance-on-trump-ticket-the-nerd-reich-goes-national/ [https://perma.cc/C3VN-GKAM].

144. Duran, *supra* note 140 (quoting BILTALKS, *supra* note 141).

assumes primary control in exchange for guaranteeing wealth defense for the other oligarchs.¹⁴⁵ The two corners represent starkly different bargains; in particular, in a sultanistic regime, regularized governance institutions serving collective goals play correspondingly smaller roles.

It is reasonably clear that Musk envisioned himself as the alpha oligarch—the sultanistic despot upon whose strength the others would come to rely and upon whose favor their fortunes would depend.¹⁴⁶ Even before the spectacular, social media-fueled implosion of the Trump-Musk bromance, that outcome was uncertain. Presidential administrations are rarely monolithic, but the second Trump administration presents an especially tricky political landscape, with multiple ideological factions jostling for supremacy.¹⁴⁷ Tech oligarchs also are not the only group of oligarchs seeking greater recognition of and protection for their interests. In particular, it is clear that Trump envisions a sultanistic transformation for the United States with himself as oligarch-in-chief.¹⁴⁸ Capitalizing on the trail of destruction left by DOGE to deliver the particular rearrangements most

145. WINTERS, *supra* note 15, at 32–38.

146. See generally Derek Robertson, *Elon Musk's Rule by Poll*, POLITICO (Feb. 25, 2025, at 16:38 ET), <https://www.politico.com/newsletters/digital-future-daily/2025/02/25/musk-plebiscite-doge-x-00205999> [<https://perma.cc/FR72-TZ7Z>]; Garrett Graff, *Musk's Junta Establishes Him as Head of Government* (Feb. 1, 2025), <https://www.doomsdayscenario.com/p/musk-s-junta-establishes-him-as-head-of-government> [<https://perma.cc/LJ7P-ZNTN>].

147. Ian Ward, *J.D. Vance Maps Out a Future for the Tech and MAGA Right*, POLITICO (Mar. 18, 2025, at 15:45 ET), <https://www.politico.com/news/magazine/2025/03/18/jd-vance-american-dynamism-tech-maga-00235805> [<https://perma.cc/H2FZ-SSK8>]; Alexander Reid Ross, *A Growing Rift within the MAGA Coalition Between Populists and Techno-Oligarchs May Determine the Future of the Republican Party*, NEW LINES MAG. (Apr. 15, 2025), <https://newlinesmag.com/argument/steve-bannon-and-elon-musk-are-battling-for-the-soul-of-trumpism/> [<https://perma.cc/5TMS-FDB8>]; Andrew Prokop, *The Surprising Trend Shaking Up the Trump Administration*, VOX (May 8, 2025), <https://www.vox.com/trump-administration/411936/trump-gop-establishment-rubio-bessent-tariffs-ukraine> (on file with the *Fordham Law Review*); Rob Crilly & Connor Stringer, *Flattery and Sleight of Hand: The Art of Managing President Trump*, TELEGRAPH (May 31, 2025, at 12:20 BST), <https://www.telegraph.co.uk/us/politics/2025/05/31/secret-cabinet-tricks-win-over-donald-trump/> [<https://perma.cc/5HHP-BDZX>].

148. Moira Donegan, *First Trump Joked He Wanted a Third Term. Then He Got Serious*, GUARDIAN (Apr. 2, 2025, at 06:00 ET), <https://www.theguardian.com/commentisfree/2025/apr/02/first-trump-joked-he-wanted-a-third-term-then-he-got-serious> [<https://perma.cc/D54K-DXZV>]; Tom Dreisbach, *Trump Has Used Government Powers to Target More than 100 Perceived Enemies*, NPR (Apr. 29, 2025, at 05:00 ET), <https://www.npr.org/2025/04/29/nx-s1-5327518/donald-trump-100-days-retribution-threats> [<https://perma.cc/XA3P-26TR>]; Eric Lipton, David Yaffe-Bellany & Ben Protess, *Secret Deals, Foreign Investments, Presidential Policy Changes: The Rise of Trump's Crypto Firm*, N.Y. TIMES (Apr. 29, 2025), <https://www.nytimes.com/2025/04/29/us/politics/trump-crypto-world-liberty-financial.html> (on file with the *Fordham Law Review*); Peter Stone, *'I Have Never Seen Such Open Corruption': Trump's Crypto Deals and Loosening of Rules Shock Observers*, GUARDIAN (June 17, 2025, at 07:00 ET), <https://www.theguardian.com/us-news/2025/jun/17/trump-crypto-memecoin-corruption> [<https://perma.cc/29AD-GPZ6>]. But see Jake Lahut, *Larry Ellison Is a 'Shadow President' in Donald Trump's America*, WIRED (Sep. 24, 2025, at 13:00), <https://www.wired.com/story/larry-ellison-is-a-shadow-president-in-donald-trumps-america/> (on file with the *Fordham Law Review*) (suggesting that, in such an arrangement, tech and media oligarch Larry Ellison would operate as the “shadow president”).

congenial to tech oligarchs called for patience, self-control, and political savvy—qualities for which Musk is not known.¹⁴⁹

Perhaps more importantly in the long run, even if Musk had been able to navigate these complex ideological and political cross-currents more effectively, it is unclear whether the remaining top-tier oligarchs—Mark Zuckerberg, Jeff Bezos, and Sundar Pichai, pictured in a now-infamous photo taken at Trump’s second inauguration; behind-the-scenes movers and shakers Marc Andreessen and Peter Thiel; tech and media mogul Larry Ellison; and likely up-and-comer Sam Altman—are inclined to let Musk or anyone else walk away with the grand prize.¹⁵⁰

Musk’s relationships with other leading tech oligarchs have always been rocky. Consider, for example, the ongoing and much-publicized disagreements between Musk and his former protégé Altman about the future of AI research. Initial reports characterizing those disagreements as matters of principle—in particular, Musk at one time professed concerns about the safety of advanced AI systems—were radically incomplete.¹⁵¹ Musk’s 2018 departure from OpenAI followed Altman’s rejection of his attempt to gain 51 percent control of the then-promising startup; in the ensuing years, Musk has worked continuously to try to undermine the company that got away.¹⁵² But the rivalry also does not seem to be entirely about either money or control. Altman, soft-spoken and magnetic, has catapulted to stardom, capturing the public imagination in a way that neither Bezos, Zuckerberg, nor Musk himself could ever manage.¹⁵³ Altman also has accomplished an unusual feat, outflanking Musk to secure a presidential announcement of a massive new data center venture designed to position OpenAI at the leading edge in the global race for AI supremacy.¹⁵⁴

149. Constance Grady, *The Big Elon Musk Biography Asks All the Wrong Questions*, VOX (Sep. 13, 2023), <https://www.vox.com/culture/23872485/elon-musk-walter-isaacson-biography-review> (on file with the *Fordham Law Review*); Kirsten Grind & Megan Twohey, *On the Campaign Trail, Musk Juggled Drugs and Family Drama*, N.Y. TIMES (May 31, 2025), <https://www.nytimes.com/2025/05/30/us/elon-musk-drugs-children-trump.html> (on file with the *Fordham Law Review*); *Inside the Battles*, *supra* note 136.

150. See Andrew Ross Sorkin, Ravi Mattu, Bernhard Warner, Sarah Kessler, Michael J. de la Merced, Lauren Hirsch & Edmund Lee, *The Billionaires’ Row at the Inauguration*, N.Y. TIMES (Jan. 21, 2025), <https://www.nytimes.com/2025/01/21/business/dealbook/billionaires-trump-zuckerberg-bezos-musk.html> (on file with the *Fordham Law Review*).

151. Cade Metz & Gregory Schmidt, *Elon Musk and Others Call for Pause on A.I., Citing ‘Profound Risks to Society’*, N.Y. TIMES (Mar. 29, 2023), <https://www.nytimes.com/2023/03/29/technology/ai-artificial-intelligence-musk-risks.html> (on file with the *Fordham Law Review*).

152. See Hayden Field, *OpenAI Emails Show Elon Musk Wanted For-Profit Structure in 2017*, CNBC (Dec. 13, 2024, at 14:48 ET), <https://www.cnbc.com/2024/12/13/openai-says-elon-musk-wanted-it-to-be-for-profit-in-2017.html> [<https://perma.cc/845R-B7MV>]; Lily Jamali, *Musk v Altman: What Might Really Be Behind Failed Bid for OpenAI*, BBC (Feb. 16, 2025), <https://www.bbc.com/news/articles/ce8yl47p4k3o> [<https://perma.cc/DT3M-26AQ>].

153. See, e.g., Bajekal & Perrigo, *supra* note 11; Elizabeth Weil, *Sam Altman Is the Oppenheimer of Our Age*, N.Y. MAG. (Sep. 25, 2023), <https://nymag.com/intelligencer/article/sam-altman-artificial-intelligence-openai-profile.html> (on file with the *Fordham Law Review*).

154. Cecilia Kang & Cade Metz, *How Sam Altman Sidestepped Elon Musk to Win Over Donald Trump*, N.Y. TIMES (Feb. 8, 2025), <https://www.nytimes.com/2025/02/08/technology/>

The Musk-Zuckerberg and Musk-Bezos relationships have also been tumultuous. Zuckerberg and Musk have clashed repeatedly about topics ranging from the relative merits of Instagram and then-Twitter to the extent of “censorship” on Facebook to the future of AI research.¹⁵⁵ As Part IV will discuss in more detail, Musk and Bezos have long competed with one another for supremacy in the emerging field of space travel and therefore also for defense contracts covering various aspects of satellite and rocket technology. The Bezos-owned *Washington Post* has long positioned itself as an outspoken Musk critic and continues to report extensively and unfavorably on Musk and DOGE—although, more recently, the *Post* has also carried favor with the Trump administration to a degree unprecedented in the paper’s storied history.¹⁵⁶ Last but not least, some of Musk’s personal enrichment ambitions—in particular, his publicly expressed ambition to develop X into a Chinese-style “super-app” through which users can direct payments, manage investments, interact with government agencies, and manage the totality of their digital lives—place him starkly at odds with his fellow tech oligarchs, but especially Zuckerberg and Bezos, on a range of matters vital to the continued fortunes of their respective tech platform enterprises.¹⁵⁷

Many of the other leading tech oligarchs, however, have also feuded publicly with one another. To quote the *Wall Street Journal*, the biggest U.S. tech platform companies are best described as frenemies, occasionally aligned on one project or another but always in competition.¹⁵⁸ Newcomer Altman has embraced the frenemy dynamic, partnering with Google for faster growth while working to undercut Google’s flagship search and AI products, becoming involved in a series of public dustups with Zuckerberg, and pursuing rapid growth and industry dominance in ways that have left the

sam-altman-elon-musk-trump.html (on file with the *Fordham Law Review*); Matteo Wong, *How Sam Altman Could Break Up Elon Musk and Donald Trump*, ATLANTIC (Feb. 26, 2025), <https://www.theatlantic.com/technology/archive/2025/02/sam-altman-elon-musk-trump/681838/> (on file with the *Fordham Law Review*).

155. See Kierra Frazier, *Here’s How the Zuckerberg-Musk Rivalry Escalated to That Shirtless Photo Post*, POLITICO (July 12, 2023, at 15:10 ET), <https://www.politico.com/news/2023/07/12/elon-musk-mark-zuckerberg-feuding-timeline-00105882> [<https://perma.cc/3EF7-UB93>].

156. See, e.g., Desmond Butler, Trisha Thadani, Emmanuel Martinez, Aaron Gregg, Luis Melgar, Jonathan O’Connell & Dan Keating, *Elon Musk’s Business Empire Is Built on \$38 Billion in Government Funding*, WASH. POST. (Feb. 26, 2025), <https://www.washingtonpost.com/technology/interactive/2025/elon-musk-business-government-contracts-funding/> (on file with the *Fordham Law Review*). When the two priorities conflict, Trump wins. See *Here’s the Ad the Washington Post Wouldn’t Run*, COMMON CAUSE (Feb. 16, 2025), <https://www.commoncause.org/articles/jeff-bezos-doesnt-want-you-to-see-this/> [<https://perma.cc/ERL7-6XXM>].

157. See Alex Heath, *Elon Musk’s ‘Everything App’ Plan for X, in His Own Words*, THE VERGE (Oct. 31, 2023, at 18:34 ET), <https://www.theverge.com/23940924/elon-musk-x-twitter-all-hands-linda-yaccarino-super-app> (on file with the *Fordham Law Review*).

158. Bowdeya Tweh & Katherine Riley, *Google, Facebook, Amazon, Apple and Microsoft. Call Them Tech Frenemies for Life*, WALL ST. J. (Apr. 1, 2021, at 13:49 ET), <https://www.wsj.com/tech/tech-giants-cooperate-while-competing-frenemies-for-life-11617293819> (on file with the *Fordham Law Review*).

relationship between OpenAI and its lead investor and business partner Microsoft increasingly strained.¹⁵⁹

The likeliest route for the United States, therefore, might seem to be toward increasingly entrenched control by a (fractious) ruling oligarchy—but here too, tech oligarchs may be charting a new path. Two very powerful tech oligarchs—Marc Andreessen and Peter Thiel—play important roles as hubs within Silicon Valley-centered power networks while operating largely in the background. Neither man controls a dominant tech platform company that offers services directly to individual or small business end users, and neither man has publicly manifested any desire to become a singular, sultanistic ruler in his own right. Both men have mentored and repeatedly invested in Zuckerberg, Musk, and Altman, and Andreessen also seems to have built personal ties with Bezos.¹⁶⁰ Both men have also played central roles in articulating and refining the longtermist and neofascist ideologies around which tech oligarchs' power play is now coalescing—Andreessen, through a series of published manifestos that have become canonical texts, and Thiel, through his sponsorship of Yarvin and other so-called “dark enlightenment” thinkers.¹⁶¹ Recently, an astonishing exposé revealed Andreessen as the central figure in a series of Silicon Valley power elite group chats, conducted via the encrypted messaging network Signal, that

159. Kenrick Cai & Krystal Hu, *Exclusive: OpenAI Taps Google in Unprecedented Cloud Deal Despite AI Rivalry, Sources Say*, REUTERS (June 11, 2025, at 13:22 ET), <https://www.reuters.com/business/retail-consumer/openai-taps-google-unprecedented-cloud-deal-despite-ai-rivalry-sources-say-2025-06-10/> (on file with the *Fordham Law Review*); Sarah Perez, *Zuckerberg Disses Closed-Source AI Competitors as Trying to ‘Create God’*, TECHCRUNCH (June 27, 2024, at 11:04 PT), <https://techcrunch.com/2024/06/27/zuckerberg-disses-closed-source-ai-competitors-as-trying-to-create-god/> [<https://perma.cc/CE9V-7KJP>]; Jessica Toonkel, Keach Hagey & Meghan Bobrowsky, *Meta Urges California Attorney General to Stop OpenAI From Becoming For-Profit*, WALL ST. J. (Dec. 13, 2024, at 20:32 ET), <https://www.wsj.com/tech/ai/elon-musk-open-ai-lawsuit-response-clf415f8> (on file with the *Fordham Law Review*); Moz Farooque, *OpenAI’s Altman Slams Mark Zuckerberg, Ignites Drama*, THE STREET (June 18, 2025, at 11:48 ET), <https://www.thestreet.com/technology/openais-altman-slams-mark-zuckerberg-ignites-drama> (on file with the *Fordham Law Review*); Tom Warren, *Inside Microsoft’s Complicated Relationship with OpenAI*, THE VERGE (June 19, 2025, at 12:00 ET), <https://www.theverge.com/notepad-microsoft-newsletter/688964/microsoft-openai-relationship-notepad> (on file with the *Fordham Law Review*).

160. Alice Tecotzky, *A Guide to Tech Billionaire Peter Thiel’s Washington Web*, BUS. INSIDER (Dec. 10, 2024, at 10:49 ET), <https://www.businessinsider.com/peter-thiel-washington-vance-musk-trump-ramaswamy-altman-palantir-2024-11> (on file with the *Fordham Law Review*); Tad Friend, *Tomorrow’s Advance Man*, NEW YORKER (May 11, 2015), <https://www.newyorker.com/magazine/2015/05/18/tomorrows-advance-man> (on file with the *Fordham Law Review*); Clare Malone, *Is Jeff Bezos Selling Out the Washington Post?*, NEW YORKER (May 12, 2025), <https://www.newyorker.com/magazine/2025/05/26/is-jeff-bezos-selling-out-the-washington-post> (on file with the *Fordham Law Review*).

161. Andreessen, *supra* note 8; Marc Andreessen, *It’s Time to Build*, ANDREESSEN HOROWITZ (Apr. 18, 2020), <https://a16z.com/its-time-to-build/> [<https://perma.cc/TGK9-DP YG>]; Duran, *supra* note 140; Ed Simon, *What We Must Understand About the Dark Enlightenment Movement*, TIME (Mar. 24, 2025, at 07:00 ET), <https://time.com/7269166/dark-enlightenment-history-essay/> (on file with the *Fordham Law Review*).

function as a sort of “dark matter of American politics and media.”¹⁶² Thiel, meanwhile, is working through his flagship venture, the data analytics company Palantir, to build on the trail of destruction left by DOGE by developing a single, master database incorporating all of the personal data held by the federal government.¹⁶³ Both Andreessen and Thiel helped Musk recruit staff for DOGE, drawing extensively on their personal networks.¹⁶⁴ Whether in concert or by tacit agreement, the two men increasingly appear to be stewarding the oligarchic quest to dissolve and reconfigure institutions for public administration from behind the scenes, for the benefit of the cluster of tech oligarchs in their special favor. (And, if that is right, the widely shared enthusiasm for ongoing government efforts to break up Google—a rival contender for data-driven, AI-enabled supremacy—may be worth reconsidering.)¹⁶⁵

In sum, the principal purpose of DOGE is to restructure government in a way that is efficient for oligarchs; the precise nature of that restructuring, however, remains open to significant question. Whether any particular tech oligarch is likely to attain supremacy vis-a-vis the others will depend in part on his ability to navigate treacherous political shoals and in part on his willingness to guarantee the others sufficiently large pieces of the federal procurement pie. Satisfying the efficient-for-oligarchs standard, however, requires more than just ready access to opportunities for personal enrichment. It requires a more durable shift in how the state’s institutions and operations are configured. This provisional conclusion, in turn, suggests a final set of questions about what technology oligarchs intend the state and its constituent institutions to become.

162. Ben Smith, *The Group Chats That Changed America*, SEMAFOR (Apr. 27, 2025, at 19:23 ET), <https://www.semafor.com/article/04/27/2025/the-group-chats-that-changed-america> [<https://perma.cc/E4E7-39UW>].

163. Sheera Frenkel & Aaron Krolik, *Trump Taps Palantir to Compile Data on Americans*, N.Y. TIMES (May 30, 2025), <https://www.nytimes.com/2025/05/30/technology/trump-palantir-data-americans.html> (on file with the *Fordham Law Review*).

164. Alena Botros, *Marc Andreessen Is Recruiting and Interviewing Staff for Elon Musk’s Department of Government Efficiency*, FORTUNE (Dec. 5, 2024, at 13:35 ET), <https://fortune.com/2024/12/05/marc-andreessen-department-of-government-efficiency-trump-musk-bezos-recruiter-staff/> (on file with the *Fordham Law Review*); Vittoria Elliott & Tim Marchman, *The Recruitment Effort That Helped Build Elon Musk’s DOGE Army*, WIRED (Feb. 8, 2025, at 20:01 ET), <https://www.wired.com/story/elon-musk-doge-recruiting-palantir/> [<https://perma.cc/HNJ8-J5QN>]; Vittoria Elliott, *We Mapped DOGE’s Silicon Valley and Corporate Connections*, WIRED (Mar. 28, 2025, at 07:00 ET), <https://www.wired.com/story/elon-musk-doge-silicon-valley-corporate-connections/> [<https://perma.cc/KTA5-NZWA>].

165. Daniella Cheslow, *A Split Screen for Tech on ‘Liberation Day’*, POLITICO (Apr. 3, 2025, at 16:57 ET), <https://www.politico.com/newsletters/digital-future-daily/2025/04/03/a-split-screen-for-tech-on-liberation-day-00270503> [<https://perma.cc/EP6A-QRR2>]; Alex Thompson & Ashley Gold, *Vance Allies Set to Flex Antitrust Muscle Against Big Tech*, AXIOS (Apr. 15, 2025), <https://www.axios.com/2025/04/15/vance-antitrust-big-tech-corporations> (on file with the *Fordham Law Review*).

IV. EXIT VELOCITY?

In the years leading up to the ongoing, still-emergent oligarchic takeover of America's governing institutions, tech oligarchs and their hangers-on focused with growing intensity on two important clusters of initiatives that involve starkly futurist imaginaries of technological and sociotechnical change. Generally speaking, the ventures in one cluster envision separating from society, while those in the other aspire to reengineer it completely. All such efforts, however, have two signal attributes. First, they clearly and unambiguously center vast constellations of privately controlled data and computing power. Second, although they are conceived and implemented in ways that self-evidently benefit tech oligarchs and others meriting their special favor, they also propose to do far more.

Recall that, although the civil oligarchic project leaves the ordinary, background operation of state and social institutions (mostly) undisturbed, tech oligarchs no longer see that approach as tenable. In their view, the state has taken aim at both the foundations of their entitlement and the fruits of their genius, commanding their obedience to outmoded and irrational institutions for social ordering. The futurist projects that now preoccupy them would replace those institutions and the social compact that produced them with a technologically mediated bargain that is structured very differently.

In places where laws and regulations are made the old-fashioned way, it has seemed tempting to dismiss all or most of these efforts as science fiction fantasies—and, to be fair, far more important to focus on other, more imminent disruptions produced by tech oligarchs' operations. That is a mistake. The oligarchically funded and directed efforts described here are already producing large-scale effects that result from the ways information flows and computing power—and all of the activities that depend on them—are being reconfigured.

A. Severance

Tech oligarchs and those in their circles have long aspired to build high-tech city-states governed and operated according to shared, techno-utopian principles. Some oligarchically funded initiatives seek to carve out designated territories within or abutting existing states and reinvent them as self-contained colonies operated by private technology firms. Others, splashier and headline-grabbing, center around space exploration and colonization. Both in concept and in unfolding execution, all of these initiatives remain tied to their points of origin in unacknowledged yet vitally important ways, including many that continue the traditional oligarchic projects of wealth defense and offense. At the same time, they exemplify a newer oligarchic project directed toward hollowing out and displacing sovereign technical capacity and governance authority.

The connective tissue for techno-utopian separatist movements is the idea of the “network state,” a decentralized federation of communities built by like-minded “citizens” based on crypto, AI, and advanced energy and

bioengineering technologies.¹⁶⁶ Some efforts to create self-contained high-tech colonies have involved purchasing land in or adjacent to developing or war-torn nations—notably including islands in Latin America and Oceania and zones of contested authority in the Balkans—where, at least in theory, the rapid influx of tech money to build privately controlled infrastructure could ensure de facto autonomy.¹⁶⁷ For the most part, host nations have taken a dim view of such experiments.¹⁶⁸ Proposals to situate extensive private developments in jurisdictions with more extensive regulatory infrastructures and permitting requirements—notably including California—have advanced more slowly but also have more recognizable precursors in the walled *colonias* common in Latin American countries and the gated communities that increasingly dot the United States.¹⁶⁹ If eventually built, such settlements may have more staying power.

Separatist colonies here on earth, however, are just dress rehearsals for the main event, which involves space colonization. Two tech oligarchs, Elon Musk and Jeff Bezos, have poured billions of dollars into a new, privatized space race led by their respective startup ventures, SpaceX and Blue Origin. Musk's plans involve settling on Mars; he has indicated that, after detonating a nuclear device intended to terraform the planet's climate, he envisions supporting multiple settlements housing hundreds of thousands within the next several decades.¹⁷⁰ Bezos, meanwhile, hopes to build enormous,

166. For the fullest exposition, see BALAJI SRINIVASAN, *THE NETWORK STATE* (2022); for a probing critique, see QUINN SLOBODIAN, *CRACK-UP CAPITALISM: MARKET RADICALS AND THE DREAM OF A WORLD WITHOUT DEMOCRACY* (2024). See also PRAXIS, <https://www.praxisnation.com/#about> [<https://perma.cc/BQ5P-ACBR>] (last visited Sep. 1, 2025).

167. Laurie Clarke, *Crypto Millionaires Are Pouring Money into Central America to Build Their Own Cities*, MIT TECH. REV. (Apr. 20, 2022), <https://www.technologyreview.com/2022/04/20/1049384/crypto-cities-central-america/> (on file with the *Fordham Law Review*); Rachel Corbett, *The For-Profit City That Might Come Crashing Down*, N.Y. TIMES (Sep. 19, 2024), <https://www.nytimes.com/2024/08/28/magazine/prospera-honduras-crypto.html> (on file with the *Fordham Law Review*); Edward Ongweso, Jr., *Cryptocurrency Investors Try to Turn Private Islands into Blockchain Utopias*, VICE (Jan. 7, 2022, at 14:58 ET), <https://www.vice.com/en/article/cryptocurrency-investors-try-to-turn-private-islands-into-blockchain-utopias/> [<https://perma.cc/LQ9G-46KD>]; Kalyeena Makortoff, *Meet Europe's Newest Tax Haven and Microstate*, CNBC (May 4, 2015, at 11:03 ET), <https://www.cnbc.com/2015/05/04/meet-europes-newest-tax-haven-and-micro-state.html> [<https://perma.cc/2N W2-WQ47>].

168. See sources cited *supra* note 167.

169. Edward Ongweso, Jr., *Crypto Investors Buy 40 Acres of Land in Wyoming to Build a Blockchain City*, VICE (Nov. 3, 2021, at 11:55 ET), <https://www.vice.com/en/article/crypto-investors-buy-40-acres-of-land-in-wyoming-to-build-blockchain-city/> [<https://perma.cc/A2G K-VGJ7>]; Conor Dougherty & Erin Griffith, *The Silicon Valley Elite Who Want to Build a City from Scratch*, N.Y. TIMES (Aug. 28, 2023), <https://www.nytimes.com/2023/08/25/business/land-purchases-solano-county.html> (on file with the *Fordham Law Review*); Will McCarthy, *Big Tech-Backed Plan for New California City Gets Pulled from Local Ballot*, POLITICO (July 22, 2024, at 19:38 ET), <https://www.politico.com/news/2024/07/22/california-forever-plan-local-ballot-00170464> [<https://perma.cc/JK4X-JMY2>]; Adina Solomon, *Billionaire-Planned Smart Cities in the U.S.: What's the Latest?*, SMART CITIES DIVE (Nov. 13, 2023), <https://www.smartcitiesdive.com/news/billionaire-smart-cities-update-elon-musk-telosa-utopia/699348/> [<https://perma.cc/YQF2-S4ZY>].

170. Kirsten Grind, *Elon Musk's Plan to Put a Million Earthlings on Mars in 20 Years*, N.Y. TIMES (July 12, 2024), <https://www.nytimes.com/2024/07/11/technology/elon-musk->

free-floating space stations following, in general outline, plans proposed by a Princeton University physics professor in the 1970s.¹⁷¹ So far, the most immediate beneficiaries have been wealthy space tourists willing to pay millions for relatively brief trips into the outer atmosphere.¹⁷² According to both men, however, these projects stand to benefit humanity in distinctly longtermist ways, housing future populations after the earth can no longer sustain them.¹⁷³

Ambitions for space travel and settlement present some obvious scientific and technological challenges. Whether either oligarch is likely to address those successfully is not my principal concern here. Nor is my principal concern the merits of the ambition—long shared by a wide range of thinkers from Nobel laureates to science fiction writers to Afrofuturists—to go to space and create settlements there. Instead, I want to draw attention to certain predictable features of the ways that the plans for space colonization devised by tech oligarchs seem to be unfolding.

First, both the Musk and Bezos space ventures are being financed in ways that feature strategies for private wealth defense and offense transposed into the realm of government contracting. SpaceX and Blue Origin vie with one another and more conventionally structured aerospace firms, such as Lockheed Martin and Boeing, for contracts to build everything from rocket boosters and lunar landers to reconnaissance satellites and missile tracking systems.¹⁷⁴ All benefit from a decades-long push to privatize federal

spacex-mars.html (on file with the *Fordham Law Review*); Chris Heath, *How Elon Musk Plans on Reinventing the World (and Mars)*, GQ (Dec. 12, 2015), <https://www.gq.com/story/elon-musk-mars-spacex-tesla-interview> [<https://perma.cc/H8UG-FXGH>].

171. Robert Hart, *Forget Musk's Martian Ambition—Jeff Bezos Thinks Humans Should Live in Giant Cylindrical Space Stations*, FORBES (Dec. 15, 2023, at 09:45 ET), <https://www.forbes.com/sites/roberthart/2023/12/15/forget-musks-martian-ambition-jeff-bezos-thinks-humans-should-live-in-giant-cylindrical-space-stations/> (on file with the *Fordham Law Review*); Alan Boyle, *Where Does Jeff Bezos Foresee Putting Space Colonists?: Inside O'Neill Cylinders*, GEEKWIRE (Oct. 29, 2016), <https://www.geekwire.com/2016/jeff-bezos-space-colonies-oneill> [<https://perma.cc/LQE4-62E8>].

172. Rebecca Heilweil, *Welcome to the Age of Billionaire Joyrides to Space*, VOX (July 20, 2021, at 10:41 ET), <https://www.vox.com/recode/22583997/billionaires-blue-origin-elon-musk-jeff-bezos-rockets-planes-commercial-space-tourism> (on file with the *Fordham Law Review*); Carlton Reid, *The World's First Commercial Space Station Looks Like a Luxury Hotel Inside*, WIRED (Oct. 10, 2024, at 09:20 ET); <https://www.wired.com/story/the-worlds-first-commercial-space-station-looks-like-a-luxury-hotel-inside/> [<https://perma.cc/E276-6YEP>].

173. See generally Gregers Andersen, *Desperate Science Fiction: On How Musk, Bezos, Gates and Google Plan to Escape Socio-Ecological Collapse*, 63 CULTURE, THEORY & CRITIQUE 281 (2022); Thomas Moynihan, *Why Are Billionaires Obsessed With Going to Space?*, GUARDIAN (July 16, 2021, at 10:30 ET), <https://www.theguardian.com/commentisfree/2021/jul/16/billionaires-outer-space-elon-musk-jeff-bezos-richard-branson> [<https://perma.cc/BPV3-GPHN>]; Tim Fernholz, *Jeff Bezos Explains How His Space Company Will Save Civilization*, QUARTZ (July 20, 2022), <https://qz.com/1266038/jeff-bezos-explains-how-his-space-company-blue-origin-will-save-civilization> [<https://perma.cc/9J4N-X46P>].

174. Alan Yuhas, *The New Space Race: How Billionaires Launched the Next Era of Exploration*, GUARDIAN (Feb. 9, 2018, at 11:31 ET), <https://www.theguardian.com/science/2018/feb/09/new-space-race-billionaires-elon-musk-jeff-bezos> [<https://perma.cc/XPB9-29WQ>]; Kenneth Chang, *Jeff Bezos' Rocket Company Challenges NASA Over SpaceX Moon Lander Deal*, N.Y. TIMES (Oct. 13, 2021), <https://www.nytimes.com/2021/04/26/science/>

procurement by prioritizing private sector suppliers wherever feasible.¹⁷⁵ Unlike other aerospace and defense contractors, however, SpaceX and Blue Origin draw upon government resources principally to advance their founders' personal ambitions for dominance in the emergent domain of space colonization. SpaceX, in particular, has used every tool at its disposal—which now likely includes unprecedented access to defense-related strategic and procurement information—to align national security procurement policy with its own goals and interests.¹⁷⁶ SpaceX's affiliate company Starlink has followed a similar trajectory, leveraging domestic and international programs for licensing communications satellites to implement an ambitious plan for effective dominance of near-earth orbit—which is now being challenged by Bezos-owned and Blue Origin-affiliated Project Kuiper.¹⁷⁷

spacex-moon-blue-origin.html (on file with the *Fordham Law Review*); Claire A. O'Shea, *NASA Selects Blue Origin as Second Artemis Lunar Lander Provider*, NASA (May 19, 2023), <https://www.nasa.gov/news-release/nasa-selects-blue-origin-as-second-artemis-lunar-lander-provider/> [<https://perma.cc/HLY5-PYB9>]; Christian Davenport, *SpaceX Could Finally Face Competition. It May Be Too Late.*, WASH. POST (Apr. 15, 2024), <https://www.washingtonpost.com/technology/2024/04/15/spacex-competition-nasa-pentagon/> (on file with the *Fordham Law Review*); Joey Roulette, *Musk's SpaceX Wins Pentagon Award for Missile Tracking Satellites*, REUTERS (Oct. 5, 2020, at 22:46 ET), <https://www.reuters.com/article/technology/musks-spacex-wins-pentagon-award-for-missile-tracking-satellites-idUSKBN26R0AB/> (on file with the *Fordham Law Review*); Sandra Erwin, *SpaceX Secures New Contracts Worth \$733.5 Million for National Security Space Missions*, SPACE NEWS (Oct. 18, 2024), <https://spacenews.com/spacex-secures-new-contracts-worth-733-5-million-for-national-security-space-missions/> [<https://perma.cc/7ZYQ-NN93>].

175. Office of Federal Procurement Policy Act Amendments of 1979, Pub. L. No. 96-83, § 6(c), 93 Stat. 648, 649; Clinger-Cohen Act of 1996, Pub. L. No. 104-106, §§ 5101, 5401, 5702, 110 Stat. 642, 680, 695, 702; OFF. MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, OMB Circular No. A-76, MEMORANDUM ON PERFORMANCE OF COMMERCIAL ACTIVITIES 2 (1983).

176. On contracts awarded to SpaceX, see, for example, Stephen Clark, *NRO Chief: "You Can't Hide" from Our New Swarm of SpaceX-Built Spy Satellites*, ARS TECHNICA (Nov. 5, 2024, at 15:49 ET), <https://arstechnica.com/science/2024/11/nro-chief-you-cant-hide-from-our-new-swarm-of-spacex-built-spy-satellites/> [<https://perma.cc/2CSQ-VY86>]; Stephen Clark, *NASA Awards SpaceX a Contract for One of the Few Things It Hasn't Done Yet*, ARS TECHNICA (Nov. 26, 2024, at 13:23 ET), <https://arstechnica.com/space/2024/11/with-dragonfly-contract-nasa-will-certify-spacex-for-nuclear-powered-payloads/> [<https://perma.cc/DZ4S-R4BC>]; Mike Stone & Marisa Taylor, *Exclusive: Musk's SpaceX Is Frontrunner to Build Trump's Golden Dome Missile Shield*, REUTERS (Apr. 17, 2025, at 14:19 ET), <https://www.reuters.com/business/aerospace-defense/musks-spacex-is-frontrunner-build-trumps-golden-dome-missile-shield-2025-04-17/> (on file with the *Fordham Law Review*). But see Joey Roulette, *Musk-Trump Breakup Puts \$22 Billion of SpaceX Contracts at Risk, Jolting US Space Program*, REUTERS (June 6, 2025, at 01:39 ET), <https://www.reuters.com/business/aerospace-defense/spacex-will-decommission-dragon-spacecraft-musk-says-feud-with-trump-escalates-2025-06-05/> (on file with the *Fordham Law Review*). On SpaceX's access to government information, see Tech News Briefing, *See Why Musk Doesn't Have Access to SpaceX's Biggest Government Secrets*, WALL ST. J. (Dec. 17, 2024), <https://www.wsj.com/podcasts/tech-news-briefing/why-musk-doesnt-have-access-to-spacexs-biggest-government-secrets/179a23d7-b2d7-4b0f-a4eb-9e3dd4f87882> (on file with the *Fordham Law Review*); Charlie Warzel, Ian Bogost & Matteo Wong, *DOGE Has 'God Mode' Access to Government Data*, ATLANTIC (Feb. 19, 2025), <https://www.theatlantic.com/technology/archive/2025/02/doge-god-mode-access/681719/> (on file with the *Fordham Law Review*).

177. See, e.g., Aaditya Vikram Sharma, *Starlink and International Law: The Challenge of Corporate Sovereignty in Outer Space*, EJIL: TALK! (Mar. 17, 2025), <https://www.>

Even the most ambitious plans for separatist colonies, moreover, remain tethered to existing territories and states in other, more existential ways, relying on them for essential supplies, including raw and manufactured goods, cheap labor, and free-flowing energy. In particular, the data-driven, algorithmic processes needed to power automated “smart colony” functionality would need to be trained and supported offsite via an array of labor- and resource-intensive operations, including rare earth mineral extraction, chip manufacture, data collection and cleaning, and model training and retraining.¹⁷⁸ From the longtermist perspective, none of this matters much. Space colonies will eventually become self-sustaining as to all of these needs, so the point is to enable separation as an escape strategy, not to worry much about who or what is left behind. In particular, the billions of earthbound human beings and the natural resources needed to support the new oligarchic space race seem to figure in plans for exit to space colonies principally as necessary sacrifices.¹⁷⁹

Even while leaning hard on the state and on earthbound populations and supply chains for financial and operational support, oligarchic space ventures work to displace state authority in multiple, overlapping ways. To begin with, if rocket launchers, lunar landers, and the like are built by industry on a contract basis, they will not be built by government research institutions dedicated to space exploration. As a result, public innovative capacity will atrophy.¹⁸⁰ Less visibly but arguably more importantly, government oversight of these and other space-related operations must be conducted at arm’s length based on the types of data that oligarchically controlled operations are willing to provide. Meanwhile, both operations in near-earth orbit and excursions farther into space create new and potentially existential

ejiltalk.org/starlink-and-international-law-the-challenge-of-corporate-sovereignty-in-outer-space/ [https://perma.cc/3FCB-TNUU]; Cecilia Kang, *Federal Grant Program Opens Door to Elon Musk’s Starlink*, N.Y. TIMES (Mar. 5, 2025), https://www.nytimes.com/2025/03/05/technology/broadband-rules-elon-musk-starlink.html (on file with the *Fordham Law Review*); Megan Shahi, *The Senate Republican Budget Bill Adds Broadband Funding That Favors Musk’s Starlink and Bans State AI Laws*, CTR. FOR AM. PROGRESS (June 12, 2025), https://www.americanprogress.org/article/the-senate-republican-budget-bill-adds-broadband-funding-that-favors-musks-starlink-and-bans-state-ai-laws/ (on file with the *Fordham Law Review*); Adam Gabbatt, *Billionaire Space Race: Can Bezos’s Project Kuiper Catch Up to Musk’s Starlink?*, GUARDIAN (Oct. 15, 2023, at 07:00 ET), https://www.theguardian.com/science/2023/oct/15/billionaire-space-race-can-bezoss-project-kuiper-catch-up-to-musks-starlink [https://perma.cc/B8LW-HFN9].

178. See generally CRAWFORD, *supra* note 1; MARY GRAY & SIDDARTH SURI, *GHOST WORK: HOW TO STOP SILICON VALLEY FROM BUILDING A NEW GLOBAL UNDERCLASS* (2019); Chinmayi Arun, *The Silicon Valley Effect*, 61 STAN. J. INT’L L. (forthcoming 2025).

179. See generally MARY-JANE RUBENSTEIN, *ASTROTOPIA: THE DANGEROUS RELIGION OF THE CORPORATE SPACE RACE* (2022); Sarah Kessler, *Jeff Bezos Vows to Fight Climate Change, but Space Tourism Could Do More Harm, Critics Say*, N.Y. TIMES (Sep. 20, 2021), https://www.nytimes.com/2021/07/21/business/space-tourism-climate-change.html (on file with the *Fordham Law Review*).

180. See, e.g., Stephen Clark, *Blue Origin Boss: Government Should Forget Launch and Focus on “Exotic” Missions*, ARS TECHNICA (May 30, 2025, at 07:20 ET), https://arstechnica.com/space/2025/05/blue-origin-boss-government-should-forget-launch-and-focus-on-exotic-missions/ [https://perma.cc/8PM4-3A4J].

risks. Even if all goes according to plan, the aggregate carbon footprint of rocket launches may reach unsustainable levels long before the first space colony is opened to settlement.¹⁸¹ And a single accident could fill the near-earth orbital band with a field of debris, effectively disabling satellite communications and everything that depends on them, while also accelerating atmospheric ozone depletion.¹⁸²

All in all, the drive to create separate, high-tech colonies is unlikely to sever the bonds between tech oligarchs and extant societies. It does, however, promise to reconfigure those bonds, systematically etiolating public ability to exercise effective oversight of projects that are at best antisocial and at worst profoundly destructive. Notably, other oligarchically controlled tech platform firms are hedging their bets by building their own proprietary undersea cables to ensure that the network traffic supporting their operations will continue to flow.¹⁸³

B. Transcendence

Tech oligarchs and those in their circles also seek to use cutting-edge computational technologies to radically alter a wide range of human and social processes in the service of utopian goals. Some ventures involve developing increasingly powerful AI technologies and layering them throughout the various processes and institutions that underlie economic, social, and political life. Others take aim at perceived deficiencies in human genetics and neurobiology. Like the separatist initiatives discussed above, initiatives for technologically mediated transcendence continue both the traditional oligarchic projects of wealth defense and offense and a newer oligarchic project aimed at hollowing out and displacing existing governance functions and structures. Relative to plans for separatist colonies, however,

181. Teresa Pultarova, *Pollution from Rocket Launches and Burning Satellites Could Cause the Next Environmental Emergency*, SPACE.COM (Oct. 14, 2024), <https://www.space.com/rocket-launches-satellite-reentries-air-pollution-concerns> [https://perma.cc/8JLX-NH XV]. See generally Elwyn Sirieys, Chloe Gentgen, Asha Jain, Julia Milton & Olivier L. de Weck, *Space Sustainability Isn't Just About Space Debris: On the Atmospheric Impact of Space Launches*, 3 MIT SCI. POL'Y REV. 143 (2022).

182. Gabbatt, *supra* note 177; Tereza Pultarova, *SpaceX Starlink Satellites Had to Make 25,000 Collision-Avoidance Maneuvers in Just 6 Months—and It Will Only Get Worse*, SPACE.COM (July 6, 2023), <https://www.space.com/starlink-satellite-conjunction-increase-threatens-space-sustainability> [https://perma.cc/R2SE-3YX6]; Lucas Gutterman, *Environmental Harms of Satellite Internet Mega-Constellations*, U.S. PIRG EDUC. FUND REP. (Aug. 8, 2024), <https://pirg.org/edfund/resources/wastex-environmental-harms-of-satellite-internet-mega-constellations> [https://perma.cc/89QY-LXQK]; José P. Ferreira, Ziyu Huang, Ken-ichi Nomura & Joseph Wang, *Potential Ozone Depletion from Satellite Demise During Atmospheric Reentry in the Era of Mega-Constellations*, GEOPHYSICAL RSCH. LETTERS, June 2024, at 1.

183. Christopher Mims, *Google, Amazon, Meta and Microsoft Weave a Fiber-Optic Web of Power*, WALL ST. J. (Jan. 15, 2022, at 00:00 ET), <https://www.wsj.com/articles/google-amazon-meta-and-microsoft-weave-a-fiber-optic-web-of-power-11642222824> (on file with the *Fordham Law Review*). See generally Christian Bueger & Tobias Liebetrau, *Protecting Hidden Infrastructure: The Security Politics of the Global Submarine Data Cable Network*, 42 CONTEMP. SEC. POL'Y 391 (2021).

the ventures in this group slice more deeply, targeting foundational processes of economic, social, cultural, scientific, and technological production.

Rapid acceleration of artificial intelligence capability is the keystone techno-futurist project. Many in Silicon Valley hold in quasi-religious regard a series of texts authored by pioneering computer scientist and futurist Ray Kurzweil, who has been employed at Google since 2012 (and who has been a hedge fund operator focusing on data-driven market arbitrage since 1999).¹⁸⁴ Early on, Kurzweil posited that AI capabilities would eventually become generative—able to create new content, inventions, and ideas—and that, as computing power and generative capacity expanded, generative AI would eventually become artificial general intelligence (AGI), capable of matching and ultimately surpassing human intelligence.¹⁸⁵ After crossing this threshold, which Kurzweil called the singularity, AGI will be able to chart the future course of human civilization according to the tenets of transhumanism and longtermism, focusing on the greatest good for the greatest number of future, technologically transformed humans.¹⁸⁶ Faith in both the accuracy and the utter rightness of these predictions now informs vast swaths of research, funding, and development.¹⁸⁷ (A competing school of thought, known unofficially as doomerism, thinks the probability that newly powerful forms of AI will kill us all should weigh more heavily in the longtermist calculus. For entrepreneurs in this school, the prescription is to accelerate research on AI “safety” in tandem with research on AI development.¹⁸⁸)

184. *Ray Kurzweil*, WIKIPEDIA, https://en.wikipedia.org/wiki/Ray_Kurzweil [<https://perma.cc/7BM4-7YP4>] (last visited Aug. 27, 2025).

185. *See generally* RAY KURZWEIL, *THE SINGULARITY IS NEAR* (2005); RAY KURZWEIL, *THE AGE OF SPIRITUAL MACHINES* (1999); RAY KURZWEIL, *THE SINGULARITY IS NEARER: WHEN WE MERGE WITH AI* (2024).

186. Torres, *supra* note 97.

187. *See generally* Nanyi Fei et al., *Towards Artificial General Intelligence via a Multimodal Foundation Model*, 13 *NATURE COMMUNICATIONS* 3094 (2022); Rachel Metz, *OpenAI Scale Ranks Progress Toward ‘Human-Level’ Problem Solving*, BLOOMBERG (July 11, 2024, at 15:48 ET), <https://www.bloomberg.com/news/articles/2024-07-11/openai-sets-levels-to-track-progress-toward-superintelligent-ai> (on file with the *Fordham Law Review*); Will Heaven, *Google DeepMind Wants to Define What Counts as Artificial General Intelligence*, MIT TECH. REV. (Nov. 16, 2023), <https://www.technologyreview.com/2023/11/16/1083498/google-deepmind-what-is-artificial-general-intelligence-agi/> (on file with the *Fordham Law Review*). *See also* Meghan O’Gieblyn, *God in the Machine: My Strange Journey into Transhumanism*, GUARDIAN (Apr. 18, 2017, at 01:00 ET), <https://www.theguardian.com/technology/2017/apr/18/god-in-the-machine-my-strange-journey-into-transhumanism> [<https://perma.cc/KYL4-2JXX>].

188. *Statement on AI Risk*, CTR. FOR AI SAFETY (May 30, 2023), <https://www.safe.ai/work/statement-on-ai-risk> [<https://perma.cc/B335-LY3X>]; Kevin Roose, *A.I. Poses ‘Risk of Extinction,’ Industry Leaders Warn*, N.Y. TIMES (May 30, 2023), <https://www.nytimes.com/2023/05/30/technology/ai-threat-warning.html> (on file with the *Fordham Law Review*); Andrew Marantz, *Among the A.I. Doomsmayers*, NEW YORKER (Mar. 11, 2024), <https://www.newyorker.com/magazine/2024/03/18/among-the-ai-doomsmayers> (on file with the *Fordham Law Review*). *But see* Arvind Narayanan & Sayash Kapoor, *AI Existential Risk Probabilities Are Too Unreliable to Inform Policy*, AI SNAKE OIL (July 26, 2024), <https://www.aisnakeoil.com/p/ai-existential-risk-probabilities> [<https://perma.cc/T3ZU-82KB>].

Transhumanism, a related strand of techno-futurist thought, holds that the next stage in human evolution involves deliberately reengineering humans for enhanced longevity, intelligence, and happiness.¹⁸⁹ Some transhumanist thinkers overtly invoke eugenicist projects, describing a vision of humanity genetically altered to look and behave in particular ways and linking that vision to other techniques such as embryo selection for cognitive enhancement and pronatalist advocacy targeting particular population groups.¹⁹⁰ Others invoke a less specific vision in which major diseases are cured and lifespans extended via gene editing. Tech oligarchs and their companies, including Calico (Alphabet), Altos Labs (Jeff Bezos), and Unity Biotechnology (Peter Thiel), have made major investments in gene editing initiatives.¹⁹¹ Still other transhumanist ventures target neurobiology and cognition through various techniques, including both alternate and/or virtual reality technologies (e.g., Apple, Meta) and direct brain-computer interfaces (most famously, Elon Musk's Neuralink).¹⁹²

189. Alexander Thomas, *Transhumanism: Billionaires Want to Use Tech to Enhance Our Abilities—the Outcomes Could Change What It Means to Be Human*, THE CONVERSATION (Jan. 16, 2024, at 12:47 ET), <https://theconversation.com/transhumanism-billionaires-want-to-use-tech-to-enhance-our-abilities-the-outcomes-could-change-what-it-means-to-be-human-220549> [<https://perma.cc/8A8F-UV2W>].

190. See generally Carl Shulman & Nick Bostrom, *Embryo Selection for Cognitive Enhancement: Curiosity or Game-Changer?*, 5 GLOBAL POL'Y 85 (2014); Nick Bostrom, *A History of Transhumanist Thought*, Apr. 2005, J. EVOLUTION & TECH., at 1. See Jenny Kleeman, *America's Premier Pronatalists on Having 'Tons of Kids' to Save the World: 'There Are Going to Be Countries of Old People Starving to Death'*, GUARDIAN (May 25, 2024, at 02:00 ET), <https://www.theguardian.com/lifeandstyle/article/2024/may/25/american-pronatalists-malcolm-and-simone-collins> [<https://perma.cc/PT8T-SYRQ>]; *Human Enhancement: The Scientific and Ethical Dimensions of Striving for Perfection*, PEW RSCH. CTR. (July 26, 2016), <https://www.pewresearch.org/science/2016/07/26/human-enhancement-the-scientific-and-ethical-dimensions-of-striving-for-perfection-2/> [<https://perma.cc/J65U-RJBF>].

191. Antonio Regalado, *Google's Long, Strange Life-Span Trip*, MIT TECH. REV. (Dec. 15, 2016), <https://www.technologyreview.com/2016/12/15/69305/googles-long-strange-life-span-trip/> (on file with the *Fordham Law Review*); Antonio Regalado, *Meet Altos Labs, Silicon Valley's Latest Wild Bet on Living Forever*, MIT TECH. REV. (Sep. 4, 2021), <https://www.technologyreview.com/2021/09/04/1034364/altos-labs-silicon-valleys-jeff-bezos-milner-bet-living-forever/> (on file with the *Fordham Law Review*).

192. See Jonathan Vanian & Salvador Rodriguez, *Zuckerberg's Metaverse Is Finally Showing Signs of Life, but It's Not from VR*, CNBC (Oct. 10, 2024, at 09:00 ET), <https://www.cnbc.com/2024/10/10/meta-finally-finds-success-in-ar-vr-three-years-after-changing-name.html> [<https://perma.cc/W423-K5D6>]; Alex Heath, *Meta Plans to Sell First AR Glasses in 2027 with 'Neural' Smartwatch*, THE VERGE (Feb. 28, 2023, at 21:33 ET), <https://www.theverge.com/2023/2/28/23619730/meta-vr-oculus-ar-glasses-smartwatch-plans> (on file with the *Fordham Law Review*); Jon Markman, *Apple on Track to Lead on Smarter, Cooler Augmented Reality*, FORBES (Oct 6, 2023, at 19:58 ET), <https://www.forbes.com/sites/jonmarkman/2023/10/06/apple-on-track-to-lead-on-smarter-cooler-augmented-reality/> (on file with the *Fordham Law Review*); Bryan Johnson, *The Combination of Human and Artificial Intelligence Will Define Humanity's Future*, TECHCRUNCH (Oct. 12, 2016, at 17:30 ET), <https://techcrunch.com/2016/10/12/the-combination-of-human-and-artificial-intelligence-will-define-humanitys-future/> [<https://perma.cc/P4EK-4V6X>]. See generally Miryam Naddaf & Liam Drew, *Second Brain Implant by Elon Musk's Neuralink: Will It Fare Better Than the First?*, 632 NATURE 481 (2024); Katarina Pavic, Dorine Vergilino-Perez, Thierry Gricourt & Laurence Chaby, *Because I'm Happy—an Overview on Fostering Positive Emotions Through Virtual Reality*, FRONTIERS IN VIRTUAL REALITY, Mar. 2022, at 1.

The results of these two research and development streams are intended to be mutually reinforcing. From the longtermist perspective that has become an article of faith for so many in Silicon Valley, the end result of that convergence will be great leaps forward in human well-being. No need to impose regulatory measures to mitigate climate change; invent AGI and it will solve climate change.¹⁹³ No need to address famine and food insecurity; invent AGI and it will reengineer plant genomes for increased resilience and develop new, scaled-up methods of producing synthetic foodstuffs.¹⁹⁴ No need to prevent the emergence and spread of pandemic diseases; invent AGI, and it will create the needed cures.¹⁹⁵

As with the new oligarchic space race, initiatives focused on transhumanism and/or singularity present obvious scientific and technological challenges, and, as before, the likelihood of overcoming those challenges is not my principal concern. On an abstract level, it is hard to quarrel with long-term goals that include climate stability, food security, and public health. Much depends, however, on what—and who—is abstracted away.

Within the longtermist worldview, it is deemed both unnecessary and an unproductive distraction to ask basic questions about how the lofty goal of perfect human well-being will be attained, but such questions are important and worth pondering. For starters, although tech oligarchs' futurist manifestos paint a world in which a technologically transformed humanity enjoys a life of unlimited possibility, transcendence for everyone does not seem to be in the cards. The dominant tech platform firms control digital and physical supply chains that extend globally and are interwoven throughout their operations, encompassing data harvesting and cleaning, content labeling and moderation, data center operation, rare earth metal extraction, and many other functions.¹⁹⁶ The push to develop ever more powerful AI capabilities builds on these existing arrangements and on an older legacy of efficiency-driven outsourcing, de-skilling, and liability offshoring.¹⁹⁷ It is ruthlessly extractive, leaving in its wake a trail of human exploitation and planetary destruction that is global in scale.

Other troubling effects of efforts to produce technological transcendence are structural and epistemological. For some time now, data-driven, algorithmic processes have been reorganizing economic, social, and cultural production from the inside out. AI-enhanced tools for communications

193. Dario Amodei, *Machines of Loving Grace: How AI Could Transform the World for the Better* (Oct. 2024), <https://darioamodei.com/machines-of-loving-grace> [<https://perma.cc/YM53-HQ8X>]; Bill Gates, *The Age of AI Has Begun*, GATESNOTES (Mar. 21, 2023), <https://www.gatesnotes.com/The-Age-of-AI-Has-Begun> [<https://perma.cc/6G6G-PE9G>]; Dan Robinson, *Eric Schmidt: Build More AI Datacenters, We Aren't Going to "Hit Climate Goals Anyway"*, THE REGISTER (Oct. 8, 2024, at 13:00 UTC), https://www.theregister.com/2024/10/08/eric_schmidt_speech/ [<https://perma.cc/S9NH-FNZZ>].

194. Amodei, *supra* note 193.

195. *Id.*; Andreessen, *supra* note 8.

196. See sources cited *supra* note 178.

197. See generally George Ritzer & Craig Lair, *Outsourcing: Globalization and Beyond*, in *THE BLACKWELL COMPANION TO GLOBALIZATION* 307 (2007).

surveillance and “smart city” operations remove human judgment from policing, state security, and day-to-day administration of public functions and spaces, substituting impenetrable logics of surveillance and control.¹⁹⁸ AI-enhanced tools and systems for managing supply chains and mediating interactions with consumers and workers reconfigure markets and organizations for seamless operation and surplus extraction in ways devoid of human interaction and empathy.¹⁹⁹ AI-enhanced “edtech” offerings increasingly infuse educational institutions and have begun to redefine their practices and outputs in fundamental ways.²⁰⁰ Processes of news gathering and cultural production also increasingly rely on data-driven, AI-enhanced productivity tools.²⁰¹

Meanwhile, personalized, algorithmic feeds mediate both public discourse and individual processes of information gathering in ways that amplify extremism and polarization and heighten systemic volatility.²⁰² Data-driven predictive patterning—in search and social media, hiring and workplace management, commerce, public administration, policing, and myriad other fields of human and social activity—reproduces and reinforces preexisting structural and cultural biases, along with other accepted but spurious “truths” drawn from the particular data on which predictive systems have trained.²⁰³ Increasing reliance on the outputs of generative AI models trained on mass content scraped from the open internet promises to intensify these effects.²⁰⁴

198. BRAYNE, *supra* note 2; Andrew Guthrie Ferguson, *Generative Suspicion and the Risks of AI-Assisted Police Reports*, 120 NW. L. REV. (forthcoming 2025).

199. See, e.g., Daron Acemoglu, *Harms of AI* (Nat’l Bureau of Econ. Rsch., Working Paper No. 29247, 2021), <https://www.nber.org/papers/w29247> [<https://perma.cc/4DDT-3Z5J>]; Julie E. Cohen, *Platforms, Data Infrastructures, and Infrastructure Stacks*, in GLOBAL GOVERNANCE BY DATA: INFRASTRUCTURES OF ALGORITHMIC RULE (Fleur Johns, Gavin Sullivan & Dimitri Van Den Meerse eds., forthcoming 2025/2026); Sylvia Lu, *Regulating Algorithmic Harms* 77 FLA. L. REV. (forthcoming 2025); Alexandra Mateesco & Aliha Nguyen, *Explainer: Algorithmic Management in the Workplace*, DATA & SOC’Y (Feb. 6, 2019), <https://datasociety.net/library/explainer-algorithmic-management-in-the-workplace/> [<https://perma.cc/8A9W-9LRP>].

200. See generally, e.g., Neil Selwyn, Thomas Hillman, Annika Bergviken-Rensfeldt & Carlo Perrotta, *Making Sense of the Digital Automation of Education*, 5 POSTDIGITAL SCI. & EDUC. 1 (2023); Ben Williamson, Kalervo N. Gulson, Carlo Perrotta & Kevin Witzemberger, *Amazon and the New Global Connective Architectures of Education Governance*, 92 HARV. EDUC. REV. 231 (2022).

201. See Erin C. Carroll, *Platforms and the Fall of the Fourth Estate: Looking Beyond the First Amendment to Protect Watchdog Journalism*, 79 MD. L. REV. 529, 532–33 (2020). See generally Hao-Ping Lee, Advait Sarkar, Lev Tankelevitch, Ian Drosos, Sean Rintel, Richard Banks & Nicholas Wilson, *The Impact of Generative AI on Critical Thinking: Self-Reported Reductions in Cognitive Effort and Confidence Effects from a Survey of Knowledge Workers*, in CHI ‘25: PROCEEDINGS OF THE 2025 CONF. ON HUM. FACTORS IN CPTG. SYS. (2025); Xiyin Tang, *Intellectual Property as Labor Policy*, 100 N.Y.U. L. REV. 62 (2025).

202. Cohen, *supra* note 70, at 25–27.

203. The literature here is voluminous. For an introduction, see generally Solon Barocas & Andrew Selbst, *Big Data’s Disparate Impact*, 104 CALIF. L. REV. 671 (2016).

204. See generally Emily M. Bender, Timnit Gebru, Angelina McMillan-Major & Shmargaret Schmitz, *On the Dangers of Stochastic Parrots: Can Language Models Be Too Big?*, in FACCT ‘21: PROCEEDINGS OF THE 2021 ACM CONFERENCE ON FAIRNESS, ACCOUNTABILITY, AND TRANSPARENCY 610 (2021); Mehtab Khan & Alex Hanna, *The Subjects and Stages of AI Dataset Development: A Framework for Dataset Accountability*,

From the longtermist perspective, the answer to such problems is to build more powerful models and feed them more data rather than to rethink their increasing centrality.

DOGE presages the extension of these intertwined structural and epistemological transformations into the heartlands of public administration and public-sector financing. Federal, state, and local government operations are already heavily dependent on privately provided compute, data storage, and information processing resources.²⁰⁵ In the vision of minimalist government endorsed by tech oligarchs, once federal government operations have been pared back to the bone, AI agents will replace human workers, performing whatever tasks are deemed both essential and efficient while training and retraining themselves on a corpus of public projects and public information that has been cleansed of policies and content that tech oligarchs find distasteful.²⁰⁶

At the same time, tech oligarchs and their firms wield increasing sway over the content and direction of scientific and technological research across multiple fields, including not only computing and astrophysics but also fields such as chemistry and biology in which investigative processes have become increasingly compute-intensive. Such inquiries require large and powerful facilities that only the dominant tech platform firms can easily supply.²⁰⁷ As a result, the center of gravity for research projects in basic science is shifting. Most visibly, two Google scientists recently won the 2024 Nobel Prize in Chemistry for their computational model of protein folding, and one 2024

19 OHIO ST. TECH. L.J. 171 (2023); Julie E. Cohen, *Public Utility for What?: Governing AI Datastructures*, 27 YALE J.L. & TECH. (forthcoming 2025).

205. LEE BADGER, TIM GRANCE, ROBERT PATT-CORNER & JEFF VOAS, NAT'L INST. OF STANDARDS & TECH., CLOUD COMPUTING SYNOPSIS & RECOMMENDATIONS (2012), <https://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-146.pdf> [<https://perma.cc/SWZ9-L4FU>]; van der Vlist, Helmond & Ferrari, *supra* note 4; Tamar Sharon & Raphaël Gellert, *Regulating Big Tech Expansion?: Sphere Transgressions and the Limits of Europe's Digital Regulatory Strategy*, 27 INFO. COMM'N & SOC'Y 2651, 2657 (2023); see also JENNIFER PAHLKA, RECODING AMERICA: WHY GOVERNMENT IS FAILING IN THE DIGITAL AGE AND HOW WE CAN DO BETTER 101–107 (2023).

206. See, e.g., Kelly et al., *supra* note 14; Beth Mole, *FDA Rushed Out Agency-Wide AI Tool—It's Not Going Well*, ARS TECHNICA (June 5, 2025, at 07:15 ET), <https://arstechnica.com/health/2025/06/fda-rushed-out-agency-wide-ai-tool-its-not-going-well/> [<https://perma.cc/YS5Z-2YYQ>]; Karen Feldscher, *As Health Data Disappear from Government Websites, Experts Push Back*, HARV. T.H. CHAN SCH. OF PUB. HEALTH (Feb. 5, 2025), <https://hsph.harvard.edu/news/as-health-data-disappear-from-government-websites-experts-push-back/> [<https://perma.cc/F8DJ-SYHS>]; Danielle Kurtzleben, *Some Federal Web Pages Still Down as Agencies Implement Order 'Defending Women'*, NPR (Feb. 1, 2025, at 12:54 ET), <https://www.npr.org/2025/01/31/g-s1-45887/trump-opm-gender-ideology-defending-women-websites-transgender> [<https://perma.cc/HQR2-PCSV>]; Associated Press, *Pentagon Orders New Purge of Social Media Sites to Dump Diversity, Inclusion Mentions by March 5*, U.S. NEWS & WORLD REP. (Feb. 26, 2025), <https://www.usnews.com/news/politics/articles/2025-02-26/pentagon-orders-new-purge-of-social-media-sites-to-dump-diversity-inclusion-mentions-by-march-5> (on file with the *Fordham Law Review*).

207. Gerrit De Vynck, *How Big Tech Is Co-Opting the Rising Stars of Artificial Intelligence*, WASH. POST (Sep. 30, 2023), <https://www.washingtonpost.com/technology/2023/09/30/anthropic-amazon-artificial-intelligence/> (on file with the *Fordham Law Review*); van der Vlist, Helmond & Ferrari, *supra* note 4; Vipra & Myers-West, *supra* note 4.

Nobel laureate in physics spent ten years at Google developing the AI-related technologies for which his prize-winning academic work had laid the foundation.²⁰⁸ Less visibly, insiders in a number of scientific fields, but especially in computer science, report a continual, large-scale, seemingly irreversible brain drain of talented researchers out of nonprofit research sectors and into ventures funded by the Silicon Valley tech titans.²⁰⁹ Work that formerly would have been performed in government or university labs with substantial federal funding now proceeds under contractual obligations of trade secret nondisclosure and prepublication review. The giant tech firms that now increasingly control the production of basic research do not honor traditional norms of free inquiry and robust debate; instead, researchers whose findings are not to the liking of their corporate masters risk dismissal.²¹⁰

As automated, data-driven processes designed and controlled by tech oligarchs reorganize economies, governments, societies, and cultures, they work to disable—and, ultimately preempt the emergence of—serious resistance to both the particular projects and their broader underlying premises. It will become harder to create infrastructures for alternative patterns of economic, cultural, and technological production and more difficult to imagine and initiate alternative trajectories of sociotechnical change.

C. *Dual-Class, Revisited*

Technically, whether democracy in some form should continue to exist as the backdrop for these projects might be considered a separate, open question. Recall from Part I that civil oligarchy can exist within a formally democratic political system as long as that system permits the accumulation and systematic defense of extreme personal wealth. Recall from Part III,

208. Claire Moses, Cade Metz & Teddy Rosenbluth, *Nobel Prize in Chemistry Goes to 3 Scientists for Predicting and Creating Proteins*, N.Y. TIMES (Oct. 9, 2024), <https://www.nytimes.com/2024/10/09/science/nobel-prize-chemistry.html> (on file with the *Fordham Law Review*); Alexander Smith, *Princeton Physicist Wins Physics Nobel Prize for Pioneering AI Research*, NBC NEWS (Oct. 8, 2024, at 07:45 ET), <https://www.nbcnews.com/news/world/physics-nobel-prize-won-hopfield-hinton-artificial-intelligence-rcna174440> [<https://perma.cc/2EHQ-9WCC>].

209. Naomi Nix, Cat Zakrzewski & Gerrit De Vynck, *Silicon Valley Is Pricing Academics Out of AI Research*, WASH. POST (Mar. 10, 2024), <https://www.washingtonpost.com/technology/2024/03/10/big-tech-companies-ai-research/> (on file with the *Fordham Law Review*).

210. Karen Hao, *We Read the Paper That Forced Timnit Gebru Out of Google. Here's What It Says.*, MIT TECH. REV. (Dec. 4, 2020), <https://www.technologyreview.com/2020/12/04/1013294/google-ai-ethics-research-paper-forced-out-timnit-gebru/> (on file with the *Fordham Law Review*); Cade Metz, *A Second Google A.I. Researcher Says the Company Fired Her.*, N.Y. TIMES (Feb. 19, 2021), <https://www.nytimes.com/2021/02/19/technology/google-ethical-artificial-intelligence-team.html> (on file with the *Fordham Law Review*); Karen Hao, *She Risked Everything to Expose Facebook. Now She's Telling Her Story.*, MIT TECH. REV. (July 29, 2021), <https://www.technologyreview.com/2021/07/29/1030260/facebook-whistleblower-sophie-zhang-global-political-manipulation/> (on file with the *Fordham Law Review*).

however, that the classification of U.S.-based tech oligarchs as civil oligarchs is now open to serious question. Tech oligarchs' futurist projects point in a starkly different direction. Taken together, they amount to a program for extending the dual-class model out into the everyday operations of social and government processes, laterally across sovereign borders, down into the computing stack, and forward to narrow the range of possible futures of a technologically enhanced society.²¹¹

For the most part, the slice of public and media attention devoted to tech oligarchs' political views has been trained on a handful of the most outrageous examples rather than on the more general beliefs that they all seem to share. In particular, following Elon Musk's emergence as a vocal Trump surrogate and the selection of Peter Thiel's protegee JD Vance as the Republican vice presidential nominee, journalists have scrutinized both oligarchs' roots in apartheid-era South Africa and their evident allegiance to the white supremacist ideology of its ruling minority.²¹² But arguably far too much ink has been devoted to those particular examples, allowing the rest to fly under the radar.²¹³ For example, tech oligarch Mark Zuckerberg envisions a future in which each person's experience of reality is mediated—and, importantly, softened—by personalized AI, while social media platforms adhere to a “see no politics, speak no politics” approach.²¹⁴ Tech oligarch Sam Altman wants to “[l]et society and the technology co-evolve and sort of step by step with a very tight feedback loop and course correction,

211. Among some political theorists, there is heated debate on whether the ascendancy of giant technology platforms represents continuity with late-stage capitalism or portends a discontinuous shift to a regime of techno-feudalism. See, e.g., Evgeny Morozov, *Critique of Techno-Feudal Reason*, NEW LEFT REV., Jan./Apr. 2022, <https://newleftreview.org/issues/ii133/articles/evgeny-morozov-critique-of-techno-feudal-reason> [<https://perma.cc/E4UA-9RH9>]; Jodi Dean, *Same as It Ever Was?*, NEW LEFT REV. SIDECAR (May 6, 2022), <https://newleftreview.org/sidecar/posts/same-as-it-ever-was> [<https://perma.cc/898E-3SCX>]. I intend no comment on that debate here. My purpose is simply to describe the emergent regime as itself.

212. John Eligon & Lynsey Chutel, *Elon Musk Left a South Africa That Was Rife with Misinformation and White Privilege*, N.Y. TIMES (June 22, 2023), <https://www.nytimes.com/2022/05/05/world/africa/elon-musk-south-africa.html> (on file with the *Fordham Law Review*); Simon Kuper, *Musk, Thiel and the Shadow of Apartheid South Africa*, FIN. TIMES (Sep. 19, 2024, at 20:06 ET), <https://www.ft.com/content/cfbfa1e8-d8f8-42b9-b74c-dae6cc6185a0> (on file with the *Fordham Law Review*); Charlie Warzel, *X Is a White-Supremacist Site*, ATLANTIC (Nov. 5, 2024), <https://www.theatlantic.com/technology/archive/2024/11/x-white-supremacist-site/680538/> (on file with the *Fordham Law Review*).

213. Notable exceptions include Adrienne LaFrance, *The Rise of Techno-Authoritarianism*, ATLANTIC (Jan. 30, 2024), <https://www.theatlantic.com/magazine/archive/2024/03/facebook-meta-silicon-valley-politics/677168/> (on file with the *Fordham Law Review*); Mike Sexton, *Who Has JD Vance's Ear on AI and Should We Be Concerned?*, THIRD WAY (Oct. 1, 2024), <https://www.thirdway.org/memo/who-has-jd-vances-ear-on-ai-and-should-we-be-concerned> [<https://perma.cc/V7VX-F56R>].

214. David Vetter, *How Meta Nuked a Climate Story, and What It Means for Democracy*, FORBES (Apr. 11, 2024, at 14:28 ET), <https://www.forbes.com/sites/davidrvetter/2024/04/11/how-meta-nuked-a-climate-story-and-what-it-means-for-democracy/> (on file with the *Fordham Law Review*); see also Sherin Shibu, *Nvidia CEO Jensen Huang Calls Mark Zuckerberg's Vision for the Future of AI a 'Home Run Idea'*, ENTREPRENEUR (July 20, 2024), <https://www.entrepreneur.com/business-news/mark-zuckerberg-explains-metas-ai-vision-new-ai-studio/477804> (on file with the *Fordham Law Review*).

build these systems that deliver tremendous value while meeting safety requirements.”²¹⁵ According to tech oligarch Marc Andreessen, the “techno-capital machine” is “the engine of perpetual material creation, growth, and abundance”—or, more succinctly: “We are the apex predator; the lightning works for us.”²¹⁶ The “enemy” is “institutions that in their youth were vital and energetic and truth-seeking, but are now compromised and corroded and collapsing—blocking progress in increasingly desperate bids for continued relevance, frantically trying to justify their ongoing funding despite spiraling dysfunction and escalating ineptness.”²¹⁷

These visions of the future are not perfectly aligned, but in all of them, democracy and democratic institutions are cast as obstacles to the emergence of forward-looking, rationally self-designed systems of government and political economy. The race to create ever more powerful artificial intelligence—and, ultimately, to invent AGI—is most usefully understood as a bid to displace messy humans and their inconvenient moral and ethical commitments at crucial knowledge production and decision-making nodes, minimizing the ability of employees, educators, academics, legislators, regulators, and judges to disrupt the forward march that longtermist thinking envisions. Throughout economy, society, and government, substituting machine logics for imperfect human reasoning and transhumanist, extropian values for inconvenient human ethical judgment will drive pervasive organizational, epistemological, and discursive shifts, propelling (Western) societies forward into a brave new future.

Tech oligarchs are aware of the widely held view that pervasive surveillance societies driven by automated logics conduce to authoritarian control, but they understand authoritarianism in a very specific way—one that, not coincidentally, maps to the account of ideal liberty developed by Nozick and more polemically by writers such as Ayn Rand—and so they think the comparison shows them to advantage. This widely subscribed perception is well expressed by the economist and newly minted Washington pundit Samuel Hammond, whose employer, the recently arrived Foundation for American Innovation, describes itself as “work[ing] to help policymakers play a more productive role in fostering innovation, and help technologists and founders take a more active role in shaping governance.”²¹⁸ Hammond “predicts three possible outcomes for world governments: ‘Chinese-style police state/Gulf-style monarchy; anarchic failed state; or high-tech open

215. Kate Whiting, *Davos 2024: Sam Altman on the Future of AI*, WORLD ECON. F. (Jan. 18, 2024), <https://www.weforum.org/stories/2024/01/davos-2024-sam-altman-on-the-future-of-ai/> [<https://perma.cc/7N7W-XDPX>].

216. Andreessen, *supra* note 8.

217. *Id.*; see also *Open AI's Proposals for the U.S. A.I. Action Plan*, OPENAI (Mar. 13, 2025), <https://openai.com/global-affairs/openai-proposals-for-the-us-ai-action-plan/> [<https://perma.cc/94LH-5TW2>] (advocating “protect[ion] from both autocratic powers that would take people’s freedoms away, and layers of laws and bureaucracy that would prevent our realizing them”).

218. *About*, FOUND. FOR AM. INNOVATION, <https://www.thefai.org/about-us> [<https://perma.cc/8BAN-CYL7>] (last visited Aug. 27, 2025).

society with AI-fortified e-governments on the Estonia model.”²¹⁹ In this taxonomy, authoritarianism resides elsewhere in the world, in government efforts to control the development and deployment of surveillance technologies and systems. Meanwhile, words such as democracy, accountability, and fairness no longer appear in the description of the third, hoped-for option, and that is no accident. Per Hammond, “liberal democracy as we know it [is] the byproduct of a contingent technological equilibrium; one that AI is almost certainly going to change.”²²⁰

The trajectory of technological development envisioned and set into motion by tech oligarchs bakes in stark and foundational levels of inequality in wealth, access, and voice. Under such conditions, the options presented by Hammond collapse into one another, yielding one type of society for the fortunate and another for everyone else. The “high-tech open society” is a pervasive surveillance society in which many more functions are automated and outsourced and in which decision-making authority relating to those functions resides with those who control essential, privately provisioned digital tools and systems. Such tools and systems afford seamless ease and convenience for a privileged few. Ordinary people perform the remaining low-level digital care work necessary to keep the data flowing and the models running.

Although operational plans for space colonies are necessarily preliminary, they suggest other important details about the character of the societies that tech oligarchs envision building. Musk in particular has made clear that he envisions a particular population of space settlers embodying a carefully selected gene pool and practicing a type of direct democracy grounded in unrestricted freedom of speech.²²¹ Bezos, for his part, has said little publicly about such matters, but his recent management of the (former) newspaper of record, *The Washington Post*, which he acquired in 2013, offers a few clues. In a leaked memo to staffers that prompted the resignation of the *Post*'s lead opinion editor, he instructed: “We are going to be writing every day in support and defense of two pillars: personal liberties and free markets. We’ll cover other topics too of course, but viewpoints opposing those pillars will

219. Derek Robertson, *How AI Will Trigger the Next ‘End of History’*, POLITICO (Sep. 12, 2023), <https://www.politico.com/newsletters/digital-future-daily/2023/09/12/how-ai-will-trigger-the-next-end-of-history-00115363> [<https://perma.cc/8SMN-6NCQ>]; see Samuel Hammond, *AI and Leviathan: Part III: A Timeline of Our Techno-Feudalist Future*, SECOND BEST (Sep. 11, 2023), <https://www.secondbest.ca/p/ai-and-leviathan-part-iii> [<https://perma.cc/K9TD-ZUVQ>].

220. Samuel Hammond, *AI and Leviathan: Part II: Preparing for Regime Change*, SECOND BEST (Aug. 28, 2023), <https://www.secondbest.ca/p/ai-and-leviathan-part-ii> [<https://perma.cc/5KJY-VWA5>].

221. Grind, *supra* note 170; Katie Canales, *Elon Musk Says We Should Completely Rethink Government on Mars to Get Rid of Special Interests and ‘Coercion of Politicians’*, BUS. INSIDER (Dec. 29, 2021, at 12:35 ET), <https://www.businessinsider.com/elon-musk-government-mars-colony-direct-democracy-no-representatives-shorter-laws-2021-12> [<https://perma.cc/7TU5-FWLM>].

be left to be published by others.”²²² To the extent that either man’s plan for space colony governance envisions thicker and more complex governance institutions, the details have been assumed away or deliberately left in soft focus. As a practical matter, moreover, a space station cannot be governed as a democracy; certain critical operations need to remain in a definite, hierarchical chain of command.²²³ It is reasonable to predict that if private space colonies actually materialize, they will be governed in many aspects by privatized militias in ways that echo and reproduce the securitized enclaves where the wealthiest reside here on Earth.

None of this should come as a surprise. Recall the questions Part II.A posed about the extent to which globalization and technological transformation have altered not only the scope for wealth defense but also oligarchs’ perceptions of their self-interest. Generally speaking, but especially for civil and ruling oligarchs, what has tied oligarchs to their own societies has been their dependence on the continued functioning of the various institutions that facilitate their self-interested projects. Their commitment to the idea of a shared social compact underlying those institutions has always been more tenuous. In a globalized, networked world, that commitment is fracturing. As the sociologist Brooke Harrington has shown, today’s oligarchs do not believe they are the same as the rest of us.²²⁴ They consider themselves both elite and elect—not merely lucky but special and therefore deserving of special treatment. They cross borders without being profiled and move money without it being registered by national taxing authorities. They protect their own privacy assiduously. They are insular, spending their time with one another and interacting with outsiders only with the assistance of professional facilitators. They are accustomed to playing by different rules.

The visions of the “high-tech open society” now being systematically advanced by tech oligarchs nonetheless represent a critical inflection point for the dual-class system that oligarchs have come to regard as normal and expect as their due. Tech oligarchs, in particular, would emerge as a global, ruling hyper-oligarchy with privileged, unchallenged access to the flows of data-driven patterning that determine how the rest of society will run. Other governance institutions would exist, if at all, as afterthoughts—a night watchman state on life support, providing minimal protections to ordinary citizens only in the most attenuated sense.

222. David Folkenflik, *Jeff Bezos’ Revamp of ‘Washington Post’ Opinions Leads Editor to Quit*, NPR (Feb. 26, 2025, at 15:06 ET), <https://www.npr.org/2025/02/26/nx-s1-5309725/jeff-bezos-washington-post-opinion-section> [<https://perma.cc/BK2E-CDAC>].

223. Corey Pein, *Dawn of the Space Lords*, BAFFLER, Jan. 2022; cf. LANGDON WINNER, *THE WHALE AND THE REACTOR: A SEARCH FOR LIMITS IN AN AGE OF HIGH TECHNOLOGY* 19–38 (2d ed. 2020) (describing a class of “political technologies” whose structure necessarily presupposes and encodes particular organizational forms).

224. HARRINGTON, *supra* note 57, at 34–57.

CONCLUSION

It may not be too late to halt the slide into oligarchic rule. Accurate diagnosis, however, is essential. There is no particular reason to think that a regulatory toolkit designed to address problems of corporate power and accountability can effectively address the pathologies of tech oligarchy: a toxic blend of extreme personal wealth, de facto personal control of infrastructures for economic, social, and political interchange, near-total lack of personal accountability, and utter faith in the rightness and righteousness of a hyperrationalist vision for social reinvention. By the same token, there is also no particular reason to think that the traditional public law toolkit can effectively address tech oligarchs' growing de facto control of infrastructures and institutions for public administration. Other types of interventions might do so, but they will need to be invented—or, perhaps, rediscovered in histories of other times or places. Both history and common sense teach that such interventions will encounter strong resistance, and in an era of extreme polarization, they cannot be expected to mobilize decisive popular support. This is the governance challenge that requires our attention now.