[Framing AI]

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A diffractive analysis of the framing of AI within the AI Act

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Master's Thesis, 30 hp
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Abbreviations

AI – Artificial Intelligence

AI Act/ the Act – Proposal for a regulation of the European Parliament and of the council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM/2021/206 final

The Commission – The European Commission

DL - Deep Learning

D&G – Deleuze and Guattari

ECHR – European Convention of Human Rights

EU – European Union

Explanatory Memorandum – Explanatory Notes to the Proposal for a regulation of the European Parliament and of the council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM/2021/206 final

GDPR – Regulation (EU) 2016/679 of the European Union Parliament and of the Council of 27 april 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

IHL – International Humanitarian Law

ML – Machine Learning

NN – Neural Network

TEU – Treaty on the European Union

TFEU – Treaty on the Functioning of European Union

Abstract

In my thesis the AI Act's inability to acknowledge the micro-fascistic tendencies within Artificial Intelligence will be studied. This will be done by using the theoretical concept of micro-fascism, Rhizome, machine, assemblage and lines of flight, developed by Gilles Deleuze and Félix Guattari and by using a diffractive method developed by Karen Barad. In my analysis, I will look at four different diffractive cuts made by and within the Act: the legal cut, the market cut, the anthropocentric cut and the subsidiarity cut. I will also look at the cuts relation to each other and to the general goals of the European Union.

Acknowledgments

"From this hour I ordain myself loos'd of imaginary lines"

A lot of work lies behind my thesis. Mine, of course, but also others who made me reach understandings I would never have reached on my own and who encouraged me when needed. For this I want to express my gratitude:

First, to my supervisor Matilda Arvidsson. Simply put, it has been FUN! Certainly also to Dan McQuillan and Daniela Gandorfer, who together with Matilda Arvidsson run an incredibly interesting project. To Emma, Evelina, Filip and Johan. You are inspiring, wise and smart! To Ellen and Hanna, for so much food, company and intelligence. To my mum, Eva, without whom my text would not be the same. To so many people who have always been close by when I have been in need of fika, self confidence or a laugh. To my study group, Rätt Kaffe Möten, greatly inspired and enabled by the course RKM, for discussions, perspectives and for being such a safe place to try ideas. To Hum (s/o to the coffee machine on floor 4!), the best place to find peace for writing. To Folkteatern, partly because I promised to but mainly because of the experiences you have given me this past fall. To music and my choir because rests are the most important, in music as well as in life.

Thank you.

"You have done such good to me, I would do the same to you"
-All Seems Beautiful to me, Walt Whitman[1]

Veronika Lindblad, köket på Såggatan, 12 januari 2023.

[1] I first heard the poem through a beautiful composition made by Eric Whitacre. Spotify, *Whitacre, Eric*, "All seems beautiful to me" https://open.spotify.com/track/2sUUIC71IhXJbmeO4jPGN7?si=656a6d2c4c7d4a6e. Accessed 12 januari 2023.

1. Introduction

1.1 Introduction

The main problem approached in my thesis is the elusiveness of fascism and its relation to the regulation of AI within the Proposal for a regulation of the European Parliament and of the council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM/2021/206 final (the Act).[2] The problem with fascistic tendencies within Artificial Inteligence (AI) is observed and discussed by Matilda Arvidsson, Dan McQuillan and Daniela Gandorfer. In my thesis I will follow their understanding of fascism, based on Gilles Deleuze and Félix Guattari's understanding of the concept.

In section 1 I will begin my thesis with an introduction to the problem, the purpose of my work and my research questions. The problem is, in short, fascism as a threat towards law and democracy and AIs fascistic implications which risks going unnoticed due to the elusiveness of the concept. My aim is to analyze how well the Act manages to acknowledge the fascism immanent to AI. To fulfill this aim I will look at the following questions:

- What diffractive cuts have been made by and in the AI Act?
- How does these cuts affect the possibility to see the micro-fascistic tendencies within AI? That is, what is seen when the framings are studied through each other.

The questions are closely related to my theoretical and methodological framework, presented in section 2 and 3. My theory is based mainly on Deleuze and Guattari (D&G) and their notion of “micro-fascism” and their concept of the Rhizome and related terms. Regarding my methodology, I refer mainly to Karen Barad’s diffractive method. Thus, the thesis is written within a post-human (feminist) tradition of law. The combination of D&G and Barad has been fundamentally questioned. This critique will be presented and answered in section 3.4.

In section 4 I will present the two, what I call “framings”, of AI. The one presented from a micro-fascistic understanding of the technology and the one presented in the Act. The framings will relate to the definition of AI, what is considered to constitute a risk with the technology and how these risks are approached.

In section 5 I will turn my attention to the Act and analyze four cuts made by and within the act; the legal cut, the market cut, the anthropocentric cut and the subsidiary cut. I will also analyze the cuts in relation to the general aims of the European Union (EU) and the cuts’ relation to each other.

[2] Proposal for a regulation of the European Parliament and of the council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM/2021/206 final. Below the regulation is referred to as “the AI Act” or “the Act”. Available at “EUR-Lex - 52021PC0206 - EN - EUR-Lex.” EUR-Lex, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206. Accessed 18 December 2023.

In section 6 I will present my conclusion and summarize my study. I will finish the text by, in short, presenting some questions not approached in my theses but relevant for further studies concerning the problem.

1.2 Problem, purpose and research questions

The workings of fascism is, according to some scholars, an urgent concern with implications for both the democratic and legal society.[3] Following the turbulent 20-th century in Europe, the European countries, Sweden and Scandinavia included, chose to rebuild the continent and create a union based on democratic values and states founded upon the rule of law, and liberal- and democratic principles.[4] However, in spite of the democratic development fascism has by no means become irrelevant and some even claim that European fascism "never really went away".[5] In other words, with the ambition of preserving our democratic and legal order, we can not take the risk of letting fascism out of our sight.

Personally, I have always had trouble understanding the actual meaning of the term "fascism". Although I have read about the phenomenon several times, I never quite seem to grasp it. The main "problem" approached in my thesis is therefore the elusiveness of fascism.

AI is rapidly becoming integrated with the democracy, not the least within the legal system, and is thus a relevant and current topic for a legal thesis. Through the works of Dan McQuillan, Daniela Gandorfer and Matilda Arvidsson[6] the immanent fascism within AI came to my attention and I therefore find AI a suitable field to further develop the understanding of fascism. Considering Sweden's and the European Union's (EU) positive approach to AI as well as our high democratic and legal standards, the relation between immanent fascistic (and hence anti-democratic) risks with AI and Sweden's and the union's democratic foundation constitutes an area worth studying.[7]

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[3] McQuillan, Dan. "Resisting AI: An Anti-fascist Approach to Artificial Intelligence". Bristol University Press, 2022. p. 5, Hlavajova, Maria, and Wietske Maas, editors. "Propositions for Non-Fascist Living: Tentative and Urgent". BAK, basis voor actuele kunst, 2019.

[4] Regarding Swedens positive approach to AI, see: "Uppdatering av Sveriges AI-strategi (Motion 2023/24:1543 av Joakim Järrebring (S))." Riksdagen, 2023, https://www.riksdagen.se/sv/dokument-och-lagar/dokument/motion/uppdatering-av-sveriges-ai-strategi_hb021543/. Accessed 17 November 2023.
Regarding the democratic foundation of Sweden and EU, see for instance Regeringsformen (1974:152) 1:1 and the preambles to the treaties of the European Union.

[5] Ibid. McQuillan (2022) p. 5.

[6] For instance; M. Arvidsson, D. Gandorfer and McQuillan (2024) "New Digitali Technologies, Law and a Non-Fascist Life? On Global Governance, Digital Networks and the Molecular Incouscious" in Fleur Johns, Gavin Sullivan and Dimitri Van Den Meerssche (eds.) *Global Governance by Data: Infrastructures of Algorithmic Rule*. Cambridge: Cambridge University Press (forthcoming). Authurs' pre-print version, on file with author.

[7] "65 miljoner kronor till forskning och innovation om 6G." Regeringen.se, 27 September 2023, https://www.regeringen.se/pressmeddelanden/2023/09/65-miljoner-kronor-till-forskning-och-innovation-om-6g/. Accessed 14 November 2023.

The works of McQuillan, Gandorfer and Arvidsson are based, among other things, on the notion of micro-fascism, developed by Deleuze and Guattari, especially in their joint work Anti-Oedipus.[8] The term, as well as Deleuze and Guattari's theoretical framework in more general terms, will be fundamental for the (re)search for fascism in my thesis as well - that is, when I look for fascism, I look for micro-fascism in the Deleuze and Guatatrian sense. This definition will be contrasted by other understandings of fascism below.

Micro-fascism is, in short, the idea that fascism can be found on a micro-level, that is, in structures and systems as well as humans and technology, on a much smaller level than state totalitarianism and authoritarian leaders. In other words, micro-fascism can be described as a "how", something working from within (the structure, the system or the very human being), rather than a "what" existing outside and/or independently. This fundamentally changes the approach one must take towards the phenomenon, since it implies that fascistic tendencies "are not to be recognised, they have to be discovered.".[9]

This differs from more common approaches, focusing more on historical fascism[10], the common traits of fascism as an ideology (i.e focusing on the fascistic "what")or post-fascism.[11] Fascism is within such understandings often described as "palingenetic ultranationalism" (a framing not irrelevant for micro-fascism) and puts its focus on the fascistic macro-structures.[12] For instance, the first chapter in *The Oxford Handbook of Fascism* in which fascism is presented as an ideology with ideological origins.[13] From this perspective, fascism is presented as something recognizable, as something not working within (small) structures and systems but as a veil through which the structures and systems function in a totalitarian way. Although such an understanding of fascism captures some of the fascistic traits, it risks treating the smaller workings of fascism as unmattering and making the fascistic functions invisible.

Fascism, in the Deleuze & Guattarian sense as existing on micro-level, is by all means a threat towards the liberal democracy as well as to the legal system and the rule of law. In short, the threat consists of fascism's ability to enable an absolute division of people as well as other creatures, the absolute binary between including/ excluding of people. This is done based on a simplified understanding of reality which does not only divide (people, animals,

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[8] Deleuze, Gilles, and Felix Guattari. "Anti-Oedipus: Capitalism and Schizophrenia". Edited by Michel Foucault, translated by Mark Seem, et al., Penguin Publishing Group, 2009.

[9] R. Dolphijn & R. Braidotti, "How to Live the Anti-fascist Life and Endure the Pain". (2022). In R. Dolphijn & R. Braidotti (Eds.), *Deleuze and Guattari and Fascism* (pp. 1-18). Edinburgh University Press. p. 12.

[10] Michel Foucault (1983) 'Preface' in Deleuze, Gilles, and Felix Guattari. *Anti-Oedipus: Capitalism and Schizophrenia*. Edited by Michel Foucault, translated by Mark Seem, et al., Penguin Publishing Group, 2009.

[11] Traverso, Enzo. "The New Faces of Fascism: Populism and the Far Right". Translated by David Broder, Verso Books, 2019, pp. 3-8.

[12] McQuillan (2022) p. 6 and Bosworth, R. J. B. "Introduction." The Oxford Handbook of Fascism, edited by R. J. B. Bosworth, Oxford University Press, 2009, p 2.

[13] Passmore, Kevin. The Oxford Handbook of Fascism, edited by R. J. B. Bosworth, Oxford University Press, 2009, pp. 11-32.

waters, trees etc.) but also markedly diminishes the room for thought, which is fundamental for a democracy and thus also for our legal system.

Considering the risk that AI becomes a system where fascistic processes may flourish unnoticed, the regulation of the technology is of equal interest as the technology itself from an anti-fascistic point of view. In my thesis I will therefore turn the focus to the *European proposal for a regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts* (the AI Act), the "first ever"[14](however still not in force) regulation of AI.[15] More specifically, I aim to analyze how the act presents AI by studying the diffractive cuts done by and within the act. Since my thesis is not a project suited to study all of the presentation of AI made of the act as a whole, my main focus will be the acts´ definition as well as its categorisation of the technology into different groups of risk, which determine the extent to which the technology is regulated. Also the question of governance and the act's EU context will be studied.[16]

The claim that fascism has to be discovered rather than recognised implies that the tendencies are not possible to just "find" but in need of a more fundamental analysis to enable the uncovering of fascistic mechanisms. For this purpose, I have chosen to analyze the AI Act using a Diffractive methodology, mainly developed by Karen Barad.[17] The benefit of this method is the understanding of being as a doing in itself, enabling the understanding of the text and words in the AI Act as (possibly fascistic) doings and enabelings. The methodology has been used and presented by Arvidsson within the study of international law and my interpretation of the method is greatly inspired by her use of analyzing the diffractive cuttings in pictures.[18]

The thesis will be somewhat interdisciplinary combining the philosophical concept of micro-fascism, and notions and doings from posthuman feminism in order to study a legal document. The aim is to make a contribution within the field of jurisprudence or theory of law. The contribution I hope to make is an example of how legislation can be studied, analyzed and understood in order to discover underlying fascistic functions and allowenses. I

[14] "EU AI Act: first regulation on artificial intelligence." European Parlament, European Parlament, 22 September 2021, https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence?&at_campaign=20226-Digital&at_medium=Google_Ads&at_platform=Search&at_creation=RSA&at_goal=TR_G&at_advertiser=Webcomm&at_audienc. Accessed 14 November 2023.

[15] "AI Act: a step closer to the first rules on Artificial Intelligence | News." European Parliament, 11 May 2023, https://www.europarl.europa.eu/news/en/press-room/20230505IPR84904/ai-act-a-step-closer-to-the-first-rules-on-artificial-intelligence. Accessed 14 November 2023.

[16] Ibid.

[17] See for instance; Barad, Karen. "Diffracting Diffraction: Cutting Together-Apart." Parallax, vol. 20, no. 3, 2014, pp. 168-187 and Arvidsson, Matilda. "'Posthuman feminism as a theoretical and methodological approach to international law.'" International Law and Posthuman Theory, edited by Matilda Arvidsson and Emily Jones, Abingdon: Routledge., 2023, Author's pre-publication manuscript.

[18] Ibid. Arvidsson (2023), figure 2, 3 and 4, p 14-20.

also hope my work will constitute an example of how the posthuman feminist imperative of using our senses, including vision, can be incorporated and used within a study presented in writing and interested in mainly textual sources.[19]

I will do this by taking up on Arvidssons *doing* in her text, where she uses pictures in order to analyze and "mapping" the diffractive cuttings as a way of integrating more of our senses into the posthuman feminist diffraction.[20] By trying to visualize the "pictures" of AI as it is presented as micro-fascism by McQuillan and AI as it is presented within the AI Act, I will analyze the diffractive cuttings made by and within the act's framings of AI. I will then follow Barads idea of reading texts *through* each other, try to *see* the pictures *through* each other and by this further create an understanding for the diffractive cuts are made, how they differ and what this means for the understanding of AI and the notion of micro-fascism.

In short, my aim is to answer the following research questions:

- What diffractive cuts have been made by and in the AI Act?
- How does these cuts affect the possibility to see the micro-fascistic tendencies within AI? That is, what is seen when the framings are studied through each other**.**

That is; what I am searching for is the cuts made by and within the act and how these cuts affect the visibility of the micro-fascistic tendencies within the technology.

2. Theory

The theory is fundamental for my thesis. Not just as a tool for analysis, but it is also essential to acknowledge the problem I aim to study. Therefore, the theory deserves a proper treatment within my work. The theory is a dynamic one, full of flexibilities and possibilities. This gives me, as its interpreter, a great responsibility not to make my use of it arbitrary. To avoid this, I find it important to address the question of the theory's philosophical background before entering the world(s)[21] of Deleuze and Guattari.

The theory will be presented as follows: a short comment on its authors, Deleuze and Guattari, their background and what has been said about their joint works. This will be followed by a presentation of Anti-Oidipus, the author's work which by Foucault has been called "an introduction to the non-fascist life".[22] Their second volume of Capitalism and Schizofrenia, A Thousand Plateaus, will also be commented on and used in order to explain some concepts fundamental for their work as well as for my analysis. I will then turn the attention directly to the term "micro-fascism", the term central for my work as well as for

[19] Ibid, p. 5 and 11,14 and 20.
[20] Arvidsson (2023) p. 11 and 13 and Brad (2014) p.172.
[21] Or, as Nikolay Karkov calls it – conceptual ontology. See Karkov, Nikolay. "Why Pluralism = Pluralism ^Monism: A Decolonial Feminist Critique of Deleuze and Guattari's Concept of Becoming." Deleuze Studies, vol. 10, no. 3, 2016, pp. 379-394, p. 381.
[22] Foucault (1983) p. xiii.

Arvidsson's, McQuillan's and Gandorfer's framing of AI. Lastly, I will present the critique the work(s) of Deleuze and Guattari has met, both the theory as such but also their notion of micro-fascism.

2.1 Deleuze and Guattari

Deleuze and Guattari, one philosopher and one anti-psychiatrist, seemingly quite different, if one is to believe Eugene W. Holland's preface of his book "Deleuze and Guattari's Anti-Oedipus". One (Guattari) a "militant political activist" while the other (Deleuze) were more of academician, contributing to the french post-structuralism (the post-structuralism is important for the author's critique of Freude in Anti-Oidipus).[23] Holland claims, and I agree, it unnecessary and impossible to try to determine "exactly what in anti-oidipus comes from the one and what comes from the other" but still presents, in more general terms, how the authors competences might have affected one another and enabled the outcome; a deepening of the anti-psychiatry idea of Guattari through Deleuze's grounding in alternative philosophical notions by men like Nietzcshe, Spinoza (which will be especially important for my work) and Bergson. Guattari, on the other hand, brought Deleuze's attention to the reality of the contemporary (the books were written in the late 60's and early 70's) struggles within the french psychiatry, psychoanalysis as well as the movements of students and workers. [24] With some idea of the two authors, whose knowledge emerged into Anti-Oidipus, we move on to deepen the understanding of their works and philosophical background.

2.2 Anti-Oedipus and A Thousand Plateaus

"The *Anti-Oedipus* is not easy to read".[25] This is the first sentence in the introduction chapter in Holland's, above mentioned, *Deleuze and Guattari's Anti-Oedipus* and, indeed, he has a point. He points out that the reason for this is that the book from the start uses terms and concepts as if their meanings would be self-evident to the reader, that the book is based on several more or less complicated ideas and in addition, that the work is stuffed with references to the most different things – from theoretical mathematics to "'primitive' mythology"[26]– and is based on a merge, as well as a critique, of several important tendencies from western thought and philosophy.[27] A Thousand Plateaus is the author's second volume which, together with Anti-Oedipus, constitutes "Capitalism and Schizophrenia". In the second volume they present a number of concepts which are essential for the understanding of their actual *work*, that is – the ethics and the "conceptual ontology" presented by the authors.[28]

[23] Ibid p. vii and Holland, Eugene W. "Deleuze and Guattari's Anti-Oedipus: introduction to schizoanalysis." Routledge, 1999. p.20.
[24] Holland (1999) p. viii.
[25] Ibid, p.1.
[26] Ibid.
[27] Ibid, p. 1-24.
[28] Foucault (1983) p. xiii.

2.2.1 Fundamental concepts

The works presented consist, as mentioned above, of a number of concepts which are fundamental for the understanding of the theory. Some of these concepts (Rhizome, assemblage, Line(s) of flight) will be presented in the following. As Bruncevic points out, it is difficult to know where to begin when presenting the concepts, which are hard, if not impossible, to separate and disconnect.[29] So, since there is nowhere to begin – all you can do is to start doing.

Rhizom

A Rhizome is a sort of root system, working differently than the more commonly presented roots of trees, the arborescent unity.[30] A tree's root system is linear – from the roots buried in the ground, through the body of the tree and all the way to the branches and leafs, reaching for the sun. It has a clear direction: from the roots, striving to the top, the sun and an inherent hierarchy. This picture as a metaphor for knowledge is what Deleuze and Guattair challenge by their theory-method of the Rhizome.[31] The theory-method has been used within jurisprudence by, among others, Bruncevic, as mentioned above, and Janice Käll.[32]

A Rhizomatic (root) system, like ginger or wood-anemone, works differently. Instead of a clear direction, a starting point and a hierarchy, the rhizome works from the middle. It twists and turns – it *pivots*.[33] This view of knowledge, this onto-epistemology, is radically different from the, by western thought, tree shaped knowledge.

In A Thousand Plateaus, Deleuze and Guattari present six principles of the Rhizome. The first and second of these six principles are the principles of connection and heterogeneity. The principles emphases the rhizome's relation to other objects, other bodies, stating that "any point of the rhizome can be connected to anything other, and must be".[34] In other words – the rhizome is dependent on, maybe constituted of, connections and lines between bodies. In this sense the rhizome is an open *con*structure, rather than the closed structure of a tree rising only from its own roots.

The third principle, the one of multiplicity, is closely related to the term "assemblage", explained below.[35] The principle is pictured by the rhizomatic strings on a puppet and the artist holding the strings. The strings of the puppet are connected, not to the artist's mere will, but to the multiplicity of nerve fibers of the puppeteer. Thus, the nerve fibers of the puppeteer

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[29] Bruncevic, Merima. Law, Art and the Commons. Routledge, 2018, p. 23.
[30] "Rhizom", Nationalencyklopedin, 16 June 2023, https://www-ne-se.ezproxy.ub.gu.se/uppslagsverk/encyklopedi/l%C3%A5ng/rhizom. Accessed 17 November 2023 and Deleuze, Gilles, and Félix Guattari. Thousand Plateaus. Translated by Brian Massumi, Bloomsbury Academic, 2004, p. 6ff.
[31] Deleuze and Guattari (2004), p. 3-6 and p. 6-23.
[32] For instance Bruncevic (2018) and Käll, Jannice. Converging Human and Digital Bodies: Posthumanism, Property, Law. Juridiska institutionens skriftserie, 2017.
[33] Bruncevic (2018) p.7.
[34] Ibid.
[35] Ibid.

are, without positions or points marking the bridge between puppet and puppeteer. This understanding makes it clear the puppet and the puppeteer are simultaneously two, and three and four and… and yet one and the same.[36] This might best be described by Deleuze and Guattari's function, describing the unity as n-1, where n is the multiple. [37]

The fourth principle of a(-)signifying rupture. The rhizome includes segmented lines, which may at any point – be it spatial or timely point – be exploded by a line of flight. The line of flight is both a part of the rhizome and something else.[38] In this way, the rhizom is always not dichotomous nor dualistic; is all part of the same yet not one. Deleuze and Guattari describe the principle through the similarities with a virus; the virus moves between its host, and in this moving, the virus brings something from its previous host to their new host. This does not mean that the virus is its former host, nor that it is not the virus anymore, nor that its new host becomes or mimics the previous host, but that they all interrelate in a rhizomatic sense, all being part of the other by the lines of flight created by the virus movements.[39] When explaining this principle, Deleuze and Guattari relates it to and says something important about the notion of micro-fascism; that even though a rupture or line of flight is made, there is still a risk for restratification which grants the power of (the) totality, which in turn risk reconstruct the micro-fascistic subject. "Groups and individuals contain micro-fascisms just waiting to *crystallize*."[40]

Last, the sixth and seventh principles of cartography and decalcomania, emphasizes the risk that something coagulates and the importance of keeping the fluidity of things.[41] This is exemplified by making a distinction between tracing – as something that clot the thinking within an understanding based on the limitation of an "inside" and an "outside"– and mapping through cartography – as a way to keep reasoning open to new connections and ruptures in all directions.[42] Or as Bruncevic distinctly explains it, within the sphere of law and legal theory– it has to do with the relation between the world or reality and the law.[43] This has, as we shall see, an important implication for my work. Bruncevic explaines that (what she calls) dogmatic legal reasoning is challenged by Deleuze and Guattari by questioning the fact that law and reality "are approached as two separate or distinct entities".[44] By using mapping as a method, as Bruncevic suggests, it is possible to bring these separated spheres together, to see them as parts of each other.[45] Potter, referring and relying on Deleuze and Guattari, puts it as "a process that distinguishes itself by being 'entirely oriented toward an experimentation in contact with the real'".[46] This enables a rejection of an understanding of

[36] Ibid, p. 8-9.
[37] Ibid.
[38] Ibid, p.10.
[39] Ibid, p.10-12.
[40] Ibid, p. 10. (my emphasis). The "cristalizacion" will be elaborated under the headline "fascistic risks".
[41] Ibid, p. 13ff.
[42] Ibid.
[43] Bruncevic (2018) p. 41ff.
[44] Ibid, p. 43.
[45] Ibid.
[46] Potter, Kevin. "Laying Down Love Laws: Arundhati Roy's The God of Small Things and Micro-Fascisms." Deleuze and Guattari Studies, vol. 16, no. 3, 2022, pp. 454-478,

destiny as predetermined and in the end also the understanding of the coalescence of movements such as lines of flight, deterritorialisation and diffraction into assemblages but also the "'lines of articulation or sedmentarity [sic.], strata and territories[...]".[47] This is relevant for my work because of the critique towards the understanding of law to be separated from reality but also because of the emphasis it puts on law's *need* to be seen as interrelating to and with reality.

But now, what *is* the Rhizome? The question might be poorly put. It might be better to ask what the Rhizome *does*. What I want to address is the question of the Rhizome as a theory and/or a method.[48] Certainly, the answer varies depending on the textual (or other) context and what the user/ author/ reader does with it. In my thesis, the Rhizome will be used both in a traditional theoretical way – as a tool and filter used when analyzing the object of study (the AI Act) – but it will also be incorporated in the method by being used when formulating my methodological framework. What the concept enables in the context of law, AI and micro-fascism is partly the understanding of the inseparability between things (which is, as we shall see, fundamental for acknowledging the problem of micro-fascism) while still not treating them as units.

Becoming

The concept of *becoming* refers neither to a creation nor an evolution. Instead "[i]t concerns *alliance"*.[49] As I understand it, becoming is the unavoidable reaction provoked by unavoidable encounterings between whatever. The whatever forms an alliance with whatever and by this resolve a former alliance, made with something else (or the same) whatever. In and by these alliances the whatever has to adapt, adopt and reject traces of itself and the other, becoming something new by finding new, leaving old and keeping some of their traits.

Machine

"Everywhere *it* is machines – real ones, not figurative ones: machines driving other machines, machines being driven by other machines, with all the necessary couplings and connections".[50] Machines are a very real concept, effectively manifesting D&Gs emphasis on the doing of things and processes. They are an important part of Deleuze's materialism and the concept is used to even out the relation between the molar- and the molecular levels. "The machine [...] is a 'proximity' grouping between independent and heterogeneous terms". [51] In terms of law, the concept shows the interconnection between law and other real phenomena,

https://www-euppublishing-com.ezproxy.ub.gu.se/doi/abs/10.3366/dlgs.2022.0486?role=tab. Accessed 14 November 2023.

[47] Ibid.

[48] Its methodological implication is acknowledged by Deleuza and Guattari, see Deleuza and Guattari (2004) p. 8. However, Rhizome may also be considered a theory (about knowledge). Bruncevic explains it as "at once a critique and a productive re-imagination". See Bruncevic(2018). p. 43.

[49] Bruncevic (2018), p.38.

[50] Bruncevic (2018) p. 32.

[51] Hein, Serge F. "The New Materialism in Qualitative Inquiry: How Compatible Are the Philosophies of Barad and Deleuze?" Cultural Studies: Critical Methodologies, vol. 16, no. 2, 2016, pp. 132–140, p. 134.

be it the environment or democracy. Law as a machine is driven and also drives other machines, such as, which will become evident, the market.

Assemblage

In his text "What is an assemblage?" Thomas Nail concludes by stating that "[i]f we want to know what an assemblage is, we need to know how it works."[52] And indeed, the assemblage is not a simple object but, as Deleuze put it, a "general logic", forming the work of A Thousand Plateaus.[53] In order to better understand the concept, Nail starts with a wider understanding of the word assemblage, which he means is an unlucky translation of the french word *agencement.* Unlucky because of the fact that the english "assemblage" (which means "the joining of two things") does not mean the same thing as the original french *agencement* – "to arrange, to lay out, to piece together" – or the noun version of the word *agencement* – "a construction, an arrangement, or a layout". [54]This is fundamental for the understanding of the concept, from its original meaning of arrangement or lay out to a unified gathering.[55] Nail then pedagogically describes the workings of the assemblage as a) dependent on a "basic structure", b) a mixture of four different "basic political types" and c) as "constantly changing according to *four different kinds of change*". [56]

Regarding the basic structure, Nail explains it as three folded, consisting of the assemblage's conditions (its "abstract machine"), its elements (its concrete assemblage) and its agent (its personae).[57] The abstract machine and/ or the condition of the assemblage refers to its relations with external elements, the relations which hold the assemblage together. Much can be said about the assemblage, but I do think Nail captures the abstract machine by using the example of Ursa Major:

> "The constellation of Ursa Major does not inhere naturally or essentially in the sky. It does not cause the stars to exist. It is simply the proper name for the set of conditioning relations that arrange a set of stars. Without stars in the sky there are no relations between stars, but without relations between stars there is only radical heterogeneity. "[58]

In other words, the condition/ abstract machine refers mainly to the relations which enable something's existence and which makes it, in some sense, unique. By unique I refer to what Nail describes as "designated by a proper name because as a proper noun it refers to a unique set of relations" –for instance, the naming of a specific event (like May 1968) instead of a general event (like Revolution).[59]

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[52] Nail, Thomas (2017) *What is an Assemblage?,* SubStance, Volume 46, Number 1, 2017 (Issue 142), p. 37.
[53] Ibid, p. 21.
[54] Ibid. p. 22.
[55] Ibid.
[56] Ibid, p. 37. (Original emphasis).
[57] Ibid, p. 24.
[58] Ibid, p. 25.
[59] Ibid.

The elements/ concrete assemblage are the concrete elements within an assemblage. Nail does not give any concrete examples of this, but when speaking of the relation between the concrete assemblage and the abstract machine, he similars this with the example of an archipelago: "The concrete elements are like the archipelago or skeletal frame, whereas the conditioning relations are the breath that suffuses the separate parts".[60] He also states that the abstract machine and the concrete assemblage are interrelated in the sense that if the concrete assemblage changes, so does the abstract machine and vice versa[61]. Hence, I understand the elements as something very varying depending on what kind of assemblage it is and as mainly definable as that which is not relations within the assemblage. In legal terms, I understand this as the relation between the legal text, the actual, material *law*, and its being and use within, for instance, a certain legal sphere, full of principals, evaluations and considerations. For instance, the legal treatment of AI is, as we shall se, very dependent on, among others, the anthropocentrism surrounding it.

The agent/personae are "the mobile operators that connect the concrete elements together according to their abstract relations".[62] An operator is described as a third person, collective subject of "indefinitive even" , that is, Nail clarifies, one (as I understand as the Swedish "man" rather than en/ett), anyone and everyone. If I may, I might also add "some" to this list. Nail explains that the persona is immanent in the assemblage, and thus not existing neither before nor after the formation of the assemblage. This is explained by the suggestion that the persona operates twice, "[o]n the one hand the persona draws the relational diagram of the abstract machine and on the other hand it establishes a correspondence between the concrete elements".[63] Maybe one can similar the agent with a practicing lawyer, who handles and connects the law with legal principles, earlier legal considerations and the implications surrounding the law.

Nail continues to present the four political types of assemblages; the territorial, the state, the capitalist and the nomadic.[64] By this, D&G aims to talk about the arrangement of the assemblage, or the way the assemblage, its conditions, elements and agents, are "layed out".[65] The notion of "political types of assemblages" (not to be confused with "political assemblages" which refers to the assemblages of revolutions or rights etc.) is based on a wide understanding of political, as something that is made already in the making of the lines that precede being.[66] The political aspects will not be elaborated further.

Finally, there are four different ways in which the assemblage can change; that is, four ways for the assemblage to "transform or reproduce" itself" or, what Deleuze and Guattari call "deterritorialize".[67] These deterritorializations are always happening and always cut off by

[60] Ibid, p. 26.
[61] Ibid.
[62] Ibid, p. 27.
[63] Ibid, p. 27.
[64] Ibid, p. 28.
[65] Ibid.
[66] Ibid.
[67] Ibid, p. 34.

other lines of change . The assemblage is thus always still becoming. The four types of change are: Relative negative, relative positive, absolute negative and absolute positive. The relative negative change is done in order to maintain or reproduce "an established assemblage", the relative positive, which Nail calls "ambiguous", since it does neither reproduce nor create a new assemblage, the third "undermines all assemblages" and the fourth solely tries to create an new one. [68]

Bruncevic exemplifies assemblage with literature, and explains that the literary machine is connected to the machine of the reader. That is, the elements of the literature are connected with the perspectives, physical being, "intellectual predispositions" etc of the reader –and by this another dimension appears.[69] In this sense, assemblages are machines which help run each other.

Considering that, as Nail states in his text, to Deleuze and Guattari "everything is an assemblage" there is, of course, a lot more to say on the matter.[70] What I find important, however, is the understanding of assemblage as a sort of non-structure – it is in some sense organizing, but yet not due to its constant changing of the elements and relations making up the assemblage. This makes the assemblage inevitably political and inevitably always and everywhere. As mentioned above, law and the world or reality should not be treated as separate things. I find that the assemblage offers tools which enable the bringing together of the two.

Lines of Flight

The term "Lines of flights" is usually presented with, if not the word itself so at least a sense of, movement and motion.[71] It is closely related to principle 4 of the Rhizome, the one of asignifying rupture.[72] As Bruncevic writes, lines of flight "challenge the totality", further explaining that "lines of flight are instances of encounters – where a static territory, something that is perceived as a totality, is challenged fundamentally by a development, let us say, in any given society".[73] With in this context, AI might be considered a line of flight, or at least it causes one, within the legal rhizome. This is done, for instance, by the technology challenging of fundamental legal understanding of the world – such as the division between subject and object.[74]

Multiplicity

This is a term of great importance for the understanding of my analysis and has been mentioned above. In the first chapter of *A Thousand Plateaus*, D&G describes a book as a multiplicity. As a matter of fact, they call the crowd which they them self makes a

[68] Ibid, p. 34–36.
[69] Bruncevic (2018) p. 32.
[70] Ibid, p.28.
[71] See for instance Bruncevic (2018) p. 36 and Deleuze and Guattari (2004) p. 4.
[72] Deleuze and Guattari (2004) p. 10–13.
[73] Bruncevic (2018) p. 32.
[74] For more concerning AI and the legal concepts of subject and object, see Bruncevic in Noll, Gregor (editor), "AI, digitalisering och rätten – En lärobok", Studentlitteratur AB, 2021, pp. 223–241.

multiplicity. I find that Barad effectively describes multiplicity well by saying that "one is too few, two is too many".[75] I understand this as a way of acknowledging (a) thing's ability to be individual and many at the same time. As will be described further throughout the text, "a something" is never completely separated from its surroundings and other objects. This does not mean that this "a something" is actually more than one. Instead, the surroundings and other objects become a part of the "a something" but without giving up their own existence. Thus, the something is a multiplicity – at the same time itself as well as the others. Or, as Arvidsson effectively puts it: "There are no such things as things"[76]

2.2.2 Theoretical framework

Here will follow a short presentation of the theoretical framework around D&Gs theory. The idea is not to make the reader understand all of the theoretical foundation D&G founds their work on, but rather to present some of its sources as well as how the theory of D&G is related to posthuman feminism, which is an important aspect of the method(ology) used within my thesis.

The philosophy of D&G has some of its rhizomatic roots in materialism. Holland presents this as the theory relates to the three great materialisms of the 19th century, by which he means Freude, Marx and Nietsche.[77] I will not elaborate on the contributions from each of the three materialisms but merely mention them to set the scene for theory.

The materialist aspects are relevant also for the development of the theory, especially in this context, where they will be combined with a posthuman feminist methodological approach, as will be presented below. The development of D&Gs theories into a posthuman feminist direction has been done by Rosi Braidotti and Karen Barad, among others. In *Teratologies*, Braidotti presents the Deluzian materialism and relates it to the body and by this bring the materialism of D&G into the realm of posthumanism.[78]

In doing so, she explains Deleuzian materialism's long term importance and short term eroding effects on the theory of feminism.[79] I understand this as a concretisation of what Edvard Thornton calls Braidottis "engaged ambivalence" in her feminist encounter with D(&G).[80] That said, Braidotti is an important voice within the feminist critique of D&G and her critique will be presented in more detail below.

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[75] Barad (2014) p. 178.
[76] Arvidsson (2023) p. 8.
[77] Holland (1999) p. 4–14.
[78] Braidotti, Rosi. "Teratologies." in *Deleuze and Feminist Theory*, edited by Claire Colebrook and Ian Buchanan, Edinburgh University Press, 2000, p. 156–172. p. 160-161.
[79] Ibid. p. 162.
[80] Thornton, Edward. "Deleuze and Guattari's Absent Analysis of Patriarchy." *Hypatia*, vol. 34, no. 2, 2019, pp. 348-368. p.349.

As Arvidsson explains, posthumanism relates to the conjunction of the three main contemporary challenges: "of technological advancement, the intensification of advanced capitalism, and the catastrophic sixth extinction in the Anthropocene".[81] What posthuman feminism can contribute with is the ability to analyze these three phenomenon in a way that, more than other theories/methods, captures the complexity and interrelatedness of the phenomenon.[82]

The theory has, especially when pivoted in a posthuman feminist direction, been well used within the field of jurisprudence. Works by Matilda Arvidsson, Merima Bruncevic and Jannice Käll have already been mentioned and are a few examples of when the theory has been brought within the realm of law.

2.3 Fascism

As stated above, my point of entry into the subject of fascism was my own lack of understanding of the concept. Around me I find the term frequently used within the contemporary debate. It is used from all different political directions and within a wide range of different topics. The use seem to be done without any actual discussion about what is meant by the term nor about the effects of fascism (that is, why fascism would be bad for the society).The wide range of ideological sources and fields where the term has been used, combined with the lack of explanation of what was meant and why it has to be avoided, has deepened my frustration with the elusiveness of the term. Considering this, I find it important to discuss the meaning of as well as the risks with fascism. Below I will present three different understandings of Fascism – historical fascism, the post-fascism and the micro fascism. In my analysis, I will adopt the understanding of fascism as micro. Based on this understanding, I will further elaborate on the risks which micro-fascism constitutes, both towards society, democracy and law, but also towards life as such.

Historical Fascism

The historical fascism has been mentioned above. This is often described as the fascism of Hitler and Mussolini and is often related to ideology.[83] As explained above, this way of *describing* fascism, presents fascism as a *what,* an ideology with recognizable traits.[84] These traits are often described in terms of totalitarianism and nationalism and thus has apparent relations to Griffis definition of fascism as "palingenetic ultranationalism".[85]

I claim that this understanding of fascism makes the political realm the most relevant sphere for fascistic analysis, since this is usually the place for ideological analysis. More specifically, the totalitarian aspect of the ideology makes the political top flight – the leaders and the ones in possession of power – of special interests. The problem with this is that, by only

[81] Arvidsson (2023) p. 2.
[82] Ibid.
[83] Foucault (1983) p. xiii.
[84] See Passmore (2009), p. 11-32.
[85] Ibid.

acknowledging the macro-levels of fascism, its smaller functionings (as will be presented below) will be at work unnoticed.

Further, this definition risks to be somewhat outdated, since it is funded on the study of parties, politics and ideologies active during the early 20th century.[86] It thereby risks to search for the faces of Hitler and Mussolini when searching for fascism, and by that miss the disguise contemporary fascism has adopted.

Post-fascism

The notion of post-fascism is presented by Enzo Traverso in "The New Faces of Fascism". Traverso states that the term "fascism" is at the same time inappropriate and indispensable "for grasping the new reality".[87] I understand this as a critique towards the historical understanding of fascism for its attempt to find something that was crystalized during the 30's in the 21th century context.

Traverso also states that fascism might not take the form of totalitarian power and that the destruction of a democracy might be done from within, rather than by external threats. The post-fascism is founded on the classical fascism notion (as I interpret as the same thing as historical) but acknowledges that what has emerged from the "fascistic womb" also undergoes a "metamorphosis" through which it is adjusted to the contemporary context.[88] In this sense, post-fascism is also historical, meaning the term will be outdated as soon as the 21th century fascism has crystallized and changed anew.[89]

Traverso continues to explain the notion and changing character of post-fascism through the rise of the far right parties in a variety of European countries today. Mainly, he refers to the french "National Front".[90] This shows ideological and political focus within post-fascism which, as with historical fascism, presents fascism as a *what*, even though admitting the changing character of this *what*. As mentioned, this understanding misses the small scale function of fascism and even though clearly stating that a democracy can be destroyed from within, the understanding might miss how this is actually done.

Micro-Fascism

"How could the masses be made to desire their own repression?" This question, asked by Willhelm Reich, was picked up and further investigated by Deleuza and Guattari.[91] While some – the english and americans, according to Mark Seem – answers the question by pointing fingers away from oneself ("it is *their* problem; something that happened *over there*, at *another time*") Deleuze and Guattari points in another direction: towards the self and the

[86] Bosworth, R. J. B. (2009) p. 1–4, Foucault (1983) p. xiii and McQuillan (2022) p. 6.
[87] Traverso (2019) p. 4.
[88] Ibid, p. 6
[89] Ibid.
[90] Ibid, p. 7–8.
[91] See Mark, Seem in Deleuze, Gilles, and Felix Guattari. Anti-Oedipus: Capitalism and Schizophrenia. Edited by Michel Foucault, translated by Mark Seem, et al., Penguin Publishing Group, 2009. p.xvi.

desire flowing within the human body.[92] Fascism is not something that "we" may treat within "the other", it is rather something "we" have to discover within ourselves.

In the preface to the American edition of Anti-Oedipus Foucault famously calls the work an "Introduction to a non-fascistic life".[93] He also acknowledges that it is not aimed exclusively towards historical fascism, but towards "the fascism in all of us, in our heads and in our everyday behavior, the fascism that causes us to love power, to desire the very thing that dominates and exploits us".[94] This is the understanding of micro-fascism; the shifting in focus from the authoritarian leaders and their "ability to mobilize and use the desire of the masses" towards the psyche of the individual, accepting, longing for and choosing the dominant leader/system/lover/you name it. Foucault compares Deleuze and Guattari's ambition with the cristian moralist, but instead of shouting out all traces of flesh lodged in the soul, their aim is to pursue the micro-fascism in the body.[95]

The author Arundhati Roy has illusively talked about "[f]ascism in the air", stating that fascism does not have to "be exactly the way Hitler did it".[96] This can be understood as the fact that something can be felt and understood by the people within a social sphere, without it being concretized or even named. It is, instead of consciously made, being breathed "into our lungs as we pass through our day-to-day life".[97] By this, the fascism becomes a part of ourself as (human)beings.

Thus, micro-fascism is understood as something existing "in the air" and by breathing becoming a part of the desire of one and all. Or, in other words: the "molecules that structure" in the air "stratify and territorialize our desires and affective relations."[98]

D&G talk about "desire" as, what I understand, the bodily aspect of fascism. The author's understanding of desire draws on Spinoza, his understanding of bodies, materia and the notion of "conatus".[99] Spinoza, a philosopher born in amsterdam in the 17th century, known, among other things, for his great ethical works which was, by Deleuze, considered as an "'practical' philosophy" – as much something lived as something systematically composed.[100]

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[92] Foucault (1983) p. xvi–xvii.
[93] Ibid, p. xiii.
[94] Ibid.
[95] Foucault (1983) p.xiii.
[96] Moran, Padraig. "There is fascism in the air around the world, says famed novelist Arundhati Roy." CBC, 21 June 2019, https://www.cbc.ca/radio/thecurrent/the-current-for-june-21-2019-1.5180136/there-is-fascism-in-the-air-around-the-world-says-famed-novelist-arundhati-roy-1.5184679. Accessed 14 November 2023.
[97] Potter, Kevin (2022).
[98] Ibid.
[99] Burdon, George (2022) "On being affected: Desire, passion, and the question of conatus after Spinoza and Deleuze" in *Transactions of the Institute of British Geographers*, 47, 682–694. Available from: https://doi.org/10.1111/tran.12526 , p. 685 f.
[100] Nationalencyklopedin, Baruch Spinoza. http://www-ne-se.ezproxy.ub.gu.se/uppslagsverk/encyklopedi/lång/baruch-spinoza. Accessed 15 December 2023 and Burdon, G. (2022), p.685.

The Spinozian idea of "Coatus" is connected to the concept of desire, for Spinoza mainly a desire striving to persist.[101] In order to grasp the idea, we need to begin with the Spinozian idea of bodies and materia. A body, for Spinoza (much like for Deleuze and Guattari) is not a question of essencial entities, but of relations. The human body, for instance, is constituted by the connections between the heart muscle, pumping the fluid blood through the winding veins and so on. Further, the body of the heart muscle is made by the encounters of thousands and thousands of muscle fibers. A body can also be made of more abstract material– for instance a social body is constituted by the encounters of people.[102]

This does not mean that the individual does not exist. It does, and does so in the form of conatus. A force of some sort, a "desire to persevere, this motivational force that organizes the certain relation that characterizes a body".[103] In the view of "bodies" as something constituted of relations, encounters and interdependence (as for the human body's dependence of heart muscle – blood – vein – etc. and the said parts dependence of each other as well as the totality of the body), the notion of conatus is an individual resistance of some sort, preserving the individual and essencial (in order to make it part of the relational). "[T]he individual character of each composite body is to be found in the endeavor by which it persists in its being".[104]

Since the Canotus is inseparable from the individual and the strive for its preservation, it is also " dynamic, often volatile, and even vulnerable to the effects of an encounter with a new body".[105] These encounters are described by Spinoza as "affections", explained by Deleuze as "the state of a body insofar as it is subject to the action of another body".[106] This "mixture of two bodies" – be it skin being hit by sunlight, tastebud connecting with a drop of liquid or personal data encountering with technology – creates affection(s). The affection created by the encounter might increase or decrease the power to maintain and affirm our existence and the affection is thus "a determination of the conatus" or, as Deleuze says "an existing mode's *conatus* is thus inseparable from the affections experienced by the mode each moment".[107]

Spinoza's notion of Canotus relates to the relations of body and mind, thought and idea, material and the abstract/ theoretical/ immaterial, which, in turn, relates to Spinoza's fundamental understanding of all materia as consisting of one thing which he calls "nature or god". By this, he radically leaves the for long dominant cartesian notion of the body and mind-dualism.[108]

[101] Burdon, G. (2022), p.685.
[102] Ibid.
[103] Ibid
[104] Ibid.
[105] Ibid, p.686.
[106] Ibid.
[107] Ibid.
[108] Ibid.

Conatus is not to be understood as something unconscious in a psychoanalytic sense nor conscious in a strict sense. Rather, "Spinoza devalues the centrality of consciousness", turning the relation around claiming that the workings of conatus is what creates consciousness.[109] Conatus can, however, become conscious of itself, which, according to Deleuze, would be called desire.[110]

Now to the core question: What does a *fascistic desire* actually mean? And what does it have to do with AI and law? Well, Deleuze and Guattari modulates Spinoza's idea of all materia as made out of the same thing – god or nature – and the notion of the bodies as relational rather than essential through their theories of assemblage, rhizome and becomings. While adopting the relational and rather materialistic approach, they open up the spatial room within which the bodies may encounter and become but also to flee and rupture with itself. This gives the bodies even more opportunities to twist, turn, encounter, become, rapture, leave and become anew/ something else. The Spinozian notion of desire, as something preserving the individual within the relational body, then causes the stagnation and stillness which in turn make the individual and bodies seem unrelated, splitted and *different.*[111] By this, these cuttings[112], we create the strive for dichotomies – the excludings/includings – so fundamental for the workings of fascism.

Fascism is often described as palingenetic ultranationalism.[113] This, the rebirth of the nation, is an example of understanding of fascism as something existing on a macro-level, missing the fact that the idea of a rebirth of the nation is built on the idea of a definable nation as something else than the not-nation, the other. The micro understanding of fascism enables us to see that fundamental for such ideas and strivings are the understanding of oneself (the nation) as existing and possible to preserve independent of the other.

In the context of AI the problem is, as we shall see below, that the technology is working in a way which treats things as determined and separable. This workings is by no means built on an understanding of the world but is merely a programmed functioning. Of course this type of functioning constitutes a risk when it is integrated within the democratic and legal systems and is thus in need of regulation.

The Fascistic risks

Since micro-fascism is based on the belief that the self can be defined vis-a-vi the other – a relation which is, if one is to believe Spinoza and Deleuze and Guattari (and, as we shall see, Barad) inseparable. The fascistic body will thus inevitably attack itself and is thereby

[109] Ibid, p. 687.
[110] As Deleuze puts it "the *conatus* having become conscious of itself under this or that effect is called desire", Burdon (2022) p. 686.
[111] The term "different" will be discussed below, see p.25–26.
[112] The term "cutting" will be discussed below, see p. 26.
[113] McQuillan (2022) p. 6.

immanently self destructive. Or, as Brian Massumi puts it: "a manic attack by the body politic against itself, in the interests of its own salvation ... it is desire turned against itself."[114]

As previously mentioned; "Groups and individuals contain micro-fascism just wanting to crystallize".[115] In other words, this micro-motion of fascistic desire, is searching for another platform or arena on which it may substantialize. Roy articulates an example of this within an Indian context, where fascism appears as:

> "a functional politics of *ethnic purity* fortified against the perceived incursion of an out-group[116], leveraging tools of repression and violence to sustain the power of a dominant group and protect their threatened sense of identity. The policies enshrined in the CAA[117] (and reflected in Modi's leadership) actualise, at the state level, the immanent current of micropolitical desires that interlace the social assemblage.[118]

This macro (political) crystallization is something that speaks to us since it is already within us before it is presented to us in a (political) macro form. Therefore, fascism is not something we need to be tricked into, but something that we already believe in even before we have been presented with the option.[119] By such, the idea of micro-fascism is in some ways a critique of Marx and the "Marxist analysis, which suggest that 'the masses' have been 'ideologically deceived'".[120]

Now, back to the claim that fascism is better understood as a *how* rather than a *what*. The meaning of this is that what is important and interesting in the study and analysis of fascism is its production of binaries and dichotomious relationships. How and where are they made? How does the cutting create the included/ excluded? This "cutting" – its practice, its placement(s), its including/excluding effect(s) – is what brings the theoretical framework of micro-fascism and the methodological stances meet. Before turning to the method, some of the critique towards D&Gs micro-fascistic notion will be presented.

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[114] Ried, Julian, and Brad Evans. "Introduction: fascism in all its forms." Deleuze & Fascism: Security, War, Aesthetics, edited by Brad Evans, et al., Routledge, 2013, pp. 1–12. p. 2.
[115] Deleuze and Guattari (2004) p.10.
[116] That is, a defined self as opposite to the other.
[117] CAA refers to the Citizen Amendment Act in India, for more information, see for instance: UNITED STATES COMMISSION on INTERNATIONAL RELIGIOUS FREEDOM. "Legislation Factsheet: The Citizenship (Amendment) Act in India." US Commission on International Religious Freedom, 2020, https://www.uscirf.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0_0.pdf. Accessed 17 November 2023.
[118] Potter (2022) (my emphasis).
[119] Ibid.
[120] Ibid.

2.4 Critique

Certainly, the theoretical framework presented above is not uncriticized. In the following some of this critique will be presented. First and (considering the feminist implications of the methodology I present and use below) foremost, the theory has, on a general level, been criticized for not approaching the mechanics of the patriarchy as a fundamental, molar, social structure of power. This critique has famously been presented by Braidotti.[121] However, I will present the critique of D&Gs lack of analysis of the patriarchy through the words of Edward Thornton.[122] Later, more specific critique towards the notion of "micro-fascism" will be presented, first towards the explanation of how fascism is crystalized and gains power on a macro-level and secondly towards the understanding of fascism as something suicidal. Due to the timely and spatial limits of this work, the critique towards the theory and the concept presented below is far from comprehensive. The aim is rather to acknowledge the fact that the theory is by no means perfect nor agreed upon.

The works of D&G approach three, what Edward Thornton called, political organizations: the savage primitivism, the barbarian despotism and capitalism.[123] These three political organizations, or institutions, are analyzed on both a molar/ historical and molecular/ ahistorical level.[124]As Thornton points out, the patriarchal organizational structures of society are not analyzed to the same extent, nor from both the molar and molecular levels, as the other three. Thornton continues to present what D&G actually say about the patriarchy, as a political organization, illuminating three "gaps" within this analysis. The gaps has to do with the explanation of why "the coding and overcoding of sexual relations has always prioritized the masculine position", "the binary sexual coding of desiring-production must include an asymmetrical power relation at its core" and with the fact that they miss to "give an account of how the molar history of patriarchal norms interacts with the molecular coding of desire".[125]

The D&G notion of micro-fascism is, as explained above, closely related to the notion of the (human) desire and, as Foucault points out in his preface, the idea that fascism is something that "causes us to love power, to desire the very thing that dominates and exploits us".[126] This is only "half right", according to Todd May, who claims that "it is also a matter of ignorance and illusion", as proposed by the journalist Thomas Frank. Frank, also being "half right", according to May.[127] In order to make a fully correct understanding of the functioning of fascism, May claims, one has to bring together the Deleuze and Guattairan and the Frankian understanding of fascism. He does this, not by making an augmenting that the ideas are "half

[121] See for instanse; Braidott, Rosi. "Becoming Woman: or Sexual Difference Revisited." Theory, Culture & Society, vol. 20, no. 3, 2003, pp. 43–64 and Braidotti (2000), See footnote 78 for full reference.
[122] Thornton (2019), see referens 80.
[123] Thornton, Edward (2019) p. 350.
[124] Ibid.
[125] Ibid.
[126] Foucault (1983), p. xiii.
[127] May, Todd. "Desire and ideology in fascism." in *Deleuze & Fascism: Security, War, Aesthetics*, edited by Brad Evans and Julian David McHardy Reid, Routledge, 2013, pp. 13-27, p. 13.

mistaking" but by "mostly `go on to do something else´".[128] That is, go on and do something that is not D&G and not Frank, but both of them. As I read May's article, it is not as much a critique towards the notion of micro-fascism as of how micro-fascism might become one's practice. He proposes that fascism is desired, but that the desire is constituted by the desire to belong to an identity and the belief of and trust in the identities' common interests and practices. And while the identity exists, and the desire thus is true, the identitie's common interests are an illusion.[129]

As described above, the notion of micro-fascism includes an understanding of an immanent suicidal force within the fascistic desire, due to the fascistic body's attempt to get rid of that which is actually a part of it self. This has been questioned and criticized by Eugene W. Holland, who argues that there were no suicidal ambitions in the acting of the german Natzi state. Instead, what the Natzis offerd the German people was a "renewed hope and confidence in the German nation".[130] This understanding of fascism refers to the definition of fascism, made by Griffin and mentioned above, as "palingenetic ultranationalism". As Michelsen explains, what Holland does in his critique of the Deleuzian understanding of fascism is to understand the notion of palingenetic (which means "rebirth") as dichotomous to the suicidal force and death.[131] Michelsen further claims that Holland's critique is based mainly on a study of the fascism in the german Natzi state, which is not sufficient to critique the general understanding of fascism made by Deleuze and Guattari.[132]

3. Methodology

In the following I will present what I will do in my thesis – my methodological framework. Primarily, I present the earlier mentioned methodological framework developed by Karen Barad[133] and used by Arvidsson.[134] I will then continue to say something about writing (with)in the form of an uppsats, which I claim has methodological implications. I will continue to, in more concrete terms, present what I, within the framework of diffraction, writing and the uppsatsform, will actually do. I will conclude by encounter some critique towards the combination of Deleuze and Guattari's theoretical framework and the methodology by Barad.

3.1 Diffraction

As Karen Barad presents her understanding and use of diffraction, and diffractive method, it is founded in two, maybe seemingly quite different phenomena, quantum physics and feminism.[135] The physic understanding of the term has to do with the particle-wave duality

[128] Ibid 14.
[129] Ibid, p. 13ff.
[130] Michelsen, Nicholas. "Fascist lines of the tokkōtai." in *Deleuze & Fascism: Security, War, Aesthetics*, edited by Brad Evans and Julian David McHardy Reid, Routledge, 2013, pp. 148–172, p. 161.
[131] Ibid.
[132] Ibid.
[133] Barad (2014).
[134] Arvidsson (2023).
[135] Barad (2014) p. 168.

which has been studied by scientists like Grimaldi, Young and Bohr.[136] Murris and Bozalek describe diffraction by writing: "Instead of substances, it is diffraction patterns, that is, patterns of difference that make a difference, that are 'the fundamental constituents that make up the world'".[137] In short, it has to do with the electrons ability to appear as both a particle and a wave, depending on the "apparatus" studying it. Apparatus, by Barad, is "a doing, not a thing and involves agential cuts", this includes "all research".[138] This was a fundamental break from the former physical paradigm and the laws of physics developed by Newton, which were more deterministic. The new understanding instead thinks of identity as performality, rather than a difference – something which also allowed a new understanding of difference.[139]

This is where feminism becomes relevant. Barad explains that the question of sameness and difference has (and is) crucial for feminist theory. Through well known feminist like Trinh Minh-ha and Gloria Anzaldúa (and Barad themself[140]) Barad explains the feminist aim to present an understanding of difference which does not impose "the Other" as a lack or the opposition to the "I" – as in the traditional understanding of dark as the opposition of light. Instead, the difference, the Other, is immanent within the self. Physically, Barad explains this by presenting the physical possibility of darkness produced by "adding more light", that is, a presentation of darkness as an abundance of light.[141] Barad also points to the understanding of the Other, not as a lack, but as a matter in itself. The feminist interest for this is sprung for the "othering" of women and later also, thanks to postcolonial feminism and posthuman feminism, also for the othering based on ethnical or anthropocene grounds.[142] In short, the new paradigms in physics and diffracting "queer[s] binaries and call[ed] out for a rethinking of identity and difference."[143] Based on the findings in physics, difference should be understood as an immanent relation.[144] Darkness understood as immanent and relational to light, rather as just not-light, the lack of light, also enables a material aspect to the notion of difference.

Based on this theoretical framework, physicist and feminist, Gilbert Simondon's notion of individuation and Barads "cuts" (which will both be explained in the following) diffractive method has developed. The individuation – a "process through which entities are set apart, made individual, making them one thing and not another", what D&G called "becoming" – is interrupted by what Barad names "cuts".[145] "Cuts" are, thinking with Barad, the

[136] Ibid, p. 173 ff.
[137] Murris, Karin, and Vivianne Bozalek. "Diffraction and response-able reading of texts: the relational ontologies of Barad and Deleuze." International Journal of Qualitative Studies in Education, vol. 32, no. 7, 2019. pp. 872–886. P. 880.
[138] Ibid.
[139] Barad (2014) p.173–174.
[140] Coherent to the theory, Barad uses the pronouns they/ them.
[141] Ibid, p. 171.
[142] Ibid, p. 169.
[143] Bard (2014) p. 171.
[144] Ibid, p. 175.
[145] Ibid, p. 174f.

entanglement of/between the researched thing and the way we research it.[146] As Barad writes: "One is too few, two is too many" meaning, as I understand it, that "a one" as a individualized unity is not possible, but neither are two since it involves a total and definitive separation of things, a division that presumes the above described and by feminist criticized "difference" and binarities.[147] Instead there are *multiplicities* – neither one or two but an unidentified several which are not separated but entangled into a coexistence. It is this multiplicity that is interrupted by the Baradian "cuts". Diffractive method, then, is a (thinking)tool by which these "cuts" can be discovered and located and if, where and how these cuts could be made differently.[148] Or, in other words diffraction is "a mapping of interference, not of replication, reflection, or reproduction. A diffraction pattern does not map where differences appear, but rather maps the effects of difference appear."[149]

I have above used the term "entanglements", a term that is important for the methodology as well as for my analysis. The term has to do with the inseparability of things but does not make any claims of constituting a unity nor to erase difference. Instead, differences are formed within the entanglement, through an intra-activity. I understand it as if entanglement is a space within or between things where the process of intra-activity takes place, making the creation of difference.[150]

Even though diffractive reading shares many common grounds with critique and critical reading of texts, it is not the same. Barad explain diffraction/ diffractive reading as "a form of affirmative entanglement.", without any deconstructive intentions. This Barad contrasted with the description of critique as "operating in a mode of disclosure." [151]

Although an explicitly material approach – manifested through the "centrality of ontology and epistemology to the mattering of matter"[152] – the methodology is also of a discursive-linguistic kind.[153] The latter understood in the light of the material importance by partly a material understanding of power as not conflated with language and partly the understanding of language as material.[154] By this I mean the understanding of language not only as reflecting or representative of the world, but also materializing it.[155] Arvidsson gives the example from international law, how International Humanitarian Law (IHL), not reflecting the reality/the being of a combatant, but actually creating the phenomenon by its legal and conceptually cuts.[156] This understanding of language maintains the understanding of language as politically relevant but does also emphasize its material force. As Haraway puts

[146] Arvidsson (2023) p. 3.
[147] Barad (2014) p. 178.
[148] Arvidsson (2023) p. 10.
[149] Barad (2014) p. 172.
[150] Barad (2014) p.175–176.
[151] Barad (2014) p. 187, footnote 63.
[152] Arvidsson (2014) p. 13.
[153] Ibid, p. 10.
[154] Ibid, p. 11-12.
[155] Arvidsson (2023), p. 10f.
[156] Ibid, p. 9.

it; "concepts think concepts" and "figures figure figures".[157] What does language do and create when speaking/ writing/ thinking?

My methodology is thus based on diffraction with a posthuman feminist theoretical base. Arvidsson writes that the latter address questions of the power manifested through the cuts with the "aim to make a change for a better and fairer world".[158] What is meant by this relates to the posthuman feminism understanding of the three main challenges of the present era: "the height of technological advancement, the intensification of advanced capitalism, and the catastrophic sixth extinction in the Anthropocene".[159]

3.2 Writing an uppsats[160]

The second thing(s) I want to acknowledge as being a part of my methodology is the fact that my thesis is required to be handed in in *writing* and that this writing is required to be in the form of an *uppsats*.[161] Doubtlessly, this has affected the *making* of my thesis and should not be made invisible. I will not dwell on explaining writing as a method, but I will say something about the uppsatsfrom from a methodological point of view. I claim that the uppsatsform puts requirements on what has to be included in the text, how it should be structured as well as the language accepted (especially considering that the uppsats is expected to be "academic"). Certainly, the opinions about this (that is, what needs to be included, how to structure the text and the language used etc.) vary but there are common grounds.[162] Hence, in order to write my thesis I have formulated a problem based upon previous studies and presented these studies, I then searched for a suiting theory, through which I can filter my object of study in order to highlight the relation between the formulated problem and the object of study and used a method(ology) in order to do this "filtering" in a supposedly non-arbitrary way. Throughout the text, this has been done in a scientific way by always relate to, refer to and build upon previous published research. Finally, I have presented my work in academic writing. This procedure has, in turn, affected my research – my reading and interpreting of, my *searching* in, the texts on which my thesis is based. The method is both enabling and limiting. Enabling by giving me a set of rules to start by and

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[157] Arvidsson (2023), p. 8.
[158] Arvidsson (2023), p. 16.
[159] Arvidsson (2023), p. 2.
[160] The word "uppsats" is a Swedish word concerning the form of my text, putting requirements on how to write and expectations of what should be included in such a work. I have chosen to keep the Swedish term due to my lack of academic experience in English speaking countries and thus do not know how to properly translate the term. Even if I found a suitable translation of the word, I do not know if the requirements on the text would be the same as on an "uppsats" in a Swedish academic context.
[161] Juridiska Institutionen vid Göteborgs Universitet, *Kursplan: HRO800 Examensarbete,* 30 högskolepoäng. Available at Göteborgs Universitet, searchword "HRO800", https://www.gu.se/studera/hitta-utbildning/hitta-kursplan-och-litteraturlista?q=HRO800. Accessed 15 December 2023.
[162] See for instance; "Så skriver du uppsats." Stockholms Universitet, Stockholms Universitet, 22 September 2021, https://www.su.se/utbildning/studera-vid-universitetet/studie-och-spr%C3%A5kverkstaden/s%C3%A5-skriver-du-uppsats-1.442583?open-collapse-boxes=collapseCollapsible1670918786408_494510. Accessed 14 November 2023.

relate to and limiting by not accepting some of the lines of flight available. In other words, uppsats is significant for the becoming of my thesis.

I acknowledge this partly due to the theoretical and methodological framework I am using. For instance, the diffractive methodology means "a stance of radical openness [...] to what [a] text bring[s]".[163] This might be partly sacrificed when a text is presenting something that will be used within already set terms. What I really wish to say is that my thesis is using uppsatsform as a tool, however the choice to do this was not entirely mine to make.

In the above, my methodological framework has been presented, but then – what will I do? My actual method – my doing – will be presented through the terms presented (entangelment, the multiplicity, the cutting etc) and how they will operate in order to analyze two framings of AI (presented under section four) with the aim understood in terms of the diffractive methodology's affirmative ambitions and enabelings.

3.3 Then; What will I do?

When Arvidsson describes the method(ologies) of posthuman feminism – including diffraction – she points out that posthuman feminism should not be limited by simply thinking and writing, but also encourage us to use our senses: too see, to hear, to touch, and to taste.[164] Arvidsson exemplifies this by using pictures[165] as a manifestation of how cuttings can be done differently, putting the cuts of a more traditional legal method next to alternative cuttings, done from a rhizomatic, posthuman feminist point of view.[166] As I understand it, Arvidsson effectively visualizes the materializating made by international law – for instance she enlights international law's ability to interpret the silhouette of a human as only a combatant or a civilian, which shows the legal frameworks disability to acknowledge both alternative interpretations as well as an undersanding of the silhouettes relational situation with its context.

The visual materialization makes it possible to ask the question of what is *matterialy cut in and out* of the picture. This highlights the material effects of the legal wording in international law by enabling a questioning of these cuts with the, seemingly only, aim to widen the picture and commenting on the relation between what is in and out of its frame, to enable a rhizomatic understanding of what is presented and its becoming through meetings with other bodies.[167] Unfortunately, I do not have the possibility to present my picture – the notion of AI – with visual tools in the same way.[168] However, the image of AI will instead be

[163] Murris and Bozalek (2019) p.881.
[164] Arvidsson (2014) p.5.
[165] See mainly figure 3 and 4 in Arvidsson (2023), p. 17 and 19.
[166] Arvidsson (2023) p. 17ff.
[167] Ibid. 17-20.
[168] Such a visual presentation of AI as fascistic would be possible and maybe also welcomed from a post-human methodological point of view, however I am, as mentioned above, somewhat bound to the methodological boundaries of *writing an uppsats.*

presented in writing, in an attempt to understand the written presentation[169] in a visual, maybe multidimensional, way. The visualization will be done by presenting it in terms of perspective, surroundings and focus. What is cut in and out of the portraying of AI will be analyzed by seeing the two framings of AI through each other; the one done where AI is pictured as micro-fascistic, based on the works of Arvidsson, McQuillan and Gandorfer and the one presented by EU, mainly within the AI Act. Further the relation between the portrayer and the portrayed will be analyzed. In this context, this will be done mainly by looking at the AI act and its relation to the European Union and the union's overall aims and how those aims have affected the choices of perspective/ cutting/ surrounding etc of the framing.

In short, my doing consists of three steps. First, the presentation of AI – based on both Arvidssons, McQuillans and Gandorfers understanding of the technology and on the AI Acts understanding of the technology – will be interpreted. Secondly, the diffractive cuts by which the framing within the AI act has been made will be analyzed and related to the view of AI as micro-fascistic. How does the cuts affect the framing of AI as fascistic vs. AI as a legal "thing"? What/ who is/are included or excluded in the pictures? How are AI presented and related to the rest of the world – the human, the nature, the technology, the law, the nation etc.? Can the micro-fascistic tendencies and the solutions suggested by McQuillan be seen within the AI Act, considering the legislation's diffractions? This is relevant considering the claim that fascism is something concealed that "has to be discovered". By investigating the cuts made by and within the act I hope to highlight how fascism might be hidden by the exclusion of essential perspectives made through diffractive cuts.

Doing this, I will support my analysis both by thinking in, but also using them to describe what becomes visible through my analysis, the terms of D&G. In addition to the Deleuze-Guattarian terms, I will use the term "entanglement", developed by Barad.

3.4 Theory and Methodology: The conversation between D&G and Barad

When writing this, I am not unaware of the tension some suggest exists between the philosophies of Deleuze and Guattari on one hand and Barad on the other. The tension some see, has to do with (*what may appear* to be) their contradictive ontology.

This has been acknowledged by, among others, Serge Hein in his article *The New Materialism in Qualitative Inquiry: How Compatible Are the Philosophies of Barad and Deleuze?*.[170] In the article he writes that "I show that their ontologies differ fundamentally and are therefore incommensurable: Deleuze's is a philosophy of immanence and difference, whereas Barad's is a philosophy of transcendence and identity".[171] I will, relying on the answer to Heins article made by Karin Murris and Vivienne Bozalek, question the claim that the works of D&G and Barad would be different and therefore "incommensurable". I will not

[169] I do not use the word description because I find it easy to interpret this as I am only focusing on a definition of AI. What I am trying to capture is, as I hope will be clear, something wider than this. I find that "presentation" opens up what can be taken into respect when interpreting the writings of AI visually.
[170] Hein (2016), for full reference see footnote 51.
[171] Ibid, p. 132.

make a complete retail of the debate, but merely in short terms present the problem Hein sees in the combination and then the short present why Murris and Bozalek disagree.

The problem is, according to Hein and as stated above, the difference in ontology. While D&G uses an ontology of "immanence and identity", Barad's philosophy is founded on the notions of "transcendence and difference".[172] To combine this would, according to Hein, mean both an ontological incoherent theoretical framework and that the one using the combination would "obscure" the fundamental difference between the thinkers.[173] Hein also points to the fact that Deleuze and Barad often use the same terms, however with very different meanings. He gives the example of their respective understanding of "matter" and formulates Barads understanding of the term as a "substance in its intra-active becoming rather than a fixed substance. Matter involves differentiation and emerges through intra-action" while Deleuze "materializes the molar without reducing it to the molecular".[174] This, Hein claims, is an example of their ontologically different interpretations of materialism and also incommensurable.[175]

Murris and Bozalek disagree with Hein, and counter his claims of the incommensurability of the materialism(s) of Deleuze and Barad and argue that the combination of the two can "indeed [be] productive".[176] It should be mentioned that this conclusion is reached through a reading of the two philosophers "in conversion" with each other.[177] Thus, the conclusion is not only a disagreement with Hein's claims of incommensurability, but also in Hein's way of approaching Deleuze and Barad through a *combination*. Murris and Bozalek point to the critical instances with such approach, an instance which is in itself incommensurable to the methodology, mainly diffraction, advocated by Barad. They write "A diffractive reading is different from critique in that text/oeuvres/approaches are respectfully read through each other in a relational way, looking for creative and unexpected provocations, strengthening these, rather than using an atomistic binary logic to compare one with the other."[178] Murris and Bozalek also question the statement that Barad would use a different ontological starting point than that of Deleuze and Guattair, proposing that they both refer to an ontology of immanence and identity.[179]

Considering the argumentation made by Murris and Bozalek, I find no reason why the theoretical implications made by D&G on one hand and Barad on the other should not be used *together.* This does not mean that I claim that they are the same nor without differences, but that their immanent methodological imperatives enable the not-sameness within the theories to coexist and create together.

[172] Ibid.
[173] Ibid, p. 138.
[174] Ibid, p. 137.
[175] Ibid.
[176] Murris and Bozalek (2019) p. 872.
[177] Ibid.
[178] Ibid, p. 873.
[179] Ibid.

4. The Framings

In the following I will, as stated above, present two different framings of the notion of AI. The framings are the framing of AI as a micro-fascistic technology and the AI Acts framing of AI as an object for legal regulation. The first framing will be based mainly by McQuillan's contributions to the micro-fascistic understanding of AI. The second framing will be based on the AI Act, including the explanatory notes to the Act (below called the Explanatory Memorandum), as well as the presentations of AI and the act found on the websites of the union's institutions.

My aim i not to try to make any speculations in general terms regarding the notion of fascistic tendencies within AI or the attempts to regulate it, not even within the AI Act . Rather, I will focus on the framing of AI as a phenomenon existing in the world. Considering the method used, the textual context (such as wording, hidden perspectives etc.) sources are of big importance, as are what is *not* being said within them. This constitutes a huge amount of material which would be impossible to analyze within this project. A sort of selection regarding the material is therefore made – or in other words, what I will do is also simply a framing of the framings of AI presented by McQuillan and by the AI Act. This selection will be made primarily from the three following questions: *What is AI*, *what are the risks with the technology* and *how do we counter those risks*? This steers my searching to a) a definition b) the described risk and c) the proposed solution.

4.1 AI as a Micro-Fascistic Technique

Fundamental for the micro-fascistic framing of AI is how the technology is defined. For this reason, this section will begin with presenting the definition of AI used by McQuillan as well as the related technical terms Machine Learning, Deep Learning, Neural Networks and Data (which is perhaps not a technical term in the strict sense, but, as will be evident, inseparable from the operations of AI). The section will then move on to how the micro-fascistic problem, or risk, is to be understood and what McQuillan suggests as a solution.

4.1.1 McQuillan's definition

McQuillan defines AI as machine learning and artificial neural networks or deep learning.[180] He also states that AI is a social and political phenomenon. By this he means the fact that the calculations made by AI can not be separated from the "social [or the political[181]] context of its application" and describes it as a "layering and interpretation arrangement of technology, institutions and ideology".[182] This close relationship between technology and society is well demonstrated through the production and use of data.[183] The definition is strictly technical, paying little or no attention to the technologies' intelligent functioning, its outputs or autonomy. Due to the technical importance of this definition, the terms Machine Learning

[180] Merrill, Francis, and Mason Merrill. "Towards an anti-fascist AI." danmcquillan.org, Dan McQuillan, 1 April 2019, https://www.danmcquillan.org/ai_and_antifascism.html. Accessed 14 November 2023.
[181] Ibid.
[182] McQuillan (2022), p. 1.
[183] Ibid, p.12.

(ML) and Deep Learning (DL)/ Neural Networks (NN) will be explained. According to McQuillan at least basic understanding of the technology "behind" AI is necessary in order to be able to see the difference between what we understand as human intelligence and what we call AI, which is by fact just an "elaborative, statistical guesswork".[184] By this, AI propagates "patterns of carelessness, attractiveness" as well as the "concentration and centralisation of power".[185]

This offers a fairly strict and easily applicable definition of the term but still enables a dynamic understanding of the technology (due to the lack of defined function, output and autonomy). The definition frames the technologie as exactly that, a technology. A human invention, and neither more nor less.

Machine Learning

McQuillan explaines machine learning through the example of drawing a line fitted to dots in a graph. He starts by explaining that a human, even a child, could perform this task – not by using a mathematical method, but by the use of sight and a ruler. AI would, on the other hand, solve the task using a strictly mathematical method; by drawing a random line, calculate the distance between the line and the dots and then adding it up to the total distance. It would then adjust the lines in order to reduce and minimize the total distance. Contemporary ML is just a more complex version of this methodology, using iteration and optimization on a large number of examples (consisting of training data[186]). In other words: the ML remains to be *just a mathematical, statistical operation.*[187]

This enables the technology to resemble human capabilities such as recognizing faces or playing games (GO, for instance), but in reality ML is just "improving a narrow set of tasks". What it is *not* doing is creating a general understanding nor experience of things.[188] In McQuillan's words: "It is not a spark of sudden consciousness [...] but a set of computational methods with political implications.".[189]

Neural Networks and Deep Learning

Deep Learning (DL) is ML, but based on multilayered Neural Networks (NN).[190] When beginning to explain the operation of this type of technology, McQuillan points to two facts regarding the origin of DL/NN. First, that NN is done with the intention to imitate the human brain and secondly, that the development of the technology started within military research.[191] The first claim is, even though McQuillan disputes the claim that a brain would work anything like the processes within NN, for obvious reasons interesting considering the anthropocentric skepsis embedded in the posthuman feminist aspects of my methodology.

[184] Ibid, p. 10.
[185] Ibid.
[186] That is, Data upon which the algorithm is trained or optimized. See further Turner, Jacob. "Robot Rules: Regulating Artificial Intelligence". Springer International Publishing, (2019), p. 71.
[187] McQuillan (2022) p.11.
[188] Ibid, p.11-12.
[189] Ibid, p. 12.
[190] Ibid, p. 16 f.
[191] Ibid.

The second makes interesting implications regarding what kind of foundings and interest that enabled the development of and thus coloured the technology. These facts are relevant and related to McQuillans statement that AI is not merely a technological phenomenon, but also a social one.[192]

Let us continue to the actual workings, the technical operations, of NN. The artificial NN consists of at least "one hidden layer of artificial neurons". The input data is passed through these neurons and when doing this multiples with the positive or negative weight of the neuron. The weight of the neuron reflects the strength of the connection between the input data and the neuron.[193]

The weight is the result of what the neural network has learned. The number of weights in a layer is the sum of the neurons in one layer, multiplied by the number of signals (which is equivalent to the number of neurons) from the layer above.[194] These numbers are then optimized in order to minimize the loss function, which, in short, is the difference between the "correct" output and the generated output.[195] The optimization is calculated by a backpropagation algorithm.[196] The backpropagation is a way of regulating the weighting by "calculates gradients of change that represent the direction of improvements" based on the "difference between the predicted outputs and the targeted values".[197] The gradient of change is calculated backwards, layer by layer, to finally conclude how to alter the "galaxy of weights" in a direction that will make the loss value smaller in the next iteration, i.e the AI's next task.[198]

When the next task is given, each neuron receives signals – from all the neurons in the previous level – which are "summed and modulated through an "activation function"[199] and then passed on, as a signal from that neuron, unto all the neurons in the next layer. Then the process repeats, depending on how many layers the NN has.[200] In other words, the signals travel a far and winding road and are "modulated and distorted at each hidden layer" and are by this process transformed from input – or original data – into a prediction or output. The prediction presented is constituted by the neuron with the "largest total signal". I.e the neuron in the final layer, whose weight multiplied with the signals received from the previous layer and sums up as larger than the same equation in the other neurons in the final layer becomes the output.[201]

With this in mind, it is obvious that AI needs data. Data as a source will be discussed below, but data is also a method, essential for the functioning of AI. By calling it a method, I mean

[192] Ibid, p. 1.
[193] Ibid, p.17.
[194] Ibid, p.19 and 20.
[195] Ibid, p. 15.
[196] Ibid, p. 21.
[197] Ibid.
[198] Ibid.
[199] I will, like McQuillan, not explain the term "activation function" within my thesis.
[200] McQuillan (2022) p.17.
[201] Ibid.

the way the world is converted into data – numbers – in order for the technology to process it. The encoding of the world is done by making the world into vectors – each element represented as an input feature in a column of numbers – and tensors –the dimensional expansion of the vectors. [202]McQuillan explains this by the practical example of video, where the color (red, blue and green) in each pixel – which constitutes the frames – is represented by a value. This way, the frame and the video can be presented in numbers which is presented as "a huge, multidimensional block of data", fed into the algorithm constituting the DL. The data is processed through the NNs which results in a(n attempt to) distillation of the "latent information into output predictions".[203] What this does, in less technical terms, is to reduce the complexness and diversity of lived experience and turning it into "a single space of equivalence".[204] In the end, this might lead to decisions with an unexpected connotation, exploitation or discriminatory exclusions.[205]

Data

Simply put, data is information "formed in a way to make it suitable for being processed by humans or AI".[206] About you and your behavior and your preferences and etc etc… The main reason for the data collection is the optimization of the algorithm behind the ML, NN and DL. This is done by calculating the difference between the algorithm's prediction and the actual outcome, or "the loss function".[207] The optimizer iterates the training data in order to "train" the ML. The technology is considered to be trained when the "loss function is minimized".[208] This is, as stated above, problematic. However, we do not have to look further than the collection of the data in order to discover difficulties. McQuillan starts by mentioning representation; what is represented by the data? For instance, the training data used for an automatic soap machine was providing an underrepresentation of data of dark skinned hands which led to the fact that the machine did not recognise, hand hence did not work for, darke sinned hands.[209] However, the problem is not as simple as to "improve the representation" within the training data since "inclusion is not always an unalloyed good".[210] Considering facial recognition by the police, for instance, some people might oppose being part of the data set.[211] Another concern, acknowledged by McQuillan, is the propagated idea of representation. This is exemplified by ImageNet and the program's ignorance towards context and standpoint. McQuillian means that this is the underlying problem, leading to the program's mislabeling of a picture of a Palestinian boy being held down by an Israeli soldier while his family tries to remove the soldier as "people sitting on top of a bench together".[212] This ignorance towards context, perspective and standpoints can be traced back to the

[202] Ibid, p. 19.
[203] Ibid, p. 19.
[204] Ibid, p. 19.
[205] Ibid, p. 20.
[206] Noll, Gregor (editor), *AI, digitalisering och rätten – "En lärobok",* Studentlitteratur AB, 2021, p. 282. (my translation).
[207] McQuillan (2022) p. 14–15.
[208] McQuillan (2022) p. 15.
[209] Benjamin, Ruha, *Race after Technology,* Polity (2019), p. 66–68.
[210] McQuillan (2022) p. 12.
[211] Ibid.
[212] Ibid, p. 13.

collecting of training data through the work of labeling the pictures. McQuillan means that this is done through crowdsourcing, where the task has been outsourced to low paid platform workers who are not more than an "interchangeable set of eyeballs".[213] Here it is obvious that what McQuillan describes as the resolution of the labour movement is relevant for the enabling of AI.[214] To summarize the above, any possible situated experience regarding the data providers is equally ignored as the context and standpoint within the pictures.[215] The solution for fixing these problems risks extending the data collection even more, which according to McQuillan might lead to marginalized groups, who are already exposed to an unproportionate amount of surveillance, to be watched even more. The notion that the solution for the data related problems is to collect more information would mean a motion towards an "environment of persuasive data surveillance and centralized control".[216]

4.1.2 The fascistic problem

McQuillans definition of AI has been presented, as has the notion of micro-fascism. Remaining is the question of how the two should be understood together and through each other. In other words, how is AI micro-fascistic? And what are the risks with this?

It is important to once again remind us that micro-fascism is understood as *a how*, working on *micro-levels*. Hence, when looking at AI as micro-fascistic, the important thing is the actual functioning of the technology, rather than looking and analyzing the outputs as *fascistic or not* or analyzing the possible use of the technology for fascistic aims. As McQuillan states "[i]f AI is captured by fascistic desires, it is because of what AI *already does*".[217]

McQuillan describes the "underlying problem" with AI as " imposition of an optimisation based on a single idea".[218] By this functioning, McQuillan means, the AI generated result (the output) will constitute a "ranking of the deserving and the undeserving".[219] This is, from a micro-fascistic point of view, problematic since it inevitably involves a rather extreme simplification, both of the real problems processed through the algorithm but also of the data representing those problems. That is, the simplification is done in two steps; first by reducing "reality" to numbers/ data accepted by the algorithm and then by the algorithmic functioning of optimizing its reasoning (or, more correctly, its calculating) based on a single idea of what the goal is. These processes radically reduce the complexity of reality. What happens is that the facts, aspects, possibilities, unexpectedness etc are not included or regarded in the collection of real facts, or the facts being turned into data, or the formulation of a single goal, or this single goal being in total control of the regulation and optimization of the algorithm strictly limits the outputs. McQuillan talks of it as reducing the solutions to a problem from

[213] Ibid.
[214] McQuillan in Arvidsson, Gandorfer and McQuillan (2024) p. 21. See footnote 5 for full reference.
[215] Ibid.
[216] Ibid, p. 14
[217] McQuillan (2024) p. 21 (my emphasis).
[218] McQuillan, "Towards an anti-fascist AI." danmcquillan.org, Dan McQuillan, 1 April 2019, https://www.danmcquillan.org/ai_and_antifascism.html. Accessed 14 November 2023.
[219] McQuillan (2022).

the possible to the statistically expectable and points to the fact that the reduction of social problems to only be a matter of ”exclusion innate characteristics is precisely the politics of right wing populism”.[220] He claims that “antifascist AI is one that take sides with the possible against the probable”.[221]

In his blog McQuillan also acknowledges the fact that the mathematical solutions behind the algorithms used has a big inheritance from Edwardian eugenicists Francis Galton and Karl Pearson.[222] Hence, the workings behind the AI-algorithms has a historical connection to “reunification of statistics and white supremacy”. For many reasons, these historical connections can not be dismissed as soly historical – partly because the illusion of a possible division between past and present[223] but also due to the self improving workings of the technology which will maintain certain historic traits within the technology.

There are evident ideological implications behind the McQuillian understanding of AI as fascistic. Claiming that the rise of intelligent technology is possible only through the destruction of the labor movement, “a perennial fascist priority” and workplaces where bodies perform in a ML-kind-of-way underline the perspectives anchoring in a critical tradition with marxist implications.[224] This, as we shall see, is a different entry for approaching AI than the one taken in the AI Act.
The problem with AI has been presented mainly through the works of Dan McQuillan. This has been done due to his concrete and effective introduction to the fascistic problem in the context of AI and digitalisation. The problem has nonetheless been acknowledged by more scholars. As mentioned above, Matilda Arvidsson and Daniela Gandorfer also writes about the fascistic problem, also in the context of AI.[225] What I really want to emphasis is however that the fascistic problem is acknowledged by the methodological approach as such, by the fact of the workings of AI, as described above, and the fundamental ontological understanding of things as inseparable.

4.1.2 The solution for the fascistic problem

McQuillan suggests that the fascistic tendencies working within AI are best handled by ethics being brought into practice, through solidarity, mutual aid and people's councils. As we shall see, these counter fascistic measures are in many ways different from the proposed solutions within the AI Act.[226] He also suggests a sane amount of skepticism towards the new technology, in a way which he similars to the luddism movement during the earlier stages of the industrial revolution.

[220] McQuillan (2024).
[221] McQuillan, “Towards an anti-fascist AI.” danmcquillan.org, Dan McQuillan, 1 April 2019, https://www.danmcquillan.org/ai_and_antifascism.html. Accessed 14 November 2023.
[222] Ibid.
[223] Compare; Barad (2014), p. 181.
[224] McQuillan (2024), p. 21.
[225] Arvidsson (2023) and Arvidsson, Gandorfer and McQuillan (2024).
[226] McQuillan (2022) p. 119–120.

By solidarity and mutual aid McQuillan means an understanding for the above explained idea that we are never absolutely divided from each other and that we, because of this, have to "act out for each other".[227] By this, we would "embrace" the inseparability and entanglements "as a form of leveling".[228] Stating that it is an action oriented practice, McQuillan also points to the notions' ambition to counter the systems which produce scarcity. McQuillan does not elaborate which systems he claims produces scarcity but considering the context, which I understand as over all critical towards the capitalistic and anthropocentric paradigm, I interpret this as aiming at mainly these systems. To summarize, it is about admitting the deficiency in prioritizing actions, focusing and prioritizing the individual since the individual can not be defined nor existing as a unity.

The idea of a people's council is drawn from worker's councils as well as the councils formerly used as democratic institutions. The councils are made up of people/ workers and provide a bottom-up, non-hierarchical approach to governance which is self organized and anti-bureaucratic and uses direct democracy for its decision making with the aim to change and transform the system.[229] Obviously, this is in many ways different from the legal approach immanently adopted through the AI Act. This will be elaborated below.

McQuillan presents the former movement of luddism – the opposition towards the earlier stages of the industrial revolution (around 1811–1816)– as an example of a sane attitude towards the development of new technology.[230] It is evident that the movement emerged in a context with many similarities to today's technological development and it thus may offer important insights on how to, as a community, handle the "top-down imposition of new machinery" which would affect the "social relations of power".[231] To begin with, the luddite movement was not anti-technology per se, rather, they were working against the reduction and automatisation of themself.[232] While the luddites were best known for their machine-breaking practices, McQuillan points to other aspects of the movement relevant learnings. The power of the luddites organization came from the power of a community based on solidarity. The organization was both self-organized and a constituent power and base, with delegates – not representatives! – from the local committees forming the organization between areas. This, and the learning that "the urge to destroy is also a creative urge" is what McQuillan suggests as relevant implications from the movement.[233]

To conclude, something will be mentioned about the problems with representatives, and why delegates, for instance, are preferable. The problem with representatives is, due to the process by which one is selected to represent and by this also becoming a part of an "institutional agenda", that its nature "leaves it wide open to assimilation by structure of power".[234] To be a

[227] Ibid, p. 120.
[228] Ibid, p. 121
[229] Ibid, p. 124–125.
[230] McQuillan (2022) p. 129–130.
[231] Ibid, p. 130.
[232] Ibid, p. 131.
[233] Ibid, p. 130–132.
[234] Ibid, p. 128.

representative of something is also to be constituted as a subject, something that will affect one's contributions. What is needed instead is the possibility to be "constitutive of different subjectivities" and by this being transformative and thus on politically and epistemological grounds challenge representations validity.[235]

4.2 The AI Act

In spring 2021 the commission of the European Union (the Commission) put down the "first ever" legal framework concerning AI and the act was accepted by the members of the European Parliament (MEP) during summer of 2023.[236] The act is however still not enforced.[237] The regulation of the technology in the act is based on risk levels – that is, the technology will be evaluated to belong to one of four risk levels (Unacceptable, High Risk, Limited or Minimal) and regulated depending on the categorisation. Already a significant aspect of the framing is obvious; namely its form of being a legal document. As will be analyzed further below, this will affect the form as well as the content of the Act.

In the following, the source of the legislation, the EU, will be presented, followed by the regulation's definition of AI. I will continue with the risk levels - first in general and then one by one – as well as how the risks are handled and a short notion of the supervision of the application and implementation of the Act (both on the national and the EU level). Lastly, I will present some fundamental contextualisation of the act, as it is presented within the Explanatory Memorandum.

4.2.1 The European Union as legislator

Since the EU is the legislator of the act, I find the institution as such relevant to present in short. What will be presented is the unions legislative competence used in the case of the AI Act and the Unions main goals and fundamental values.

The AI Act is a regulation, that is, a binding legal act by the European Union and has to be "applied in its entirety by the union's member states".[238] The regulation is based on article 114 of Treaty on the Functioning of the European Union (TFEU) with the aim of regulating the

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[235] Ibid.

[236] "Proposal for a Regulation laying down harmonised rules on artificial intelligence." Shaping Europe's digital future, 21 April 2021, https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence. Accessed 14 November 2023 and "AI Act: a step closer to the first rules on Artificial Intelligence | News." European Parliament, 11 May 2023, https://www.europarl.europa.eu/news/en/press-room/20230505IPR84904/ai-act-a-step-closer-to-the-first-rules-on-artificial-intelligence. Accessed 14 November 2023.

[237] For the latses news concerning the legislation process of the AI Act, see: "Artificial Intelligence Act: deal on comprehensive rules for trustworthy AI | News | European Parliament." European Parliament, 9 December 2023, https://www.europarl.europa.eu/news/en/press-room/20231206IPR15699/artificial-intelligence-act-deal-on-comprehensive-rules-for-trustworthy-ai. Accessed 18 December 2023.

[238] "Types of legislation." European Union, https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en. Accessed 15 December 2023.

internal market.[239] The internal market falls according to article 4 TFEU under the Unions shared competence, which means that the union does not have exclusive right to regulate the area. The fact that the act is part of the shared competence makes certain principles relevant, mainly studied within my thesis will be the principle of Subsidiarity, stated in article 5.3 of Treaty on the European Union (TEU).

The principle of subsidiarity has to do with the consideration about on which level a regulation would be most effective. Robert Schütze describes the principle as two faced with one positive and one negative aspect; the positive one encourage higher associations (like the EU) to support smaller associations when they are in need of it, while the negative one suggest that the higher associations should not legislate in areas which could be regulated equally effective by a subordinated association.[240]

Looking at the EU as part of the act's context, the unions overall aim(s) are for sure of interest. Of course, the union has more than one main aim. What is relevant for this context, and my analysis, are the aims to "promote peace, its values and the well-being of its citizens" and to "establish an internal market".[241] What interests me is the relationship between the two. It is important to remember that the foreground to the current union was the European Coal and Steel Community, established in the 1950's. The union was proposed by the France foreign minister Robert Schuman, after a suggestion from the U.S.A.[242] In other words, shortly after a war in which France had been occupied by the German Natzis, the country proposed a collaboration with their former occupiers. The idea was that the collaboration would "make war between historic rivals France and Germany 'not merely unthinkable, but materially impossible'".[243] It was stated that peace was in need of "creative efforts" in order to be possible.[244] This points to an understanding of the European collaboration as founded with the main ambition to maintain the peace in the area, thus using the coal and steel market as an "creative effort" to achieve this. In short, the market aspects are for certain an important goal of the union, however, I claim, it is mainly a tool for the higher ambition to create and maintain peace within the union.[245]

The preamble to the Charter of fundamental rights of the European Union states that "the Union is founded on [...] values of human dignity, freedom, equality and solidarity [...]on the principles of democracy and the rule of law. It places the individual at the heart of its

[239] Explanatory memorandum, p. 6.
[240] Schütze, Robert. European Union Law. Oxford University Press, 2021, p. 257. The critique towards the wording of the article will not be discussed here.
[241] "Aims and values." European Union, https://european-union.europa.eu/principles-countries-history/principles-and-values/aims-and-values_en. Accessed 15 December 2023.
[242] Schütze (2021) p. 5.
[243] "Schuman declaration May 1950." European Union, https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en. Accessed 15 December 2023.
[244] Ibid.
[245] Ibid.

activities".[246] These are traditional liberal values and also show the individualistic and anthropocentric aspects of the foundation of the union and thus also for the internal market. These ideological aspects are, as we shall see below, relevant for the diffractive analysis of the act.

4.2.2 The Acts definition of AI[247]

The definition of AI is found under Title I article 3 (1) in the AI Act.[248] According to the definition, AI is a software, using one or more of the techniques listed in Annex I and can generate certain outputs "influencing the environment they interact with". The outputs should be in response to "one or more human defined objectives".

Software is not elaborated in the act but the European parliament defines it as one of two types of AI (the other one being "Embodied" AI, which also includes software) and describe it as "virtual assistants, image analysis software, search engines, speech and face recognition systems".[249] Software might therefore be understood in a general way, as "instructions that tell a computer what to do", that is, the operational program, working within a computer/ hardware.[250] By this, the definition provides a flexible approach concerning the physical appearance of AI.

The proposal suggests that the definition should be "based on the key *functional characteristics* of the software"[251]and that this "definition of AI system should be complemented by a list of specific techniques and approaches used for its development".[252] The act's definition is, thus, primarily focusing on the functional part (that is, what AI can do).[253] However, the act also refers to three types of technological "approaches" that need to be used in order for a technology to be defined as AI. These technological approaches are listed in Annex I.

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[246] Charter available at "EU Charter of Fundamental Rights - European Commission." European Commission, https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en. Accessed 15 December 2023.

[247] In the act, the definition concerns AI systems. I will, however, acknowledge it as a definition of AI. This is done due to the fact that the regulation claims to be "the first ever regulation of AI" and that "AI-system" thus can be understood as equivalent to "AI".

[248] The Proposition for an Artificial Intelligent Act (AI Act), article 3(1).

[249] "What is artificial intelligence and how is it used? | News." European Parliament, 4 September 2020, https://www.europarl.europa.eu/news/en/headlines/society/20200827STO85804/what-is-artificial-intelligence-and-how-is-it-used. Accessed 14 November 2023.

[250] "Software." Britannica Academic, Encyclopædia Britannica, Inc., 22 September 2021, https://academic-eb-com.ezproxy.ub.gu.se/levels/collegiate/article/software/2206. Accessed 14 November 2023.

[251] Preamble to the AI Act, recital 6, p. 18, (my italics).

[252] Ibid.

[253] For further thoughts of how to define AI, see Turner (2019)p. 7-22 and concerning legal definitions see Schuett, Jonas. "Defining the scope of AI regulations." Law, Innovation and Technology, vol. 15, no. 1, 2023, pp. 60-82.

Annex I lists three types of technological "approaches" which can be simplified as : a) the Machine Learning approach, b) Logic- and Knowlgebased approaches and c) statistical approaches.[254] These three approaches are not further explained in the act nor in annex I. Since the act's definition (in contrast to McQuillan), according to the preamble, focuses on the functional aspect, rather than the technical, I will not pay further attention to the technical approaches listed but instead put the focus on the functional definition.[255]

As Jacob Turner's definition of AI in his book "Robot Rules" exemplifies, a functional understanding of AI may focus only on the technology's ability to "make choices by an evaluative process".[256] The functional understanding according to the AI Act is however more elaborated and consists of three aspects: a) The relation to the human b) Its outputs and c) Its effects. These functional aspects will be treated one by one.

a) The relation to the Human

The act states that the technology should be able to generate outputs for "a set of human defined objectives".[257] Thus, the technology does not need to be fully emancipated from humans in order to be considered as AI. However, according to amendment 18 recital 6, the technology is designed to operate somewhat autonomously, though the level of independence may vary.[258] In other words, the human - technology relation is not dichotomous but more nuanced, where AI is understood as human made technology(and thus dependent on human interaction) but simultaneously as capable to perform processes independent from human involvation. If accepting the above explained concept of micro-fascism as something inherently human, the human - technology relation is conditional for the understanding of AI as enabling and producing the human desire to be dominated.

b) Its outputs

According to Turner, what defines AI is its ability to make a certain type of choices. Hence, all the definition requires in terms of output is a choice – to prioritize at least one option before at least one other.[259] The definition within the AI Act requires, in terms of outputs, that the technology can produce content, predictions or recommendations. What kind of outputs is thus not what is considered to be important, what is more is the that and how the outputs interact with the related environment – that is, the effects of the outputs. This, once again, shows how the act focuses on the outcomes of AI, rather than its immanent functioning.

[254] Annex I to the AI Act
[255] See p. 18, recital (6).
[256] Turner (2019), p. 16-18. For full reference, see footnote 198.
[257] The AI Act, Art. 3.
[258] Amendments adopted by the European Parliament on 14 June 2023 on the proposal for a regulation of the European Parliament and of the Council on laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts (COM(2021)0206 – C9-0146/2021 – 2021/0106(COD))amendment 18, recital 6 of the AI Act.
[259] Turner (2019), p. 16-22.

c) Its effect(s)

The outdata (the outputs) should influence the environment it interacts with. This refers to, as I interpret it, the technology's circular working – from receiving inputs from a source which is processed within the algorithm to becoming an output which goes back and affects the source of the input as well as the algorithm.

4.2.3 The Risk Levels

The risk levels by which AI is categorized and which affect the regulation of the technology are, as mentioned, Unacceptable Risk, High Risk, Limited Risk and Minimal Risk.[260] The terms are not used in the actual act but mentioned in explanatory memorandum as fundamental for the regulation. It is stated, under 5.2.2 in the explanatory memorandum, that prohibited technologies (the technical solutions considered to constitute an "unacceptable risk"[261]) can be found under title II in the act and at a closer look mainly under article 5 p.1-4 in the act.[262] The technology considered to be a "high risk" is stated below Title III chapter 1–5 as well as in an explicit list in Annex III. Technology that is considered a "Limited Risk" will be "*subject to minimal transparency obligations*".[263] Minimal transparency obligations are found under title IV article 52 in the act and 5.2.4 in the explanatory memorandum and provides an implication on what kind of technology the regulation targets. Technology constituting a "Minimal Risk" is not regulated by the act nor defined or mentioned. The websites of the EU institutions have therefore been used as sources. [264]

In the presentation, the exceptions from the regulation will not be presented.[265] The exceptions are mostly related to the use of AI for the purpose of law enforcement and are certainly interesting from many perspectives, including the (micro)fascistic one. However, I chose to leave this out of my work due to my rather limited space and time.

Unacceptable

According to the Explanatory Memorandum, AI will be prohibited if the technology "contravene" union values, such as what the union considered to be fundamental rights.[266] Furthermore, 5.2.2 in the Explanatory Memorandum and article 5 of the AI Act, highlights the risk for exploiting vulnerable groups such as children or disabled, or the unconscious manipulation of people, both with possible negative impacts on the psychological or physical well being of a person. Technology facilitated by AI which otherwise would be considered unacceptable could be accepted if regulated by rules concerning data protection, consumer

[260] See Section 5.2.2 in the Explanatory Memorandum, p. 12-13.
[261] Compare the description of "Unacceptable risk on"; "Excellence and trust in artificial intelligence." European Commission, Updated 2023, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/excellence-and-trust-artificial-intelligence_en#documents. Accessed 14 November 2023.
[262] Proposition for AI Act article 5 p.1-4.
[263] "Excellence and trust in artificial intelligence." European Commission, 21 April 2021, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/excellence-and-trust-artificial-intelligence_en#documents. Accessed 17 November 2023.
[264] Ibid.
[265] The exception can be seen for instance in article 5 paragraph (d).
[266] Explanatory Memorandum p.12.

protection or digital service regulations and by this properly inform the natural person using it and giving the person the "free choice" not to be exposed to profiling.[267] Other techniques falling under the prohibition are social scoring, at least when performed by public authorities, and biometric identification systems in "publicly accessible spaces" when used for law enforcement. The Explanatory Memorandum acknowledges some "limited exceptions".[268]

Article 5 also states that the *practices* of such technology is prohibited. It also clarifies that real time remote biometric identification systems may in some cases be used publicly if it is done for the purpose of law enforcement, but that, in that case, some factors should be specially taken into account.

The definition of "unacceptable risk" efficiently sets the scene and surroundings within which AI and its regulation. It emphasizes that it is the *practice* of AI that is considered the risk, and not the workings of or the technology as such. Certainly, if the practice of the AI is prohibited, the operations behind it will not be at use either. Nevertheless, as will be shown in my analysis, it contributes to hiding what is the actual risk with the technology.

Just as the Explanatory Memorandum states, what is considered the greatest danger with AI is a use of the technology which affects the union values and notion of "fundamental rights". I will get back to the risk evaluation and its relation to Union values and fundamental rights.

High risk AI

The high risk AI is approached in the Explanatory Memorandum, Title III of the Act and Annex III. Title III in the act is divided into 5 chapters and 45 articles. All of these will not be presented equally, partly due to lack of space but mainly to maintain the focus on the category "high risk AI". Chapter 1 (classification) will be in focus, while Chapter 2 (Requirements for high risk AI), Chapter 3 (Obligations for providers and users), Chapter 4 (Notifying authorities and notified bodies) and Chapter 5 (Standard, Conformity, Assessment, Certificates, Registration) will be in the periphery.

Chapter 1 Art. 6 p.1 of the Act states, in short, that a product should be considered high risk AI when it (a) is (part of) a product covered by EU harmonization legislation as listed in Annex II, and (b) the product which the AI system is (a part of) is, according to the union legislation listed in annex II, obligated to undergo a conformity assessment by a third party in order to be placed on or used within the internal market. Annex II section A and B list 12 respective 7 union regulations, aiming to harmonize the union market. Article 6 paragraph 2 refers to all systems listed in Annex III, stating that all technologies listed in the annex are considered as High Risk AI. Annex III lists 8 areas, with subcategories. I will not repeat them but summarize them as all referable to the unions (fundamental) rights.

[267] Ibid, p.13.
[268] Ibid.

Art. 7 paragraph 1 gives the commission the right to update the list of high risk AI in Annex III when a) the AI system is intended to be used in one of the categories listed in Annex III and b) the risk of severity of the potential harm of the system as well as the probability of its occurrence is at least equal to the systems listed in Annex III. 2p. in art 7 provides guidance for the evaluation according to art 7.1 b. Thinking in terms of framing, this enables the commision to somewhat change the act's framing of what is considered as high risk AI. Since the commission is changing every 5th year, the possibility to reframe includes a possibility to change the "framer"of AI.[269]

The high risk AI shall comply with the requirements stated in chapter two of Title III. The chapter lists things as risk management systems (art. 9), technical documentation (art. 11), record keeping (art 12) and transparency towards users (art 13). I will not elaborate on these requirements, but instead take a closer look at art 10 and 14 requirements on the Data and data governance as well as of Human Oversight. Article 10 puts requirements on the data and data set used in high risk AI. The data has to be "relevant, representative, free of errors and complete", according to paragraph 3 of the article. Paragraph 4 states that the data sets have to take into account contextual aspects to the situation within which the use of the technology is intended. As we have seen above, data is an important and problematic part of AI and, as McQuillan suggests, a difficult thing to regulate in a satisfying way.

Article 14 states that the technology has to be designed and developed in a way which makes it possible for humans to oversee it. In other words, the technology is constructed in a way that makes it possible for humans to scrutinize it. Paragraph 4 of article 14 states five different aspects of the technology that needs to be available for human oversight.

Chapter three of Title III concerns obligations of providers and users of high-risk AI systems and other parties. According to article 16, the first article of chapter three, paragraph (a) the provider is responsible for the fulfillment of all requirements on high risk AI set out in chapter II. The provider is defined in article 3 paragraph (1)[sic.][270] as the person, legal or natural, "that develops an AI system or that has an AI system developed with a view to placing it on the market or putting it into service under its own name or trademark". Thus, the one responsible for AI is defined in terms related to the development and marketisation of the technology.

[269] "How the Commission is organised - European Commission." European Commission, https://commission.europa.eu/about-european-commission/organisational-structure/how-commission-organised_en. Accessed 15 December 2023.

[270] In the document I have used for my thesis, there are two article 3 paragraph (1). Here I refer to the second one.

Limited

The European Commission states that: "Limited risk refers to AI systems with specific transparency obligations".[271] In the Act, this is called "low or minimal risk" and refers to technology that "(i) interact with humans, (ii) are used to detect emotions or determine association with (social) categories based on biometric data, or (iii) generate or manipulate content ('deep fakes')". [272]

The transparency obligations applicable to low or minimal risk AI are found under title IV in the act. In general, according to art. 52 p.1-3 first paragraph, the transparency requirements refers to the technology's obligation to make sure that the person interacting with the artificial technology or taking part of content that has been "artificially generated or manipulated" (deep fakes) is aware of the fact that the interaction is with such technology/ that the content has been technologically manipulated.

Art 52 p. 4 in the article states that article 52 should not affect any requirements set under Title 3 in the Act. That is, the requirements that affect High Risk AI should not be affected by the regulations affecting limited risk AI.

Minimal Risk

Minimal Risk AI is defined, on the Commission's website, as:

> "Free use of applications such as AI-enabled video games or spam filters. The vast majority of AI systems falls into this category *where the new rules do not intervene* as these systems represent only minimal or no risk for citizen's rights or safety."[273]

The risk level is not further defined nor regulated within the Act nor its explanatory memorandum. This is an important part of, an important cut in, the framing of AI used in the AI Act since it presents a type of AI which is not affected by the regulation or, visually speaking, technology that is not present in the framing of AI regulated by the act. This can be a question of perspective (the focus is put on what is considered the dangerous *outputs* of AI or on the spheres where AI may cause the most damage), it can be a question of surroundings (since AI is considered a part of the EU regulatory market, it should not be regulated more than necessary and its function is mostly analyzed on a macro level) or a question of the fact that the EU consists of a multiplicity of intern wills made up by the votes of millions of citizens within the union (and the framing is thus the result of negotiation of the intern discussions and contrarious wishes within the multiplicity picturing the phenomenon).

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[271] "Regulatory framework proposal on artificial intelligence | Shaping Europe's digital future." Shaping Europe's digital future, https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai. Accessed 15 December 2023.

[272] Explanatory Memorandum, p. 14.

[273] "Excellence and trust in artificial intelligence." European Commission, 21 April 2021, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/excellence-and-trust-artificial-intelligence_en#documents. Accessed 17 November 2023. (my emphasis).

4.2.4 Governance

The Act also regulates systems for governance and implementation of the act, this is regulated under Title VI of the act. On the EU level, article 56 of the act establishes "The European Artificial Intelligence Board"(the board), which will "provide advice and assistance" to the commission regarding the surveillance corporation (56.2a), coordinate and contribute to guidance regarding emerging issues (56.2b) and assure "consistent application" of the regulations in the act (56.2c) . The board will, according to article 57, consist of "the head or equivalent high-level official" from the, by each member state established or designated, surveillance authority. The Boards assignments are developed further in article 58, including contributing with collected expertise and best practice among the member states as well as to the uniformization of administrative practices within the member states and contributing to the Acts implementation through "opinions, recommendations or written contributions". It should be mentioned as well, that regarding the unions own institutions, the European Data Protection Supervisor is acting as the supervisory authority, according to article 59 paragraph 8.

In other words, the board, as well as the national authorities, will have a great importance regarding the interpretation, implementation and imitation of the act. This will be analyzed further below, especially in relation to the principle of Subsidiarity, expressed in the art 5.3 TEU.

4.2.5 The surrounding

The regulation within the Act is, of course, not written in a vacuum. The Explanatory Memorandum has been mentioned above and is an important source to understand the regulation as such. However, the Explanatory Memorandum also shows us important contextual implications of the Act.

First and foremost, the Explanatory Memorandum highlights that (at least two of the) goals with the Act is to "ensure legal certainty to facilitate *investment and innovation* in AI". and to "ensure a *well-functioning internal market* for artificial intelligence systems".[274] This is by all means an important aspect for the understanding of AI as an object for EU legislation. Through stating innovation and the function of the free internal market as fundamental aims for the regulation, EU points to the fact that the Act is by all means affected by economic interests. Further, the importance of the economic and internal market for the Act is shown by the fact that the regulation is based on art 114 in the TFEU.[275] This will be an important aspect for my analysis. Another important aspect is the human centered perspective explicitly applied by the act.

Even though the Explanatory Memorandum mentions AIs possible positive effects for environmental and climate conditions, it says explicitly that "AI should be a tool *for people* and be a force for good in society with the ultimate aim of *increasing human well-being*" and

[274] Explanatory Memorandum, p. 1-3 (my emphasis).
[275] Ibid, p. 6.

that "[r]ules for AI available in the Union market or otherwise affecting people in the Union should therefore be *human centric*".[276] From the post-human perspective, this is certainly of interest.

The human centric perspective is also, I claim, related to the close connection between the regulation of AI and the European fundamental rights. As shown in the above, what is considered to constitute a risk with AI within the act is mainly the technology's threat towards these rights. Since the rights are based on a human centric perspective, this will also affect the regulation of the technology.

As mentioned above, the Act has undoubtedly been affected by the fact that it constitutes a legal document from a supranational union. To start with, the supranational aspect limits the Unions regulatory authority and requires it to follow the EU principle of proportionality.[277] According to the explanatory Memorandum, the categorisation of the risks with AI is an attempt to follow this principle.[278] In short, by categorizing the technology and providing different restrictions depending on the considered risks, the technology is not regulated more than necessary.

5. Visual analysis

As proposed above, in my analysis I will try to write a visual understanding of AI both as a micro-fascistic framing, based on the notion of micro-fascism by D&G and the works and analysis made by Arvidsson, Gandorfer and McQuillan, and the framing presented by the AI Act. My aim is to see the diffractive cuts made by the AI Act and how these affect and exclude the visibility of the micro-fascistic tendencies within AI. I will look at both the fact that the AI Act is a legal regulation, that is, what cuts are made through the decision to handle the technology within the realm of law, and at the regulation as such. The latter refers to the cuts made by how the regulation is formed. I will base my analysis on four concrete examples, four cuts, from the Act. The first of these will be, as described above, the choice to regulate the technology within the realm of law. The second cut that will be studied is the legal ground for the European Union to regulate the technology, that is, the regulations foundation in article 114 in the TFEU. The third example will be the act's focus on humans and the human condition, its anthropocentric approach. The fourth example will be the act's solution for enforcement and scrutinization, that is, the Board and how this relates to the European principle of subsidiarity.[279] These four examples show occasions when the act has been forced to make a choice of route between two (or more) directions. The choice has led the act to something, but cut out something else. That is, it has led to the inclusion of something and exclusion of something, of the "other". My main goal is to bring forward what is left out by the cuts and how this, as we shall see, leads to the fact that the Act misses

[276] Ibid, p.1.
[277] Article 5.1 TFEU.
[278] Explanatory Memorandum, p 3.
[279] Article 5.3 in the TFEU.

several important aspects of AI as well as possibilities of how to handle them. I will finish my analysis by relating the cuts to each other as well as to the ambitions and aims with the EU.

Before starting the description of the cuts I claim has been made, I want to make a general statement regarding my choice to present the anthropocentric cut as separated from the other cuts, mainly what I call the legal cut and the market cut. Certainly, the legal cut and the market cut contain anthropocentric implications by the fact that both the legal system and the market are human centered systems.[280] Nonetheless, I am convinced one can work in a more or less anthropocentric way within these systems. I will develop this line of thought below, but for instance there are possibilities to make a more rhizomatic or ecocentric regulation, for instance by including a larger variety of subjects (such as technology or (different parts of) the nature). The same, I claim, is true regarding the market. Even though the market as such is a human centered system, one can pay attention to other actors and aspects within its framework.[281] For instance, as suggested below, the energy supply for the technology could (and should!) be taken into account also when regulating the technology with the main goal to enable a functioning free, internal market. This said, I find it relevant to divide this into three different cuts; the legal one, the market one and the anthropometric one, where the last focuses on the anthropocentric cuts made within the already human centered context.

The legal cut

To begin with, the document studied claims to constitute a legal act. I mean that already by the choice to regulate the technology within the realm of law, to do legal with and of AI, some alternatives are left behind. Although AI already is somewhat integrated with the legal sphere (by the use of some AI solutions within the courts and other legal institutions[282] or the legal handling of AI questions[283] or related issues such as the regulation of personal data[284]), the AI Act claims to once and for all put in the technology as such within the realm of law. This means that AI will take part in the legal practice and principles, the legal consciousness and the legal buildings. The legal arena will be the place to fix what is and can be the problems of AI. This limits the regulatory possibilities to the ones offered by legal authorities.

As presented above, McQuillan proposes that the answer to the (fascistic-)risks with AI should be handled through mutual aid, solidarity and councils of people and/or workers. As seen above, these approaches are based on non-hierarchical, anti-bureaucratic actions based

[280] See for instance Davies, Margaret. EcoLaw: Legality, Life, and the Normativity of Nature. Taylor & Francis Group, 2022. p, 1-15. Accessed 12 December 2023 and Davies, Margaret. Asking the Law Question. Thomson Reuters (Professional) Australia Limited, 2023. Accessed 12 December 2023.

[281] I only claim that a not-anthropocentric perspective would be possible within law, not that this would be enough to deal with the urgent environmental crisis.

[282] See Otter Johanssen, Tormod "Automatiserade beslut i förvaltningsrätten"in Noll (2021).

[283] Such as the DABAS-case, see Bruncevic "AI, kulturproduktion och upphovsrätt" in Noll (2021).

[284] For instance; Regulation (EU) 2016/679 of the European Union Parliament and of the Council of 27 april 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (GDPR).

on solidarity and the admitting that we are all part of the one and same.[285] This is important in order to radically counter the exclusion made by the very functioning of the technology.

I will not dwell on the foundational characteristics of law, but as mentioned it is an anthropocentric system which is obviously hierarchical.[286] The legal process is not based on a new materialist understanding of ontology and thus does not acknowledge the impossibility of total separation. In addition law is by no means immanent solidarity but does, in many cases, work together with or enable the "systems that create scarcity". By this I mean that the legal system is part of the capitalistic/ anthropocentric assemblage, especially, as we shall see, when used in the context of the (internal European) market.

It also lacks many traits fundamental for the councils McQuillan proposes, such as directly democratic decision making. Direct democracy is an explicit way to assemble the wills of a large number of people into something which is neither the will of one nor several wills. It is, not one nor two, three etc. It is simply a multiplicity. This differs from the legal workings, which, instead of basing decisions upon a non-hirarcal assembling of wills, makes decisions based on the judges interpretation of a document based on the wills of democratically chosen representatives.

The above described means that what is enabled through the legal cut, or what is included, is a rather traditional idea of how to handle a phenomenon integrated with society that might cause problems. The problem is that AI is not a phenomenon as any other and thus needs another regulatory approach. The character of AI, its binary and unconscious workings which can be applied at a large scale and in a big variety of sectors, gives the technology the possibility to have great implications on society and democracy as we know it. Since the workings of the technology might become integrated in the society and the democracy, the risk with the technology is, as we have seen above, greater than and different from the risks connected to other products regulated within the market. The risks are neither limited to the workings and outputs of the technology, but has to do with its functioning which puts the whole democratic structure at risk. In other words, the technology is not a phenomenon as any other and might therefore be in need of a different regulatory approach.

What is excluded is, as implicated above, the possibility to regulate the technology through different, more inclusive, values. Something that might enable reaching to the bottom of the problems with the workings and functionings of the technology.

Another aspect of the legal sphere is the requirement for proof. In order to make a functional legal act, what is required of the technology and the person responsible for it has to be provable in a courtroom. When it comes to AI, it may be difficult to prove that a decision, for

[285] McQuillan (2022) p. 119–134.
[286] See, again, for instance: Davies, Margaret "EcoLaw: Legality, Life, and the Normativity of Nature". Taylor & Francis Group, 2022. p, 1-15. Accessed 12 December 2023 and "Asking the Law Question." Thomson Reuters (Professional) Australia Limited, 2023. Accessed 12 December 2023.

instance, was made by the technology or to what extent a natural person has been involved.[287] The same type of problem may occur in questions concerning for instance discrimination or exclusion made by the algorithm within an AI. This affects what types of risks and damages that can actually be reached by the legal tools.

In short: The document is a legal act, which puts it in the realm of law. The legal sphere is not based on values such as solidarity and mutual aid. Thus, by putting the technology within law, these values are cut out. Further, this also put high requirements on the provability of the risks and damages made by AI.

The market cut

As mentioned above the explanatory memorandum to the AI Act, states that the act is founded upon the regulatory competence stated in article 114 of the TFEU.[288] The article refers to the competence to create regulation in order to contribute to the establishment and functioning of the internal market. In other words, the aims for the regulation are mainly market related and relates mainly to a market oriented framework. This, I claim, constitutes an important cut in the Acts framing of AI. Below will be explained why so is the case and what this cut includes and excludes from the image.

The internal market-perspective cuts the framing of AI because it portrays AI only in market related terms – such as free market, free movement, goods, product, economy etc. This tends to exclude aspects of AI that, if one is to believe McQuillan, Arvidsson and Gandorfer, is equally important. Terms like democracy, sustainability and inclusion/ non-discrimination are left out by the foundational cutting and by this they are also excluded from being alternative values within the regulation.

This also affects the implications of the regulation on a deeper ideological level. The European project of creating an internal market is, as seen above, based upon liberal values and a liberal view of the human as a rational and autonomous being, capable of making free choices.[289] As mentioned above, it is also a system based on a human centric view. By implying that the human is free and autonomous, one also claims that a person can be separated and individualized from other beings. This understanding of beings fundamentally differs from the new materialist ontology. Thus I claim that the liberal individualism is in a position where the problems of micro-fascism within AI can not really be discovered. What I mean is that within an ideologic realm where individualization is possible, and to some extent also desirable, a total separation is by no means an impossibility.

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[287] When it comes to the problem with the burden of proof and AI, see Noll, Gregor pp. 83-104 in Arvidsson, Matilda, et al. AI, digitalisering och rätten - - en lärobok. Edited by Gregor Noll, Studentlitteratur AB, 2021, p. 92–97.

[288] AI Act, Explanatory Memorandum, p. 7.

[289] "Liberalism." Nationalencyklopedin, 2 October 2022, https://www-ne-se.ezproxy.ub.gu.se/uppslagsverk/encyklopedi/l%C3%A5ng/liberalism. Accessed 18 December 2023.

With this, the liberal and market oriented ideology, as foundation, it is impossible to see the fact that the attempt to individualize is in fact an attack on the actual self, and thus self destructive. With another entry point to the regulation, such as looking at it from a democratic perspective, the question in need of legislative answers would be others. Since democracy requires participation and a feeling of mattering, the questions approached by the regulation would instead concern inclusion and would put issues as discrimination, inclusion/ exclusion and society in focus. Just by changing the focus from the liberal human subject to the society would put a more nuanced, diverse and multiple unity in the center of the regulation.

As we have seen in the presentation of micro-fascistic AI, these values are threatened by the workings of AI. By leaving them out, the AI Act misses the opportunity to regulate the technology in a way that would benefit the society in a broader sense, the opportunity to do more than just create a free market. This can be compared with the aims in McQuillans treatment of the technology, which has a broader social perspective by approaching the question from a societal angle, rather than a merely market oriented one. In short, the AI Act puts the question of what is needed, when it comes to the treatment of AI, in order to establish a functional, internal market while McQuillan, on the other hand, asks the question of how AI needs to be treated in order to maintain/ create a functional and good society. While the market oriented question of AI might not be unimportant, it can never fill the need of regulation of the technology's implications on our common, democratic society.

In other words, already when deciding the legal ground for creating an European Legislation an essential diffractive cut is made which drastically diminishes the possibilities of the regulation. This makes the actual legal meeting with AI not impartially, but already limited and predestined. This cutting has led to great consequences also on a more detailed level of the regulation.

One of the more detailed consequences is that the choice to base the regulation of AI on article 114 and for the purpose of the internal market creates the effect that AI is treated mainly as a product, as something that would fit within the European General Product Safety Regulation.[290] Once again, this differs fundamentally from McQuillans treatment of the technology. Instead of marketalize and treating AI as a product, as mentioned before, McQuillan sees the technology as a process which might fundamentally question the foundation of our liberal, democratic society by amplifying and crystallizing already fascistic tendencies.

So, the market cut leads to the treatment of AI as a product. This affects how the risks are constituted as well as by whom and how these risks are supposed to be handled according to the act. Regarding the risks, I claim that the product perspective leads both to a human centered risk evaluation as well as the fact that the risk described in the act mainly refers to

[290] "General Product Safety Regulation - European Commission." European Commission, https://commission.europa.eu/business-economy-euro/product-safety-and-requirements/product-safety/general-product-safety-regulation_en. Accessed 15 December 2023.

the outputs and uses of AI, rather than its functioning.[291] The former is visible partly by how the act relates and refers to the European fundamental rights and partly in the description of what is considered a risk.[292] The latter, I would say, is part of the product aspect due to its requirements of how the risk is realized. What I mean is that the risks approached in the act are manifested on a very concrete level, concerning the outputs and uses of AI, as a risk headed towards an assigned subject. This can be compared to the functional risks acknowledged by Arvidsson, McQuillan and Grandorfer, which are at a more abstract or general level and thus does not result in a strike towards a singular subject. This is of course connected to the legal cut, which puts AI in a sphere where the possible damages must be evidential in order to be able to be legally handled. The legal requirements are more easy to fulfill if the risks are of a more concrete and specific character.

As explained above, the provider of the AI receives a great responsibility for the technology. This puts a lot of responsibility on one subject. This, once again, has to do with the product perspective applied in the act. By this solution, the technology is evaluated as products one by one and thus might miss the effects of the application of the technology on a larger level. As I understand Arvidsson, McQuillan and Grandorfer, the problems with AI does not only have to do with the use of a single product, but also concerns the "AI-isation" of the society. In order to capture this perspective, AI can not be evaluated only one by one, but has to be approached in a more general and overall way.

In the market context of risk management, I claim that the decision to divide the technology into risk levels is a clear implication of the view that it is not the technology as such but its use and outputs that are the actual problem.

The regulation neither fully approaches the problems McQuillan observes concerning data. The Act does provide some regulation concerning data.[293] However, it does not handle the problems of loss of complexity when transforming the world into data.

By the AI Acts treatment of the technology as a product it will, I would say, miss or obscure fundamental parts of what McQuillan beholds as risks with the technology. In other terms, the choice to treat AI within the realm of the internal market cuts out the rest, and more urgent, concerns with the technology.

To conclude: The market cut dresses AI in market related terms and by this sees the technology from a liberal and capitalist perspective. By making AI a question for the market, the technology is seen as a product and excludes many aspects of the technology which are important for democracy.

[291] Compare the Explanatory Memorandum p. 11 and article 5 and 6 of the act.
[292] Explanatory Memorandum, p.11.
[293] See for instance article 10 as mentioned above.

The anthropocentric cut

The regulation of AI is explicitly done in order to protect humans and thus both cuts out all other beings and values and also misses the post-human point of the unavoidable interconnection between beings and things. The human focus is explicitly expressed in the Explanatory Memorandum but can also be seen in what is considered to constitute a risk.[294] Below I will explain how this cut is made, relate it to the Market cut presented above and express some examples of what has been excluded through the making of this cut.

In the Explanatory Memorandum, besides explicitly explaining the human focus, the relevance of the European"fundamental rights" are expressed. Their relevance becomes obvious when studying what constitutes a risk within the act since the risk definitions often refer to the protection of the fundamental rights. Although called fundamental rights, the resemblance of as well as the inheritage from human rights are clear.[295] The centering of a concept with such anthropocentric implications as fundamental/ human rights will certainly affect the regulation as a whole.

The anthropocentric cut is certainly related to – a rhizomatic consequence of – the market cut explained above. The relation between the anthropocentric cut and the other cuts has been briefly addressed above. However, I will discuss a couple of more detailed questions here. The discussion of the market's relation to the environment is doubtlessly present in the contemporary debate and there is at least some ambition to alter the market in order to make it *compatible* with the limits of the environment.[296] However, it would be an exaggeration to assert that the market would ever be in the *interest* of nature. Especially not the market as it is thought about within the EU treaties, which was formulated well before the climate discussions really entered the public debate and before climate change became considered to be an aspect relevant to account for in all situations. Thus, the human focus is an unavoidable part of the assemblage that the EU market constitutes. The market, as it is working today, is greatly influenced by capitalistic and (neo-)libera implications and is thus a system that is created by as well as for the human being.

Then, what is left out by the anthropocentric cut? Firstly, the technologies environmental effects – such as its huge requirements of electricity – are not at all approached at all within the act. This despite the fact that the increased use of AI will inevitably lead to an increased electricity consumption. Secondly, the anthropocene focus of who/ what is at risk and thus in need of protection from a legal act excludes everything but the human being.

The functioning of AI, ML and DL has been described above. What is not discussed is what drives these functionings. The technical processes take place in many thousands computer chips, all driven by electricity. This will amount to an extreme use of energy in order to

[294] The AI Act, Explanatory Memorandum, p. 1.
[295] The connection between EUs fundamental Rights and the notion of Human Rights becomes evident by Schütze (2021) p. 452ff.
[296] See for instance, "Climate change: what the EU is doing." Consilium.europa.eu, 11 December 2023, https://www.consilium.europa.eu/en/policies/climate-change/. Accessed 18 December 2023.

support the digitalisation.[297] The question of energy is not addressed in the act, this despite the severe energy crisis that has troubled the union lately.[298] The electricity supply is, of course, closely connected to the ongoing climate crisis. By not addressing the issue of electricity supply to AI, an important environmental aspect of the technology is cut out of the understanding of AI.

That this is not addressed is, I claim, also related to the fact that the risks regulated in the act are mainly for the purpose to protect humans. By focusing on what constitutes a direct risk towards human life, questions concerning the (as we have seen, equally important) environmental entanglements are cut off.

To summarize and relate the cut to the suicidal forces of micro-fascism, this cut implicates that the human being can be cut out of its environmental entangelment, that a total separation between human and culture on one hand and environment/ nature on the other would be possible. Based on the theory and methodology presented above, I argue that this is untrue. The human being and the culture is well embedded, dependent on and entangled with the environment and nature. I find ecosystems to constitute a very concrete example of how inseparable and dependent things are. An ecosystem constitutes a rhizomatic multiplicity where the whole – the system as such – can not exist without the parts – which are both a singular specimen or a "whole" species. In addition, the system is equally entangled with its environmental surroundings. It all constitutes an assemblage. Nonetheless, the system is to a large extent dynamic: often changing and adapting to new circumstances such as the increasing or decreasing of specimens or addition of species. This does not mean that the systems are indestructible, for instance the extinction of species is a clear example of the fact that the systems are in fact rather fragile. What I want to emphasize is merely the fluidity and inseparability between the parts and the whole, that an ecosystem is a less anthropocentric example of the Spinozian notion of a human body.[299]

The subsidiarity cut

The subsidiary cut refers to the act's statement that the enforcement of the regulation as well as its implementation shall be done by "the board". The board is, as explained above, an organ on EU level that will be constituted by the "head or equivalent high-level official" from the authority in charge of the enforcement on national level.[300] My claim is that this puts a lot of power regarding the surveillance of the act, and thus a lot of power regarding AI, on the EU level. The EU shall, according to article 5.3 in the TEU, follow the principle of Subsidiarity. The principle states that when regulating within its non-exclusive competence,

[297] Erdenesanaa, Delger. "A.I. Could Soon Need as Much Electricity as an Entire Country." The New York Times, 10 October 2023, https://www.nytimes.com/2023/10/10/climate/ai-could-soon-need-as-much-electricity-as-an-entire-country.html. Accessed 15 December 2023.

[298] "State of the Energy Union 2023: EU responds effectively to crisis, looks to the future, and accelerates the green transition." European Commission, 24 October 2023, https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5188. Accessed 15 December 2023.

[299] Compared to the description above of the relation between the human and the heart. See above, p. 19.

[300] The Act, article 57.

the EU shall make sure that the legislation can not be made, with equal or better effect, on a level closer to the Union's citizens. That is, decisions shall be made as close to the European people as possible. The principle has obviously democratic implications but also prevents the EU to become a federal state rather than the interstate organization it aims to be.[301]

Thus, I claim that the choice to put the surveillance of the act on the level of the European Union constitutes a cut that limits the possibilities of how to enforce the act and centralizes a lot of power over a technology which in itself centralizes a lot of power. The enforcement of the act will, by constituting a board as the solution for the issue of governance, be far from the European citizens and thus seem more unavailable. I claim that the placement of surveillance in a European board risks to hide the decisions and make them invisible for the people actually affected by them. Something that, in turn, risks leading to a centralisation of power.

Above I have criticized the act for fragmenting the responsibility for the development of AI by putting it on the shoulders of the providers of the technology. The constitution of the board could be seen as an attempt to do the opposite; to make sure someone takes an overall responsibility for the technology. However, the solution for the overall responsibility for the act is insufficient from the micro-fascistic point of view since it is put upon a board which does not share the values – such as direct democracy, solidarity and mutual aid –needed in order to satisfyingly approach the overall responsibility of the technology.

As mentioned, the cut thus risks leading to the hiding of important decisions concerning AI. On a somewhat larger scale, it also hides other possibilities of how to handle the technology, which is closer to McQuillans suggestions. By Arvidsson's, McQuillan's and Gandorfer's demand for inclusion and diversity within the regulation of AI, as well as the suggestion for a more direct democratic method for creating the requirements for the technology are cut out of the picture by the decision to place the competence of the surveillance of the technology on an EU board.

In short, the subsidiary cut does attempt to put the overall responsibility for the technology on an actor. However, this actor is partly very far from the european citizens and does not rely on the values needed in order to handle AI in a satisfying way from a micro-fascistic point of view**.**

The EU as legislator and the interaction of the cuts

As my whole theoretical perspective suggests, things are not separable. This is relevant in order to understand the relation and inseparability of the cuts presented above as well as the understanding of their rhizomatic surroundings of the European Union. As mentioned, the Union has two fundamental aspects. As I have argued above, it is fundamentally a peace project – concerned with the democratic development in, and the relation between, the union's member states. This is related to the union's market project – to establish a peaceful

[301] Schütze (2021) pp. 557–558.

union through the creation of interstate relations through the effects of international trade. In other words, I claim that the market is used as a tool to maintain and ensure peace.[302]

As we have seen, AI might have great implications for the sake of national democracy, which inevitably affects the international society and the international relations as well. The choice to regulate AI within the sphere of the market instead of as a part of the project concerning peace and democracy may be seen as an example of how the union considers a functional market to be a guardian of democratic values and good internal relations. Nonetheless, when it comes to the regulation of AI, the attempt to use the market as a way to secure peace and democracy cuts fundamental questions out of the analysis of what might be the actual concerns and societal risks with the technology. In this context, the market aspect thus constitutes a hindrance for the union to achieve its fundamental values and goals by making the democratic issues invisible.

This said, it is obvious that the cuts presented above are related, both to each other and to the EU as a project, and enables as well as enhances each other. What I am trying to highlight is the fact that the European legislation, the market and the anthropocene are entangled and inseparable. The law and the market cuts are, due to their human centered inheritage, arenas where the anthropocene is already present even before the anthropocentric cut is made. The anthropocentric cut is thus enabled by these cuts. The same is true about the relation between market and law, where the internal market would not exist without the european law and the AI Act, with its market cut, would not exist without the already existence of the market. What I want to highlight is that the cuts are not done only by choice, but have been implicated by the cuts already made and existing within the legal, the market and the anthropocene sphere. Not only does the cuts presuppose each other, they also enhance one another by the fact that the cuts themselves are made in a way which facilitates the existence and content of the other cuts.

To summarize: my analysis shows four diffractive cuts that have been made by and within the regulation: a legal cut, a market cut, an anthropocentric cut and a subsidiarity cut. The cuts have been made through the choices to regulate the technology by a legal act, to constitute this legal act based on article 114 in TFEU, by explicitly putting the human in the center of the regulation and by putting the overall responsibility at the EU level. I want to acknowledge the fact that the cuts presented in my analysis are by no means comprehensive. For certain, more cuts have been made by and within the regulation and have affected the scope and reach of the act

The four cuts presented have fundamentally affected the possibility to discover fascistic workings within AI as well as limiting the possibilities of how to prevent these. The legal cut limits the options of how to handle the problem by putting the technology in the realm of law

[302] See argument above, p. 37-38 and “Schuman declaration May 1950.” European Union, https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en. Accessed 15 December 2023.

which is not founded on the same values that are needed in order to prevent the workings of micro-fascism. Through the market cut by seeing AI merely in market related terms and thus obscuring and missing importante democratic implications of the technology. The anthropocentric cut has, together with the two cuts already mentioned, enabled the centralisation of the human being and thus enforced an understanding of the human and the environment as separable. An understanding which is contradictory to the anti-fascistic idea of entanglement and inseparability. The subsidiarity cut does for certain enable someone to take an overall responsibility for the technology. However, the one in charge of this general responsibility is, once again, not in coherence with the values in need for a proper anti-fascistic handling. The biggest problem being the distance between the board and the people of Europe.

In addition to this the interaction between the cuts, as well as the aims of the Union has implications regarding the visibility and the ability to regulate the technologies micro-fascistic tendencies. Following the claim that things can not be totally separated, the cuts can be found within each other and by this enable and enhance one another. This makes it difficult for other values or aspects to be seen within the context of the act. The above stated also makes it possible to make a conclusion regarding the aims of the union. As argued, I find the union's main goal to be to create and maintain peace and democracy within the union and that the market related goals are mainly constituted in order to achieve the goals of peace and democracy. However, by thinking of AI as mainly a market related issue, the democratic implications of the technology will be missed. Thus, even if the market can be used as a tool of the creation and maintaining of democracy and peace, a specific act can not emanate primarily from the market perspective since this might lead to democratic threats, such as micro-fascism, slipping through unnoticed.

6. Summary and Conclusion

6.2 Conclusion

In the following I will present the findings of my studie and thus the answers to my research questions: What diffractive cuts that have been made by and within the act and how those cuts affect the act's ability to see the micro-fascistic tendencies within AI. I will also say something about my overall aim with the thesis – the contribution to my own understanding of fascism. I will finish with a couple of words about what and why the findings of this study are important for law and jurisprudence.

It is apparent that AI might be used in ways that would affect the democratic fundamentals of our society. However, these fundamentals might be affected already by the technology as such, by the very workings and functionings of AI. The AI Acts' aim is to regulate AI and does so within the realm of law, the market, the anthropocene and the principle of subsidiarity. Through my method, these contextual aspects of the regulation can be seen as diffractive cuts; cuts that create an inclusion and exclusion of the regulation. By this, my first question is answered.

My second question requires a more complex answer. To start with, what I call the legal cut, that is, the choice to regulate AI within the realm of law, puts AI within a legal context. By this, AI is placed within a system that is both anthropocentric and hierarchical and which is not based on a new materialistic ontological understanding of the inseparability of things. In addition, the legal system is part of the anthropocentric system and is thus not a solidarity based approach towards the problem. This excludes many of the aspects that McQuillan claims are important for a proper regulation of the fascistic tendencies, such as: solidarity, mutual aid and the multiplicity enabled by the organizations within people and workers councils. Lastly, the legal realm puts high demands on the verifiableness of the risks and damages, this affects what type of hazards that can actually be reached by the legal tools.

Regarding the market cut, which is shown mainly by the acts legal base in article 114 of the TFEU and also by the treatment of AI as a product, rather than as a technology with great democratic consequences. The cut pictures AI in market related terms and by this excludes important terms related to democracy which are of great importance in order to make sure that the present technological development proceeds in a just and inclusive way. The market cut also enables influences on a deeper ideological level. The markets liberal and individualistic fundaments, which claims individualisation to be both possible and to some extent desirable, rule out the idea of the impossibility of separation. This prevents the understanding of micro-fascism and obscures the micro-fascistic problems within the technology. Finally, the market cuts treatment of AI as a product also affects what is considered to constitute a risk and what is in need of regulations when it comes to the technology as well as who is responsible for handling the risks. What the product perspective does is to simplify the risks of AI to a more concrete level, focusing on the outputs and uses of AI that might affect an assignified subject and thus misses the more general risks acknowledged from a micro-fascistic perspective. When it comes to the responsibility to make sure that the AI follows the requirement set up in the act, a large amount of the burden has been put on the providers of the technology. The fact that the responsibility for the technology is placed on actors related to a single product makes the responsibility fragmented. The overall aspects and risks of AI as a part of the democratic society is thus left out.

The anthropocentric cut places the human in the center of the regulation. The human centralization is done by the act's explicit aim to protect humans. It is also demonstrated by the relation to fundamental (human) rights and is by many reasons related to the market cut. The anthropocentric perspective is also demonstrated in the formulation of the risks, which are mainly focusing on the technologies effects for human beings, ignoring questions of how the technology will affect the environment, for instance due to the large energy consumption the technology (will) requires. Overall, the cut separates the human from the environment and thus dismisses the understanding of the human-environment entanglement and the understanding of humans codependency on nature.

By the subsidiary cut I address the question of the "board" which is supposed to be in charge of the implementation and enforcement of the regulation. In general, I claim that a place where an overall view of the technology can be taken is of great importance due to the effects from its general implementation into the democratic system. However, the way it is constituted by the act is not satisfying considering the values of solidarity, mutual aid and direct democracy that are needed in order to handle the micro-fascistic problems within the technology. Instead, the cut by which the overall responsibility is placed within an EU institution, risks hiding a large amount of important decisions concerning the technology and excluding the involvement of already marginalized groups.

In the context of the European Union I find one more aspect of great interest. As shown in my work, my understanding of the EU is that its fundamental ambition is to create and maintain peaceful relations between and democracy within its member states. The market is used as a creative tool to enable this since trade can be improving international relations. Nonetheless, the analysis in my thesis shows that by putting the market as the fundamental goal for a regulation, important democratic implications might be missed. By this, the market focus does not work as a creative tool for maintaining democracy, but as a veil which hides issues important to regulate for the sake of democracy.

Finally, my analysis addresses the entanglement between the cuts and how they thus enable and enhance each other. This aspect is not explicitly addressed by my research questions, but is still without doubt both relevant and interesting. By this I want to highlight the fact that the cuts are already immanent to one another. The fact that the cuts are immanent to one another also enhances their effect(s) since they were always already there.

To summarize; the AI act is based on several basic starting points. These basic starting points cut the framing in the act from acknowledging the micro-fascistic tendencies within AI as well as the possible ways to handle and take care of these risks. Further, the cuts do not only have effects one by one, but interact and relate in a way that enhances each other.

Another conclusion from my thesis is that the combination of Deleuze and Guattari, and Barad can indeed be productive. What has made the combination useful in this case is the understanding of the fascistic risk as "a working" on a micro-level and impossible to recognize but in need to be discovered. My aim has not been to discover fascism, but to investigate if and how the AI Act discovers and manages the fascistic tendencies within AI. By combining the theory of D&G and the methodology of Barad, it is visible how the AI Act is made by diffractive cuts that makes it impossible to discover these tendencies. It is a productive combination because by studying Barad's cuts, Deleuze and Guaattari's fascism and its elusiveness becomes evident. If fascism is not carefully watched, it will slip out through the cuts and thus escape being catched by the scope of a regulation.

One of my aims with the thesis was to get a better understanding of the being of fascism. Finishing my work I find my understanding of the concept radically changed and, if I may, improved. From an understanding fascism as an *it* or a *what*, more alike the historical or

post-fascistic definitions of the term which did not go along with the varying use (varying regarding time, space and topic) of the term to an understanding of fascism as a working, a way of exclusion. And not only as a working, but as working that exists also within myself. This apprehension also enables an understanding of fascism's elusiveness and the need for an active search in order to discover it. With this knowledge of fascism, it is evident that the AI Act in many ways misses the fascistic aspects of AI partly, maybe mainly, due to its founding in market liberal and anthropocentric values and priorities.

My understanding of fascism has led me to an understanding of the concept as something related to cuttings, to includings/ excludings – to everything that does not acknowledge the inseparability of things. This immediately puts decisions and categorizations in the risk zone to constitute a seedbed for fascistic tendencies and AI is of special risk due to the fact that it does exactly this, but at a hidden, often ignored, level. This understanding has enabled me to understand why and how the term can be used for ideologically different notions and within wildly different fields – it is not so much about *what* is cut in/out but about *that* and *how* the cutting is done.

The important contribution to the fields of law and jurisprudence from this study is the acknowledgement *that* the AI Act for many reasons misses micro-fascistic tendencies within AI as well as *how* this missing has occurred. This is important because fascism is a threat towards democracy, which is a value the union explicitly claims to protect and a prerequisite for law in its current form and thus also for the AI Act.

6.2 Summary

Fascism is for many reasons a both present and urgent threat towards our democracy and common society. However, the phenomenon is as such elusive and difficult to discover. Therefore a proper analysis is needed in order to make sure that any fascistic tendencies do not proceed unnoticed.

We are at the moment experiencing a new industrial revolution where AI more and more often is integrated and used within a wide variety of different sectors and processes. The technology is not without risks. As Arvidsson, Gandorfer and McQuillan suggest, the technology's working and functioning is based on a method with micro-fascistic tendencies which risk crystallizing fascism at a macro-level. We therefore need to handle the technology in order to prevent the micro-fascistic tendencies within it.

The EU has recently accepted the AI Act within which the technology is legally regulated. What I am investigating within my thesis is whether the Act manages to acknowledge and handle the micro-fascistic tendencies within the technology. This has been investigated by the use of a profound theoretical framework, mainly developed by Giles Deleuze and Félix Guattari and their notion of micro-fascism, and the methodological framework of diffraction, mainly developed by Karen Barad.

The questions I have been trying to answer are the following:

- What diffractive cuts have been made by and in the AI Act?
- How does these cuts affect the possibility to see the micro-fascistic tendencies within AI?

In my analysis of the AI Act I have acknowledged and studied four different cuts made by and within the regulation; the legal cut, the market cut, the anthropocentric cut and the subsidiary cut. As shown in the analysis the cuts exclude fundamental aspects for the understanding of AI as micro-fascistic as well as important aspects of how the technology needs to be regulated in order to fully avoid these tendencies.

The importance of the study is to show that and how a regulation, depending on the diffractive cuts, risks enabling certain problems with the thing regulated to pass unnoticed.

6.3 Further questions

Fascism is as we have seen always present and urgent. The conclusions of my studie points to the risk that the act might not handle these risks very well. The obvious question to follow up with is thus; how can this be done? That is; which cut has to be made, and how, in order for a European regulation of AI to capture the micro-fascistic tendencies within the technology?

7. Bibliography

Anthologys

Arvidsson, Matilda and Emily Jones, editor. "'Posthuman feminism as a theoretical and methodological approach to international law.'" International Law and Posthuman Theory, Abingdon: Routledge., 2023, Author's pre-publication manuscript.

Arvidsson, Matilda, Gandorfer, Daniela and McQuillan, Dan (2024) "New Digitali Technologies, Law and a Non-Fascist Life? On Global Governance, Digital Networks and the Molecular Incouscious" in Fleur Johns, Gavin Sullivan and Dimitri Van Den Meerssche (eds.) Global Governance by Data: Infrastructures of Algorithmic Rule. Cambridge: Cambridge University Press (forthcoming). Authurs' pre-print version, on file with author.

Bosworth, R. J. B, editor. "The Oxford Handbook of Fascism", edited by R. J. B. Bosworth, Oxford University Press, 2009.

Buchanan, Ian, and Nicholas Thoburn, editors. "Deleuze and Politics". Edinburgh University Press, 2008.

Colebrook, Claire and Buchanan, Ian editors. "Deleuze and Feminist Theory". Edinburgh University Press, 2000.

De Sutter, Laurent, and Kyle McGee, editors. "Deleuze and Law". Edinburgh University Press, 2012.

Dolphijn, Rick, and Rosi Braidotti, editors. "Deleuze and Guattari and Fascism". Edinburgh University Press, 2022

Evans, Brad, and Julian David McHardy Reid, editors. "Deleuze & Fascism: Security, War, Aesthetics". Routledge, 2013.

Gary Genosko, editor. "The Guattari reader". Wiley, 1996.

Hlavajova, Maria, and Wietske Maas, editors. "Propositions for Non-Fascist Living: Tentative and Urgent." BAK, basis voor actuele kunst, 2019.

Noll, Gregor (editor), "AI, digitalisering och rätten – En lärobok", Studentlitteratur AB, 2021.

Articles

Barad, Karen. "Diffracting Diffraction: Cutting Together-Apart." in *Parallax*, vol. 20, no. 3, 2014, pp. 168-187.

Braidotti, Rosi. "Becoming Woman: or Sexual Difference Revisited." in *Theory, Culture & Society*, vol. 20, no. 3, 2003, pp. 43–64.

Burdon, George (2022) “On being affected: Desire, passion, and the question of conatus after Spinoza and Deleuze” in *Transactions of the Institute of British Geographers*, 47, 682–694. Available from: https://doi. org/10.1111/tran.12526.

Gandorfer, Daniela. “Down and Dirty in the Field of Play: Startup Societies, Cryptostatecraft, and Critical Complicity.” in *Law and Critique*, vol. 33, 2022, pp. 355–377.

Hein, Serge F. “The New Materialism in Qualitative Inquiry: How Compatible Are the Philosophies of Barad and Deleuze?” in *Cultural Studies: Critical Methodologies*, vol. 16, no. 2, 2016, pp. 132–140.

Holland, Eugene W. “Introduction to the Non-Facsist Life: Deleuze and Guattari’s “revolutionary”Semiotics” in *L’Esprit Créateur* (1987) Vol.27 No. 2, pp19-29.

Karkov, Nikolay. “Why Pluralism = Pluralism ^Monism: A Decolonial Feminist Critique of Deleuze and Guattari's Concept of Becoming.” in *Deleuze Studies*, vol. 10, no. 3, 2016, pp. 379-394.

Mohammed, Sideeq. “Understanding Microfascism: reading Deleuze and Guattari alongside management guru texts.” in *Culture and Organisation*, vol. 26, no. 3, 2020, pp. 96-210.

Murris, Karin, and Vivianne Bozalek. “Diffraction and response-able reading of texts: the relational ontologies of Barad and Deleuze.” in *International Journal of Qualitative Studies in Education*, vol. 32, no. 7, 2019. pp. 872–886.

Nail, Thomas (2017) “What is an Assemblage?”*,* in *SubStance*, Volume 46, Number 1, 2017 (Issue 142) pp. 21-37.

Potter, Kevin. “Laying Down Love Laws: Arundhati Roy’s The God of Small Things and Micro-Fascisms.” in *Deleuze and Guattari Studies,* vol. 16, no. 3, 2022, pp. 454-478, https://www-euppublishing-com.ezproxy.ub.gu.se/doi/abs/10.3366/dlgs.2022.0486?role=tab. Accessed 14 november 2023.

Peters, Michael A. “'The fascism in our heads' : Reich, Fromm, Foucault, Deleuze and Guattari – the social pathology of fascism in the 21st centuary.” in *Philosophy and Theory*, vol. 54, no. 9, 2020, pp. 1276-1284.

Thornton, Edward. “Deleuze and Guattari’s Absent Analysis of Patriarchy.” in *Hypatia*, vol.34, no. 2, 2019, pp. 348-368

Books

Badiou, Alain. “The Adventure of French Philosophy”. Edited by Bruno Bosteels, translated by Bruno Bosteels, Verso Books, 2012.

Benjamin, Ruha. “Race After Technology: Abolitionist Tools for the New Jim Code”. Polity Press, 2019.

Björling, Erik (2017). “Rättstillämpningens Tystnad - En rättsvetenskaplig narratologisk studie om argumentation och rättsliga uttryck inom civilprocessen”. Juridiska institutionens skriftserie Handelshögskolan vid Göteborgs universitet.

Bruncevic, Merima. “Law, Art and the Commons”. Routledge, 2018.

Davies, Margaret. “Asking the Law Question”. Thomson Reuters (Professional) Australia Limited, 2023. Accessed 12 December 2023.

Davies, Margaret. “EcoLaw: Legality, Life, and the Normativity of Nature”. Taylor & Francis Group, 2022. Accessed 12 December 2023.

Deleuze, Gilles, and Felix Guattari. “Anti-Oedipus: Capitalism and Schizophrenia”. Edited by Michel Foucault, translated by Mark Seem, et al., Penguin Publishing Group, 2009.

Deleuze, Gilles, and Félix Guattari. “Anti-Oidipus”. Translated by Gunnar Holmbäck, Hägersten, TakeKraft, 2016.

Deleuze, Gilles, and Félix Guattari. “Thousand Plateaus”. Translated by Brian Massumi, Bloomsbury Academic, 2004.

Foucault, Michel (1983) ‘Preface’ in Deleuze, Gilles, and Felix Guattari. *Anti-Oedipus: Capitalism and Schizophrenia*. Edited by Michel Foucault, translated by Mark Seem, et al., Penguin Publishing Group, 2009.

Guattari, Félix. “Chaosophy: Texts and Interviews 1972-1977”. Edited by Sylvère Lotringer. Translated by David L. Sweet, Jarred Becker, and Taylor Adkins. Los Angeles: Semiotext(e), 2007.

Holland, Eugene W. “Deleuze and Guattari’s Anti-Oedipus - Introduction to Schizoanalysis”, Routledge (1999)

Käll, Jannice. Converging Human and Digital Bodies: Posthumanism, Property, Law. Juridiska institutionens skriftserie, 2017.

McQuillan, Dan. “Resisting AI: An Anti-fascist Approach to Artificial Intelligence”. Bristol University Press, 2022.

Schütze, Robert. “European Union Law”. Oxford University Press, 2021.

Traverso, Enzo. “The New Faces of Fascism: Populism and the Far Right”. Translated by David Broder, Verso Books, 2019.

Turner, Jacob. “Robot Rules: Regulating Artificial Intelligence”. Springer International Publishing, 2019.

Legislation

Proposal for a regulation of the European Parliament and of the council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, COM/2021/206 final

Charter of Fundamental Rights of the European Union (2012/C 326/02)

Regulation (EU) 2016/679 of the European Union Parliament and of the Council of 27 april 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

Treaty on the European Union (2012/C 326/01)

Treaty on the Function of the European Union (2016/C 202/01)

Regeringsformen (1974:152)

Websites

European Union, the European Commission and the European Parliament etc.

European Commission, “Excellence and trust in artificial intelligence - European Commission.”, 21 April 2021, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/excellence-and-trust-artificial-intelligence_en#documents. Accessed 18 December 2023.

European Commission, “Proposal for a Regulation laying down harmonised rules on artificial intelligence.” Shaping Europe's digital future, 21 April 2021, https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence. Accessed 14 November 2023

European Parliament, “AI Act: a step closer to the first rules on Artificial Intelligence | News.”, 11 May 2023, https://www.europarl.europa.eu/news/en/press-room/20230505IPR84904/ai-act-a-step-closer-to-the-first-rules-on-artificial-intelligence. Accessed 14 November 2023.

European Parliament, “EU AI Act: first regulation on artificial intelligence.”, 22 September 2021, https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence?&at_campaign=20226-Digital&at_medium=Google_Ads&at_platform=Search&at_creation=RSA&at_goal=TR_G&at_advertiser=Webcomm&at_audienc. Accessed 14 November 2023.

European Parliament, “AI Act: a step closer to the first rules on Artificial Intelligence | News.”, 11 May 2023, https://www.europarl.europa.eu/news/en/press-room/20230505IPR84904/ai-act-a-step-closer-to-the-first-rules-on-artificial-intelligence. Accessed 14 November 2023.

European Union, “Types of legislation.”, https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en. Accessed 15 December 2023.

European Union, “Aims and values.”, https://european-union.europa.eu/principles-countries-history/principles-and-values/aims-and-values_en. Accessed 15 December 2023.

EUR-Lex, “EUR-Lex - 52021PC0206 - EN - EUR-Lex.” https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206. Accessed 18 December 2023.

European Union, “Schuman declaration May 1950.”, https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en. Accessed 15 December 2023.

European Council, “Climate change: what the EU is doing.” 11 December 2023, https://www.consilium.europa.eu/en/policies/climate-change/. Accessed 18 December 2023.

Sweden's Parliament and the Swedish Government/ Riksdag och Regering

Riksdagen , “Uppdatering av Sveriges AI-strategi (Motion 2023/24:1543 av Joakim Järrebring (S)).” 2023, https://www.riksdagen.se/sv/dokument-och-lagar/dokument/motion/uppdatering-av-sveriges-ai-strategi_hb021543/. Accessed 17 November 2023.

Regeringen.se, “65 miljoner kronor till forskning och innovation om 6G.”, 27 September 2023, https://www.regeringen.se/pressmeddelanden/2023/09/65-miljoner-kronor-till-forskning-och-innovation-om-6g/. Accessed 14 November 2023.

Other

Canadian Broadcast Cooperation, “There is fascism in the air around the world, says famed novelist Arundhati Roy.”, written by Moran, Padraig and Produced by Howard Goldenthal and Sarah-Joyce Battersby. 21 June 2019, https://www.cbc.ca/radio/thecurrent/the-current-for-june-21-2019-1.5180136/there-is-fascism-in-the-air-around-the-world-says-famed-novelist-arundhati-roy-1.5184679. Accessed 14 November 2023.

Dan McQuillan. “Towards an anti-fascist AI.” 1 April 2019, https://www.danmcquillan.org/ai_and_antifascism.html. Accessed 11 October 2023.

Nationalencyklopedin, “Félix Guattari”, 22 September 2021, https://www-ne-se.ezproxy.ub.gu.se/uppslagsverk/encyklopedi/l%C3%A5ng/gilles-deleuze. Accessed 14 November 2023.

Nationalencyklopedin, “Liberalism.”, 2 October 2022, https://www-ne-se.ezproxy.ub.gu.se/uppslagsverk/encyklopedi/l%C3%A5ng/liberalism. Accessed 18 December 2023.

Nationalencyklopedin, “Rhizom”, 16 June 2023, https://www-ne-se.ezproxy.ub.gu.se/uppslagsverk/encyklopedi/l%C3%A5ng/rhizom. Accessed 17 November 2023

The New York Times, “A.I. Could Soon Need as Much Electricity as an Entire Country.”, written by Erdenesanaa, Delger, 10 October 2023, https://www.nytimes.com/2023/10/10/climate/ai-could-soon-need-as-much-electricity-as-an-entire-country.html. Accessed 15 December 2023.

US Commission on International Religious Freedom. “Legislation Factsheet: The Citizenship (Amendment) Act in India.” 2020, https://www.uscirf.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0_0.pdf. Accessed 17 November 2023.

Göteborgs Universitet, searchword “HRO800”, https://www.gu.se/studera/hitta-utbildning/hitta-kursplan-och-litteraturlista?q=HRO800. Accessed 15 December 2023.

Spotify, Whitacre, Eric, “All seems beautiful to me” https://open.spotify.com/track/2sUUIC71IhXJbmeO4jPGN7?si=656a6d2c4c7d4a6e. Accessed 12 januari 2023.

Stockholms Universitet, “Så skriver du uppsats.” 22 September 2021, https://www.su.se/utbildning/studera-vid-universitetet/studie-och-spr%C3%A5kverkstaden/s%C3%A5-skriver-du-uppsats-1.442583?open-collapse-boxes=collapseCollapsible1670918786408_494510. Accessed 14 November 2023.

Other sources

Bruncevic, Merima, Lecture “*Rätt - Konst -Massmedia*”, 16 februari 2023, School of Business and Economics at University of Gothenburg.