# 1AC – NU – v2

### 1AC---Cyber Advantage

#### The advantage is Cybersecurity:

#### Standards-Setting Organizations are industry members who jointly establish standards for IT defined by the adoption of standard-essential patents, which are licensed to companies on Fair, Reasonable, and Non-Discriminatory terms. Current standards promote price gouging, FRAND enforcement is critical.

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I. Standard Setting and the Competitive Process

The fundamental economics in the information technology sector, driven by network effects, implies that there is enormous value associated with establishing compatibility standards. Popular standards include the mobile broadband standards used in cell phones, which are established by the 3rd Generation Partnership Project (3GPP), and the Wi-Fi technology for wireless local area networks, which is enabled by the 802.11 standard established by the Institute of Electrical and Electronics Engineers (IEEE).4

There are many SSOs, and their rules and procedures differ considerably. In addition to IEEE, leading SSOs include the International Organization for Standardization (ISO), the International Telecommunication Union (ITU), the European Telecommunications Standards Institute (ETSI), the Internet Engineering Task Force (IETF), and the World Wide Web Consortium (W3C).5 SSOs generally establish standards by holding a series of committee meetings among industry participants. These meetings culminate in a vote on a technical specification that describes what features or attributes a product must have in order to comply with the standard. Most SSOs are open to all industry participants and seek to operate on a consensus basis, applying certain voting rules. SSOs do not normally engage in patent licensing, nor do they specify how patent royalties will be divided up among patent holders. They leave that to their members, which in some cases form patent pools to address these issues.6

SSOs adopt specific policies relating to intellectual property rights (IPRs).7 These IPR policies are generally intended to enable the SEP holders to obtain reasonable royalties for licensing their patents, while prohibiting them from charging excessive royalties after other industry participants have committed to the standard. At that point, firms committed to implementing the standard— which we call “implementers”—would find it very costly to avoid using the patented technology. For this purpose, most SSOs require SEP owners to license their SEPs on FRAND terms.8

FRAND policies are especially necessary because negotiations between SEP holders and implementers generally take place only after the implementers have used and infringed the technologies claimed by the SEPs. Standards involving information and communications technology can involve hundreds or even thousands of SEPs, many with uncertain boundaries for infringement. In addition, a time lag exists between patent application and patent issuance. For these and other reasons, it is impractical for implementers to enter into negotiations for patent licenses with all SEP owners prior to the establishment of a standard and to their implementation of it.9

The fact that patent negotiations generally do not take place until after implementers have used and infringed the technologies has several critical implications. First, at the time of negotiation, implementers are locked into the standard and the technologies claimed by the SEPs—that is, the cost to switch to an alternative technology or standard at that point—ex post—is much greater than it was ex ante, before the patented technology was first included in the standard. Ex post, the patent holder is no longer competing to have its technology included in the standard, nor is it competing to have implementers of the standard use its technology. Instead, because the patent holder owns an asset that is essential to the standard, implementers have no choice but to use the patented technology.

If the standard is commercially successful, implementers are willing to pay a much larger royalty for use of the patented technology than they would have paid ex ante, when the SEP holder faced competition from other technologies. In these circumstances, the SEP holder can be said to have obtained monopoly power in the market in which the patented technology is licensed for use in implementing the standard.10

Second, because of lock-in and the implementer’s ongoing infringement, the potential for litigation looms large in licensing negotiations. In effect, the parties are negotiating about how to settle an infringement suit, and that negotiation is heavily influenced by their predictions as to what the court will do if they cannot agree. This situation is not unique to SEPs; it arises frequently when firms are faced with patent infringement claims for products they have independently developed or technologies they have inadvertently infringed. Patent law addresses such instances by specifying that patent holders are entitled to “reasonable royalties,” defined as the royalties that the parties would have negotiated prior to the infringement and thus prior to lock-in.11 Those hypothetical ex ante royalties reflect the market value of the patent license. Notwithstanding the law’s embrace of this principle, however, as a practical matter, patent holders are generally able to recover more than the ex ante value of the patent when litigation occurs after the implementers are locked in. Further, negotiations in the shadow of litigation after lock-in tend to result in royalties in excess of the ex ante or market value of the patented technology.12

Third, the shadow of litigation is particularly problematic in the communications and technology sector, in which products typically include hundreds or thousands of patented technologies. A court-ordered injunction involving such products would deprive the implementer of not only the value of the technology covered by the patent-in-suit, but also the value of the entire product.13 Implementers that are forced to bear the risk of an injunction are thus induced to agree to royalties greater than those that would be appropriate if only the value of the patented technology were at stake. Those royalties systematically provide SEP holders with excessive compensation in comparison with the benchmark of ex ante royalties.

These implications of lock-in and ex post dealings are well-understood: they represent an example of the general concept of lock-in and opportunism developed by Oliver Williamson.14 The Federal Circuit has also recognized the market distortions caused by the inclusion of patented technologies in public standards and the resulting danger of patent holdup involving SEPs.15

For these and other reasons, the SEP holder has ex post monopoly power that, if left unchecked, would enable it to obtain royalties far in excess of the royalties that it could earn in a competitive market.16 To address this common problem and limit ex post opportunism by SEP holders, SSOs typically require participants that own SEPs to make certain FRAND commitments. In particular, by requiring a commitment to license on “fair and reasonable” terms, the FRAND requirement aims to prevent, or at least reduce, the extent of monopoly pricing by SEP holders. And by requiring a commitment to license on “nondiscriminatory” terms, the FRAND requirement can prevent SEP holders from extracting monopoly premiums by selective licensing or, more important, migrating their monopoly power from the FRAND-regulated market to unregulated standard-implementing product markets by licensing to only one or a few implementers or licensing to selected implementers on discriminatorily favorable terms.

#### Patent holdup is accentuated by the Ninth Circuit’s recent decision in *FTC v. Qualcomm* that permits ICT firms to engage in innovation-stifling conduct with antitrust impunity.

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Standards can enhance competition and consumer choice, but they also massively inflate the value of patents deemed essential to the standard, and give their owners the power to sue companies that implement the standard for money damages or injunctions to block them from using their SEPs. When standards cover critical features like wireless connectivity, SEP owners wield a huge amount of “hold-up” power because their patents allow them to effectively block access to the standard altogether. That lets them charge unduly large tolls to anyone who wants to implement the standard.

To minimize that risk, standard-setting organizations typically require companies that want their patented technology incorporated into a standard to promise in advance to license their SEPs to others on fair, reasonable, and non-discriminatory (FRAND) terms. But that promise strikes at a key tension between antitrust and patent law: patent owners have no obligation to let anyone use technology their patent covers, but to get those technologies incorporated into standards, patent owners usually have to promise that they will give permission to anyone who wants to implement the standard as long as they pay a reasonable license fee.

Qualcomm is one of the most important and dominant companies in the history of wireless communication standards. It is a multinational conglomerate that has owned patents on every major wireless communication standard since its first CDMA patent in 1985, and it participates in the standard-setting organizations that define those standards. Qualcomm is somewhat unique in that it not only licenses SEPs, but also supplies the modem chips used by a wide range of devices. These include chips that implement wireless communication standards, which lie at the heart of every mobile computing device.

Although Qualcomm promised to license its SEPs (including patents essential to CDMA, 3G, 4G, and 5G) on FRAND terms, its conduct has to many looked unfair, unreasonable, and highly discriminatory. In particular, Qualcomm has drawn scrutiny for bundling tens of thousands of patents together—including many that are not standard-essential—and offering portfolio-only licenses no matter what licensees actually want or need; refusing to sell modem chips to anyone without a SEP license and threatening to withhold chips from companies trying to negotiate different license terms; refusing to license anyone other than original-equipment manufacturers (OEMs); and insisting on royalties calculated as a percentage of the sale price of a handset sold to end users for hundreds of dollars, despite the minimal contribution of any particular patent to the retail value.

In 2017, the U.S. Federal Trade Commission [sued](https://www.ftc.gov/news-events/press-releases/2017/01/ftc-charges-qualcomm-monopolizing-key-semiconductor-device-used) Qualcomm for violating both sections of the Sherman Antitrust Act by engaging in a number of anticompetitive SEP licensing practices. In May 2019, the U.S. District Court for the Northern District of California agreed with the FTC, identifying numerous instances of Qualcomm’s unlawful, anticompetitive conduct in a comprehensive [233-page opinion](https://www.eff.org/document/ftc-v-qualcomm-district-court-opinion). We were pleased to see the FTC take action and the district court credit the overwhelming evidence that Qualcomm’s conduct is corrosive to market-based competition and threatens to cement Qualcomm’s dominance for years to come.

But this month, a panel of judges from the Court of Appeals for the Ninth Circuit unanimously [overturned](https://www.eff.org/document/ninth-circuit-opinion-ftc-v-qualcomm) the district court’s decision, reasoning that Qualcomm’s conduct was “hypercompetitive” but not “anticompetitive,” and therefore not a violation of antitrust law. To reach that result, the Ninth Circuit made the patent grant more powerful and antitrust law weaker than ever.

According to the Ninth Circuit, patent owners don’t have a duty to let anyone use what their patent covers, and therefore Qualcomm had no duty to license its SEPs to anyone. But that framing requires ignoring the promises Qualcomm made to license its SEPs on reasonable and non-discriminatory terms—promises that courts in this country and around the world have consistently enforced. It also means ignoring antitrust principles like the essential facilities doctrine, which limits the ability of a monopolist with hold-up power over an essential facility (like a port) to shut out rivals. Instead, the Ninth Circuit held rather simplistically that a duty to deal could arise only if the monopolist had provided access, and then reversed its policy.

But even when Qualcomm restricted its licensing policies in critical ways, the Ninth Circuit found reasons to approve those restrictions. For example, Qualcomm stopped licensing its patents to chip manufacturers and started licensing them only to OEMs. This had a major benefit: it let Qualcomm charge a much higher royalty rate based on the high retail price of the end user devices, like smartphones and tablets, that OEMs make and sell. If Qualcomm had continued to license to chip suppliers, its patents would be “exhausted” once the chips were sold to OEMs, extinguishing Qualcomm’s right to assert its patents and control how the chips were used.

Patent exhaustion is a century-old doctrine that protects the rights of consumers to use things they buy without getting the patent owner’s permission again and again. Patent exhaustion is important because it prevents price-gouging, but also because it protects space for innovation by letting people use things they buy freely, including to build innovations of their own. The doctrine thus helps patent law serve its underlying goal—promoting economic growth and innovation. In other words, the doctrine of exhaustion is baked into the patent grant; it is not optional. Nevertheless, the Ninth Circuit wholeheartedly approved of Qualcomm’s efforts to avoid exhaustion—even when that meant cutting off access to previous licensees (chip-makers) in ways that let Qualcomm charge far more in licensing fees than its SEPs could possibly have contributed to the retail value of the final product.

It makes no sense that Qualcomm could contract around a fundamental principle like patent exhaustion, but at the same time did not assume any antitrust duty to deal under these circumstances. Worse, it’s harmful for the economy, innovation, and consumers. Unfortunately, the kind of harm that antitrust law recognizes is limited to harm affecting “competition” or the “competitive process.” Antitrust law, at least as the Ninth Circuit interprets it, doesn’t do nearly enough to address the harm downstream consumers experience when they pay inflated prices for high-tech devices, and miss out on innovation that might have developed from fair, reasonable, and non-discriminatory licensing practices.

We hope the FTC sticks to its guns and asks the Ninth Circuit to go en banc and reconsider this decision. Otherwise, antitrust law will become an even weaker weapon against innovation-stifling conduct in technology markets.

#### Aggressive patent strategies create structural flaws in 5G standardization that imperils domestic cybersecurity---market competition reduces the incidence of vulnerability and severity of attacks.

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III. COMPETITION AND CYBERSECURITY

In addition to the historical review done so far, another approach to understanding the relationship among patents, competition, and national security is to consider the role of cybersecurity. There is little doubt that computer system vulnerabilities that enable hacking and spread of computer exploits are a threat to the nation’s defenses, so better cybersecurity is a key part of national security strategy.155

Strong competition can thus complement national security by enhancing domestic cybersecurity, and patent assertion that unduly weakens competition detracts from cybersecurity.156 Competition promotes better cybersecurity in at least two ways. First, multiple studies show that competition encourages firms to improve their products on multiple vectors including cybersecurity. Second, competition avoids a situation that security experts call a “monoculture,” which increases vulnerability to severe cyberattacks. As former Secretary of Homeland Security Michael Chertoff wrote recently, “We need competition and multiple providers, not a potentially vulnerable technological monoculture,” to guarantee national security.157 Thus, cybersecurity provides a useful lens for understanding how unfettered patent assertion and licensing can detract from national security.

A. Cybersecurity as Competitive Value-Add

Competition enhances national security by reducing the incidence of technical vulnerabilities. That effect is especially important for security sensitive systems such as mobile telecommunications.

Intuitively, a causal chain from competition to cybersecurity makes logical sense. Computer security is a value-added benefit to consumers, so firms in competitive markets are likely to use security to gain an edge over their competitors.158 In monopolized markets, though, there may be less external impetus to test products for flaws, and the monopolist may choose to focus less on security and more on new product features or increased product quality.

Economic research confirms these hypotheses about competition leading to better cybersecurity. A 2009 empirical study of web browsers considered the impact of market concentration on the amount of time that vendors took to fix security vulnerabilities as they were discovered.159 The study found that the presence of more competitors correlated with faster cybersecurity response—a reduction of 8–10 days in response time per additional market rival.160 Similarly, business researchers in 2005 modeled incentives for firms to engage in sharing of cybersecurity information, and concluded that the “inclination to share information and invest in security technologies increases as the degree of competitiveness in an industry increases.”161 Another study found that, where two software firms are in competition, at least one will be willing to take on some degree of risk and responsibility for cybersecurity, whereas a monopoly software firm will consistently fail to accept such responsibility.162 To be sure, an unpublished study from 2017 found that some market concentration can make firms more responsive to cybersecurity issues, but only to a point: “being in a dominant position reduces the positive effect of having less competitors on the responsiveness of the vendor,” and indeed the “more dominant the firm is, the less rapid it is in releasing security patches.”163 This research confirms that competition is more conducive to cybersecurity.

It is not hard to see how this applies to emerging communication technologies markets. In the absence of competition, the above research suggests that device manufacturers, chip makers, and software developers will lack incentives to respond to vulnerabilities, to share information about cybersecurity practices and issues, and to take responsibility for security matters. Mobile phone chips have had their share of cybersecurity failures already.164 The best way to flush out ongoing and future cybersecurity issues is to maintain competitive pressure at all levels of the supply chain.

B. Vulnerabilities of “Monocultures”

A second reason why monopoly undermines cybersecurity is that monopoly leads to a “monoculture” of single-vendor products, opening the door to massive systemic failure in the case of a cyberattack. Computer researchers developed the theory of software monocultures in the early 2000s, in response to the regular phenomenon of computer viruses and other attacks spreading rapidly by exploiting flaws in the dominant operating system at the time, Microsoft Windows.165 Where a computer system such as Windows has a commanding share of users, a virus that exploits a flaw in that system can quickly spread to infect a whole interconnected ecosystem. An operating system monopoly thus enables fast and easy spread of cyberattacks, and better cybersecurity would be achieved through greater diversity in online systems.166 As one research group posited, “a network architecture that supports a collection of heterogeneous network elements for the same functional capability offers a greater possibility of surviving security attacks as compared to homogeneous networks.”167

There has been considerable study of the theory that computer monocultures are naturally more vulnerable to attacks.168 In one study, computer science researchers reviewed a catalog of 6,340 software vulnerabilities recorded in 2007, to compare whether comparable software would share the same flaws.169 Of the 2,627 vulnerabilities applicable to application software (as opposed to operating systems, web scripts, and other software components), only 29 (1.1%) applied to substitute products from different vendors but providing the same functionality.170 By contrast, different versions of a single software product were found to share vulnerabilities 84.7% of the time.171 Thus, software monocultures share exploitable flaws even when there is some variation in versions across the monoculture; by contrast, diversity in software is almost guaranteed to prevent a single flaw from affecting all users.

In the case of 5G and wireless mobile communications, a monoculture is an especially concerning possibility. To the extent that systems such as smart city sensors or communication networks are widely deployed in a monoculture fashion, a widespread attack could have devastating consequences, potentially blacking out a region and affecting essential services such as 911.172 A monoculture that is vulnerable to so-called “rootkits” or “backdoors”—maliciously installed software that enable bad actors to commandeer systems—could also enable mass surveillance or spying by private hackers or foreign governments.173 The presence of systems from multiple vendors would mitigate these possibilities.

#### Weakened antitrust enforcement emboldens firms to follow Qualcomm’s lead, which collapses FRAND integrity.

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While the FRAND process has been highly productive, it is also fragile. Firms are tempted to make commitments at the beginning when the incentive to join is large, but renege on them later when they can profit by doing so. At least in this particular case, private FRAND enforcement had not worked very well. Qualcomm had been able to violate FRAND commitments in order to exclude rivals and obtain higher royalties than FRAND would permit, largely with impunity. Other firms will very likely follow Qualcomm’s lead. If that happens the FRAND system will fall apart, doing irreparable injury to the modern wireless telecommunications network or, at the very least, diminishing the leadership role of the United States in preserving effective network competition.

While governments can be heavily involved in standard set-ting,9 the implementation of technical standards in information technologies is largely the work of private actors. Government involvement is limited mainly to enforcement of contract, intellectual property, or antitrust law. As private actors, those involved in standard setting or compliance are fully subject to the federal antitrust laws.

This Article addresses one question: when is an SSO participant’s violation of a FRAND commitment an antitrust violation, and if it is, of what kind and what are the implications for remedies? It warns against two extremes. One is thinking that any violation of a FRAND commitment is an antitrust violation as well. In the first instance FRAND obligations are contractual, and most breaches of contract do not violate any antitrust law. The other extreme is thinking that, because a FRAND violation is a breach of contract, it cannot also be an antitrust violation. The question of an antitrust violation does not de-pend on whether the conduct breached a particular agreement but rather on whether it caused competitive harm. This can happen because the conduct restrained trade under section 1 of the Sherman Act, was unreasonably exclusionary under section 2 of the Sherman Act, or amounted to an anticompetitive condition or understanding as defined by section 3 of the Clay-ton Act.10 The end goal is to identify practices that harm com-petition, thereby injuring consumers.

The Ninth Circuit’s Qualcomm decision will make antitrust violations in the context of FRAND licensing much more difficult to prove, even in cases where anticompetitive behavior and consumer harm seem clear.11 Indeed, in this case the court itself acknowledged the harm to consumers but appeared to think that they were not entitled to protection.12 If this decision stands, FRAND obligations will to a larger extent have to be settled through private litigation and the federal antitrust enforcement agencies will have a diminished role. Anticompetitive behavior by one firm that is not effectively disciplined will lead others to do the same thing.

#### Only maximizing redundancy and diversity prevents devastating attacks from single vulnerabilities.

Rajiv Shah 20, President of the Rockefeller Foundation. Former administrator of the United States Agency for International Development, graduate of the University of Michigan and the University of Pennsylvania, 2020, “Ensuring a trusted 5G ecosystem of vendors and technology,” https://www.aspi.org.au/report/ensuring-trusted-5g-ecosystem-vendors-and-technology

Why is cybersecurity seen as so critical for 5G networks? Because 5G isn’t just the next natural stage in the evolution of wireless networks. 5G is about more than movie downloads. The likely applications and use cases will become critical to the functioning of governments, companies and society, including cyber-physical and safety-critical systems that will rely on the network. Not only do we need to be concerned about the confidentiality of data and users on the network, but we also need to consider the impacts of an attacker potentially compromising the availability and integrity of the systems, including the risks of the attacker being able to take down the whole network at once.

Australian and many other governments have already identified telecommunications networks as critical national infrastructure that’s essential to the effective functioning of society and therefore requiring additional regulation and attention, and it’s easy to understand why.12 In Australia in recent months, we’ve seen the chaos caused by outages of electronic payment (EFTPOS) systems for a few hours, making it impossible for people to buy basic items because they’re unused to carrying cash.13

Now imagine the impact of a smart city suddenly losing all traffic sensor data and the ability to control traffic lights. An attacker could cause major accidents by maliciously changing the data being sent to traffic lights. In fact, given some of the potential applications enabled by 5G, it could be possible to cause major disruption by more subtle changes. If applications such as remote driving of vehicles rely on ultra-low latency, what would happen if an attacker introduced a small delay to some or all network traffic?

The increasing importance of the network, combined with the increased risk that a cyber breach will cause major real-world consequences, means that the cybersecurity of 5G networks must be a critical consideration, planned and accounted for from the outset. Risk management approaches should also consider the more sensitive functions that are used by national security and law enforcement authorities, such as compliance with legislation on telecommunications interception and data retention, which may create additional security risks.

Building an understanding of 5G security requires integrating security and the 5G network architecture. Both suffer from a major skills gap in Australia14 and globally,15 so we would expect a major shortage of professionals with a detailed understanding of both, exacerbated by the fact that 5G architectures are complex and still evolving.

One example is the debates about the separation of the ‘core’ and ‘edge’ components of a 5G network. Can they be effectively segregated so that a threat in the edge can’t affect the core? Australian authorities say they can’t be effectively segregated, whereas UK authorities appear to be suggesting they can. Without getting involved in the details of the debate here, it’s likely that the true answer is that it depends on architectural choices and complex overall system-level interactions. Concepts such as network slicing will make this even more complex. End users are given effective control and exclusive use of an end-to-end slice of the network, and attention will need to be paid to the security safeguards required to minimise the risk of them escaping their own virtual slice and getting access to other parts of the network.

Vendor trust and security

The issue of vendor trust and security has been prominent in discussions about 5G security. Australia and the US have announced decisions to bar certain vendors, the UK has been formulating a compromise approach,16 (although this seems to be still evolving) and active debates in Europe are seemingly close to reaching a conclusion.

The risks from using a particular vendor can be many and varied. Much commentary on the subject talks about hardware ‘backdoors’ being inserted by a vendor at the factory,17 but that’s probably not the biggest issue. In fact, it’s probably an unhealthy focus that can drive the debate onto specific component manufacturers, when the bigger risks probably come higher up the technology stack.

A much more worrying vendor risk occurs when carriers are critically dependent on vendors for maintaining the quality of service and so give the vendors access to the live network for support and maintenance. The nature of 5G networks as ‘software defined everything’ also means that there are security risks throughout the network that can be hidden in the complexity of software—vulnerabilities that are deliberately introduced by the vendor, or that come from genuine errors and oversights.

Different vendors have different approaches to and cultures of security. The extent to which they use approaches such as secure software development, system integrity validation and third-party supplier checks can be a useful guide, as well as their approach to the reporting and patching of security issues.

However, the control and ownership of vendors, in particular those from nation-states in which companies may be subject to extrajudicial direction, has, to date, been the main criterion used to measure vendor risk.18 This should be broadened to consider all sources of risk. As well as foreign ownership and control, vendor threats can come from insiders, such as rogue employees, even in a vendor from a trusted country, and also depend on the quality of the security culture and secure-by-design approaches used by a vendor. This leads to a spectrum of vendor risk levels that can be used to guide appropriate treatments.

We can sensibly decide to exclude very high risk vendors, but since no vendor will be zero-risk, other mitigation measures will be needed in addition. While, given the criticality of 5G networks, we should impose a high standard of cybersecurity control and risk management across the network even for the lowest risk vendors, additional measures may be needed for intermediate levels. It’s important that carriers understand these requirements and can factor the different security costs into their procurement decisions (so potentially avoiding the incentive to simply choose the cheapest supplier who isn’t excluded due to being very high risk).

Independent testing of vendor equipment may be of some use to assess and mitigate risk (see, for example the Huawei testing facility set up and used by the UK over the past few years), but it’s not just a matter of testing the product from the factory. For any software components, each new release will require retesting, and in a 5G world the software becomes the most critical layer. The public reports from the UK testing facility19 show a series of damning findings and a lack of any assurance that identified flaws are resolved effectively. This means that, at best, this approach can be only a small part of a broader strategy.

In some cases, architectural approaches can be used to mitigate the risk. For example, end-to-end encryption could be used to mitigate the risk that particular network equipment could have unnecessary access to user details and data on the network. However, if we look at the risk of an adversary seeking to completely disable a network, the vendor risk is much greater, as ultimately the end-to-end network works only if every component in the chain is working—RAN, core access and routing.

This means it isn’t just a matter of assessing and using a vendor with an acceptable level of risk. Any farmer will tell you to avoid monoculture—growing just one crop means that one disease can wipe you out overnight. Similarly, if a network is dependent on a single vendor and a vulnerability is found, the vendor becomes untrusted for some reason or the company collapses, the equipment will be almost impossible to replace, and entire networks can become at risk overnight.

Therefore, as well as vendor trust, we need to ensure vendor diversity and redundancy in design.

Operators need to have confidence that multiple vendors’ equipment can interoperate, and ideally have multiple vendors’ systems in service for each major function. This will provide resilience and options to reduce dependence on a particular vendor if circumstances change. In a given carrier’s network, there should be at least two vendors for each key equipment type, and across the market there should be four or more viable suppliers considered acceptable to use. These are bare minimums from a competition policy and resilience perspective; from a long-term resilience point of view, there should be as many vendors as possible, subject to ensuring that each has critical mass and is commercially sustainable in the long term.

#### Actors have the means and motivations to strike critical infrastructure.

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Among critical infrastructure sectors in the U.S., energy is perhaps the most crucial of the 16 sectors defined by the Department of Homeland Security. This sector is so vital because it provides the energy necessary to run every other critical infrastructure sector. However, the U.S. power grid, the backbone of the energy sector, is built upon an aging skeleton that is becoming increasingly vulnerable every day. Whether from terrorists or nation-states like Russia and China, the power grid is susceptible to not just physical attacks, but also to cyber intrusion as well. However, much of this threat can be mitigated if the U.S. takes the appropriate steps to safeguard the power grid and avoid a potential catastrophe in the future.

Since Sept. 11, 2001, terrorism on U.S. soil has been at the forefront of American consciousness. Critical infrastructure provides an appealing target because of the disproportionally large impact even a small attack can have on the sectors. In particular, the power grid represents a particularly lucrative target, both in terms of the ease of access and the large impact it can make. The National Research Council stated that the U.S. power grid is “vulnerable to intelligent multi-site attacks by knowledgeable attackers intent on causing maximum physical damage to key components on a wide geographical scale.”[[1]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn1) Additionally, the physical security of transmission and distribution systems is difficult due to the dispersed nature of these key components, which in turn is advantageous to attackers as it reduces the likelihood of their capture.[[2]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn2) From 2002-2012, approximately 2,500 physical attacks occurred against transmission lines and towers worldwide and approximately 500 attacks against transformer substations.[[3]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn3) Terrorists have the motivation to attack the U.S. power grid but the very nature of the grid makes it highly vulnerable. The power grid is not only at risk from physical attacks, but also nation-state cyberattacks.

One nation that has shown both the capability and intent to use attacks against critical energy infrastructure is Russia, as demonstrated in their 2015 annexation of Crimea from Ukraine. A Russian cyber threat group known as Sandworm, which used its BlackEnergy malware, attacked Ukrainian computer systems that provide remote control of the Ukraine power grid.[[4]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn4) This attack, and another in 2016, each left the capital Kiev without power, prompting cyber experts to raise concern about the same malware already existing in NATO and the U.S. power grids.[[5]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn5) In any conflict between Russia and NATO, not only would similar cyberattacks pose a threat, but so would potential physical attacks severing fuel oil and natural gas lines to Western Europe. Russia has both the capability and intent to attack critical infrastructure, particularly power grids, during future conflicts in their “hybrid warfare” approach.

Another nation that has the capability to attack critical energy infrastructure is China, representing a threat to not just the U.S. energy infrastructure but also that of our allies whose support would be vital in a major conflict. A recent NATO report highlighted this threat from China’s Belt and Road Initiative, stating that “[China’s] foreign direct investment in strategic sectors [such as energy generation and distribution] …raises questions about whether access and control over such infrastructure can be maintained, particularly in crisis when it would be required to support the military.”[[6]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn6) Like Russia, China has been active with cyber intrusions in U.S. energy infrastructure. The Mission Support Center at Idaho National Laboratory characterized these as attacks as “multiple intrusions into US ICS/SCADA [Industrial Control Systems/Supervisory Control and Data Acquisition] and smart grid tools [that] may be aimed more at intellectual property theft and gathering intelligence to bolster their own infrastructure, but it is likely that they are also using these intrusions to develop capabilities to attack the [bulk electric system], as well.”[[7]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn7) China, therefore, has both the capability and intent to conduct cyber intrusions and attacks for myriad reasons.

Another arm of this threat is the reliance the U.S. energy industry has on imports from China, especially transformers. In early 2020, federal officials seized a transformer in the port of Houston that had been imported by the Jiangsu Huapeng Transformer Company before sending it to Sandia National Laboratory in Albuquerque. Sandia is contracted by the U.S. Department of Energy for mitigating national security threats.[[8]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn8) The Wall Street Journal reported that “Mike Howard, chief executive of the Electric Power Research Institute, a utility-funded technical organization, said that the diversion of a huge, expensive transformer is so unusual – in his experience, unprecedented – that it suggests officials had significant security concerns.”[[9]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn9) Previously destined for the Washington Area Power Administration’s Ault, Colo., substation, the transformer is believed to have been seized due to “backdoor” exploitable hardware emplaced by the Chinese prior to shipment.[[10]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn10) Shortly after these events, President Trump issued Executive Order 13920, “[Securing the United States Bulk-Power System](https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-securing-united-states-bulk-power-system/),” essentially limiting the import of Chinese-built critical energy infrastructure components due to concerns about cybersecurity.[[11]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn11) Interestingly, Jiangsu Huapeng “boasted that it supported 10 percent of New York City’s electricity load.”[[12]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn12)

Franklin Kramer, the former Assistant Secretary of Defense for International Security Affairs, testified before a U.S. House of Representatives Energy and Commerce subcommittee during an energy and power hearing in 2011 and said that a “highly-coordinated and structured cyber, physical, or blended attack on the bulk power system, however, could result in long-term (irreparable) damage to key system components in multiple simultaneous or near-simultaneous strikes.” He added that “an outage could result with the potential to affect a wide geographic area and cause large population centers to lose power for extended periods.”[[13]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn13) Even the inclusion of features such as smart grids to the overall grid structure poses new vulnerabilities through their connectivity. Kramer stated that “such connectivity means that the distribution system could be a key vector for a national security attack on the grid.”[[14]](https://www.hstoday.us/subject-matter-areas/infrastructure-security/perspective-cyber-and-physical-threats-to-the-u-s-power-grid-and-keeping-the-lights-on/" \l "_ftn14)

#### Those attacks cause accidental nuclear escalation.

Klare 19, \*Michael T. Klare is a professor emeritus of peace and world security studies at Hampshire College and senior visiting fellow at the Arms Control Association; (November 19th, “Cyber Battles, Nuclear Outcomes? Dangerous New Pathways to Escalation”, https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation)

Yet another pathway to escalation could arise from a cascading series of cyberstrikes and counterstrikes against vital national infrastructure rather than on military targets. All major powers, along with Iran and North Korea, have developed and deployed cyberweapons designed to disrupt and destroy major elements of an adversary’s key economic systems, such as power grids, financial systems, and transportation networks. As noted, Russia has infiltrated the U.S. electrical grid, and it is widely believed that the United States has done the same in Russia.[12](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote12) The Pentagon has also devised a plan known as “Nitro Zeus,” intended to immobilize the entire Iranian economy and so force it to capitulate to U.S. demands or, if that approach failed, to pave the way for a crippling air and missile attack.[13](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote12)

The danger here is that economic attacks of this sort, if undertaken during a period of tension and crisis, could lead to an escalating series of tit-for-tat attacks against ever more vital elements of an adversary’s critical infrastructure, producing widespread chaos and harm and eventually leading one side to initiate kinetic attacks on critical military targets, risking the slippery slope to nuclear conflict. For example, a Russian cyberattack on the U.S. power grid could trigger U.S. attacks on Russian energy and financial systems, causing widespread disorder in both countries and generating an impulse for even more devastating attacks. At some point, such attacks “could lead to major conflict and possibly nuclear war.”[14](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote14)

These are by no means the only pathways to escalation resulting from the offensive use of cyberweapons. Others include efforts by third parties, such as proxy states or terrorist organizations, to provoke a global nuclear crisis by causing early-warning systems to generate false readings (“spoofing”) of missile launches. Yet, they do provide a clear indication of the severity of the threat. As states’ reliance on cyberspace grows and cyberweapons become more powerful, the dangers of unintended or accidental escalation can only grow more severe.

#### Cyber-compromised NC3 causes nuclear war.

Klare 19, \*Michael T. Klare is a professor emeritus of peace and world security studies at Hampshire College and senior visiting fellow at the Arms Control Association; (November 19th, “Cyber Battles, Nuclear Outcomes? Dangerous New Pathways to Escalation”, <https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation>)

The Nuclear-Cyber Connection

These links exist because the NC3 systems of the United States and other nuclear-armed states are heavily dependent on computers and other digital processors for virtually every aspect of their operation and because those systems are highly vulnerable to cyberattack. Every nuclear force is composed, most basically, of weapons, early-warning radars, launch facilities, and the top officials, usually presidents or prime ministers, empowered to initiate a nuclear exchange. Connecting them all, however, is an extended network of communications and data-processing systems, all reliant on cyberspace. Warning systems, ground- and space-based, must constantly watch for and analyze possible enemy missile launches. Data on actual threats must rapidly be communicated to decision-makers, who must then weigh possible responses and communicate chosen outcomes to launch facilities, which in turn must provide attack vectors to delivery systems. All of this involves operations in cyberspace, and it is in this domain that great power rivals seek vulnerabilities to exploit in a constant struggle for advantage.

The use of cyberspace to gain an advantage over adversaries takes many forms and is not always aimed at nuclear systems. China has been accused of engaging in widespread cyberespionage to steal technical secrets from U.S. firms for economic and military advantages. Russia has been accused, most extensively in the Robert Mueller report, of exploiting cyberspace to interfere in the 2016 U.S. presidential election. Nonstate actors, including terrorist groups such as al Qaeda and the Islamic State group, have used the internet for recruiting combatants and spreading fear. Criminal groups, including some thought to be allied with state actors, such as North Korea, have used cyberspace to extort money from banks, municipalities, and individuals.[4](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote04) Attacks such as these occupy most of the time and attention of civilian and military cybersecurity organizations that attempt to thwart such attacks. Yet for those who worry about strategic stability and the risks of nuclear escalation, it is the threat of cyberattacks on NC3 systems that provokes the greatest concern.

This concern stems from the fact that, despite the immense effort devoted to protecting NC3 systems from cyberattack, no enterprise that relies so extensively on computers and cyberspace can be made 100 percent invulnerable to attack. This is so because such systems employ many devices and operating systems of various origins and vintages, most incorporating numerous software updates and “patches” over time, offering multiple vectors for attack. Electronic components can also be modified by hostile actors during production, transit, or insertion; and the whole system itself is dependent to a considerable degree on the electrical grid, which itself is vulnerable to cyberattack and is far less protected. Experienced “cyberwarriors” of every major power have been working for years to probe for weaknesses in these systems and in many cases have devised cyberweapons, typically, malicious software (malware) and computer viruses, to exploit those weaknesses for military advantage.[5](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote05)

Although activity in cyberspace is much more difficult to detect and track than conventional military operations, enough information has become public to indicate that the major nuclear powers, notably China, Russia, and the United States, along with such secondary powers as Iran and North Korea, have established extensive cyberwarfare capabilities and engage in offensive cyberoperations on a regular basis, often aimed at critical military infrastructure. “Cyberspace is a contested environment where we are in constant contact with adversaries,” General Paul M. Nakasone, commander of the U.S. Cyber Command (Cybercom), told the Senate Armed Services Committee in February 2019. “We see near-peer competitors [China and Russia] conducting sustained campaigns below the level of armed conflict to erode American strength and gain strategic advantage.”

Although eager to speak of adversary threats to U.S. interests, Nakasone was noticeably but not surprisingly reluctant to say much about U.S. offensive operations in cyberspace. He acknowledged, however, that Cybercom took such action to disrupt possible Russian interference in the 2018 midterm elections. “We created a persistent presence in cyberspace to monitor adversary actions and crafted tools and tactics to frustrate their efforts,” he testified in February. According to press accounts, this included a cyberattack aimed at paralyzing the Internet Research Agency, a “troll farm” in St. Petersburg said to have been deeply involved in generating disruptive propaganda during the 2016 presidential elections.[6](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote06)

Other press investigations have disclosed two other offensive operations undertaken by the United States. One called “Olympic Games” was intended to disrupt Iran’s drive to increase its uranium-enrichment capacity by sabotaging the centrifuges used in the process by infecting them with the so-called Stuxnet virus. Another left of launch effort was intended to cause malfunctions in North Korean missile tests.[7](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote07) Although not aimed at either of the U.S. principal nuclear adversaries, those two attacks demonstrated a willingness and capacity to conduct cyberattacks on the nuclear infrastructure of other states.

Efforts by strategic rivals of the United States to infiltrate and eventually degrade U.S. nuclear infrastructure are far less documented but thought to be no less prevalent. Russia, for example, is believed to have planted malware in the U.S. electrical utility grid, possibly with the intent of cutting off the flow of electricity to critical NC3 facilities in the event of a major crisis.[8](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote08) Indeed, every major power, including the United States, is believed to have crafted cyberweapons aimed at critical NC3 components and to have implanted malware in enemy systems for potential use in some future confrontation.

Pathways to Escalation

Knowing that the NC3 systems of the major powers are constantly being probed for weaknesses and probably infested with malware designed to be activated in a crisis, what does this say about the risks of escalation from a nonkinetic battle, that is, one fought without traditional weaponry, to a kinetic one, at first using conventional weapons and then, potentially, nuclear ones? None of this can be predicted in advance, but those analysts who have studied the subject worry about the emergence of dangerous new pathways for escalation. Indeed, several such scenarios have been identified.[9](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote09)

The first and possibly most dangerous path to escalation would arise from the early use of cyberweapons in a great power crisis to ~~paralyze~~ undermine the vital command, control, and communications capabilities of an adversary, many of which serve nuclear and conventional forces. In the “fog of war” that would naturally ensue from such an encounter, the recipient of such an attack might fear more punishing follow-up kinetic attacks, possibly including the use of nuclear weapons, and, fearing the loss of its own arsenal, launch its weapons immediately. This might occur, for example, in a confrontation between NATO and Russian forces in east and central Europe or between U.S. and Chinese forces in the Asia-Pacific region.

Speaking of a possible confrontation in Europe, for example, James N. Miller Jr. and Richard Fontaine wrote that “both sides would have overwhelming incentives to go early with offensive cyber and counter-space capabilities to negate the other side’s military capabilities or advantages.” If these early attacks succeeded, “it could result in huge military and coercive advantage for the attacker.” This might induce the recipient of such attacks to back down, affording its rival a major victory at very low cost. Alternatively, however, the recipient might view the attacks on its critical command, control, and communications infrastructure as the prelude to a full-scale attack aimed at neutralizing its nuclear capabilities and choose to strike first. “It is worth considering,” Miller and Fontaine concluded, “how even a very limited attack or incident could set both sides on a slippery slope to rapid escalation.”[10](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote10)

What makes the insertion of latent malware in an adversary’s NC3 systems so dangerous is that it may not even need to be activated to increase the risk of nuclear escalation. If a nuclear-armed state comes to believe that its critical systems are infested with enemy malware, its leaders might not trust the information provided by its early-warning systems in a crisis and might misconstrue the nature of an enemy attack, leading them to overreact and possibly launch their nuclear weapons out of fear they are at risk of a preemptive strike.

“The uncertainty caused by the unique character of a cyber threat could jeopardize the credibility of the nuclear deterrent and undermine strategic stability in ways that advances in nuclear and conventional weapons do not,” Page O. Stoutland and Samantha Pitts-Kiefer wrote in 2018 paper for the Nuclear Threat Initiative. “[T]he introduction of a flaw or malicious code into nuclear weapons through the supply chain that compromises the effectiveness of those weapons could lead to a lack of confidence in the nuclear deterrent,” undermining strategic stability.[11](https://www.armscontrol.org/act/2019-11/features/cyber-battles-nuclear-outcomes-dangerous-new-pathways-escalation#endnote11) Without confidence in the reliability of its nuclear weapons infrastructure, a nuclear-armed state may misinterpret confusing signals from its early-warning systems and, fearing the worst, launch its own nuclear weapons rather than lose them to an enemy’s first strike. This makes the scenario proffered in the 2018 NPR report, of a nuclear response to an enemy cyberattack, that much more alarming.

#### Escalates despite deterrence and rationality.

Gartzke et al. 17, \*Erik Gartzke is Professor of Political Science and Director of the Center for Peace and Security Studies (cPASS) at the University of California, San Diego, where he has been a member of the research faculty since 2007; \*Jon R. Lindsay is Assistant Professor of Digital Media and Global Affairs at the Munk School of Global Affairs and Public Policy and the Department of Political Science at the University of Toronto. He is the co-editor of Cross-Domain Deterrence and China and Cybersecurity; (March 2017, “Thermonuclear cyberwar”, https://academic.oup.com/cybersecurity/article/3/1/37/2996537#64534849)

In the other direction, the unstable cyber domain can undermine the stability of nuclear deterrence. Most analysts who argue that the cyber–nuclear combination is a recipe for danger focus on the fog of crisis decision making [[85–87](javascript:;)]. Stephen Cimbala points out that today’s relatively smaller nuclear arsenals may perversely magnify the attractiveness of NC3 exploitation in a crisis: “Ironically, the downsizing of U.S. and post-Soviet Russian strategic nuclear arsenals since the end of the Cold War, while a positive development from the perspectives of nuclear arms control and nonproliferation, makes the concurrence of cyber and nuclear attack capabilities more alarming” [[88](javascript:;)]. Cimbala focuses mainly on the risks of misperception and miscalculation that emerge when a cyber attack muddies the transparent communication required for opponents to understand one another’s interests, redlines, and willingness to use force, and to ensure reliable control over subordinate commanders. Thus a nuclear actor “faced with a sudden burst of holes in its vital warning and response systems might, for example, press the preemption button instead of waiting to ride out the attack and then retaliate” [[85](javascript:;)].

#### Nuke war causes extinction.

Steven Starr 14. Senior Scientist for Physicians for Social Responsibility and Director of the Clinical Laboratory Science Program at the University of Missouri. Starr has published in the Bulletin of the Atomic Scientists and the Strategic Arms Reduction the (STAR) website of the Moscow Institute of Physics and Technology. 6-11-2014. “There Can be No Winners in a Nuclear War.” Truth Out. <https://truthout.org/articles/there-can-be-no-winners-in-a-nuclear-war/>. EO.

Nuclear war has no winner. Beginning in 2006, several of the world’s leading climatologists (at Rutgers, UCLA, John Hopkins University, and the University of Colorado-Boulder) published a series of studies that evaluated the long-term environmental consequences of a nuclear war, including baseline scenarios fought with merely 1% of the explosive power in the US and/or Russian launch-ready nuclear arsenals. They concluded that the consequences of even a “small” nuclear war would include catastrophic disruptions of global climate and massive destruction of Earth’s protective ozone layer. These and more recent studies predict that global agriculture would be so negatively affected by such a war, a global famine would result, which would cause up to 2 billion people to starve to death. These peer-reviewed studies – which were analyzed by the best scientists in the world and found to be without error – also predict that a war fought with less than half of US or Russian strategic nuclear weapons would destroy the human race. In other words, a US-Russian nuclear war would create such extreme long-term damage to the global environment that it would leave the Earth uninhabitable for humans and most animal forms of life. A recent article in the Bulletin of the Atomic Scientists, “Self-assured destruction: The climate impacts of nuclear war,” begins by stating: “A nuclear war between Russia and the United States, even after the arsenal reductions planned under New START, could produce a nuclear winter. Hence, an attack by either side could be suicidal, resulting in self-assured destruction.” In 2009, I wrote “Catastrophic Climatic Consequences of Nuclear Conflicts” for the International Commission on Nuclear Non-proliferation and Disarmament. The article summarizes the findings of these studies. It explains that nuclear firestorms would produce millions of tons of smoke, which would rise above cloud level and form a global stratospheric smoke layer that would rapidly encircle the Earth. The smoke layer would remain for at least a decade, and it would act to destroy the protective ozone layer (vastly increasing the UV-B reaching Earth) as well as block warming sunlight, thus creating Ice Age weather conditions that would last 10 years or longer. Following a US-Russian nuclear war, temperatures in the central US and Eurasia would fall below freezing every day for one to three years; the intense cold would completely eliminate growing seasons for a decade or longer. No crops could be grown, leading to a famine that would kill most humans and large animal populations. Electromagnetic pulse from high-altitude nuclear detonations would destroy the integrated circuits in all modern electronic devices, including those in commercial nuclear power plants. Every nuclear reactor would almost instantly meltdown; every nuclear spent fuel pool (which contain many times more radioactivity than found in the reactors) would boil off, releasing vast amounts of long-lived radioactivity. The fallout would make most of the US and Europe uninhabitable. Of course, the survivors of the nuclear war would be starving to death anyway. Once nuclear weapons were introduced into a US-Russian conflict, there would be little chance that a nuclear holocaust could be avoided. Theories of “limited nuclear war” and “nuclear de-escalation” are unrealistic. In 2002 the Bush administration modified US strategic doctrine from a retaliatory role to permit preemptive nuclear attack; in 2010, the Obama administration made only incremental and miniscule changes to this doctrine, leaving it essentially unchanged. Furthermore, Counterforce doctrine – used by both the US and Russian military – emphasizes the need for preemptive strikes once nuclear war begins. Both sides would be under immense pressure to launch a preemptive nuclear first-strike once military hostilities had commenced, especially if nuclear weapons had already been used on the battlefield. Both the US and Russia each have 400 to 500 launch-ready ballistic missiles armed with a total of at least 1800 strategic nuclear warheads, which can be launched with only a few minutes warning. Both the US and Russian Presidents are accompanied 24/7 by military officers carrying a “nuclear briefcase,” which allows them to transmit the permission order to launch in a matter of seconds. Yet top political leaders and policymakers of both the US and Russia seem to be unaware that their launch-ready nuclear weapons represent a self-destruct mechanism for the human race. For example, in 2010, I was able to publicly question the chief negotiators of the New START treaty, Russian Ambassador Anatoly Antonov and (then) US Assistant Secretary of State Rose Gottemoeller, during their joint briefing at the UN (during the Non-Proliferation Treaty Review Conference). I asked them if they were familiar with the recent peer-reviewed studies that predicted the detonation of less than 1% of the explosive power contained in the operational and deployed US and Russian nuclear forces would cause catastrophic changes in the global climate, and that a nuclear war fought with their strategic nuclear weapons would kill most people on Earth. They both answered “no.” More recently, on April 20, 2014, I asked the same question and received the same answer from the US officials sent to brief representatives of the NGOS at the Non-Proliferation Treaty Preparatory Committee meeting at the UN. None of the US officials at the briefing were aware of the studies. Those present included top officials of the National Security Council. It is frightening that President Obama and his administration appear unaware that the world’s leading scientists have for years predicted that a nuclear war fought with the US and/or Russian strategic nuclear arsenal means the end of human history. Do they not know of the existential threat these arsenals pose to the human race . . . or do they choose to remain silent because this fact doesn’t fit into their official narratives? We hear only about terrorist threats that could destroy a city with an atomic bomb, while the threat of human extinction from nuclear war is never mentioned – even when the US and Russia are each running huge nuclear war games in preparation for a US-Russian war. Even more frightening is the fact that the neocons running US foreign policy believe that the US has “nuclear primacy” over Russia; that is, the US could successfully launch a nuclear sneak attack against Russian (and Chinese) nuclear forces and completely destroy them. This theory was articulated in 2006 in “The Rise of U.S. Nuclear Primacy,” which was published in Foreign Affairs by the Council on Foreign Relations. By concluding that the Russians and Chinese would be unable to retaliate, or if some small part of their forces remained, would not risk a second US attack by retaliating, the article invites nuclear war. Colonel Valery Yarynich (who was in charge of security of the Soviet/Russian nuclear command and control systems for 7 years) asked me to help him write a rebuttal, which was titled “Nuclear Primacy is a Fallacy.” Colonel Yarynich, who was on the Soviet General Staff and did war planning for the USSR, concluded that the “Primacy” article used faulty methodology and erroneous assumptions, thus invalidating its conclusions. My contribution lay in my knowledge of the recently published (in 2006) studies, which predicted even a “successful” nuclear first-strike, which destroyed 100% of the opposing side’s nuclear weapons, would cause the citizens of the side that “won” the nuclear war to perish from nuclear famine, just as would the rest of humanity.

#### Cracking down on anticompetitive patent licensing post-*Qualcomm* reintroduces cybersecurity-enhancing competition to the market.

Duan 20, \*Charles Duan is a senior fellow and associate director of tech & innovation policy at the R Street Institute, where he focuses his research on intellectual property issues; (2020, “OF MONOPOLIES AND MONOCULTURES: THE INTERSECTION OF PATENTS AND NATIONAL SECURITY”, Santa Clara High Technology Law Journal, 36(4), 369-405. Retrieved from <https://www2.lib.ku.edu/login?url=https://www.proquest.com/scholarly-journals/monopolies-monocultures-intersection-patents/docview/2442966690/se-2?accountid=14556>)

IV. LESSONS AND POLICY DIRECTIONS

The above discussion shows that patent protection can have mixed effects on national security: On the one hand, patents can encourage innovation that ensures domestic technological leadership and produces useful security-protective technologies; on the other hand, patents can stifle innovation-producing and cybersecurity-enhancing competition and can stymie the government’s own ability to achieve national security goals. To navigate the complex effects of patent policy on national security, policymakers may consider the following recommendations as guideposts.

A. Anticompetitive Patent Licensing

An area of particular concern should be the use of patents and patent licensing strategies to diminish competition or put up roadblocks to new entrants. Policymakers should certainly not support these abuses of the patent system, and indeed should take steps to prevent them.

In the mobile communications space, patent licensing already plays an outsized role. There are reportedly between 250,000 and 314,000 patents on the smartphone alone, and litigation over cell phone technologies has lasted decades by now. Patents will thus inevitably have an impact on technologies like 5G or the Internet of Things, so the question is what that impact will be.

Patents are supposed to encourage innovation, but research finds that patents alone will not do so; competition is another requirement. A 2015 study considered the impact of competition policy and patent strength on innovation among European firms, measured in terms of research and development spending.183 Initially, the study compared firms in countries with strong patent laws against those in countries with weaker patent laws, and found that patent protection has “no effect on R&D intensity,” a conclusion consistent with multiple other studies.184 However, the study found that when a major competition reform went into effect, strong-patent countries enjoyed a boost in innovation greater than that experienced in weak-patent countries.185 In other words, strong patent protection is complementary to strong competition; the former does not promote innovation without the latter. The practical import of this research is that patent protection is beneficial up to a point, but to the extent that patents—or, more commonly, legal strategies involving patents—overreach to suppress competition, that overreach should be cause for concern.

Yet today, strategic patent behavior contrary to competition is prevalent. The Federal Trade Commission’s ongoing lawsuit against mobile phone chip manufacturer Qualcomm, for example, challenges Qualcomm’s practice of refusing to sell chips to any phone manufacturer who does not first pay a hefty sum for patent licenses—even if the manufacturer does not actually have need for all those licenses.186 To the extent that Qualcomm’s “no license, no chips” practice is in fact anticompetitive—that is what the courts overseeing the case will decide—monopolization of that market could substantially harm cybersecurity for the reasons noted above.187 The company’s about-50% market share in the advanced mobile chip market 188 means that there is a virtual monoculture of Qualcomm chips already, and there are ongoing concerns about security vulnerabilities in those chips.189 It is thus puzzling that some have opposed the FTC litigation on the grounds that it is making the United States “less competitive in the global 5G arms race.”190 As one scholar explains, this rhetoric “smacks of ‘national champion’ thinking” and ultimately fails to ensure that “national security warnings are being balanced against competitive imperatives.”191

With respect to emerging information technologies, policymakers should be concerned that a leading firm could undertake similar patent licensing strategies to control the market. Indeed, the district court in the Qualcomm litigation found that Nokia and Ericsson already “have imitated Qualcomm’s practice” because it is “more lucrative.”192

#### Numerous factors make escalation certain.

Guillermo Christensen et al. 19. Serves on the international advisory board of the Reeves Center for International Studies at the College of William and Mary. Served as the science and technology advisor with the U.S. mission to the Organization for Economic Co-operation and Development in France where he was responsible for cybersecurity and internet governance policies. MS in Foreign Service and JD from Georgetown University. 2019. “Commodification of Cyber Capabilities: A Grand Cyber Arms Bazaar. https://www.dhs.gov/sites/default/files/publications/ia/ia\_geopolitical-impact-cyber-threats-nation-state-actors.pdf.

While it can be argued that Western deterrence and policies in a traditional sense have led to a state of relative peace since 1945, this same policy-driven leadership has not been present when it comes to the use and regulation of cyber capabilities. Western governments have not been consistent in their response to hold actors accountable for cyber incidents.36 This is in part due to the diverse set of actors in cyberspace, the creation of policy reactively, and the difficulty of attribution when it comes to cyberattacks. Non-state actors represent a unique challenge to deterrence because they are often not susceptible to diplomatic or military suasion in the same manner as nation-states. Several government officials advised that the problem with holding non-state actors accountable is that retaliatory actions and policy standards such as sanctions and treaties are not applicable, because they are not government entities and typically do not have the same concern about the opinions of the international community. These groups also often lack clear territory or physical locations that can be targeted by military means, or they may reside in countries that tolerate such activity where the use of military force would not be feasible for other reasons. In the past, the US (DoD in particular) has acknowledged there is an issue with cybersecurity policy and has outlined strategies going forward. However, there remains a lack of effective policy development, response to incidences, and metrics to determine progress. 37 Further, US decisionmaking and policy has been reactive rather than proactive, and driven by specific events such as distributed denial of service (DDoS) attacks against the US financial sector between late 2011 and mid-2013, which led to the indictment in early 2016 of seven Iranian actors employed by two firms that had performed work on behalf of the Iranian government, including the Islamic Revolutionary Guard Corps.38 Those attacks caused hundreds of thousands of customers to be unable to access their accounts and resulted in companies losing tens of millions of dollars in remediation costs. Incidences such as these have led the United States to indict and publicly attribute the activity of nation-state actors as part of attempts to dissuade these actions.39,40,41 The efficacy of this kind of policy is debatable, and its creation does not place the US at the forefront of developing international cyber policy that will shape the future; rather, it creates policy that correlates to historical incidents.42 There is also hesitation with enacting effective policy and response because of the difficulty in attributing or possibly misattributing cyber activity. The United States’ history of reactive cyber policies and failure to enact clear and consistent responses has helped facilitate a de facto norm for acceptance of certain types of offensive cyber activity by foreign threat actors. Lack of Redlines The lack of clear international norms regarding the use of cyber capabilities has led to the creation of unwritten rules among cyber actors on how to operate.43 The default “red line” that has been drawn among nation-states is defined by the use of cyber capabilities with consequences that lead to war, and anything below that line being acceptable. The problem with this redline is that there is no consistency on what the range of cyber behavior should be below this threshold. Several experts mentioned that countries such as China, Russia, Iran, and NorthKorea all seem to be more tolerant of operational and diplomatic risk than the West. The imprecision of the redline becomes more of an issue when considering non-stateactors who have little regard for law that is clearly written. One aspect of this environment is the lack of clear norms related to cyber operations against private sector companies.44 Some foreign actors pursue this tactic as a means of applying pressure on the US short of war to change its policies or to drive an ideological agenda. The emergence of private sector firms and criminal groups that are willing to sell cyber capabilities has made this environment more tenuous,45,46 as there are also no agreed upon international regulations guiding what types of capabilities are acceptable to create and sell. Although there has been dialogue about creating rules for cyber conflict and operations, such as the Tallinn Manual, Tallinn Manual 2.0,47 and Digital Geneva Convention proposed by Microsoft,48 there is still no agreement across the international community. An academic noted that the redline has been continually moving towards more destructive behavior,49 with incidents such as Stuxnet, WannaCry, and NotPetya, which leads to the potential for escalation and unintended consequences. Escalation and Unintended Consequences As cyber effects move increasingly closer to what are universally viewed as acts of war, there is the increasing potential to cross a redline that elicits kinetic or military response. The lack of agreed-upon redlines in this area introduces a risk of miscalculation among nations, particularly in crisis situations. Governments may operate under differing perceptions that may or may not be evident to their rivals. A cyberattack occurring during a period of inflamed tensions could unintentionally place a government in a situation in which it would have to respond to assuage popular anger or maintain credibility in other diplomatic or military arenas. The possibility of a cyber operation causing unintended consequences adds further risk. One academic noted that in some cases cyberattack may be perceived as a non-escalatory tactic that could be used when kinetic means may not be desirable, but cautioned that cyber has not yet been escalatory. In this vein, the academic offered the example of the US drone shot down in June 2019 by Iran’s Islamic Revolutionary Guard Corps. The expert explained that this incident likely involved some calculus by the government of Iran; shooting down the drone would send a message without the provocative impact of causing US casualties. The expert, noting press reports of an alleged US cyber response, suggested that this tactic offered an “escalation-controlled” response because no Iranians would die. However, the expert cautioned that the alleged cyber response could risk unintended consequences or a “tit-for-tat” cyber dynamic, both of which could have escalatory consequences. An actor not governed by rules could underestimate the potential destruction a cyber capability has, overestimate their ability to maintain control of a capability, or simply act recklessly. This was observed in NotPetya and Stuxnet, where these capabilities propagated beyond their initial intended victims. A Few Futures to Consider We describe two alternative futures that represent potential boundary cases for geopolitical impacts resulting from the global diffusion of cyber capabilities in what amounts to a “grand cyber arms bazaar.” In one extreme, the complexity and volatility of this dynamic, as described in previous sections, results in a rapid escalation of tensions between actors that has the potential of crossing the threshold of armed conflict. In the other scenario, the global community reaches a diplomatic, technological, or other inflection point that changes the current dynamic of rapid diffusion of capabilities applied by an increasing number of actors without clear norms or restraints. Scenario A: Rapid Escalation This scenario walks through how a combination of factors, both cyber and non-cyber, could collectively lead to an escalation of tensions between two nations, potentially leading to kinetic action. We assume the current trends of wide availability of cyber tools, an increasing number of actors, and lack of norms or other restraints continue unabated. In this environment, foreign actors take increasingly risky actions with little regard for repercussions, or their cyber capabilities cause unintended collateral effects. Technology also continues its rapid advance, with increasingly interconnected technologies being incorporated into critical infrastructures and virtually every aspect of everyday life. This increases the chances of a cyber event causing physical harm that crosses a kinetic response threshold. Attribution of cyber activity also remains challenging and some governments employ non-state actors to “jump start” their capabilities or operate with plausible deniability.

### 1AC---Plan

#### Plan: The United States federal judiciary should substantially increase prohibitions on private sector conduct that is more restrictive of competition than reasonably necessary to enable creation of information technology standards.

#### Patent holdup is real and necessitates intervention, even if it can’t be systemically proven.

Contreras 19, \*Jorge Contreras, Professor, University of Utah S.J. Quinney College of Law; (2019, “MUCH ADO ABOUT HOLD-UP”, <https://www.illinoislawreview.org/wp-content/uploads/2019/08/Contreras.pdf>)

III. CAN WE PLEASE STOP SEARCHING FOR SYSTEMIC HOLD-UP?

It is not the purpose of this article to critique the data or methodologies used by researchers who claim that there is no evidence of systemic hold-up. Though questions remain, the data presented in the cited studies finding no empirical evidence of systemic hold-up present plausible descriptions of current markets for products such as smart phones and other connected technology devices. Instead, this critique is directed at the core assumption that runs through each of these studies: that a lack of evidence of systemic hold-up means that hold-up does not represent a threat that justifies policy intervention. In this Part, I argue that, notwithstanding the findings of these studies, patent hold-up in standardized product markets may indeed be a threat that merits preventative policy measures, but that those measures should be directed toward the prevention of well-understood and actionable forms of anticompetitive conduct rather than the economic phenomenon of hold-up.

A. The Absence of Systemic Hold-Up Does Not Mean that Hold-Up Does Not Occur

In a 2017 article, Galetovic and Haber utilize an extended analogy drawn from the field of Mayan archeology to make the point that scholars sometimes ignore the facts in front of them in order to cling to pre-formed (and empirically unsupported) beliefs.92 In this analogical tradition, I will use a hypothetical from public health epidemiology to illustrate a related point. Let us consider the often fatal and highly contagious viral infection Ebola. U.S. public health officials, aware of the dangerous effects of Ebola, might propose the implementation of prophylactic measures to prevent the spread of Ebola in the United States. Such measures might include early detection systems at U.S. hospitals, a network of Ebola experts ready to investigate suspected cases, and potential vaccines for particularly vulnerable populations. All of these measures, of course, would come at a cost. Those opposing the incurrence of this cost might argue that such measures are unjustified because there is no empirical evidence that Ebola is a problem in the U.S. After all, there are no documented outbreaks of the disease, and the only reported cases have been sporadic and linked to other factors (such as health workers returning from abroad). In fact, both lifespan and overall health in the United States have been improving steadily over the past several decades. Most declines in population health can be traced to causes such as tobacco use, poor dietary choices, lack of exercise and the like, but not to Ebola. Thus, because there is no evidence that Ebola outbreaks have occurred in the United States nor any linkage between decreased health and Ebola, and because the overall health of the United States population continues to improve, there is no justification for preventative measures to stop Ebola outbreaks in the United States.

This reasoning is, of course, fallacious and, in the case of a disease like Ebola, dangerously so. In the field of public health, prophylactic measures are often taken before a health risk affects a significant portion of the population. This is the reason for prophylactic measures in the first place. In the field of public health, it is widely recognized that risks arising from any number of environmental and pathogenic sources can be assessed based on laboratory analysis and test cases, without population-level epidemiological data. In fact, once population level data for such outbreaks is available, it is often too late: an epidemic has broken out and millions are at risk. Luckily, it is doubtful that public health officials would apply the fallacious reasoning outlined above to important public health decisions.

Curiously, however, this “Ebola fallacy” has taken root in the debate over patent hold-up. As discussed above, the purported lack of empirical evidence of system-wide patent hold-up is used as a justification for abandoning or forestalling policy interventions aimed at reducing the risk of hold-up. Because hold-up has not been detected at a systemic level, so the argument goes, it must not be a problem. Therefore, measures designed to prevent hold-up from occurring must be the result of gratuitous or over-zealous policy making. The logical fallacies in this argument should be apparent.

In fact, there are numerous examples of anticompetitive conduct by individual firms in markets that are not otherwise overrun by anticompetitive behavior. For example, in 2009, the Federal Trade Commission brought an action against pharmaceutical manufacturer Solvay and a group of generic drug manufacturers for violating Section 5 of the FTC Act by entering into an arrangement whereby the generic manufacturers agreed not to challenge Solvay’s patent on its AndroGel product and not to market their generic versions of AndroGel, in exchange for a significant payment by Solvay to each of the generic manufacturers (a so-called “pay for delay” scheme).94 The Supreme Court held in 2013 that such conduct was actionable and reversed the Eleventh Circuit’s dismissal of the FTC’s claim.95 Yet even in 2009, the year in which the FTC brought its action, of the 68 agreements settling patent disputes filed by pharmaceutical manufacturers with the FTC,96 the FTC estimated that only 19 of these (28%) were potential pay for delay agreements; and by 2014, the year after the Actavis decision, only 21 out of 160 such agreements (13%) were deemed by the FTC likely to represent illegal pay for delay schemes.97 Thus, while pharmaceutical industry patent settlements have attracted significant attention as potentially anticompetitive arrangements, most such settlements do not merit investigation by the FTC.98

An even more telling example is found in the area of mergers and acquisitions. During fiscal year 2016, a total of 1,832 merger and acquisition transactions were reported to the FTC and DOJ under the Hart-Scott-Rodino Antitrust Improvements Act.99 Of these, the FTC challenged only twenty-two (1.2%). 100 Thus, while some anticompetitive mergers may exist, the vast majority are not anticompetitive.101 But the absence of market-wide anticompetitive conduct in the area of mergers and acquisitions hardly excuses the handful of transactions that do present antitrust risks, nor does it suggest that mergers should not be subject to governmental monitoring and, when merited, enforcement.

B. Protective Measures May Already Be Working to Reduce Hold-Up

Another important factor that should be considered regarding the purported lack of empirical evidence of systemic hold-up is the effect that existing policy measures have already had in reducing hold-up. As noted above, the threat of patent hold-up was a primary motivating factor for many SDOs to adopt policies requiring the disclosure and licensing of SEPs. These policies have been in place for decades. In the United States, the first such policy was adopted in 1959 by the American Standards Association (the predecessor to today’s American National Standards Institute (ANSI).102 Today, every one of the more than 200 ANSI-accredited developers of American National Standards must adhere to ANSI’s essential requirements, including the adoption of such a licensing policy for SEPs. Similar policies have existed in European and international standards organizations since at least the 1980s.103 These policies, which were developed by SDOs in large part to reduce the likelihood of hold-up within standard-setting systems, have had several decades to work, and it is likely that the lack of observed hold-up in some studies can be attributed to the successful operation of these policies.

Similarly, antitrust and competition enforcement agencies in the U.S. and Europe have been aware of the potential for hold-up connected with standardization for many years. Accordingly, they have brought enforcement actions when it has been alleged that hold-up behavior has resulted in a violation of the antitrust laws. High-profile enforcement actions against patent holders such as Rambus, 104 Google 105 and Qualcomm106 send powerful deterrent signals to the market and warn others not to engage in similar behavior lest they, too, become the subject of agency enforcement. Like SDO policies, it is likely that the general market awareness of agency interest in standard-setting and hold-up has, to a degree, limited the amount of hold-up that is actually attempted in the marketplace, thereby limiting the direct evidence of hold-up as a systemic problem.

But do the deterrent effects of SDO and agency efforts to reduce hold-up signify that hold-up is not a problem? Certainly not. To reach such a conclusion would be perverse: akin to claiming that burglary is not a problem in a neighborhood that experiences reduced burglary rates after it has implemented an active neighborhood watch program and enhanced policing.

C. Indicia of Healthy Markets do not Prove the Absence of Anticompetitive Conduct

As noted above, one of the principal arguments advanced by commentators seeking to refute the “hold-up theory” is that markets for telecommunications products, namely smart phones, are robust – evidenced by increasing product functionality, decreasing consumer prices and rapid innovation -- and that this degree of robustness indicates that hold-up cannot be a problem in these markets.107 If hold-up were a problem in these markets, they reason, we would see product stagnation, stable (but high) prices, and a lack of competition – features associated with classic examples of hold-up in markets for products such as natural resources and agricultural goods.108

But this argument relies on a false syllogism: hold-up results in market dysfunction; if a market functions well, then it cannot be subject to hold-up. The weaknesses in this argument are multifold. First, hold-up may exist in individual instances without sufficient weight to affect overall market characteristics, particularly in a large global market such as mobile telecommunications. Thus hold-up may exist, even in a market that outwardly appears to be functioning well. Second, there is no valid counterfactual to use to compare the health and robustness of the market for mobile telecommunications products.109 Other consumer electronics devices, such as televisions and DVD players, do not compare well with mobile telecommunications devices, which have taken on a unique character in the modern networked economy. Thus, observing the strength of the market fails to answer the critical questions “compared to what?” and how much stronger the market might be (through more product diversity, functionality, price reduction) without hold-up?

A simple historical illustration is useful in this context. During the decade leading up to the enactment of the Sherman Antitrust Act of 1890, several major U.S. commodity markets (e.g., steel, salt, petroleum, coal, sugar, lead, and others) came under intense scrutiny for a variety of allegedly anticompetitive industrial arrangements. One might have argued that these markets, had they been subject to the sorts of anticompetitive collusion that the Sherman Act sought to address, should have seen reductions of output and increases in price. Yet, between 1880 and 1890, U.S. output of salt, petroleum, steel, and coal all increased significantly, and prices of steel, sugar and lead all dropped significantly.110 Do these positive market indicia demonstrate that the subject markets were not subject to anticompetitive collusion, and that the Sherman Act was not necessary? Certainly, investigations of these industries revealed significant cartel behavior. I would suggest that few commentators today would argue that the coal, steel, sugar and other major industrial producers of the late nineteenth century were innocent of collusive and anticompetitive conduct, or that the Sherman Act was not a necessary and beneficial measure for the U.S. economy.111 Yet, had we relied solely on the positive characteristics exhibited by these markets as proof that anticompetitive conduct did not exist, then perhaps the Sherman Act never would have been enacted.

By the same token, the fact that global markets for standardized products such as computers and smart phones appear to be thriving does not itself refute the possibility of hold-up nor the existence of anticompetitive conduct in these markets. Nor does it allow regulators and policy makers to drop their guard or cease to monitor these important industries.

### 1AC---Solvency

#### Solvency:

#### The plan requires SSO’s to administer reasonable action to prohibit ex post opportunism---that strengthens FRAND effectiveness while enabling SEP holders to capture appropriate royalties---which is the best competition-innovation balance.

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3. Application of the Basic Legal Principles

The antitrust principle is straightforward: industry-wide collaboration through SSOs to establish procompetitive standards is permitted only if it is no more restrictive of competition than reasonably necessary to enable creation of the standards. When standard setting predictably creates technology monopolies that, if unrestrained, will enable anticompetitive ex post opportunism that would otherwise not occur, an SSO that does not take effective measures to pre- vent or minimize such ex post opportunism engages in conduct that is more restrictive of competition than necessary. In that case, the SSO and, in appropriate cases, its members, may well violate Section 1 of the Sherman Act.

Under this principle, SSO procedures and FRAND rules should be evaluated based on whether they lead to reasonable SEP royalties, using the competitive ex ante licensing standard discussed above, which has been adopted by the courts in patent law. Put differently, FRAND rules should be evaluated based on their ability to prevent SEP holders from obtaining more than the ex ante value of their technology from implementers.

This limitation would not prevent a SEP holder from proﬁting, perhaps greatly, from participating in the SSO and having its patented technology included in the standard. The SEP holder continues to be rewarded for its technology because the inclusion of its technology in the standard can still greatly increase the volume of licensing opportunities available to the SEP holder.

Whether a particular set of FRAND rules are sufficiently effective in preventing ex post opportunism will depend on the particular circumstances. The procedural unfolding of the case will also depend upon the circumstances. As a general matter, the case would probably be structured as an ordinary Rule of Reason case.82

First, the plaintiff would have to demonstrate harm to competition as a result of the collaboration of the SSO’s members, many of which compete with one another. In this case, the harm to competition would stem from the ability of the SEP holder to exercise monopoly power by obtaining royalties in excess of the competitive, ex ante level. The decision to include patented technologies in the standard would be the allegedly unlawful agreement. Notably, the court need not determine what a FRAND royalty is; it would suffice to determine that market power has been created or exercised, and that existing SSO rules and policies were not adequate to prevent the competitive harm. The defendant, which could be the SSO or perhaps one or more SSO members, would win at this point if the plaintiff failed to show harm to competition. If might fail if the standard faces substantial competition and the court concludes that the SEP holder therefore does not have market power or if the SSO’s rules and policies are found to be effective in preventing ex post opportunism, even if the plaintiff or even the court thinks that other rules and policies would be preferable.

Second, if the plaintiff makes the requisite showing of harm to competition, the defendant(s) would then have to show some procompetitive justiﬁcation— in this case, the beneﬁts of the standard. These two initial steps should be straightforward.

Third, if as is likely the defendant is able to show a procompetitive justiﬁcation, the plaintiff would have to show that the SSO could have used available, reasonable alternatives to realize the efficiency beneﬁts with less or none of the competitive harms. The plaintiff might identify reasonable alternatives that would have led to a different standard, based on including unpatented technology in the standard or perhaps involving fewer SEPs or fewer owners of SEPs, which would be less subject to patent holdup. More likely, the plaintiff could suggest alternative SSO rules that would not change the standard, but would reduce the likelihood or extent of ex post opportunism. For example, the plaintiff might suggest more rigorous FRAND-type rules, such as rules that set forth more precise principles on which FRAND royalties are to be determined and the circumstances under which SEP holders might seek injunctions.

Fourth, the burden would then shift to the defendant(s) to show that the beneﬁts of the standard could not have been realized if the SSO had adopted any of the proffered alternatives or that those alternatives were unrealistic.83 The plaintiff would be entitled to judgment if the court concludes that those beneﬁts could have been realized with less competitive harm if the SSO had adopted the standard with different IPR rules or policies.

Our overall sense, based on experience and the empirical literature, is that the extant FRAND rules are generally useful, but tend to be inadequate because they are imprecise and leave unresolved such critical issues as (a) the meaning of a reasonable royalty, even conceptually; (b) the meaning of “non-discriminatory;” (c) to whom licenses must be offered; and (d) under what circumstances may a SEP holder obtain an injunction.84 These imprecise FRAND commitments are therefore not sufficient to adequately prevent ex post opportunism. The recent revisions to IEEE’s FRAND policy represent a signiﬁcant step in the right direction, but even this advance leaves important questions unanswered.85 If FRAND rules are inadequate in these ways, litigation involving extant FRAND rules would likely be resolved only at the ﬁnal, fourth step. The defendant would be able to demonstrate the beneﬁts created by the standard; the plaintiff would be able to demonstrate the creation of market power and that other reasonable and practical rules or policies would ameliorate the problem. The case would thus turn on whether the defendant is able to demonstrate that signiﬁcant beneﬁts associated with standardization could not have been realized if the SSO had adopted those other rules or policies.

The court would have available a variety of possible remedies if the plaintiff prevails. Implementers that paid supracompetitive royalties or were unlawfully excluded in whole or in part from product markets as a result of the inadequate FRAND policies would be entitled to damages and, in some cases, to treble damages.86 If the unlawful SSO conduct is regarded as the collective action of the SSO and its members, which is likely to be the case in most instances, SSO members would be jointly and severally liable for the damages. Forward-looking injunctive relief aimed at restoring competition would need to be fashioned to the requirements of the individual case. For example, a court could order the SSO to adopt a new rule or policy proposed by the plaintiff. If the court is reluctant to take on that governance role, it might give the SSO a period of time—maybe ninety days—to develop a rule, subject to the court’s ultimate approval, which would adequately ameliorate the competitive problem created by the SSO. Alternatively or in addition, the court might order the parties to attempt to negotiate a rule or policy on which they can agree. And, depending on the circumstances, the court might order SEP holders, including at least those that were defendants in the case, to comply with the new SSO rules and policies.

#### Threatening antitrust liability lures SSO’s into adopting best practices.

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Under our approach, many of these issues should become moot, since the patentee cannot obtain an injunction (or transfer the patent to someone who can) against a willing licensee, and since competitors are not involved in jointly setting the reasonable royalty rate. If SSOs set clear, reasonable rules following the best practices we recommend, and parties follow those rules, there should be little or no need for antitrust to intervene. Indeed, even the risk of non-disclosure of a patent is lessened, since the patentee has committed to license its essential patents whether or not it discloses them. For the most part, the rules we have described are self-executing, meaning that even if a party tries to break the rules set by the SSO there still may be no need for antitrust to intervene. Thus, we suggest that parties who abide by these procedures—patentees, implementers, and the SSOs themselves—should be immune from antitrust liability for activities that merely follow those rules.107 They have entered into an arrangement that is on balance good for competition, one that allows patentees to receive reasonable royalties but prevents holdup and reduces the risk of monopolization by trickery.

The fact that antitrust remains a last resort available when SSOs don’t follow best practices may have two practical benefits, however. First, under our approach the promise of avoiding the risk of antitrust liability will be a powerful incentive for both SSOs and patent owners to adopt the best practices we propose. Second, the risk of antitrust liability may be relevant when an individual patentee wants to adopt best practices but the SSO governing the standard has not yet done so. We propose that a patentee that unilaterally commits to the FRAND procedures we describe here should be immune from antitrust liability for following these procedures.108 A patentee’s unilateral binding commitment to arbitration could be enforced whether or not it was elicited by an SSO. Thus, just as the prospect of antitrust immunity might lure SSOs to adopt best practices, it might also lure patentees to implement those practices even if the SSO has not done so. Given the large number of standard-essential patents based on preexisting standards,109 and given that SSOs tend to update their IP rules rather slowly,110 this is not a small matter.

#### Only antitrust enforcement creates a consumer-action feature that counterbalances SSO’s conspiratorial incentives---private action fails.

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2. Why Antitrust Enforcement Is Necessary

Some SSO members have an interest in ensuring that the SSO takes steps to minimize the potential harms from the SEP holders’ monopoly power, and this undoubtedly explains in part why most SSOs have adopted FRAND policies or similar requirements. But, as shown in the economic model in the Appendix,73 SSOs cannot in general be counted on to adopt effective FRAND policies. The bases for this conclusion, which is central to our argument for the applicability of Section 1 to SSO FRAND rules, can be summarized as follows.74

First, the SSO members collectively have an interest in permitting SEP holders to charge supracompetitive royalties that elevate the downstream price of compliant devices to the monopoly level. Doing so will enable the members in aggregate to collect increased revenues from consumers, and thus to generate increased profits that in theory could be shared by all the members. In other words, supracompetitive royalties can enrich industry participants as a group at the expense of final consumers. This fact alone should serve as a clear and strong signal regarding the dangers of counting on SSOs to implement effective FRAND policies: if the SSO members negotiate efficiently, the outcome will be just as bad for consumers as if the members agreed to fix downstream prices.75 The fundamental problem is that final consumers are not at the table when the SSO rules are negotiated.

Second, SSO members that own SEPs but earn little or no profits as implementers have a powerful self-interest in being able to exercise the ex post monopoly power associated with their SEPs. Because SSO policies are usually determined by a consensus process, these members will likely be able to block the adoption of fully effective FRAND policies. Moreover, these SSO members often have the greatest interest in SSO patent policies. Since much of their income may be attributable to patent licensing, they can be expected to devote substantial resources to block the adoption of FRAND policies that effectively prevent patent holdup.

Third, even SSO members that earn significant profits as implementers may have mixed incentives if they also own SEPs, which can also lead to weak or in-effective FRAND rules. In the Appendix, we show that, if the requisite share of votes in the SSO are cast by firms whose share of SEP royalties is at least as large as their share of downstream profits, and if these firms can coordinate their voting over the FRAND rules, then an SSO unconstrained by antitrust laws will establish FRAND rules leading to an outcome no better for consumers than would result from an integrated monopolist controlling all SEPs and all downstream sales.76

Fourth, even SSO members that are downstream implementers and own few, if any, SEPs may have only a modest interest in promoting effective policies to restrict ex post opportunism. Because all implementers will be subject to the opportunism, all of them will face increased licensing costs, and therefore will likely be able to pass on most or all of the increased costs to their customers.77 Furthermore, these implementers might not be especially active or effective in the standard-setting process for free-riding or public-good reasons, especially if SEP royalties constitute only a relatively small portion of the costs of their standard-implementing products. Public choice theory predicts that the highly motivated SEP holders are likely to have the greatest influence over patent policies.

Empirical evidence bears out these concerns. As a starting point, we find it striking that SSO FRAND rules are almost always quite vague.78 Notably, SSOs in which SEP holders are more prevalent tend to have weaker FRAND rules.79 Further, to our knowledge, SSOs have made almost no effort to enforce their FRAND rules and have, instead, left enforcement efforts to others.80 This evidence raises serious doubts about the effectiveness of the existing FRAND rules in preventing ex post opportunism.

#### Weigh impacts using expected value, or magnitude times probability. Alternative framings uncritically ignore the real likelihood of nuclear war.

Harris & Bender 17 (John, Politico editor-in-chief, & Bryan, Politico national security editor. "Bill Perry Is Terrified. Why Aren't You?". Interview with Bill Perry, mathematician, engineer, businessman and former Secretary of Defense. Currently the Michael and Barbara Berberian Professor (emeritus) at Stanford University, with a joint appointment at the Freeman Spogli Institute for International Studies and the School of Engineering. He is also a senior fellow at Stanford University's Hoover Institution. He serves as director of the Preventive Defense Project. He is an expert in U.S. foreign policy, national security and arms control. In 2013 he founded the William J Perry Project (http://www.wjperryproject.org/), a non-profit effort to educate the public on the current dangers of nuclear weapons. [www.politico.com/magazine/story/2017/01/william-perry-nuclear-weapons-proliferation-214604](http://www.politico.com/magazine/story/2017/01/william-perry-nuclear-weapons-proliferation-214604))

At this naked moment in the American experiment, when many people perceive civilization on the verge of blowing up in some metaphorical sense, there is an elderly man in California hoping to seize your attention about another possibility. It is that civilization is on the verge of blowing up in a non-metaphorical sense. William J. Perry is 89 now, at the tail end of one of his generation’s most illustrious careers in national security. By all rights, the former U.S. secretary of Defense, a trained mathematician who served or advised nearly every administration since Eisenhower, should be filling out the remainder of his years in quiet reflection on his achievements. Instead, he has set out on an urgent pilgrimage. Bill Perry has become, he says with a rueful smile, “a prophet of doom.” His life’s work, most of it highly classified, was nuclear weapons—how to maximize the fearsome deterrent power of the U.S. arsenal, how to minimize the possibility that the old Soviet arsenal would obliterate the United States and much of the planet along the way. Perry played a supporting role in the Cuban Missile Crisis, during which he went back to his Washington hotel room each night, fearing he had only hours left to live. He later founded his own successful defense firm, helped revolutionize the American way of high-tech war, and honed his diplomatic skills seeking common ground on security issues with the Soviets and Chinese—all culminating as head of the Pentagon in the early years after the end of the Cold War. Nuclear bombs are an area of expertise Perry had assumed would be largely obsolete by now, seven decades after Hiroshima, a quarter-century after the fall of the Soviet Union, and in the flickering light of his own life. Instead, nukes are suddenly—insanely, by Perry’s estimate—once again a contemporary nightmare, and an emphatically ascendant one. At the dawn of 2017, there is a Russian president making bellicose boasts about his modernized arsenal. There is an American president-elect who breezily free-associates on Twitter about starting a new nuclear arms race. Decades of cooperation between the two nations on arms control is nearly at a standstill. And, unlike the original Cold War, this time there is a world of busy fanatics excited by the prospect of a planet with more bombs—people who have already demonstrated the desire to slaughter many thousands of people in an instant, and are zealously pursuing ever more deadly means to do so. And there’s one other difference from the Cold War: Americans no longer think about the threat every day. Nuclear war isn’t the subtext of popular movies, or novels; disarmament has fallen far from the top of the policy priority list. The largest upcoming generation, the millennials, were raised in a time when the problem felt largely solved, and it’s easy for them to imagine it’s still quietly fading into history. The problem is, it’s no longer fading. “Today, the danger of some sort of a nuclear catastrophe is greater than it was during the Cold War,” Perry said in an interview in his Stanford office, “and most people are blissfully unaware of this danger.” It is a turn of events that has an old man newly obsessed with a question: Why isn’t everyone as terrified as he is? Perry’s hypothesis for the disconnect is that much of the population, especially that rising portion with no clear memories of the first Cold War, is suffering from a deficit of comprehension. Even a single nuclear explosion in a major city would represent an abrupt and possibly irreversible turn in modern life, upending the global economy, forcing every open society to suspend traditional liberties and remake itself into a security state. “The political, economic and social consequences are beyond what people understand,” Perry says. And yet many people place this scenario in roughly the same category as the meteor strike that supposedly wiped out the dinosaurs—frightening, to be sure, but something of an abstraction. So Perry regards his last great contribution of a 65-year career as a crusade to stimulate the public imagination—to share the vivid details of his own nightmares. He is doing so in a recent memoir, in a busy public speaking schedule, in half-empty hearing rooms on Capitol Hill, and increasingly with an online presence aimed especially at young people. He has enlisted the help of his 28-year-old granddaughter to figure out how to engage a new generation, including through a series of virtual lectures known as a MOOC, or massive open online course. He is eagerly signing up for “Ask Me Anything” chats on Reddit, in which some people still confuse him with William “The Refrigerator” Perry of NFL fame. He posts his ruminations on YouTube, where they give Katy Perry no run for her money, even as the most popular are closing in on 100,000 views. One of the nightmare scenarios Perry invokes most often is designed to roust policymakers who live and work in the nation’s capital. The terrorists would need enriched uranium. Due to the elaborate and highly industrial nature of production, hard to conceal from surveillance, fissile material is still hard to come by—but, alas, far from impossible. Once it is procured, with help from conspirators in a poorly secured overseas commercial power centrifuge facility, the rest of the plot as Perry imagines it is no great technological or logistical feat. The mechanics of building a crude nuclear device are easily within the reach of well-educated and well-funded militants. The crate would arrive at Dulles International Airport, disguised as agricultural freight. The truck bomb that detonates on Pennsylvania Avenue between the White House and Capitol instantly kills the president, vice president, House speaker, and 80,000 others. Where exactly is your office? Your house? And then, as Perry spins it forward, how credible would you find the warnings, soon delivered to news networks, that five more bombs are set to explode in unnamed U.S. cities, once a week for the next month, unless all U.S. military personnel overseas are withdrawn immediately? If this particular scenario does not resonate with you, Perry can easily rattle off a long roster of others—a regional war that escalates into a nuclear exchange, a miscalculation between Moscow and Washington, a computer glitch at the exact wrong moment. They are all ilks of the same theme—the dimly understood threat that the science of the 20th century is set to collide with the destructive passions of the 21st. “We’re going back to the kind of dangers we had during the Cold War,” Perry said. “I really thought in 1990, 1991, 1992, that we left those behind us. We’re starting to re-invent them. We and the Russians and others don’t understand that what we’re doing is re-creating those dangers—or maybe they don’t remember the dangers. For younger people, they didn’t live through those dangers. But when you live through a Cuban Missile Crisis up close and you live through a false alarm up close, you do understand how dangerous it is, and you believe you should do everything you could possibly do to [avoid] going back.” For people who follow the national security priesthood, the dire scenarios are all the more alarming for who is delivering them. Through his long years in government Perry invariably impressed colleagues as the calmest person in the room, relentlessly rational, such that people who did not know him well—his love of music and literature and travel—regarded his as a purely analytical mind, emotion subordinated to logic and duty. Starting in the 1950s as a technology executive and entrepreneur in some of the most secretive precincts of the defense industry, he gradually took on a series of high-level government assignments that gave him one of the most quietly influential careers of the Cold War and its aftermath. Fifteen years before serving as Bill Clinton’s secretary of defense, Perry was the Pentagon official in charge of weapons research during the Carter administration. It was from this perch that he may have had his most far-reaching impact, and left him in some circles as a legendary figure. He used his office to give an essential push to two ideas that transformed warfare over the next generation decisively to American advantage. One idea was stealth technology, which allowed U.S. warplanes to fly over enemy territory undetected. The other was precision-guided munitions, which allowed U.S. bombs to land with near-perfect accuracy. During the Clinton years, Perry so prized his privacy that he initially turned down the job of Defense secretary—changing his mind only after Clinton and Al Gore pleaded with him that the news media scrutiny wouldn’t be so bad. The reputation he built over a life in the public sphere is starkly at odds with this latest highly impassioned chapter of Perry’s career. Harold Brown, who also is 89, first recruited Perry into government, and was Perry’s boss while serving as Defense secretary in the Carter years. “No one would have thought of Bill Perry as a crusader,” he says. “But he is on a crusade.” Lee Perry, his wife of nearly 70 years, is living in an elder care facility, her once buoyant presence now lost to dementia. Perry himself, lucid as ever, has seen his physical frame become frail and stooped. Rather than slowing his schedule, he has accelerated his travels to plead with people to awaken to the danger. A trip to Washington includes a dinner with national security reporters and testimony on Capitol Hill. Back home in California, he’s at the Google campus to prod engineers to contemplate that their world may not last long enough for their dreams of technology riches to come true. He’s created an advocacy group, the William J. Perry project, devoted to public education about nuclear weapons. He’s enlisted both his granddaughter and his 64-year-old daughter, Robin Perry, in the cause. But if his profile is rising, his style is essentially unchanged. He is a man known for self-effacement, trying to shape an era known for relentless self-promotion, a voice of quiet precision in a time of devil-take-the-hindmost bombast. The rational approach to problem-solving that propelled his career and won him adherents and friends in both political parties and even among some of America’s erstwhile enemies remains his guide—in this case, by endeavoring to calculate the possibilities and probabilities of a terrorist attack, regional nuclear war, or horrible miscalculation with Russia. “I want to be very clear,” he said. “I do not think it is a probability this year or next year or anytime in the foreseeable future. But the consequence is so great, we have to take it seriously. And there are things to greatly lower those possibilities that we’re simply not doing.” \*\*\* Perry really did not expect he would have to write this chapter of his public life. His official career closed with what seemed then an unambiguous sense of mission accomplished. By the time he arrived in the Pentagon’s top job in 1994, the Cold War was over, and the main item on the nuclear agenda seemed to be cleaning up no-longer-needed arsenals. As defense secretary, Perry stood with his Russian counterpart, Pavel Grachev, as they jointly blew up missile silos in the former Soviet Union and tilled sunflower seeds in the dirt. “I finally thought by the end of the ‘80s we lived through this horrible experience and it’s behind us,” Perry said. “When I was secretary, I fully believed it was behind us.” After leaving the Pentagon, he accepted an assignment from Clinton to negotiate an end to North Korea’s nuclear development program—and seemed agonizingly close to a breakthrough as the last days of the president’s term expired. Now, he sees his grandchildren inheriting a planet possibly more dangerous than it was during his public career. No one could doubt that the Sept. 11 terrorists would have gladly used nuclear bombs instead of airplanes if they had had them, and it seems only a matter of time until they try. Instead of a retreating threat in North Korea, that fanatical regime now possesses as many as eight nuclear bombs, and is just one member of a growing nuclear club. Far from a new partnership with Russia, Vladimir Putin has given old antagonisms a malevolent new face. American policymakers talk of spending up to $1 trillion to modernize the nuclear arsenal. And now comes Donald Trump with a long trail of statements effectively shrugging his shoulders about a world newly bristling with bombs and people with reasons to use them. Perry knew Hillary Clinton well professionally, and says he admired both her and Bill Clinton for their professional judgment though he was never a personal intimate of either. He was prescient before the election in expressing skepticism about how voters would respond to the dynastic premise of the Clinton campaign—a healthy democracy should grow new voices—but was as surprised as everyone else on Election Day. Donald Trump was not the voice he was looking for, to put it mildly, but he has responded to the Trump cyclone with modulated restraint. Perry said he assumes his most truculent rhetoric isn’t serious, the utterances of a man who assumed his words were for political effect only and had no real consequences. Now that they do, Perry is hoping to serve as a kind of ambassador to rationality. He said he is hoping for audiences soon, with Trump if the incoming president will see him, and certainly Trump’s national security team, which includes several people Perry knows, including Defense Secretary nominee James Mattis. There is little doubt the message if the meeting comes. “We are starting a new Cold War,” he says. “We seem to be sleepwalking into this new nuclear arms race. … We and the Russians and others don’t understand what we are doing.” “I am not suggesting that this Cold War and this arms race is identical to the old one,” Perry added. “But in many ways, it is just as bad, just as dangerous. And totally unnecessary.” \*\*\* Perry had been brooding over the question for a year. It was in the early 1950s, he was still in his 20s, and the subject was partial differential equations—the topic of his Ph.D. thesis. A particular problem had been absorbing him, day in and day out, hours and hours on end. Then, out of nowhere, a light came on. “I woke up in the middle of the night, and it was all there,” Perry recalled. “It was all there, and I got out of bed and sat down. The next two or three hours, I wrote my thesis, and from the first word I wrote down, I never doubted what the last word was going to be: It was a magic moment.” The story is a reminder of something definitional about Bill Perry. Before he became in recent years an apostle of disarmament, before he sat atop the nation’s war-making apparatus in the 1990s, before he was the executive of a defense contractor specializing in the most complex arenas of Cold War surveillance in the 1960s, he was a young man in love with mathematics. In those days, Perry had planned on a career as a math professor. His attraction to math was not merely practical, in the way that engineers or architects rely on math. The appeal was just as much aesthetic, in ways that people who are not numbers people—political life tends to be dominated by word people—cannot easily comprehend. To Perry’s mind, there was a purity to math, a beauty to the patterns and relationships, that was not unlike music. Math for Perry represented analytical discipline, a way of achieving mastery not only over numerical problems but any hard problem, by breaking it down into essential parts, distilling complexity into simplicity. This trait was why Pentagon reporters in the 1990s liked spending time around Perry. When most public officials are asked a question, one studies the transcript later to decipher a succession of starts and stalls, sentence fragments and ellipses, that cumulatively convey an impressionistic sense of mind but no clear fixed meaning. Perry’s sentences, by contrast, always cut with surgical precision. It was one reason Clinton White House officials often held their breath when he gave interviews—Perry might make news by being clear on subjects, such as ethnic warfare in the Balkans or a nuclear showdown in North Korea, that the West Wing preferred to try to fog over. “I’ve never been able to attack a policy problem with a mathematical formula,” he recalled, “but I have always believed that the rigorous way of thinking about a problem was good. It separated the fact from the bullshit, and that’s very important sometimes, to separate what you can from what you would hope you can do.” Perry wishes more people were familiar with the concept of “expected value.” That is a statistical way of understanding events of very large magnitude that have a low probability. The large magnitude event could be something good, like winning a lottery ticket. Or it could be something bad, like a nuclear bomb exploding. Because the odds of winning the lottery are so low, the rational thing is to save your money and not buy the ticket. As for a nuclear explosion, by Perry’s lights, the consequences are so grave that the rational thing would be for people in the United States and everywhere to be in a state of peak alarm about their vulnerability, and for political debate to be dominated by discussion of how to reduce the risk. And just how high is the risk? The answer of course is ultimately unknowable. Perry’s point, though, is that it’s a hell of a lot higher than you think. Perry invites his listeners to consider all the various scenarios that might lead to a nuclear event. “Mathematically speaking, you add those all together in one year it is still just a possibility, not a probability,” he reckons. “But then you go out ten, twenty years and each time this possibility repeats itself, and then it starts to become a probability. How much time we have to get those possibility numbers lower, I don’t know. But sooner or later the odds are going to get us, I am afraid.” \*\*\* Almost uniquely among living Americans, Bill Perry has actually faced down the prospect of nuclear war before—twice. In the fall of 1962, Bill Perry was 35, father of five young children, living in the Bay Area and serving as director of Sylvania’s Electronic Defense Laboratories—driving his station wagon to recitals in between studying missile trajectories and the radius of nuclear detonations. Where he resided was not then called Silicon Valley, but the exuberance and spirit of creative possibility we now associate with the region was already evident. The giants then were Bill Hewlett and David Packard, men Perry deeply admired and wished to emulate in his own business career. The innovation engine at that time, however, was not consumer technology; it was the government’s appetite for advantage in a mortal struggle against a powerful Soviet foe. Perry was known as a star in the highly complex field of weapons surveillance and interpretation. So it was not a surprise, one bright October day, for Perry to get a call from Albert “Bud” Wheelon, a friend at the Central Intelligence Agency. Wheelon said he wanted Perry in Washington for a consultation. Perry said he’d juggle his schedule and be there the next week. “No,” Wheelon responded. “I need to see you right away.” Perry caught the red-eye from San Francisco, and went straight to the CIA, where he was handed photographs whose meaning was instantly clear to him. They were of Soviet missiles stationed in Cuba. For the next couple weeks, Perry would stay up past midnight each evening poring over the latest reconnaissance photos and help write the analysis that senior officials would present the next morning to President Kennedy. Perry experienced the crisis partly as ordinary citizen, hearing Kennedy on television draw an unambiguous line against Soviet missiles in this hemisphere and promising that any attack would be met with “a full retaliatory response.” But he possessed context, about the capabilities of weapons and the daily state of play in the crisis, that gave him a vantage point superior to that of all but perhaps a few dozen people. “I was part of a small team—six or eight people,” he recounted of those days 54 years earlier. “Half of them technical experts, half of them intelligence analysts, or photo interpreters. It was a minor role but I was seeing all the information coming in. I thought every day when I went back to the hotel it was the last day of my life because I knew exactly what nuclear weapons could do. I knew it was not just a lot of people getting killed. It was the end of civilization and I thought it was about to happen.” It was years later that Perry, like other more senior participants in the crisis, learned how right that appraisal was. Nuclear bombs weren’t only heading toward Cuba on Soviet ships, as Kennedy believed and announced to Americans at the time. Some of them were already there, and local commanders had been given authority to use them if Americans launched a preemptive raid on Cuba, as Kennedy was being urged, goaded even, by Air Force Gen. Curtis LeMay and other military commanders. At the same time, Soviet submarines were armed and one commander had been on the verge of launching them until other officers on the vessel talked him out of it. Either event would have in turn sent U.S. missiles flying. The Cuban Missile Crisis recounting is one of the dramatic peaks in “My Journey on the Nuclear Brink,” the memoir Perry published last fall. It is a book laced with other close calls—like November 9, 1979, when Perry was awakened in the middle of the night by a watch officer at the North American Aerospace and Defense Command (NORAD) reporting that his computers showed 200 Soviet missiles in flight toward the United States. For a frozen moment, Perry thought: This is it—This is how it ends. The watch officer soon set him at ease. It was a computer error, and he was calling to see whether Perry, the technology expert, had any explanation. It took a couple days to discover the low-tech answer: Someone had carelessly left a crisis-simulation training tape in the computer. All was well. But what if this blunder had happened in the middle of a real crisis, with leaders in Washington and Moscow already on high alert? The inescapable conclusion was the same as it was in 1962: The world skirting nuclear Armageddon as much by good luck as by skilled crisis management. Perry is part of a distinct cohort in American history, one that didn’t come home with the large-living ethos of the World War II generation, but took responsibility for cleaning up the world that the war bequeathed. He was a 14-year-old in Butler, Pennsylvania when he heard the news of the Pearl Harbor attack in a friend’s living room, and had the disappointed realization that the war might be over by the time he was old enough to fight in it. That turned out to be true—he was just shy of 18 at war’s end—a fact that places Perry in what demographers have called the “Silent Generation,” too young for one war but already middle-aged by the time college campuses erupted over Vietnam. Like many in his generation, Perry was not so much silent as deeply dutiful, with an understated style that served as a genial, dry-witted exterior to a life in which success was defined by how faithfully one met his responsibilities. Perry said he became aware, first gradually and over time profoundly, of the surreal contradictions of his professional life. His work—first at Sylvania and then at ESL, a highly successful defense contracting firm he co-founded in 1963—was relentlessly logical, analyzing Soviet threats and intentions and coming up with rational responses to deter them. But each rational move was part of a supremely irrational dynamic—“mutually assured destruction”—that placed the threat of massive casualties at the heart of America’s basic strategic thinking. It was the kind of framework in which policymakers could accept that a mere 25 million people dead was good news. Also the kind that in one year alone led the United States to produce 8,000 nuclear bombs. By the end, the Cold War left the planet with about 70,000 bombs (a total that is now down to about 15,500). “I think probably everybody who was involved in nuclear weapons in those days would see the two sides of it,” Perry recalls, “the logic of deterrence and the madness of deterrence, and there was no mistake, I think, that the acronym was MAD.” \*\*\* Perry has been at the forefront of a movement that he considers the sane and only alternative, and he has joined forces with other leading Cold Warriors who in another era would likely have derided their vision as naïve. In January 2007, he was a co-author of a remarkable commentary that ran on the op-ed page of the Wall Street Journal. It was signed also by two former secretaries of state, George Schulz and Henry Kissinger and by Sam Nunn, a former chairman of the Senate Armed Services Committee—all leading military hawks and foreign policy realists who came together to argue for something radical: that the goal of U.S. policy should be not merely the reduction and control of atomic arms, it should be the ultimate elimination of all nuclear weapons. This sounded like gauzy utopianism, especially bizarre coming from supremely pragmatic men. But Perry and the others always made clear they were describing a long-term ideal, one that would only be achieved through a series of more incremental steps. The vision was stirring enough that it was endorsed by President Obama in his opening weeks in office, in a March 2009 address in Prague. In retrospect, Obama’s speech may have been the high point for the vision of abolition. “A huge amount of progress was made,” recalled Shultz, now 93. “Now it is going in the other direction.” “We have less danger of an all-out war with Russia,” in Nunn’s view. “But we have more danger of some type of accident, miscalculation, cyber interference, a terrorist group getting a nuclear weapon. It requires a lot more attention than world leaders are giving it.” Perry’s goal now is much more defensive than it was just a few years ago—halting what has become inexorable momentum toward reviving Cold War assumptions about the central role of nukes in national security. More recently he’s added yet another recruit to his cause: California Governor Jerry Brown. Brown, now 78, met Perry a year ago, after deciding that he wanted to devote his remaining time in public service mainly to what he sees as civilization’s two existential issues, climate change and nuclear weapons. Brown said he became fixated on spreading Perry’s message after reading his memoir: He recently gave a copy to President Obama and is trying to bend the ear of others with influence in Washington. If Bill Perry has a gift for understatement, Brown has a gift for the theatrical. In an interview at the governor’s mansion in Sacramento, he wonders why everyone is not paying attention to his new friend and his warnings for mankind. “He is at the brink! At the brink! Not WAS at the brink—IS at the brink,” Brown exclaimed. “But no one else is.” A California governor can have more influence, at least indirectly, than one might think, due to the state’s outsized role in policy debates and the fact that the University of California’s Board of Regents helps manage some of the nation’s top weapons laboratories, which study and design nuclear weapons. Brown, who was a vocal critic in the 1980s of what he called America's "nuclear addiction," reviewed Perry's recent memoir in the New York Review of Books, and said he is determined to help his new friend spread his message. “Everybody is, 'we are not at the brink,' and we have this guy Perry who says we are. It is the thesis that is being ignored." Even if more influential people wake up to Perry’s message—a nuclear event is more likely and will be more terrible than you realize—a hard questions remains: Now what? This is where Perry’s pragmatism comes back into play. The smartest move, he thinks, is to eliminate the riskiest part of the system. If we can’t eliminate all nukes, Perry argues, we could at least eliminate one leg of the so-called nuclear triad, intercontinental ballistic missiles. These are especially prone to an accidental nuclear war, if they are launched by accident or due to miscalculation by a leader operating with only minutes to spare. Nuclear weapons carried by submarines beneath the sea or aboard bomber planes, he argues, are logically more than enough to deter Russia. The problem, he knows, is that logic is not necessarily the prevailing force in political debates. Psychology is, and this seems to be dictating not merely that we deter a Russian military force that is modernizing its weapons but that we have a force that is self-evidently superior to them. It is an argument that strikes Perry as drearily familiar to the old days. Which leads him the conclusion that the only long-term way out is to persuade a younger generation to make a different choice. His granddaughter, Lisa Perry, is precisely in the cohort he needs to reach. At first she had some uncomfortable news for her grandfather: Not many in her generation thought much about the issue. “The more I learned from him about nuclear weapons the more concerned I was that my generation had this massive and dangerous blind spot in our understanding of the world,” she said in an interview. “Nuclear weapons are the biggest public health issue I can think of.” But she has not lost hope that their efforts can make a difference, and today she has put her graduate studies in public health on hold to work full time for the Perry Project as its social media and web manager. “It can be easy to get discouraged about being able to do anything to change our course,” she said. “But the good news is that nuclear weapons are actually something that we as humans can control...but first we need to start the conversation.” It was with her help that Perry went on Reddit to field questions ranging from how his PhD in mathematics prepared him to what young people need to understand. “As a 90s baby I never lived in the Cold War era,” wrote one participant, with the Reddit username BobinForApples. “What is one thing today's generations will never understand about life during the Cold War?” Perry’s answered, as SecDef19: “Because you were born in the 1990s, you did not experience the daily terror of ‘duck and cover’ drills as my children did. Therefore the appropriate fear of nuclear weapons is not part of your heritage, but the danger is just as real now as it was then. It will be up to your generation to develop the policies to deal with the deadly nuclear legacy that is still very much with us.” For the former defense secretary, the task now is to finally—belatedly—prove Einstein wrong. The physicist said in 1946: “The unleashed power of the atom has changed everything save our modes of thinking and we thus drift toward unparalleled catastrophe.” In Perry’s view the only way to avoid it is by directly contemplating catastrophe—and doing so face to face with the world’s largest nuclear power, Russia, as he recently did in a forum in Luxembourg with several like-minded Russians he says are brave enough to speak out about nuclear dangers in the era of Putin. “We could solve it,” he said. “When you’re a prophet of doom, what keeps you going is not just prophesizing doom but saying there are things we do to avoid that doom. That’s where the optimism is.”

#### Existential threats are categorically underestimated.

Jonathan B Wiener 16. William R. & Thomas L. Perkins Professor of Law, and Professor of Public Policy and Environmental Policy, Duke University; University Fellow, Resources for the Future (RFF); Past President, Society for Risk Analysis (SRA); member of the scientific committee, International Risk Governance Council (IRGC). 6-6-16. “The Tragedy of the Uncommons: On the Politics of Apocalypse.” <https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319>. DOA: 4-2-2020. KD-NCP. Edited for ableist language.

Thus a distinct type of problem looms: the ‘tragedy of the uncommons’ (a phrase I have used in Wiener, [2005](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0085), [2008](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0087), [2011](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0088), [2013](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0089)). Such ‘uncommons’ problems involve a rare extreme catastrophic risk which is misperceived and mismanaged. Examples of this type are mega‐catastrophes of extremely low frequency and extremely high damage – such as a one‐shot existential global catastrophe, one that could destroy all life on earth, or all human life, or at least human civilization. The problem of such global catastrophic mega‐risks has been much discussed (see Rees, [2003](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0056); Farber, [2003](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0024), [2010](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0025); Posner, [2004](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0054); Sunstein, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0072); Bostrom and Cirkovic, [2008](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0009); Weitzman, [2009](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0080); Wells, [2009](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0081); Baum and Tonn, [2015](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0006)). Calamities afflicting large regions or populations, such as pandemic disease or major war or genocide or climate change, can also exhibit the low frequency and high damage that are features of tragedies of the uncommons, even if they are more frequent and less damaging than an existential global catastrophe (Slovic, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0065); Slovic et al., [2013](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0066)). It may thus be helpful to speak of a spectrum or dimensions of uncommons risks, rather than a single category. At the far end of this spectrum, the tragedy of the uncommons is most acute for extremely rare risks (perhaps occurring only once) posing global existential impacts (ending all life on earth, or all human life, or civilization). In this usage, rare catastrophic uncommons risks are far rarer and far more damaging than more frequent and local disasters that are sometimes labeled catastrophes, such as hurricanes or tsunamis or terrorist attacks killing thousands. My point is not that rare global catastrophic ‘uncommons’ risks outweigh other risks. That depends on their probability and consequence compared to other risks, and the appropriate response to each will depend on the merits of the policy options. And I do not mean to say that uncommons risks are now (or should be) replacing or superseding commons risks, or that the two types necessarily proceed in sequence through time. Both types of tragedies may be occurring at the same time in different settings, or combined in the same setting. For example, extreme climate change may exhibit both a tragedy of the commons (free‐riding by multiple actors who would share the benefits of abatement, hence a need for collective action) and a tragedy of the uncommons (rare extreme risk of global catastrophe that remains underappreciated, regardless of the number of actors). Nor are uncommons risks an inevitable result of new technology. The main point here is that tragedies of the uncommons are a distinct problem from tragedies of the commons, with distinct causes and potential solutions. 2 The tragedy of neglect Tragedies of the commons arise when multiple rational actors, perceiving their options and individual payoffs, choose actions that are collectively undesirable (Hardin, [1968](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0032), p. 1244; Barrett, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0002)). Tragedies of the uncommons, by contrast, can arise when even one actor neglects to appreciate a looming risk or mass damage, and mismanages the risk. Research in psychology and political economy indicates several reasons why extreme mega‐catastrophic risks are systematically neglected. Here I seek to bring greater clarity to the causes of rare catastrophic uncommons risks by identifying three main sources. Unavailability One important source of the neglect of uncommons risks is their very rare or ultra‐low‐frequency character. Extensive research shows that people exhibit heightened concern about risks that are ‘available’ to the mind, both in the sense of awareness and affect – the ability to envision and feel the importance of the event. These are often recent, visible, salient events that trigger strong visual images (Kahneman, Slovic and Tversky, [1982](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0036); Kuran and Sunstein, [1999](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0140); Weber, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0079); Pinker, [2011](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0052), p. 220). Such ‘available’ risks are then seen as more worrisome for the future. The ‘availability heuristic’ helps explain why so much regulation is crisis‐driven, adopted only after a crisis event spurs public outcry and mobilizes collective political action to overcome interest group opposition (Percival, [1998](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0051); Kuran and Sunstein, [1999](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0140); Birkland, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0004); Repetto, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0057); Wiener and Richman, [2010](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0091); Wuthnow, [2010](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0095); Barrett, [2016](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0003); Balleisen et al., [2016](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0001)). A standard depiction of this phenomenon is that the public is more concerned about unusual dramatic risks, and less concerned about familiar routine risks, than are experts who take a quantitative approach combining likelihood and consequence (Breyer, [1993](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0010); Sunstein, [2005](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0070)). This relationship is illustrated conceptually in Figure [1](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-fig-0001). The ‘availability heuristic’ helps explain why people appear to express greater concern about airplane accidents than automobile accidents, even though the statistical risk of airplane accidents (per km traveled, and possibly per trip) is lower: airplane accidents are shocking and dramatic and make news headlines, while automobile accidents are routine and familiar and become ordinary.[2](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-note-1003_54) Similarly, public concern may be greater regarding coal mining accidents than the (larger) public health risks from coal combustion air pollution, and regarding ebola than the (larger) toll from malaria. [[FIGURE 1 OMITTED]] This difference in perspectives, depicted in Figure [1](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-fig-0001), also corresponds to many debates over the proper role of expert vs public appraisal of risk. Early studies showed significant differences between public vs expert appraisals of risk (Slovic, [1987](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0064); EPA, [1987](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0022); EPA, [1990](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0023)). Some argued that these differences occur because the public makes errors about risks, such as exaggerating concern over unusual risks, while experts are more accurate, and that therefore policy should be based more on experts’ views in order to avoid overregulating small (but unusual) risks while underregulating large (but routine) risks (Breyer, [1993](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0010)). Others argued that public appraisals were based not on factual errors but on value choices, such as preferring to avoid involuntary risks, which should govern public policy (Shrader‐Frechette, [1991](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0063)). Still others argued that public values about risk might reflect prejudice and bias and should not necessarily be the direct basis for public policy (Cross, [1997](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0015)). A typical assumption in these debates was that the public favored more regulation (at least of unusual risks) and the experts favored less. Thus this relationship might suggest that the public would also be more worried than experts about rare ‘uncommons’ risks. Indeed, some commenters have suggested that the public exhibits exaggerated paranoia about remote risks, overstating the likelihood and calling for precautionary policies that would be (in experts’ views) an overreaction (Efron, [1984](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0021); Wildavsky, [1997](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0092); Mazur, [2004](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0047)). This may be the case for unusual but experienced events that are ‘available’ in the public mind and induce strong feelings such as dread; in response to experienced calamities, people are often highly motivated to take action, even if that action is ineffective or excessively costly (Wuthnow, [2010](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0095)). For example, public reactions to the tragic 9/11 terrorist attacks included shifting from flying to driving with potentially greater injury risk (Deonandan and Backwell, [2011](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0017); Gaissmaier and Gigerenzer, [2012](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0027)), and supporting two wars that were costly in money and lives (Stern and Wiener, [2008](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0069); Wuthnow, [2010](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0095)). But with regard to ultra‐low‐frequency catastrophic risks, events that perhaps only occur once in eons, and hence are not experienced, it is not the case that the public is calling for overreaction while experts urge calm (Weber, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0079)). Rather, it is experts, applying their quantitative methods, who are warning about future rare extreme risks such as abrupt climate change, artificial intelligence and large asteroid collisions (Posner, [2004](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0054); Bostrom and Cirkovic, [2008](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0009); Weitzman, [2009](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0080)), while the public seems less interested if it takes these extreme risks seriously at all. My conjecture, supported by the evidence cited above (but worth further study and refinement), is that ‘tragedies of the uncommons’ add a twist to the typical debate about public vs expert risk appraisal. Adding ultra‐low‐frequency (not experienced) risks to the picture shows that it is not the case that the public always favors more regulation and experts less. For both routine risks and ultra‐rare risks, it is often experts who favor more regulation than the public. My conjecture of this twist in relative concern is depicted conceptually in Figure [2](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-fig-0002). Here, public concern is higher than experts’ concern for unusual and experienced (hence available) risks, in the middle region of the frequency dimension; but public concern is lower than experts’ concern both for routine familiar risks, and for ultra‐low‐frequency rare extreme risks. [[FIGURE 2 OMITTED]] The reason for this reversal in relative appraisal at the very low end of the frequency spectrum is again related to the ‘availability’ heuristic. It predicts that people become concerned about recent, visible, salient events that trigger strong feelings. But the rare mega‐catastrophic risks are not recent, visible or salient. They have not been experienced, so the trigger for mental availability is lacking (Weber, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0079)). Describing such rare risks, such as in a speech or in an opinion survey, is less effective in stimulating public reaction than an experienced risk (Weber, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0079)). Relatedly, a longer time interval without experiencing a recurrence of a damaging event can lead to complacency (neglect due to unavailability) and increased vulnerability to a recurrence (which can then trigger new availability and alarm) (Turner, [1976](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0075)). Although people may envision humans going extinct at some point centuries in the future (Tonn, [2009](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0074)), and express pessimism about the future direction of humanity (Randle and Eckersley, [2015](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0055)), that viewpoint may not translate into concern about specific risks warranting policy responses in the present (nor did these studies compare public with expert perceptions). Movies depicting rare unexperienced risks (e.g. the large asteroid collision in Deep Impact or Armageddon; alien pathogens in The Andromeda Strain; the rise of the machines in The Matrix) may be viewed as humorous entertainment and even elicit laughter – though perhaps that is nervous laughter rather than neglect. There is some evidence that those who watched the film The Day After Tomorrow were more concerned about climate change afterward (Leiserowitz, [2004](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0041)), though the audience was not randomly selected and may have been more concerned going in. It is unclear whether films can effectively ‘synthesize availability’; perhaps new techniques of virtual reality can do better, but they still may not call public attention to the most important uncommons risks, nor to the best policy responses. The role of experience in triggering the availability heuristic, and raising concern about available events in public appraisals of future risks, may be rooted in the ways the brain processes information. Humans process immediate risk stimuli in part through the amygdala, which manages fear and the instant choice to flee or fight (Ledoux, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0040)). At the same time, using the prefrontal cortex, humans are able to envision hypothetical future scenarios and analyze choices among them (Gilbert and Wilson, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0028)). These two neural pathways are sometimes dubbed ‘system 1’ and ‘system 2’ (Kahneman, [2011](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0035)). One possibility is that the faster processing of system 1 is generating fear before the slower processing of system 2 can develop a more analytic appraisal; but the two systems may also be interacting, and system 2 can also generate fear after its analysis. Even if system 2 analysis is applied, the prefrontal cortex, when it envisions hypothetical scenarios of the future, appears to draw on experienced events (from the brain's memory centers) in order to construct a collage or pastiche of the future – a ‘prospection’ (Gilbert and Wilson, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0028); Schachter et al., [2008](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0062)). Thus the human brain typically relies on ‘available’ experienced events even for its analytic prospection about future scenarios.[3](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-note-1004_86) If so, the ‘unavailability’ of rare extreme risks contributes importantly to their being neglected in public concern. A mid‐level example is the increase in parents seeking exemptions from vaccines for their children: past success in controlling a disease may create unavailability and neglect (though subsequent disease outbreaks may revive concern). A more extreme example is that a very large asteroid (> 10 km diameter) has not hit the earth for about 65 million years (Reinhardt et al., [2016](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-1000)), evidently causing the demise of the dinosaurs and about 75 per cent of all life on earth (a 15 km asteroid hit Chicxulub, off the Yucatan peninsula of Mexico, and another dubbed Shiva may have hit near the Indian land mass about 40,000 years later (Lerbekmo, [2014](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0042))). Smaller objects hit the earth frequently, and regional damage was caused by the impacts at Tunguska (1908) and Chelyabinsk (2013) (about 19 m in diameter, see Borovicka et al., [2013](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0008)). The Chelyabinsk impact prompted calls for increased detection efforts. Early detection enables a longer lead time to devise new deflection methods. Improved probabilistic analysis indicates that rare asteroid impacts, even < 1000 m diameter, may be more risky than commonly thought (Reinhardt et al., [2016](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-1000)). The neglect of rare uncommons risks in public psychology may in turn yield neglect in politics. This is a distinct additional factor on top of others that may also contribute to such neglect, such as free‐riding (if the problem is also a ‘commons’ problem requiring collective action by multiple actors); short‐term costs vs long‐term benefits (if the risk would occur in the long‐term future) mismatched with the short‐term election cycles; inattention to the plight of people far away in other countries and cultures; and others. Individual neglect of rare global catastrophic risk may be compounded by societal disdain for such warnings; despite the prevalence of apocalyptic scenarios in religion and literature (Lisboa, [2011](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0043)), ~~the person warning that ‘the end is near’ is often viewed as insane (and might be).~~ That most doomsday stories are unfounded, though, does not mean that all rare catastrophic risks are illusory. To be sure, the public may have good reasons to focus on present needs. And experts may make mistakes too. Ideally, experts and the public would communicate with each other to improve both kinds of understanding (e.g. Tetlock and Gardner, [2015](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-1001)). Moreover, neither ‘the public’ nor ‘experts’ is a homogeneous group; views vary among the public and among experts. Public opinion about catastrophic risks may vary with cultural identity (Kahan, [2010](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0034)). Some subgroups may worry about global catastrophe, while others welcome the ‘end times’ and others dismiss alarmism. Further research could assess the influence of the ‘unavailability’ across these varying subgroups. Mass numbing A second source of the neglect of uncommons risks is their large magnitude of impact. It might seem that larger impacts should prompt more, not less, concern. For experts applying quantitative analytic methods, this appears to be the case. But for the general public, a surprising finding of recent psychology research is that a large or ‘mass’ impact yields ‘numbing’ (Slovic, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0065); Slovic et al., [2013](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0066)). In these studies, people are asked in opinion polls (stated preference surveys) their willingness to pay (WTP) to save different numbers of other people from some risk. One might expect people to offer more money to save more people (a linear relationship, with each life valued the same), or even an increasing amount to reflect the greater value of averting a catastrophe (supra‐linear). Or, one might expect people to offer amounts that rise but at a declining rate, such as if willingness to pay (WTP) reaches some plateau when the risk becomes large (diminishing marginal value of life saving). (In stated preference surveys, ability to pay may not be a strong constraint on responses.) These relationships are illustrated in Figure [3](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-fig-0003). [[FIGURE 3 OMITTED]] Surprisingly, Slovic recounts several studies finding that none of these depicts public attitudes; rather, in these studies, willingness to pay rises at first, but then as the number of people at risk grows, willingness to pay declines – not just marginally (as in the plateau relationship) but absolutely, to levels below the amount people were willing to pay to save one or two individuals. And the number of people at which the stated willingness to pay peaks and begins to decline is not very high – sometimes fewer than ten people at risk. Slovic ([2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0065)) terms this ‘psychic numbing’ or ‘mass numbing’, and argues that it helps explain public neglect of genocide and other mass calamities (for further evidence, see Rheinberger and Treich, [2015](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0255)). There is also evidence that it occurs for valuing nonhuman life (environmental conservation) (Markowitz et al., [2013](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0045)). Hence the mass catastrophic impacts of uncommons risks may face undervaluation. One reason for this response may be feelings of personal inefficacy (Vastfjall et al., [2015](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0076)): as the number of lives rises, respondents may feel overwhelmed and doubt that their contribution can really make a difference to such a large problem. The ‘end of the world’ may be too much for people to act on; it may feel ~~disabling~~ [disempowering] rather than mobilizing. Relatedly, people may have a limited capacity to worry (Weber, [2006](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0079)), and thus may deflect problems so large that they would consume all of that capacity. A second reason for mass numbing may be the stronger public response to an identified individual – such as an identified victim or an identified villain. The public may be eager to save the baby who fell down the well, or the refugee child drowned on the beach, or the three whales stuck in the ice, but less willing to save a large and unidentified population of victims (Kogut and Ritov, [2005](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0038); Small and Loewenstein, [2005](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0067); Small, Loewenstein and Slovic, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0065)). Kogut and Ritov ([2005](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0038)) and Slovic ([2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0065)) report that WTP to save a single victim also increases if the victim is described in more detail, and even more if the victim is given a face. Vastfjall et al. ([2014](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0077)) find that compassion is highest for a single child, and may decline after just one. Slovic ([2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0065), p.79) quotes Mother Teresa: ‘If I look at the mass I will never act. If I look at the one, I will.’ These studies explain why charitable organizations try to feature a ‘poster child’ for a broader cause. But extreme mega‐catastrophic risks typically lack a single identified individual, unless rendered in fiction (e.g. a movie). The public may also be more eager to combat an identified villain than a faceless natural disaster or a ubiquitous social problem (Sunstein, [2007](https://onlinelibrary.wiley.com/doi/10.1111/1758-5899.12319#gpol12319-bib-0072), p. 63, on the ‘Goldstein effect’). This may help explain public outcry at villains highlighted in the news media, such as Osama Bin Laden and Saddam Hussein, compared with the apparently lesser public outcry regarding tsunamis (Indian Ocean 2006, killing 200,000 people; Japan 2011, killing 20,000 people), global climate change harming large populations, or large asteroids hitting the earth.

# 2AC

### X K

#### Their extinction link is the worst form of paternalism and whitewashes nuclear war---extinction would be anti-black.

Nicole Akoukou **Thompson 18**. Chicago-based creative writer. 4-6-2018. "Why I will not allow the fear of a nuclear attack to be white-washed." RaceBaitR. http://racebaitr.com/2018/04/06/2087/#

I couldn’t spare empathy for a white woman whose biggest fear was something that hadn’t happened yet and might not. Meanwhile, my most significant fears were in motion: women and men dying in cells after being wrongly imprisoned, choked out for peddling cigarettes, or shot to death during ‘routine’ traffic stops. I twitch when my partner is late, worried that a cantankerous cop has brutalized or shot him because he wouldn’t prostrate himself. As a woman of color, I am aware of the multiple types of violence that threaten me currently—not theoretically. Street harassment, excessively affecting me as a Black woman, has blindsided me since I was eleven. A premature body meant being catcalled before I’d discussed the birds and the bees. It meant being followed, whistled at, or groped. As an adult, while navigating through neighborhoods with extinguished street lights, I noticed the correlation between women’s safety and street lighting—as well as the fact that Black and brown neighborhoods were never as brightly lit as those with a more significant white population. I move quickly through those unlit spaces, never comforted by the inevitable whirl of red and blue sirens. In fact, it’s always been the contrary. Ever so often, cops approach me in their vehicle’s encouraging me to “Hurry along,” “Stay on the sidewalk,” or “Have a good night.” My spine stiffening, I never believed they endorsed my safety. Instead, I worried that I’d be accused of an unnamed accusation, corned by a cop who preys on Black women, or worse. A majority of my 50-minute bus ride from the southside of Chicago to the north to join these women for the birthday celebration was spent reading articles about citywide shootings. I began with a Chicago Tribute piece titled “33 people shot, seven fatally, in 13 hours,” then toppled into a barrage of RIP posts on Facebook and ended with angry posts about police brutality on Tumblr. You might guess, by the time I arrived to dinner I wasn’t in the mood for the “I can’t believe we’re all going to die because Trump is an idiot” shit. I shook my head, willing the meal to be over, and was grateful when the check arrived just as someone was asking me about my hair. My thinking wasn’t all too different from Michael Harriot’s ‘Why Black America Isn’t Worried About the Upcoming Nuclear Holocaust.” While the meal was partly pleasant, I departed thinking, “fear of nuclear demolition is just some white shit.” Sadly, that thought would not last long. I still vibe with Harriot’s statement, “Black people have lived under the specter of having our existence erased on a white man’s whim since we stepped onto the shore at Jamestown Landing.” However, a friend—a Black friend—ignited my nuclear paranoia by sharing theories about when it might happen and who faced the greatest threat. In an attempt to ease my friend’s fear, I leaned in to listen but accidentally toppled down the rabbit hole too. I forked through curated news feeds. I sifted through “fake news,” “actual news,” and foreign news sources. Suddenly, an idea took root: nuclear strike would disproportionately impact Black people, brown people, and low-income individuals. North Korea won’t target the plain sight racists of Portland, Oregon, the violently microaggressive liberals of the rural Northwest, or the white-hooded klansmen of Diamondhead, Mississippi. No, under the instruction of the supreme leader Kim Jong-un, North Korea will likely strike densely populated urban areas, such as Los Angeles, Chicago, Washington D.C., and New York City. These locations stand-out as targets for a nuclear strike because they are densely populated U.S. population centers. Attacking the heart of the nation or populous cities would translate to more casualties. With that in mind, it’s not lost on me that the most populous cities in the United States boast sizeable diverse populations, or more plainly put: Black populations. This shit stresses me out! There’s a creeping chill that follows me, a silent alarm that rings each time my Google alert chimes letting me know that Donald Trump has yet again provoked Kim Jong-Un, a man who allegedly killed his very own uncle. I’ve grown so pressed by the idea of nuclear holocaust that my partner and I started gathering non-perishables, candlesticks, a hand-crank radio, and other must-buy items that can be banked in a shopping cart. The practice of preparing for a nuclear holocaust sometimes feels comical, particularly when acknowledging that there has long been a war on Black people in this country. Blackness is bittersweet in flavor. We are blessed with the melanized skin, the MacGyver-like inventiveness of our foremothers, and our blinding brightness—but the anti-blackness that we experience is also blinding as well as stifling. We are stuck by rigged systems, punished with the prison industrial complex, housing discrimination, pay discrimination, and worse. We get side-eyes from strangers when we’re “loitering,” and the police will pull us over for driving “too fast” in a residential neighborhood. We get murdered for holding cell phones while standing in our grandmother’s backyard. The racism that strung up our ancestors, kept them sequestered to the back of the bus and kept them in separate and unequal schools still lives. It lives, and it’s more palpable than dormant. To me, this means one thing: Trump’s America isn’t an unfortunate circumstance, it’s a homecoming event that’s hundreds of years in the making, no matter how many times my white friends’ say, “He’s not my president.” In light of this homecoming, we now flirt with a new, larger fear of a Black genocide. America has always worked towards Black eradication through a steady stream of life-threatening inequality, but nuclear war on American soil would be swift. And for this reason I’ve grown tired of whiteness being at the center of the nuclear conversation. The race-neutral approach to the dialogue, and a tendency to continue to promote the idea that missiles will land in suburban and rural backyards, instead of inner-city playgrounds, is false. “The Day After,” the iconic, highest-rated television film in history, aired November 20, 1983. More than 100 million people tuned in to watch a film postulating a war between the Soviet Union and the United States. The film, which would go on to affect President Ronald Reagan and policymakers’ nuclear intentions, shows the “true effects of nuclear war on average American citizens.” The Soviet-targeted areas featured in the film include Higginsville, Kansas City, Sedalia, Missouri, as well as El Dorado Springs, Missouri. They depict the destruction of the central United States, and viewers watch as full-scale nuclear war transforms middle America into a burned wasteland. Yet unsurprisingly, the devastation from the attack is completely white-washed, leaving out the more likely victims which are the more densely populated (Black) areas. Death tolls would be high for white populations, yes, but large-scale losses of Black and brown folks would outpace that number, due to placement and poverty. That number would be pushed higher by limited access to premium health care, wealth, and resources. The effects of radiation sickness, burns, compounded injuries, and malnutrition would throttle Black and brown communities and would mark us for generations. It’s for that reason that we have to do more to foster disaster preparedness among Black people where we can. Black people deserve the space to explore nuclear unease, even if we have competing threats, anxieties, and worries. Jacqui Patterson, Director of the Environmental and Climate Justice Initiative, once stated: African American communities are disproportionately vulnerable to and impacted by natural (and unnatural) catastrophes. Our socio-economic vulnerability is based on multiple factors including our lack of wealth to cushion us, our disproportionate representation in lower quality housing stock, and our relative lack of mobility, etc.

#### Repping extinction and phrasing the impact as universal is good---AND, it functions as a lens through which other causes can be amplified.

Daniel **Cordle 17**. Associate Professor @ Nottingham Trent University School of Arts & Humanities. 2017. “The Politics of Vulnerability: Protest and Nuclear Literature.” Late Cold War Literature and Culture, Palgrave Macmillan UK, pp. 47–76. Crossref, doi:10.1057/978-1-137-51308-3\_3.

It is the argument of this book that 1980s nuclear texts constitute a political literature, but that their politics—even their nuclear politics—is neither uniform nor straightforward. Whilst we might reasonably infer from their books that many (but not all) writers were “against” the nuclear policies of both Soviet and, particularly (given it was more obviously within their remit to comment upon it), Western, governments, their opposition to these policies was frequently nebulous. Certainly, we are unlikely to find in nuclear literature the steps necessary to move from nuclear standoff to a world without nuclear weapons. While writers often expressed horror at what nuclear war might involve and sometimes drew attention to the absurdities of nuclear deterrence or civil defence, on the whole they did not advocate explicit ways to ameliorate the nuclear threat. Hence, although texts were involved in raising consciousness about the nuclear issues that became compelling in the 1980s, they usually eschewed particular policy positions. Nevertheless, a powerful effect of representing nuclear technology (particularly nuclear weapons, though also, to a lesser extent, potential hazards of nuclear power stations) was to intensify what I explore in this chapter as a politics of vulnerability. In part this is a profound and acute consciousness of vulnerability in the face of the nuclear threat: not simply awareness of the dangers of nuclear disaster, but, paradoxically, a sense of increasing and heightened insecurity the more the “protection” discourses, explored in Chapter 1, sought to stress the security provided by nuclear policy. So, for instance, it is clear that, far from providing assurance that one could ride out nuclear attack, civil defence preparations had the unintended effect for many people of increasing their awareness of their vulnerability to such an attack; similarly, for some (though not all) Britons, the arrival of US cruise missiles made the possibility of nuclear war both more visible and more likely, even though the missiles were intended to send a message of strength, increasing the sense of protection from Soviet attack. To this extent, the politics of vulnerability was a crisis of faith in the militaristic discourse of protection. It was a response to, and an articulation of, a feeling of intense insecurity. Fragility in the face of the overwhelming power both of nuclear missiles and of the nuclear state became a defining motif of political activism against nuclear weapons. By representing and exploring this vulnerability many nuclear fictions contextualised and contributed to debates about nuclear policy raging at the time. By offering visions of a nuclear world they provided, in a period of controversy and dissent about nuclear policy, material on which more overtly and conventionally political discourse could draw. Indeed, with the only available images and experience of actual atomic war being the film footage, photographs and testimony left from Hiroshima and Nagasaki (a terrible but in so many ways more limited experience than that threatened by global thermonuclear war), imaginative constructions of nuclear near futures were particularly important in furnishing the public with their sense of what was at stake in the Cold War. It is worth noting, too, the cross-fertilisation between these conventional fictions and other hypothetical nuclear futures. More factually inclined genres of futurology—scientists’ models of climatic consequences of multiple nuclear explosions, strategic planners’ predictions of the likely courses of nuclear war, civil servants’ plans for post-nuclear reconstruction and so forth—provided rich material for writers. The long list of scientists and other experts credited at the end of the BBC docudrama Threads (1984) shows how important such projections of nuclear futures were to novelist Barry Hines, who scripted the film,1 but even in less rigorously researched fictions ideas like nuclear winter (as Chapter 5 discusses) and government planning for post-nuclear society were crucial. The politics of nuclear texts are complicated immensely by the generally complex and multifaceted nature of 1980s nuclear politics more generally. With a few disturbing exceptions (for instance, those fundamentalist Christians who, if not necessarily welcoming nuclear war, nevertheless saw it as precipitating the Apocalypse through which the world would enter the end times prophesied by the Bible),2 no-one was “for” nuclear war per se. Hence, being “against” it hardly seemed like a radical position. If you were for nuclear armament it was almost certainly on the basis that you felt that it deterred attack and hence made nuclear war less likely. Being a nuclear protester, then, meant less that one was against nuclear war itself (though, of course, it included that) than that one more broadly contested nuclearism, defined by Andrew Hammond, as “the ideology that conceives nuclear technologies as a necessary adjunct of modernity.”3 This could mean a whole range of specific positions. Nuclear protesters might be against a particular aspect of nuclear policy (the decision to site new cruise missiles in Europe, for instance), they might call for their country to set an example by unilaterally disarming itself of nuclear weapons (as CND in Britain did), or by capping its stocks of those weapons at their current level (as the Freeze movement in the United States did), or they might urge greater global efforts toward multilateral disarmament. Alternatively (or as well), they might challenge weapons testing, either on the grounds of a generalised opposition to militarism or on the basis of its impact on a particular landscape and those occupying it. Such positions might or might not be part of a broader pacifist philosophy. In the distinct but related area of civilian nuclear power, protesters might contest nuclear energy in general, or simply be against a particular nuclear power plant planned for their vicinity. Often, the specific anti-nuclear position might not be precisely defined. Nuclear protest could be a generalised expression of outrage and fear, a nebulous desire to challenge the assumption that nuclear weapons were an inevitable part of contemporary experience. Frequently and significantly, too, nuclear protest was part of a much broader challenge to the status quo. Metonymically, nuclear weapons (or nuclear power, or a specific nuclear policy) often stood for a worldview, a set of assumptions and values, in opposition to which protesters more broadly defined themselves. As I noted in Chapter 1, E.P. Thompson’s call to “protest and survive” was a plea not only to oppose the specifics of nuclear policy, but to challenge a broader “degenerative logic” by formulating an “alternative logic, an opposition at every level of society”. Nuclear issues thus came to embody and concretise much broader societal conflicts and various alternative logics emerged. Hence, for many feminist campaigners, nuclear technology and militarism symbolised and encoded the destructive logics of patriarchy; for some environmentalists, nuclear technology was part of a generalised assault upon nature, a logic in which the planet was conceived as a resource for human exploitation; and for many campaigning on social issues on the left, the nuclear state embodied the logic of a hierarchical, authoritarian form of social organisation to which they were opposed. These broader visions are the subjects of Chapters 4, 5 and 6, which explore how alternative logics emerged to contest a degenerately nuclear one. However, it is important to note that such positions were not absolute: you could be a feminist and uninterested in nuclear issues; you could be an environmentalist and see nuclear power as a clean alternative to fossil fuels; and you could be for nuclear disarmament but on the political right (there were some Republican and Tory anti-nuclear campaigners, though nuclear protest tended to be a leftist position). We must, then, conceive of opposition to nuclearism not as singular and monolithic, but as embracing a plurality of potential positions. Nuclear literature—and film, music and other facets of nuclear culture— both reflected and constituted the broader discourse within which these various positions coalesced, even though it generally eschewed direct engagement with specifics like, say, the comparative benefits and drawbacks of unilateral and multilateral disarmament. Taken collectively the body of nuclear literature is, perhaps precisely because of its refusal to be tied to specific policy positions, deeply political. It is political partly in the way in which all literature is political: it reproduces, sometimes challenges, assumptions about how society operates; it reaffirms or contests roles and identities ascribed to particular people in particular situations. But its politics is also generated by the specific technologies with which it deals. By representing technologies imagined as world-ending, it sharpens our sense of the vulnerability of the human, understood corporeally (the fragility of individual bodies), environmentally (as a species within vaster natural systems) and even philosophically (as an ephemeral category of being). At its most radical it can challenge the status quo in such a way that our sense of who we are and of our place in the world is reconstituted. Such assaults on ideas of the human can, paradoxically, revitalise them even as they expose their limits. Nuclear literature frequently invokes the idea of a common, imperilled humanity, transcending political and geographical boundaries in order to demonstrate the futility and horror of nuclear disaster. Although such appeals are often rooted in localised conceptions of humanity (least generously, these could be seen as reinforcing myopically Western norms), the potency of the assertion of what we have in common, rather than what divides us, should not be lightly ignored.

## K

### 2AC—Framework

#### Vote aff if the plan’s implementation is net positive over the status quo or competitive alt⁠— the neg should held accountable for uniqueness concerns and consequences of their strategy:

#### First, competitive equity ⁠— mooting the 1AC rigs the game for the neg; any other interp is arbitrary and infinitely regressive

#### Second, education ⁠— rejoining the plan provides a stasis for clash; deliberation lacks value without discussions over applications.

Third, impact framing ⁠— weighing consequences forces responsible decision-making and solutions, otherwise voting neg is an ethical cop-out

### 2AC---Consequentialism

#### Use consequentialism---evaluating causal outcomes is most ethical. “You link, you lose” diverts political responsibility for atrocity---which turns the alternative.

Zanotti 17, \*Laura Zanotti, Associate Professor Department of Political Science, Virginia Tech, (January 13th, 2017, “Reorienting IR: Ontological Entanglement, Agency, and Ethics,” International Studies Review)

Furthermore, if we accept Barad’s position that we are “of the world” and not above the world, theorizing looks more like a practice endowed with performative political effects than a quest for the discovery of the “true nature” of what exists. Therefore, intellectual undertakings are a form of political agency and come with great responsibility. Such responsibility requires the need for exercising prudence in making truth statements about what is universally good or naturally inevitable. Assumptions about linearity of causal relations, universal laws of history, or ontological properties of entities yield two problematic effects. On the one hand, they may stifle political imagination; on the other hand, they could encourage actions based upon abstract prescriptions rather than upon careful diagnosis of the forces that obtain in the situation at hand. In an entangled world, there are no externalities. Arguments that divert responsibility by basing political choices upon abstract principles or aspirations and, as a result, that treat what happens on the ground as “unintended consequences” or “collateral damage,” are ethically thin and politically dangerous.

In fact, unintended consequences may well be the result of irresponsible political decision-making that does not include a competent assessment of the practical configurations that constitute the context of action and the means necessary to achieve stated goals. Such attitudes, Amoureux and Steele (2014) have suggested, have led to disastrous initiatives, such as the Bush administration’s invasion of Iraq. Likewise, Kennedy (2006) has shown that the bland rhetoric of jus in bello that provides standardized criteria regarding the number of acceptable civilian casualties (conveniently called collateral damage) produces the effect of diverting responsibility from those who conduct war while assuaging their consciences concerning the injuries and deaths their choices are inflicting. Kennedy (2004) has also shown that as a result of the preference for universal normativity, the human rights profession (which he calls “the invisible college”) is more concerned with protecting abstract norms than with acting politically so as to devise viable solutions to specific problems.

Universal norms and bureaucratic routines play a major role in prescribing and justifying UN peacekeeping interventions. As Jean Marie Guehe ́nno argued more than a decade ago, strategies of international intervention based upon assumptions of causal linearity and invariance may amount to hubris. Norms and rules can also offer grounds for appeasement. The massacres that occurred in Rwanda and Srebrenica in the 1990s provide examples of how, by uncritically following institutionalized rules, United Nations peacekeepers permitted atrocities. UN employees are not cold-blooded monsters or extremely callous individuals. They follow norms and rules, key examples of which include the principle of “impartiality,” Security Council mandates, and “rules of engagement.” By doing so, however, they have often fallen short of considering the possible consequences of decisions in specific situations. The United Nations’ failure to take action to prevent the Rwanda and Srebrenica genocide testifies to the fact that following universal norms (i.e., the imperative to preserve impartiality) and bureaucratic reasoning (i.e., the rules of engagement prescribing not to intervene to disarm any party of the conflict) set the stage for avoiding a careful assessment of what was at stake on the eve of the massacres. These ways of reasoning also appeased consciences for not making decisions accountable to the people in danger (Zanotti 2014).

### 2AC---Util

#### Weigh impacts using expected value, or magnitude times probability---it’s the only to ethically account for the underappreciated risk of high-magnitude threats.

Harris 17, \*John Harris is Politico’s editor-in-chief and author of The Survivor: Bill Clinton in the White House; \*Bryan Bender is Politico’s national security editor and author of You Are Not Forgotten. Both Harris and Bender covered the Pentagon during the tenure of Secretary of Defense William J. Perry; (January 6th, 2017, “Bill Perry Is Terrified. Why Aren’t You?”, https://www.politico.com/magazine/story/2017/01/william-perry-nuclear-weapons-proliferation-214604/)

And there’s one other difference from the Cold War: Americans no longer think about the threat every day.

Nuclear war isn’t the subtext of popular movies, or novels; disarmament has fallen far from the top of the policy priority list. The largest upcoming generation, the millennials, were raised in a time when the problem felt largely solved, and it’s easy for them to imagine it’s still quietly fading into history. The problem is, it’s no longer fading. “Today, the danger of some sort of a nuclear catastrophe is greater than it was during the Cold War,” Perry said in an interview in his Stanford office, “and most people are blissfully unaware of this danger.”

It is a turn of events that has an old man newly obsessed with a question: Why isn’t everyone as terrified as he is?

Perry’s hypothesis for the disconnect is that much of the population, especially that rising portion with no clear memories of the first Cold War, is suffering from a deficit of comprehension. Even a single nuclear explosion in a major city would represent an abrupt and possibly irreversible turn in modern life, upending the global economy, forcing every open society to suspend traditional liberties and remake itself into a security state. “The political, economic and social consequences are beyond what people understand,” Perry says. And yet many people place this scenario in roughly the same category as the meteor strike that supposedly wiped out the dinosaurs—frightening, to be sure, but something of an abstraction.

So Perry regards his last great contribution of a 65-year career as a crusade to stimulate the public imagination—to share the vivid details of his own nightmares. He is doing so in a recent memoir, in a busy public speaking schedule, in half-empty hearing rooms on Capitol Hill, and increasingly with an online presence aimed especially at young people. He has enlisted the help of his 28-year-old granddaughter to figure out how to engage a new generation, including [through a series of virtual lectures](https://lagunita.stanford.edu/courses/course-v1:Engineering+NuclearBrink+Fall2016/about) known as a MOOC, or massive open online course. He is eagerly signing up for “Ask Me Anything” chats on Reddit, in which some people still confuse him with William “The Refrigerator” Perry of NFL fame. He posts his ruminations on YouTube, where they give Katy Perry no run for her money, even as the most popular are closing in on 100,000 views. One of the nightmare scenarios Perry invokes most often is designed to roust policymakers who live and work in the nation’s capital. The terrorists would need enriched uranium. Due to the elaborate and highly industrial nature of production, hard to conceal from surveillance, fissile material is still hard to come by—but, alas, far from impossible. Once it is procured, with help from conspirators in a poorly secured overseas commercial power centrifuge facility, the rest of the plot as Perry imagines it is no great technological or logistical feat. The mechanics of building a crude nuclear device are easily within the reach of well-educated and well-funded militants. The crate would arrive at Dulles International Airport, disguised as agricultural freight. The truck bomb that detonates on Pennsylvania Avenue between the White House and Capitol instantly kills the president, vice president, House speaker, and 80,000 others. Where exactly is your office? Your house? And then, as Perry spins it forward, how credible would you find the warnings, soon delivered to news networks, that five more bombs are set to explode in unnamed U.S. cities, once a week for the next month, unless all U.S. military personnel overseas are withdrawn immediately? If this particular scenario does not resonate with you, Perry can easily rattle off a long roster of others—a regional war that escalates into a nuclear exchange, a miscalculation between Moscow and Washington, a computer glitch at the exact wrong moment. They are all ilks of the same theme—the dimly understood threat that the science of the 20th century is set to collide with the destructive passions of the 21st. “We’re going back to the kind of dangers we had during the Cold War,” Perry said. “I really thought in 1990, 1991, 1992, that we left those behind us. We’re starting to re-invent them. We and the Russians and others don’t understand that what we’re doing is re-creating those dangers—or maybe they don’t remember the dangers. For younger people, they didn’t live through those dangers. But when you live through a Cuban Missile Crisis up close and you live through a false alarm up close, you do understand how dangerous it is, and you believe you should do everything you could possibly do to [avoid] going back.” For people who follow the national security priesthood, the dire scenarios are all the more alarming for who is delivering them. Through his long years in government Perry invariably impressed colleagues as the calmest person in the room, relentlessly rational, such that people who did not know him well—his love of music and literature and travel—regarded his as a purely analytical mind, emotion subordinated to logic and duty. Starting in the 1950s as a technology executive and entrepreneur in some of the most secretive precincts of the defense industry, he gradually took on a series of high-level government assignments that gave him one of the most quietly influential careers of the Cold War and its aftermath. Fifteen years before serving as Bill Clinton’s secretary of defense, Perry was the Pentagon official in charge of weapons research during the Carter administration. It was from this perch that he may have had his most far-reaching impact, and left him in some circles as a legendary figure. He used his office to give an essential push to two ideas that transformed warfare over the next generation decisively to American advantage. One idea was stealth technology, which allowed U.S. warplanes to fly over enemy territory undetected. The other was precision-guided munitions, which allowed U.S. bombs to land with near-perfect accuracy. During the Clinton years, Perry so prized his privacy that he initially turned down the job of Defense secretary—changing his mind only after Clinton and Al Gore pleaded with him that the news media scrutiny wouldn’t be so bad. The reputation he built over a life in the public sphere is starkly at odds with this latest highly impassioned chapter of Perry’s career. Harold Brown, who also is 89, first recruited Perry into government, and was Perry’s boss while serving as Defense secretary in the Carter years. “No one would have thought of Bill Perry as a crusader,” he says. “But he is on a crusade.” Lee Perry, his wife of nearly 70 years, is living in an elder care facility, her once buoyant presence now lost to dementia. Perry himself, lucid as ever, has seen his physical frame become frail and stooped. Rather than slowing his schedule, he has accelerated his travels to plead with people to awaken to the danger. A trip to Washington includes a dinner with national security reporters and testimony on Capitol Hill. Back home in California, he’s at the Google campus to prod engineers to contemplate that their world may not last long enough for their dreams of technology riches to come true. He’s created an advocacy group, [the William J. Perry project](http://www.wjperryproject.org/), devoted to public education about nuclear weapons. He’s enlisted both his granddaughter and his 64-year-old daughter, Robin Perry, in the cause. But if his profile is rising, his style is essentially unchanged. He is a man known for self-effacement, trying to shape an era known for relentless self-promotion, a voice of quiet precision in a time of devil-take-the-hindmost bombast. The rational approach to problem-solving that propelled his career and won him adherents and friends in both political parties and even among some of America’s erstwhile enemies remains his guide—in this case, by endeavoring to calculate the possibilities and probabilities of a terrorist attack, regional nuclear war, or horrible miscalculation with Russia. “I want to be very clear,” he said. “I do not think it is a probability this year or next year or anytime in the foreseeable future. But the consequence is so great, we have to take it seriously. And there are things to greatly lower those possibilities that we’re simply not doing.” \*\*\* Perry really did not expect he would have to write this chapter of his public life. His official career closed with what seemed then an unambiguous sense of mission accomplished. By the time he arrived in the Pentagon’s top job in 1994, the Cold War was over, and the main item on the nuclear agenda seemed to be cleaning up no-longer-needed arsenals. As defense secretary, Perry stood with his Russian counterpart, Pavel Grachev, as they jointly blew up missile silos in the former Soviet Union and tilled sunflower seeds in the dirt. “I finally thought by the end of the ‘80s we lived through this horrible experience and it’s behind us,” Perry said. “When I was secretary, I fully believed it was behind us.” After leaving the Pentagon, he accepted an assignment from Clinton to negotiate an end to North Korea’s nuclear development program—and seemed agonizingly close to a breakthrough as the last days of the president’s term expired. Now, he sees his grandchildren inheriting a planet possibly more dangerous than it was during his public career. No one could doubt that the Sept. 11 terrorists would have gladly used nuclear bombs instead of airplanes if they had had them, and it seems only a matter of time until they try. Instead of a retreating threat in North Korea, that fanatical regime now possesses as many as eight nuclear bombs, and is just one member of a growing nuclear club. Far from a new partnership with Russia, Vladimir Putin has given old antagonisms a malevolent new face. American policymakers talk of spending up to $1 trillion to modernize the nuclear arsenal. And now comes Donald Trump with a long trail of statements effectively shrugging his shoulders about a world newly bristling with bombs and people with reasons to use them. Perry knew Hillary Clinton well professionally, and says he admired both her and Bill Clinton for their professional judgment though he was never a personal intimate of either. He was prescient before the election in expressing skepticism about how voters would respond to the dynastic premise of the Clinton campaign—a healthy democracy should grow new voices—but was as surprised as everyone else on Election Day. Donald Trump was not the voice he was looking for, to put it mildly, but he has responded to the Trump cyclone with modulated restraint. Perry said he assumes his most truculent rhetoric isn’t serious, the utterances of a man who assumed his words were for political effect only and had no real consequences. Now that they do, Perry is hoping to serve as a kind of ambassador to rationality. He said he is hoping for audiences soon, with Trump if the incoming president will see him, and certainly Trump’s national security team, which includes several people Perry knows, including Defense Secretary nominee James Mattis. There is little doubt the message if the meeting comes. “We are starting a new Cold War,” he says. “We seem to be sleepwalking into this new nuclear arms race. … We and the Russians and others don’t understand what we are doing.” “I am not suggesting that this Cold War and this arms race is identical to the old one,” Perry added. “But in many ways, it is just as bad, just as dangerous. And totally unnecessary.” \*\*\* Perry had been brooding over the question for a year. It was in the early 1950s, he was still in his 20s, and the subject was partial differential equations—the topic of his Ph.D. thesis. A particular problem had been absorbing him, day in and day out, hours and hours on end. Then, out of nowhere, a light came on. Math for Perry represented analytical discipline, a way of achieving mastery not only over numerical problems but any hard problem, by breaking it down into essential parts, distilling complexity into simplicity. | Photo via the William J. Perry Project “I woke up in the middle of the night, and it was all there,” Perry recalled. “It was all there, and I got out of bed and sat down. The next two or three hours, I wrote my thesis, and from the first word I wrote down, I never doubted what the last word was going to be: It was a magic moment.” The story is a reminder of something definitional about Bill Perry. Before he became in recent years an apostle of disarmament, before he sat atop the nation’s war-making apparatus in the 1990s, before he was the executive of a defense contractor specializing in the most complex arenas of Cold War surveillance in the 1960s, he was a young man in love with mathematics. In those days, Perry had planned on a career as a math professor. His attraction to math was not merely practical, in the way that engineers or architects rely on math. The appeal was just as much aesthetic, in ways that people who are not numbers people—political life tends to be dominated by word people—cannot easily comprehend. To Perry’s mind, there was a purity to math, a beauty to the patterns and relationships, that was not unlike music. Math for Perry represented analytical discipline, a way of achieving mastery not only over numerical problems but any hard problem, by breaking it down into essential parts, distilling complexity into simplicity. This trait was why Pentagon reporters in the 1990s liked spending time around Perry. When most public officials are asked a question, one studies the transcript later to decipher a succession of starts and stalls, sentence fragments and ellipses, that cumulatively convey an impressionistic sense of mind but no clear fixed meaning. Perry’s sentences, by contrast, always cut with surgical precision. It was one reason Clinton White House officials often held their breath when he gave interviews—Perry might make news by being clear on subjects, such as ethnic warfare in the Balkans or a nuclear showdown in North Korea, that the West Wing preferred to try to fog over.

“I’ve never been able to attack a policy problem with a mathematical formula,” he recalled, “but I have always believed that the rigorous way of thinking about a problem was good. It separated the fact from the bullshit, and that’s very important sometimes, to separate what you can from what you would hope you can do.”

Just how high is the risk? The answer is ultimately unknowable. Perry’s point, though, is that it’s a hell of a lot higher than you think. | M. Scott Mahaskey/POLITICO

Perry wishes more people were familiar with the concept of “expected value.” That is a statistical way of understanding events of very large magnitude that have a low probability. The large magnitude event could be something good, like winning a lottery ticket. Or it could be something bad, like a nuclear bomb exploding. Because the odds of winning the lottery are so low, the rational thing is to save your money and not buy the ticket. As for a nuclear explosion, by Perry’s lights, the consequences are so grave that the rational thing would be for people in the United States and everywhere to be in a state of peak alarm about their vulnerability, and for political debate to be dominated by discussion of how to reduce the risk.

And just how high is the risk? The answer of course is ultimately unknowable. Perry’s point, though, is that it’s a hell of a lot higher than you think.

Perry invites his listeners to consider all the various scenarios that might lead to a nuclear event. “Mathematically speaking, you add those all together in one year it is still just a possibility, not a probability,” he reckons. “But then you go out ten, twenty years and each time this possibility repeats itself, and then it starts to become a probability. How much time we have to get those possibility numbers lower, I don’t know. But sooner or later the odds are going to get us, I am afraid.”

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Almost uniquely among living Americans, Bill Perry has actually faced down the prospect of nuclear war before—twice. In the fall of 1962, Bill Perry was 35, father of five young children, living in the Bay Area and serving as director of Sylvania’s Electronic Defense Laboratories—driving his station wagon to recitals in between studying missile trajectories and the radius of nuclear detonations. Where he resided was not then called Silicon Valley, but the exuberance and spirit of creative possibility we now associate with the region was already evident. The giants then were Bill Hewlett and David Packard, men Perry deeply admired and wished to emulate in his own business career. The innovation engine at that time, however, was not consumer technology; it was the government’s appetite for advantage in a mortal struggle against a powerful Soviet foe. Perry was known as a star in the highly complex field of weapons surveillance and interpretation. So it was not a surprise, one bright October day, for Perry to get a call from Albert “Bud” Wheelon, a friend at the Central Intelligence Agency. Wheelon said he wanted Perry in Washington for a consultation. Perry said he’d juggle his schedule and be there the next week. “No,” Wheelon responded. “I need to see you right away.” Perry caught the red-eye from San Francisco, and went straight to the CIA, where he was handed photographs whose meaning was instantly clear to him. They were of Soviet missiles stationed in Cuba. For the next couple weeks, Perry would stay up past midnight each evening poring over the latest reconnaissance photos and help write the analysis that senior officials would present the next morning to President Kennedy. Perry experienced the crisis partly as ordinary citizen, hearing Kennedy on television draw an unambiguous line against Soviet missiles in this hemisphere and promising that any attack would be met with “a full retaliatory response.” But he possessed context, about the capabilities of weapons and the daily state of play in the crisis, that gave him a vantage point superior to that of all but perhaps a few dozen people. “I was part of a small team—six or eight people,” he recounted of those days 54 years earlier. “Half of them technical experts, half of them intelligence analysts, or photo interpreters. It was a minor role but I was seeing all the information coming in. I thought every day when I went back to the hotel it was the last day of my life because I knew exactly what nuclear weapons could do. I knew it was not just a lot of people getting killed. It was the end of civilization and I thought it was about to happen.” Left: A January 1963 aerial photo showing that the Soviets had disbanded medium- and intermediate-range ballistic missile sites in Cuba. Right: Soviet freighter Polzunov (top) loaded with nuclear missiles removed from Cuba, is escorted by American destroyer Vesole outside Cuban waters on trek back to Russia near end of Cuban Missile Crisis. | Defense Department; Carl Mydans/The LIFE Picture Collection/Getty Images It was years later that Perry, like other more senior participants in the crisis, learned how right that appraisal was. Nuclear bombs weren’t only heading toward Cuba on Soviet ships, as Kennedy believed and announced to Americans at the time. Some of them were already there, and local commanders had been given authority to use them if Americans launched a preemptive raid on Cuba, as Kennedy was being urged, goaded even, by Air Force Gen. Curtis LeMay and other military commanders. At the same time, Soviet submarines were armed and one commander had been on the verge of launching them until other officers on the vessel talked him out of it. Either event would have in turn sent U.S. missiles flying. The Cuban Missile Crisis recounting is one of the dramatic peaks in “My Journey on the Nuclear Brink,” the memoir Perry published last fall. It is a book laced with other close calls—like November 9, 1979, when Perry was awakened in the middle of the night by a watch officer at the North American Aerospace and Defense Command (NORAD) reporting that his computers showed 200 Soviet missiles in flight toward the United States. For a frozen moment, Perry thought: This is it—This is how it ends. The watch officer soon set him at ease. It was a computer error, and he was calling to see whether Perry, the technology expert, had any explanation. It took a couple days to discover the low-tech answer: Someone had carelessly left a crisis-simulation training tape in the computer. All was well. But what if this blunder had happened in the middle of a real crisis, with leaders in Washington and Moscow already on high alert? The inescapable conclusion was the same as it was in 1962: The world skirting nuclear Armageddon as much by good luck as by skilled crisis management. Perry is part of a distinct cohort in American history, one that didn’t come home with the large-living ethos of the World War II generation, but took responsibility for cleaning up the world that the war bequeathed. He was a 14-year-old in Butler, Pennsylvania when he heard the news of the Pearl Harbor attack in a friend’s living room, and had the disappointed realization that the war might be over by the time he was old enough to fight in it. That turned out to be true—he was just shy of 18 at war’s end—a fact that places Perry in what demographers have called the “Silent Generation,” too young for one war but already middle-aged by the time college campuses erupted over Vietnam. Like many in his generation, Perry was not so much silent as deeply dutiful, with an understated style that served as a genial, dry-witted exterior to a life in which success was defined by how faithfully one met his responsibilities. Perry said he became aware, first gradually and over time profoundly, of the surreal contradictions of his professional life. His work—first at Sylvania and then at ESL, a highly successful defense contracting firm he co-founded in 1963—was relentlessly logical, analyzing Soviet threats and intentions and coming up with rational responses to deter them. But each rational move was part of a supremely irrational dynamic—“mutually assured destruction”—that placed the threat of massive casualties at the heart of America’s basic strategic thinking. It was the kind of framework in which policymakers could accept that a mere 25 million people dead was good news. Also the kind that in one year alone led the United States to produce 8,000 nuclear bombs. By the end, the Cold War left the planet with about 70,000 bombs ([a total that](https://www.armscontrol.org/factsheets/Nuclearweaponswhohaswhat) is now down to about 15,500). “I think probably everybody who was involved in nuclear weapons in those days would see the two sides of it,” Perry recalls, “the logic of deterrence and the madness of deterrence, and there was no mistake, I think, that the acronym was MAD.” \*\*\* Perry has been at the forefront of a movement that he considers the sane and only alternative, and he has joined forces with other leading Cold Warriors who in another era would likely have derided their vision as naïve. In January 2007, he was a co-author of a remarkable commentary that ran on the op-ed page of the Wall Street Journal. It was signed also by two former secretaries of state, George Schulz and Henry Kissinger and by Sam Nunn, a former chairman of the Senate Armed Services Committee—all leading military hawks and foreign policy realists who came together to argue for something radical: that the goal of U.S. policy should be not merely the reduction and control of atomic arms, it should be the ultimate elimination of all nuclear weapons. This sounded like gauzy utopianism, especially bizarre coming from supremely pragmatic men. But Perry and the others always made clear they were describing a long-term ideal, one that would only be achieved through a series of more incremental steps. The vision was stirring enough that it was endorsed by President Obama in his opening weeks in office, in a March 2009 address in Prague. In retrospect, Obama’s speech may have been the high point for the vision of abolition. “A huge amount of progress was made,” recalled Shultz, now 93. “Now it is going in the other direction.” “We have less danger of an all-out war with Russia,” in Nunn’s view. “But we have more danger of some type of accident, miscalculation, cyber interference, a terrorist group getting a nuclear weapon. It requires a lot more attention than world leaders are giving it.” Perry’s goal now is much more defensive than it was just a few years ago—halting what has become inexorable momentum toward reviving Cold War assumptions about the central role of nukes in national security. More recently he’s added yet another recruit to his cause: California Governor Jerry Brown. Brown, now 78, met Perry a year ago, after deciding that he wanted to devote his remaining time in public service mainly to what he sees as civilization’s two existential issues, climate change and nuclear weapons. Brown said he became fixated on spreading Perry’s message after reading his memoir: He recently gave a copy to President Obama and is trying to bend the ear of others with influence in Washington. If Bill Perry has a gift for understatement, Brown has a gift for the theatrical. In an interview at the governor’s mansion in Sacramento, he wonders why everyone is not paying attention to his new friend and his warnings for mankind. “He is at the brink! At the brink! Not WAS at the brink—IS at the brink,” Brown exclaimed. “But no one else is.” A California governor can have more influence, at least indirectly, than one might think, due to the state’s outsized role in policy debates and the fact that the University of California’s Board of Regents helps manage some of the nation’s top weapons laboratories, which study and design nuclear weapons. Brown, who was a vocal critic in the 1980s of what he called America's "nuclear addiction," reviewed Perry's recent memoir in the New York Review of Books, and said he is determined to help his new friend spread his message. “Everybody is, 'we are not at the brink,' and we have this guy Perry who says we are. It is the thesis that is being ignored." Even if more influential people wake up to Perry’s message—a nuclear event is more likely and will be more terrible than you realize—a hard questions remains: Now what? This is where Perry’s pragmatism comes back into play. The smartest move, he thinks, is to eliminate the riskiest part of the system. If we can’t eliminate all nukes, Perry argues, we could at least eliminate one leg of the so-called nuclear triad, intercontinental ballistic missiles. These are especially prone to an accidental nuclear war, if they are launched by accident or due to miscalculation by a leader operating with only minutes to spare. Nuclear weapons carried by submarines beneath the sea or aboard bomber planes, he argues, are logically more than enough to deter Russia.

The problem, he knows, is that logic is not necessarily the prevailing force in political debates. Psychology is, and this seems to be dictating not merely that we deter a Russian military force that is modernizing its weapons but that we have a force that is self-evidently superior to them.

It is an argument that strikes Perry as drearily familiar to the old days. Which leads him the conclusion that the only long-term way out is to persuade a younger generation to make a different choice.

His granddaughter, Lisa Perry, is precisely in the cohort he needs to reach. At first she had some uncomfortable news for her grandfather: Not many in her generation thought much about the issue.

“The more I learned from him about nuclear weapons the more concerned I was that my generation had this massive and dangerous blind spot in our understanding of the world,” she said in an interview. “Nuclear weapons are the biggest public health issue I can think of.”

But she has not lost hope that their efforts can make a difference, and today she has put her graduate studies in public health on hold to work full time for the Perry Project as its social media and web manager. “It can be easy to get discouraged about being able to do anything to change our course,” she said. “But the good news is that nuclear weapons are actually something that we as humans can control...but first we need to start the conversation.”

It was with her help that Perry went on Reddit to [field questions](https://www.reddit.com/r/IAmA/comments/4a0ga4/iam_william_j_perry_former_secretary_of_defense/) ranging from how his PhD in mathematics prepared him to what young people need to understand.

“As a 90s baby I never lived in the Cold War era,” wrote one participant, with the Reddit username BobinForApples. “What is one thing today's generations will never understand about life during the Cold War?”

Perry answered, as SecDef19: “Because you were born in the 1990s, you did not experience the daily terror of ‘duck and cover’ drills as my children did. Therefore the appropriate fear of nuclear weapons is not part of your heritage, but the danger is just as real now as it was then. It will be up to your generation to develop the policies to deal with the deadly nuclear legacy that is still very much with us.”

For the former defense secretary, the task now is to finally—belatedly—prove Einstein wrong. The physicist said in 1946: “The unleashed power of the atom has changed everything save our modes of thinking and we thus drift toward unparalleled catastrophe.”

In Perry’s view the only way to avoid it is by directly contemplating catastrophe—and doing so face to face with the world’s largest nuclear power, Russia, as he recently did in a forum in Luxembourg with several like-minded Russians he says are brave enough to speak out about nuclear dangers in the era of Putin.

### Perm ⁠— 2AC

#### Perm: do both

#### Perm do the plan and the alt in all non-mutually exclusive instances

#### Prevent DAs to the perm

Wilderson 20, (Frank B. Wilderson III, 7-20-2020, “Part III: Afropessimism and rituals of anti-Black violence,” Interview with Zamansele Nsele, Mail and Guardianhttps://mg.co.za/friday/2020-07-02-part-iii-afropessimism-and-rituals-of-anti-black-violence/)

At a simple level I do yoga, I exercise and I take cannabis for my cancer — it’s legal in some states and I’m fortunate to have a doctor who prescribes it. I consult a Babaaláwo, a Voudon priest similar to what you call a sangoma. I think the real answer to your question is that I don’t believe that Afropessimism is an emotional pessimism. I think that it has been mischaracterised as an emotional pessimism. It is a pessimism of the intellect, but an optimism of the will. Will being the Black movement on the ground: what we’re seeing in the States, in the streets, and what we’re seeing here. It is pessimistic about the emancipatory claims made by Marxism, pessimistic about the emancipatory claims made by non-Black feminism, pessimistic about the emancipatory claims postcolonialism makes, pessimistic about the emancipatory claims of indigenous thought. Afropessimism is not pessimistic about Black folks’ capacity to set it off. If we understand this, then we can see Afropessimism itself as a form of care. It gives us the power to pose the question that we were heretofore denied. And the power to pose the question is the greatest power of all. It gives us explanatory power at the level of meta-critique. We can take down our interlocutors by turning their assumptive logic inside out. It’s not integrationist. It’s not Afrocentrist. But nor is Afropessimism a refuge for other people’s hopes and dreams. It gives us the power to struggle alongside people who are fighting for their sovereignty, while at the same time ridiculing the puniest of such demands. We have no sovereign selves to be restored. That’s what makes us so fierce. What it says to Black youth in South Africa and what it says to Black youth in North America, what it says to Black youth in South America, and in Europe — it says that nothing should shackle your imagination. You can feel joy when a police station burns. It frees our imagination to think a Black thought out loud; to be neither fearful nor ashamed of our pent up desire for the end of the world. We exist in a world that says, at every turn, we don’t exist. A world that tells us, to paraphrase Fanon, “Turn white or disappear”; a world that pits our unconscious against us. “What do you do with an unconscious that appears to hate you”? A world that says we must always atone for our presence — not our actions but our presence. Afropessimism makes no such moral judgments. You don’t have to feel guilty if you hate the United States, or Europe, just because you call it your home. Afropessimism gives you permission to wallow in the contradictions. Afropessimism listens to the symptoms of your rage; it listens to your imagination at those rare moments when it is not shackled to onerous tasks of making your desire make sense to non-Black people. It says free your rage, free your joy, free the joy in rage, and free the rage in joy, for you, Black people are the truth of the world.

#### If it competes, case is a DA because that means the alt can’t solve cyber innovation

### AT: Humanism

**Humanism is key to revolution and changing the liminalization of blackness – statistical studies prove every revolution requires demands for humanity and justice AND humanity is a *process*, not an attribute – demands for equality, liberty, and justice *remake* humanity.**

Drucilla **CORNELL** Poli Sci, Women’s Studies & Comparative Lit @ Rutgers **’14** “Fanon Today” in *The Meanings of Rights: the philosophy and social theory of human rights* p.  127-134

Does that mean that Fanon completely rejected Hegel, and that in a certain sense, as Arendt argues, it is the violent confrontation with death that creates the “brotherhood,” which according to Arendt’s critique would inevitably lead to a “dead end”? The answer, as I have already suggested, is that freedom involves violent struggle because it is the only way to bring to life a truly social world in which the dialectic of recognition and reciprocity would be something other than empty hypocritical phrases mouthed by whites who want to keep blacks in their place. But is there some abstract definition of freedom, or of what it means to be fully human in Fanon? Yes, there is certainly the emphasis on the centrality of freedom, but what it means to be free and what it means to be human is itself a process.

I have already suggested that for Fanon national liberation is inseparable from the creation of a new species of the human, beyond the imposed living death on the colonized within colonialism. But the nation, here, is the coming together of the people to declare their independence through the destruction of colonialism and through the mobilization of new forms of participatory democracy which include, and must include for Fanon, the complete end of economic and social conditions of exploitation. Therefore, there can be no coming together of the people simply as a political movement, without a challenge to economic oppression, and this is where Fanon profoundly disagreed with some of the African leaders in the 1960s, like Léopold Senghor, who insisted that the political comes first, and that economic transformation could wait until another day. The people coming together, then, must not only create participatory modes of democratic mobilization, which demands a changed subjectivity for those who had been brutally robbed of their land. The people coming together must also demand the return of land, not simply because it has been stolen, but because without land, human beings are unable to live and control their conditions of production in common. As Fanon writes:

For a colonized people, the most essential value, because it is the most meaningful, is first and foremost the land: the land, which must provide bread and, naturally, dignity. But this dignity has nothing to do with “human” dignity. The colonized subject has never heard of such an ideal.10 Why does Fanon put “human” in quotation marks? It should be clear by now that, for Fanon, the question of man, or the human, is absolutely inseparable from the question of revolutionary nationalism, but in the specific sense I have described above. The mutated new “species,” the new human world in which we might live together, does not grow out of a set of metaphysical commitments. It is, instead, rooted in revolution, and therefore, it is a completely different form of humanism than those that are rooted in the “armored cosmopolitanism,” to use Paul Gilroy’s telling phrase, that is integral to current human rights discourse. But Fanon always considered this “nationalism” a mobilizing of the people as part of a pan-Africanist, transnational struggle.

Philosopher Étienne Balibar has argued that the inextricably linked notions of “man” and the subject are inseparable from the history of revolution, and particularly, a human subject that asserts “equaliberty” as the basis for belonging together as citizens. Balibar credits Kant for the idea that the question of man can only be given an answer within the practical horizon of cosmopolitical belonging of a particular view of the world citizen:

To ask “What is Man?” for Kant is to ask a concrete question, a question which is therefore more fundamental than any other, because it immediately concerns the experience, knowledge and practical ends of Man as a citizen of the world. Indeed the Kantian question already involves and predetermines a formal answer: “Man” is a (the) citizen of the world; his “essence” is nothing other than the horizon within which all the determinations of that universal “citizenship” must fall. The only thing that remains to do, then, is to elaborate and clarify the meaning of all this.11

Balibar’s originality is to connect this philosophical question directly with the question of revolution, equaliberty, and the citizen-subject. But many have rightfully critiqued – and Balibar would be one of them – the Kantian horizon of the cosmopolitical world, because it naively runs up against the brutal imperialism of what Balibar calls “real universality.” It is important to add here that Balibar’s re-interpretation of the politics of the rights of man and the citizen-subject should not be confused with a defense of human rights as such defenses have recently come to be understood, from the 1970s forward, namely as a set of moral claims, “as entitlements that might contradict the sovereign nation-state from above and outside rather than serve as its foundation.”12 Even in Kant, the cosmopolitical horizon was one of perpetual peace between republics. It was not a moral discourse that was meant to replace the struggle to achieve a republic in the first place. Thus, it is a serious misinterpretation of Balibar to consider him a defender of human rights in the current sense of the term. Instead, Balibar is a defender of the meaning of “man” as a practical philosophical question, inseparable from revolutionary conceptions of the citizen-subject. Even if we reject the content of Kant’s cosmopolitical horizon, then, perhaps we need not and should not reject the fundamental insight of Balibar, but recast it in relation to Fanon’s own understanding of why the national revolution in Africa can never simply be national, nor even pan-Africanist – although it must be that as well – but always implies the ethical and political horizon of a radically mutated humanity that grows out of revolutionary struggle.

Sylvia Wynter, in her own writing on Fanon,13 has argued that what she has called “the episteme of man” that developed out of the Renaissance in Europe necessarily “liminalizes” the damned of the earth, by which she means not only the rendering of the other as black but as blackness itself as a category of the chaotic and the irrational. A full discussion of Wynter is unfortunately beyond the parameters of this short chapter. However, the significance of what she calls the “afterman” involves a powerful critique, not only of Nietzsche’s Übermensch or other powerful critiques of the episteme of man, such as that of Michel Foucault, in the name of a new socio-poesis, or in Fanon’s words, radical mutation of the human. For Wynter – and this is her interpretation of Fanon – we have yet to begin the history of the human, because it has been completely captured by the episteme of man, and therefore we do not need to reject humanism, but rethink it within the context of revolutionary struggle.

As Fanon writes:

Among colonized peoples there seems to exist a kind of illuminating and sacred communication as a result of which each liberated territory is for a certain time promoted to the rank of “guide territory.” The independence of a new territory, the liberation of the new peoples are felt by the other oppressed countries as an invitation, an encouragement, and a promise. Every setback of colonial domination in America or in Asia strengthens the national will of the African peoples. It is in the national struggle against the oppressor that colonized peoples have discovered, concretely, the solidarity of the colonialist bloc and the necessary interdependence of the liberation movements.14

But this is a very different vision of internationalism or transnationalism than the one evoked by current human rights discourse, as SamuelMoyn has argued in his history of human rights. As Moyn points out, thinkers as diverse as Fanon, Du Bois, and Malcolm X only use the phrase “human rights” as part of the struggle of anti-black racism and against all forms of colonialism. Fanon’s pan-Africanism, which points to a new humanism that grows out of revolutionary struggle, is a horizon in which the question of what it means to be human can be raised, but only in the dynamism of revolution, and therefore there is no being in the human without revolutionary struggle. We are far away from current conceptions of human rights, and indeed are returned to what Paul Gilroy has called the right to be human, a “right” which for Gilroy is inseparable from the struggle against anti-black racism, and for a different transnational and transmodern vision of pan-Africanism. To quote Gilroy:

The antiracism that inherited a worldly vision from pan-Africanism and passed it on to the anti-colonial movements did not descend to the present through the temperate landscape of liberal pieties. It came via disreputable abolitionism and translocal, multicultural, and anti-imperial activism that was allied with the insurrectionary practice of those who, though legally held in bondage, were subject to the larger immoralities of a race-friendly system of domination.15

If the right to be human can only configure itself within the revolutionary struggle, then what must it entail? We have already seen that, for Fanon, national liberation is inseparable fromthe re-appropriation of the land. The great South African philosopher, Mabogo Percy More, has underscored the point that the right to claim land is inseparable from the right to be human, and to the connected right to life. More argues:

If, as I have indicated, land gives life to human beings, then there is an inextricable organic connection between land and life. If colonialism, as Fanon counsels us, is indeed “the conquest of national territory and the oppression of a people” . . ., and if conquest in colonial situations occurs through violence, then the forcible expropriation of land from and the consequent denial of reasonable access to land to the rightful owner is equivalent to a denial and refusal to recognize the right to life of the dispossessed. But if one’s right to life is threatened, then morality, politics, and law all agree about Fanon’s appeal to violence as a form of justifiable self-defense.16

But these rights, as we have seen, are not conceived at all as rights rooted in individual entitlement, based on some notion of shared attributes that mark out our humanity against other creatures. Nor are they the empty rights of the victims of the many brutal wars and states of impoverishment brought about by neo-liberal global capitalism. Famously, Hannah Arendt argued that human rights were hopelessly caught in a paradox. Either they were the rights of those who had no rights, such as the refugees who had no nation-state in which they could claim national belonging and thus citizenship. Or human rights were simply another name for the rights of citizens of a nation-state. Either way, an appeal to human rights was caught up in this paradox, so that such rights were either an impossible claim made on the part of those who had no rights or a redundant claim made on the part by those who already had them as citizens.17

The philosopher Jacques Rancière has profoundly challenged Arendt’s paradox or tautology and argued that there is a whole different way of thinking about the rights of man, as the politics of the rights of man can informour current thinking about the possibility intended in human rights. It is important to note, before proceeding with Rancière’s rethinking of human rights, that Rancière completely rejects the idea of homo sacer, in that, for him, no human being is ever completely reduced to bare life, and that to portray such a human being in that light is, sadly, to reduce the subaltern to the silent images of hapless victims that we see night after night on television.18 We have already seen that the black struggle for the right to be human in no way can be understood as the right of victims who have no rights. I want to argue here that the black revolutionary understanding of human rights, which has been the specter of the liberal humanitarian rights discourse, can best be understood through Rancière’s unique defense of the politics of human rights or the rights of man. Rancière argues that “the Rights of Man are the rights of those who have not the rights that they have and have the rights that they have not.”19 Rancière uses Olympe de Gouges, a revolutionary woman during the French Revolution, to underscore his basic assumption about the politics of the rights of man or human rights.Women did not have equal rights under the declaration of the rights of man, butOlympe deGouges not only argued that they should have them: according to de Gouges, women did have those rights, because if they had the “right” to be killed at the guillotine, they had the right to equal citizenship.20 In Rancière’s language, the rights of man leave behind an egalitarian trait, an inscription of a community as free and equal. When those who do not have rights, such as blacks under the colonial situation, demand that that description be true, they are not, in Rancière’s language, appealing to rights they do not have: they are contesting the reality that denies them those rights by acting now as if they had them. By acting now as if they had human rights, they actually create conditions of verification that they are fully equal human beings, and that anyone who denies that they actually have those rights are forced to run up against their political enactment. This is exactly the politics of the rights of man that we see throughout the movements against anti-black racism. As Rancière writes: Not only is there no man of the Rights of Man, there is no need for one. The strength of those rights lies in the back-and-forth movement between the initial inscription of the right and the dissensual stage on which it is put to the test. This is why the subjects of the Soviet constitution were able to make reference to the Rights of Man in opposition to the laws that denied their effectiveness. This is also why they can be invoked by the citizens of states ruled by religious law or governmental fiat, the populations in refugee camps. When such groups can – and there are always individuals among them that do – make something of these rights to construct a dissensus against the denial of rights they suffer, they really have these rights.21

### 2ac – AT: Innev

#### antiblackness is NOT a precondition for legal congruency, and antiblackness doesn’t depend on libidinal investments in slavery---institutional reform can reverse the structure of black suffering

Lewis Gordon, 18, (Professor of Philosophy at UCONN-Storrs in the United States; The Honorary President of The Global Center for Advanced Studies; European Union Visiting Chair in Philosophy at Université Toulouse Jean Jaurès, France; Honorary Professor at the Unit of the Humanities at Rhodes University (UHURU), South Africa; and Chairman of the Anna Julia Cooper, Frantz Fanon, Nicolás Guillén, and Claudia Jones awards committees of the Caribbean Philosophical Association, “Thinking the logics of New Left and Right of ’68”, Thread, http://www.threadjournal.org/issue-one/thinking-political-thinking-since-68/)

Moving left of center, there are varieties of the left. The initial movement is premised on freedom as a condition of human life. Freedom is in tension, however, with liberty. In this direction, the question is how far is one willing to go for freedom. For some, the direction must be as radical as possible, and that path leads not only to anarchy but also to license. Anarchy requires the absence of an externally imposed order. For some anarchists, that means the absence of the sovereign, especially as manifested in the state. For others, there should be a sovereignty of “the people” over the state. Radical democracy, in this view, is anarchy. Short of being a god, being able to do whatever one wants without constrains proves to be juvenile. Children, after all, act with limited responsibility. Maturity requires accountability to others, and that includes political responsibility. In this view, freedom requires building human institutions whose purpose is the cultivation of humane ways of life. This left, then, is against capitalism because of its subordination instead of emancipation of human agency. In other words, human beings should control economies — which are human institutions — instead of being governed by dehumanized abstractions such as capital. From this point of view, the question about states is not whether they should exist but instead that of which kinds to have. States, in other words, need not be dehumanizing. People taking responsibility for their institutions of power could produce democratically infused states Anarchy, however, faces a double-edged sword. On the one hand, there can be anti-capitalist anarchists. They would argue for economies without property and other abstract modes of excluding material resources from other human beings. On the other, there could be — and historically are — pro-capitalist anarchists, whose position is that states should not intervene in societal affairs, which for them includes the market. Their goal is the promotion of capitalism and stateless societies. That second kind of anarchist would collapse into dependency on individual abilities and sheer will in some cases and on consolidation of their groups versus others where collective interests are threatened. Anarchy in this form is no guarantee against collapsing into the right. The emergence of the libertarian right in countries such as Australia, Canada, and the United States is a case in point. This portrait of various lefts reveals shifting relationships of left and right. Liberalism is to the right of the Marxist and anarchic lefts. Those lefts are not the entire story, however, since in some countries, such as Australia, Canada, South Africa, the United Kingdom, and the United States, a clear mark of being on the right is one’s stand on race and racism. This mixes up these categories. Commitment to the liberation of racially subordinated groups may push one leftward despite having conservative positions on order, which would be to the right. There are members of the left whose class reductionism makes them antipathetic to addressing race. The consequence is an attitude to race with results similar to liberal and neoliberal approaches: denial, diminution, and erasure. To all this, we should also consider the impact of “postmodernism” on leftwing thought. Despite its proponents often locating themselves on the left, many postmodern views of politics are actually conservative. For instance, where power is only “coercive” (power-over-others), it offers no positive possibility. Yet politics demands doing something. Without power, there is nothing one can do. Meditations on power demands exploring its potential beyond actions devoted to its elimination. A way in which politics has been commodified is the assertion of political subjectivity as moral offerings in a “market” of limited recognition. The result is moralism, where the ability to articulate the self or one’s group as a greater moral imperative than others leads to hierarchies of suffering. A slippery slope from suffering to the dismissal of other kinds as adulterated leads to legitimacy as purified misery. The appeal to innocence becomes the model, which unfortunately requires the misguided notion of agency as blame. Put differently, power becomes intrinsically that which “corrupts.” It thus must be abdicated, which requires the paradox of claimed initial absence. How, in other words, could one give up power through claiming never to have had it? The paradox is immobilizing. Yet the question of why, then, isn’t moral identities or admittedly moral claims offered instead of the avowed presentations of them as political emerges. After all, where power in politics is abdicated, only moral declarations remain. An answer, no doubt among others that could be offered, is the impact of market colonization not only of life but also the ways in which it could defend itself against the market. This includes political life. In short, the commodification of politics short-circuits its power while selling its lure. In effect, where politics becomes marketable, it can sell itself the extent to which it doesn’t threaten the approach to markets that make it possible. Capitalism’s intimate relationship with liberalism has always been the assertion of morality over politics, and thus the model of politics as applied morality follows. We return, then, to the distinction between the logic of the right and that of the left with some irony. The right looks to an idealized and idolized past. The left looks to the future for possibilities, but some members of the avowed left may seek a future premised upon an idolized past. In those cases, the left slides into a paradoxical right despite public avowal against the right. An effect of this performative contradiction is political nihilism. Social transformation of political problems in political terms falls sway to the rejection — by virtue of the dismissal of power — of political solutions as viable options. Ruled out of a better future is the idea of a different one than the stuff of our imagination. We should bear in mind, however, that if the future could not be otherwise, contingency in political action would be lost. We come now to the global realities of today. The right hijacked the thinking and practice of the global while many on the left have, in addition to waging protest, either remained locked in the language of stale internationalism or retreated to the solace of re-entrenched localism. This is an unfortunate development of the continued reductive thinking and a lack of imagination. Rightwing, liberal, and neoliberal strategists foresaw, for instance, that radicalized democracy would demand global reach. To forestall global realization of the left alternative, the right, liberals, and neoliberals increased their investment and other capital in sustaining capitalism. They at times speak of their efforts as a “conservative revolution,” “becoming great again,” and even fighting for the “common” or ordinary man. Given the financial support the right received from plutocrats across the globe since the 1960s, their moments of success reveal a basic fact: historically leftwing tactics plus funding equals success. The right of center and far right managed an important intellectual coup. They capitalized on the language of power and the global to the point of foreclosing the left’s willingness to see how such concepts are crucial to their future. Privatization and globalization became bedfellows on the right, for instance, which the left bought into and thus consigned public models to the local and the vulnerable. Yet a moment’s reflection would reveal a lost opportunity from the late 1960s, in which a public-oriented globalism was not only an aspiration of leftwing leadership but also a hope of everyday people. A globalized public could, after all, demand so-called “entitlements” for all. Where could capital undermine labor under such circumstances? For a time, the organization of power was moving in the direction of a series of large federal unions across the globe. Coalitions across Europe, others linking Africa, Western Asia, and South America, and possibilities for East Asia through the Pacific conglomerations of countries, would have led to the inevitable question: Why don’t four large units conjoin into two, and then eventually why don’t the remaining two work together? This imagined global coalition would render certain institutions obsolete. Would national borders make sense? Would the notion of top-down power models of presidents, legislatures, and constituents make sense instead of, as Benjamin Barber and many mayors of municipalities have considered, a bottom-up model of localities leading to regional committees on up to global committees? Instead of a “world president,” why not rotating committees through which concerns such as ecological laws would be global instead of tentative and selective? How about labor? Wouldn’t such a shift, where labor could migrate easily wherever there is work, entail the erosion of Capital and instead another model where the goal is to retain labor? And more, given the global scale of imaginative re-organizing, couldn’t there be a mixed economic situation in recognition of the inability of one economic model fitting all everywhere? These are acts of the imagination with possible transformation into action that globalized privatization aims to preclude. In concrete political terms, the U.S. efforts to break up large federal and cooperative alliances in places such as Eastern Europe, West Asia through South America — think particularly of what is happening in Brazil and Venezuela — have come home to roost as China and Russia are now doing the same against the European Union and the United States, in addition to their ongoing efforts in countries of Africa and the rest of Asia. Their efforts, however, are not linked to the humanistic global aspirations of the past but instead the lessons of acquiring naked power for the interests of disempowering political life through placing it under the yoke of rule. Our species faces today, then, an extraordinary tension of two kinds of globalism — the prevailing one, premised on growing authoritarian rule; the submerged alternative, harkening for substantive democracy or, in a word, political life Physically, our planet is the same size since walking upright and speaking transformed hominid into Homo sapiens. The lived-reality, however, is different. Through technology and biological reproduction, human beings have created a smaller planet with accelerated time. It is smaller because there are several billion of us. It is also smaller because of a basic insight from physics: our ability to go across vast distances in shorter time has transformed our lived reality of space. To remain gripped in conceptions of what it means to be human and how to organize power developed in past ages is now our liability. We need models of addressing questions indigenous to the world in which contemporary human beings live with sensitivity to their transformation for those who must build on what we produce. To take on such a challenge, we face the call for action without foreknowledge. To illustrate, think of the often-emerging fear of failure. How do we know if we will succeed? What can we do? On this matter, it is important for us to think of those who preceded us in what appeared to them to be impossible struggles. Think of people who faced the encompassing wrath of forces of conquest, colonization, enslavement, and genocide from the fifteenth-century onward that promised them, at every step of their struggles, that they would fail. They were, as far as all the evidence suggested, the end of the line. They had no future. They were promised there would be no, rolling down the corridors of history, us. Yet here many of us are. The existential and political question is this: Why did they act? Too many critics of action assess failure on the basis of an individual person or single generation. What they ignore is that action emerges in human systems, which means that each effort of suppression represents a transformation of a system’s focus from one element or practice to another. What this means is that each generation faces a different set of relations to a social problem, especially where previous generations acted and thus shifted what social systems do. A political act, then, unfolds over time and across generations. Why, then, did they act? There is existential paradox here. They acted through transcending themselves. They had no way of knowing exactly who we — their descendants — are, and in some cases, they may even disapprove of us. Yet, our existence is premised on their actions. The actions our ancestors waged against degradation, then, must have been premised on commitment instead of expected outcome. This is the core of political responsibility. Political commitment defies ordinary models of action. Consider acting for love. Old models of love require imagining the beloved as an extension of the self. One’s beloved is similar to oneself, and the logic makes this an expression of self-love. Yet anyone who knows people can see error here. People, after all, have the ability to love those who are not like them, just as we also have the capacity to hate most intensely those who are like us. Love, in other words, is not only premised on similarity but also possible through difference. There are different kinds of love. Political love is an expression of the latter. It requires acting for the sake of those or things other than the self. This observation about political commitment, love, and action points to a revolutionary insight from freedom fighters over the ages. To act from commitment defies imitation, as Fanon showed so well in his biting critique of the postcolonial bourgeoisie of many former colonies across the global south in Les Damnés de la terre. It requires full expectation that subsequent generations receive the gift of not having to be like “us.” Given the bleak contemporary situation of lunatics trying to make one imperial country “great again,” kleptocrats in another trying to destroy any hope in democracy, and a well-ordered authoritarian power in a third adopting state-capitalist and racial supremacist models of the first, the identification of the problems is also a demand for action for the sake of what transcends us. Those actions, should the rest of us inaugurate them, could mean change for the better, so long as, of course, we still have time.

#### their alt homogenizes black people in the US, which displaces pragmatic practices that challenge violence

Kline 17, PhD candidate at Rice (David Kline, 2017, “The Pragmatics of Resistance: Framing Anti-Blackness and the Limits of Political Ontology,” Critical Philosophy of Race, 5.1, Political Ontology and the Limitation of Social Analysis and Legitimate Praxis)

Wilderson’s critique of Agamben is certainly correct within the specific framework of a political ontology of racial positioning. His description of anti-Black antagonism shows a powerful macropolitical sedimentation of Black suffering in which Black bodies are ontologically frozen into (non-) beings that stand in absolute political distinction from those “who do not magnetize bullets” (Wilderson 2010, 80). In the same framework, Jared Sexton, whose work is very close to Wilderson’s, is also right when he shows how biopolitical thought—specifically the Agambenian form centered on questions of sovereignty—and its variant of “necropolitics” found in Mbembe has so often run aground on the figure of the slave (see Sexton 2010).5 Locating the reality of anti-Blackness wholly within this account of political ontology does provide an undeniably effective analysis of its violence and sedimentation over the modern world as a whole. However, in terms of a general structure, I understand Wilderson’s (and Sexton’s) political ontology to remain tied in form to Agamben’s even as it seemingly discounts it and therefore remains bound to some of the problems and limitations that beset such a formal structure, as I’ll discuss in a moment. Despite the critique of Agamben’s ontological blind spots regarding the extent to which Black suffering is non-analogous to non-black suffering, as I’ve tried to show, Wilderson keeps the basic contours of Agamben’s ontological structure in place, maintaining a formal political ontology that expands the bottom end of the binary structure so as to locate an absolute zero-point of political abjection within Black social death. To be clear, this is not to say that the difference between the content and historicity of Wilderson’s social death and Agamben’s bare life does not have profound implications for how political ontology is conceived or how questions of suffering and freedom are posed. Nor is it to say that a congruence of formal structure linking Agamben and Wilderson should mean that their respective projects are not radically differentiated and perhaps even opposed in terms of their broader implications and revelations. Rather, what I want to focus on is how the absolute prioritization of a formal ontological framework of autonomous and irreconcilable spheres of positionality—however descriptively or epistemologically accurate in terms of a regime of ontology and its corresponding macropolitics of anti-Blackness—ends up limiting a whole range of possible avenues of analysis that have their proper site within what Deleuze and Guattari describe as the micropolitical. The issue here is the distinction between the macropolitical (molar) and the micropolitical (molecular) fields of organization and becoming. Wilderson and Afro-pessimism in general privilege the macropolitical field in which Blackness is always already sedimented and rigidified into a political onto-logical position that prohibits movement and the possibility of what Fred Moten calls “fugitivity.” The absolute privileging of the macropolitical as the frame of analysis tends to bracket or overshadow the fact that “every politics is simultaneously a macropolitics and a micropolitics (Deleuze and Guattari 1987, 213). Where the macropolitical is structured around a politics of molarisation that immunizes itself from the threat of contingency and disruption, the micropolitical names the field in which local and singular points of connection produce the conditions for “lines of flight, which are molecular” (ibid., 216). The micropolitical field is where movement and resistance happens against or in excess of the macropolitical in ways not reducible to the kind of formal binary organization that Agamben and Wilderson’s political ontology prioritizes. Such resistance is not necessarily positive or emancipatory, as lines of flight name a contingency that always poses the risk that whatever develops can become “capable of the worst” (ibid., 205). However, within this contingency is also the possibility of creative lines and deterritorializations that provide possible means of positive escape from macropolitical molarisations. Focusing on Wilderson, his absolute prioritization of a political onto-logical structure in which the law relegates Black being into the singular position of social death happens, I contend, at the expense of two significant things that I am hesitant to bracket for the sake of prioritizing political ontology as the sole frame of reference for both analyzing anti-Black racism and thinking resistance within the racialized world. First, it short-circuits an analysis of power that might reveal not only how the practices, forms, and apparatuses of anti-Black racism have historically developed, changed, and reassembled/reterritorialized in relation to state power, national identity, philosophical discourse, biological discourse, political discourse, and so on—changes that, despite Wilderson’s claim that focusing on these things only “mystify” the question of ontology (Wilderson 2010, 10), surely have implications for how racial positioning is both thought and resisted in differing historical and socio-political contexts. To the extent that Blackness equals a singular ontological position within a macropolitical structure of antagonism, there is almost no room to bring in the spectrum and flow of social difference and contingency that no doubt spans across Black identity as a legitimate issue of analysis and as a site/sight for the possibility of a range of resisting practices. This bracketing of difference leads him to make some rather sweeping and opaquely abstract claims. For example, discussing a main character’s abortion in a prison cell in the 1976 film Bush Mama, Wilderson says, “Dorothy will abort her baby at the clinic or on the floor of her prison cell, not because she fights for—and either wins or loses—the right to do so, but because she is one of 35 million accumulated and fungible (owned and exchangeable) objects living among 230 million subjects—which is to say, her will is always already subsumed by the will of civil society” (Wilderson 2010, 128, italics mine). What I want to press here is how Wilderson’s statement, made in the sole frame of a totalizing political ontology overshadowing all other levels of sociality, flattens out the social difference within, and even the possibility of, a micropolitical social field of 35 million Black people living in the United States. Such a flattening reduces the optic of anti-Black racism as well as Black sociality to the frame of political ontology where Blackness remains stuck in a singular position of abjection. The result is a severe analytical limitation in terms of the way Blackness (as well as other racial positions) exists across an extremely wide field of sociality that is comprised of differing intensities of forces and relational modes between various institutional, political, socio-economic, religious, sexual, and other social conjunctures. Within Wilderson’s political ontological frame, it seems that these conjunctures are excluded—or at least bracketed—as having any bearing at all on how anti-Black power functions and is resisted across highly differentiated contexts. There is only the binary ontological distinction of Black and Human being; only a macropolitics of sedimented abjection. Furthermore, arriving at the second analytical expense of Wilderson’s prioritization of political ontology, I suggest that such a flattening of the social field of Blackness rigidly delimits what counts as legitimate political resistance. If the framework for thinking resistance and the possibility of creating another world is reduced to rigid ontological positions defined by the absolute power of the law, and if Black existence is understood only as ontologically fixed at the extreme zero point of social death without recourse to anything within its own position qua Blackness, then there is not much room for strategizing or even imagining resistance to anti-Blackness that is not wholly limited to expressions and events of radically apocalyptic political violence: the law is either destroyed entirely, or there is no freedom. This is not to say that I am necessarily against radical political violence or its use as an effective tactic. Nor is to say that I think the law should be left unchallenged in its total operation, but rather that there might be other and more pragmatically oriented practices of resistance that do not necessarily have the absolute destruction of the law as their immediate aim that should count as genuine resistance to anti-Blackness. For Wilderson, like Agamben, anything less than an absolute overturning of the order of things, the violent destruction and annihilation of the full structure of antagonisms, is deemed as “[having nothing] to do with Black liberation” (quoted in Zug 2010). Of course, the desire for the absolute overturning of the currently existing world, the decisive end of the existing world and the arrival of a new world in which “Blacks do not magnetize bullets” should be absolutely affirmed. Further, the severity and gratuitous nature of the macropolitics of anti-Blackness in relation to the possibility of a movement towards freedom should not be bracketed or displaced for the sake of appealing to any non-Black grammar of exploitation or alienation (Wilderson 2010, 142). The question I want to pose, however, is how the insistence on the absolute priority of framing this world within a rigid structure of formal ontological positions can only revert to what amounts to a kind of negative theological and eschatological blank horizon in which actually existing social sites and modes of resisting praxis are displaced and devalued by notions of whatever it is that might arrive from beyond. It seems that Wilderson, again, is close to Agamben on this point, whose ontological structure also severely delimits what might count as genuine resistance to the regime of sovereignty. As Dominick LaCapra points out regarding the possibility of liberation outside of Agamben’s formal ontological structure of bare life and sovereignty, A further enigmatic conjunction in Agamben is between pure possibility and the reduction of being to mere or naked life, for it is the emergence of mere naked life in accomplished nihilism that simultaneously generates, as a kind of miraculous antibody or creation ex nihilo, pure possibility or utterly blank utopianism not limited by the constraints of the past or by normative structures of any sort. (LaCapra 2009, 168) With life’s ontological reduction to the abjection of bare life or social death, the only possible way out, it seems, is the impossible possibility of what Agamben refers to as the “suspension of the suspension,” the laying aside of the distinction between bare life and political life, the “Shabbat of both animal and man” (Agamben 2003, 92). It is in this sense that Agamben offers, again in the words of LaCapra, a “negative theology in extremis . . . an empty utopianism of pure, unlimited possibility” (LaCapra 2009, 166). The result is a discounting and devaluing of other, perhaps more pragmatic and less eschatological, practices of resistance. With the “all or nothing” approach that posits anything less than the absolute suspension of the current state of things as unable to address the violence and abjection of bare life, there is not much left in which to appeal than a kind of apocalyptic, messianic, and contentless eschatological future space defined by whatever this world is not.

#### \*Legitimizes neoliberal structures, is an insular and US-centric theory, while it ignores the specificities of the Black experience

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II. The Flatness of Blackness

Afro-pessimism in this original sense has reflected a disastrous approach to, and had disastrous consequences for Africa and its inhabitants. So how can we understand the bizarre use of this historically loaded term (complete with its own history of colonial and imperialist exploitation) by numerous African-American intellectuals and activists? The use of the term ‘Afro-pessimism’ is symptomatic of the historical ignorance of the Afro-pessimist™ (or what Greg Thomas has recently called Afro-pessimism 2.0), whose grasp of African history is about as solid as that of Hegel. In its initial iteration, Afro-pessimism 2.0 (from now on AP™) is a product of middle-class academia; a framework either consciously or subconsciously created to allow relatively well-off academics to view themselves as the most discriminated and oppressed people in the world. Characterised by misinterpretations and clever appropriations of Black radicals like Frantz Fanon and Silvia Wynter, the theories of the AP™ have spilled over into activist circles, contaminating the global political discourse on race. The central premise of the AP™ is that anti-Black violence is the structuring regime of the modern world. Drawing on Orlando Patterson’s concept of ‘social death’, Frank Wilderson, arguably the most prominent and controversial AP™ intellectual, asserts that the Black condition is not characterised by oppression or exploitation, like that of the Marxist proletariat or the (neo)colonial subject, but rather by the distinction between the Human and the Slave. For Wilderson, the Black is a priori a slave and therefore we cannot speak of Blackness without reference to the Slaveness that constitutes it on an ontological level. In his essay ‘Ante-Anti-Blackness: Afterthoughts’, fellow University of California professor Jared Sexton argues that the condition of the Black/Slave is a state of total powerlessness, natal alienation (‘the loss of ties of birth in both ascending and descending generations’) and generalised dishonour. In short, Black existence is an ontological absence of sorts, and the Black/Slave is a living dead (non-entity) in the modern world. In ‘The Black Liberation Army and the Paradox of Political Engagement’, Wilderson offers some further meditations on the concept of ‘social death’, explaining that ‘the point of social death is a condition, void, not of land, but of a capacity to secure relational status through transindividual objects – be those objects elaborated by land, labour or love’. Unlike colonial racisms perpetuated by the rational systems of white supremacy, neo-colonialism or imperialism, or women’s oppression and exploitation driven by patriarchy and capitalism’s need for reproductive labour, anti-Black violence is humanity’s irrational desire for violence against Black people. As Wilderson declares in an interview with C. S. Soong, ‘violence against Black people is a mechanism for the usurpation of subjectivity, of life of being’. What settlers wanted from Indians is land, so they killed Indians ‘in the main’ to get it, whereas what non-Blacks want from Blacks is not land but ‘being’. Anti-Blackness is thus qualitatively different from the regimes of violence that affect the Marxist proletariat; or the non-Black person of colour; or the non-Black woman; or the non-Black woman of colour; or (as Wilderson has famously claimed) Palestinians. Black suffering is incomparable and unique: to speak of any experience of oppression without reference to the ontological disparities between Black/non-Black people is ultimately an act of ‘anti-Blackness’. But what exactly is it about the makeup of modern society that displaces the Black/Slave from the realm of politics and precludes the articulation of concrete political demands? For Wilderson and Sexton, the very foundations of political discourse are inherently anti-Black. Or, to put it in terms of Giorgio Agamben’s political ontology (of which the AP™ are rather fond), the political – i.e. the ontological character of a political situation that separates it from other social actions – or what he calls ‘the Symbolic Order’, is skewed against the Black/Slave. The Symbolic Order is based on the recognition of the ‘other’s’ humanity, which then enables this ‘other’ to challenge the order on the grounds of, for instance, political economy. Since the Black is a priori a Slave, and Blackness and Slaveness are coterminous, the Black/Slave cannot participate in the Symbolic Order as her status is not that of the Human. And because the category of humanity is founded and relies on the existence of the slave, there is no way the Black/Slave can ever gain the recognition required to assert political demands and identities in the realm of the Symbolic Order. It is for this reason that, as Sexton points out in his essay ‘The Social Life of Social Death: On Afro-Pessimism and Black Optimism’, we must posit a ‘political ontology dividing the Slave from the world of the Human in a constitutive way’ and take this as our analytical starting point. Wilderson’s and Sexton’s work contributes to a wider debate on the nature of Black studies in the United States, which is frequently tied into discussions on Black performance art, evidenced by the titles of Wilderson’s Red, White and Black: Cinema and the Structure of US Antagonisms, Kara Keeling’s The Witch’s Flight: The Cinematic, the Black Femme, and the Image of Common Sense or Fred Moten’s essays on Black Operations/Black Optimism in musical performance. Despite various disagreements and differences among these scholars, they are united by the common interest in ‘the afterlife of slavery’ – first described by Saidiya Hartman in her 2006 memoir Lose Your Mother. For Hartman – whose project is not that of AP™ and should not be mistaken for this essay’s target – official abolition in the United States did not engender a decisive break with the racialised violence of slavery; in contemporary society, we can see traces of such violence in the ‘skewed life chances, limited access to health and education, premature death, incarceration, and impoverishment’ of African-Americans. The ‘afterlife of slavery’ she describes constitutes Black studies’ object, and loosely ties a range of scholars together into a coherent discourse. It is worth briefly considering Fred Moten’s work to understand the AP™’s ability to co-opt or usurp other approaches to Black Studies and activism. Moten attempted to counter the AP™ conception of social death by foregrounding Black agency and asserting that it is ontologically prior to the all-encompassing anti-Blackness of the modern world. In the unpublished paper ‘Black Optimism/Black Operation’, Moten attempts to counter the ‘anti-essentialism’ of radical discourses that disavow Black studies’ own object i.e. Blackness. For Moten, this Blackness exists in what he (along with his frequent collaborator Stefano Harney) has famously called ‘the undercommons’ – a space outside of official social structures, where Black people can assert their ‘right to refuse’. But as Annie Olaloku-Teriba points out in her excellent critique ‘Afro-Pessimism and the (Un)Logic of Anti-Blackness’, the AP™ finds a ‘comfortable antagonist’ in Moten, whose Black Ops can be neatly reintegrated into the concept of social death. It is also telling that Sexton, in ‘Ante-Anti-Blackness’, rather successfully merges the AP™ conception of social death with Moten’s Black Ops by arguing that: A living death is as much a death as it is living. Nothing in Afro-pessimism suggests that there is no black (social) life, only that black life is not social life in the universe formed by the codes of state and civil society, of citizen and subject, of nation and culture, of people and place, of history and heritage, of all the things that colonial society has in common with the colonised, of all the things that capital has in common with labour – the modern world system. Sexton shows that Moten’s Black Ops is nothing other than what he instead calls ‘the social life of social death’. There is no either/or distinction between social life and social death: we can think both together by positing that Black life is lived in the underground. Moten even acknowledges, in ‘Blackness and Nothingness (Mysticism in the Flesh)’, that the AP™ and Black Ops are engaged in the same theoretical project: In the end, though life and optimism are the terms under which I speak, I agree with Sexton – by way of the slightest most immeasurable reversal of emphasis – that Afro-pessimism and black optimism are not but nothing other than one another. I will continue to prefer the black optimism of his work just as, I am sure, he will continue to prefer the Afro-pessimism of mine. For both Afro-pessimists and Black Optimists, the afterlife of slavery is characterised by the social death of the Black/Slave and a heavily distorted version of Fanon’s concept of the ‘fact of blackness’. This assumption, however, precludes the participation of Black Ops in radical politics and confines resistance to spaces of Black performance art. By confining Black resistance to spaces outside of the anti-Black structures of civil society, and by undercutting the possibility for anti-imperialist solidarity between racialised people across the world, the AP™ theories have opened up a space for the corporate capture of Blackness. We need only recall last year’s Nike campaign, prominently featuring the face of former NFL quarterback Colin Kaepernick, who has been blackballed by the league for kneeling during the national anthem. Since the incident, he has taken on the role of radical Black activist, complete with Panther-esque leather jackets, an afro and Afrocentric jewellery. While Kaepernick’s struggle against the racist and exploitative NFL owners and executives is, of course, legitimate and necessary, the co-optation of his struggle by a large corporation is certainly a cause for concern. Nike is notorious for its use of sweatshop labour (including both forced and child labour), and its history of exploitative labour practices has been well-documented throughout the years. By detaching the struggles of African-Americans from those of racialised workers in the Global South, Nike can present itself as a progressive vehicle for Black emancipatory politics, while completely sidelining the plight of non-white workers outside of the US. Here we might recall a powerful statement by Fred Hampton to illustrate just how far from revolutionary Black politics we find ourselves: We don’t think you fight fire with fire best; we think you fight fire with water best. We’re going to fight racism not with racism, but we’re going to fight with solidarity. We say we’re not going to fight capitalism with black capitalism, but we’re going to fight it with socialism […] We’re going to fight […] with all of us people getting together and having an international proletarian revolution. Wilderson and Sexton have been captured by corporate interests in much the same way. In their case, however, it is not a large corporation that co-opts Blackness, but rather the neoliberal university. Is it at all surprising that two professors working within the prestigious University of California system promote a theoretical framework that requires no political action from Black writers and activists other than simply being Black? Not only is AP™ a product of the neoliberal university, it also promotes its authors survival and flourishing within the corporate structures of higher education. When asked about his framework for psychological and physical resistance by the hosts of iMiXWHATiLiKE, Wilderson neatly dodges any commitment to radical politics

with the excuse that it could cost him his academic job. This is so much a part of what it means to be a professor. I feel like cussing people out all the time. But if I do, I violate University of California’s civility laws, tenure or not I’m out the door, right? And that tempers my speech. So, I think that what I have to offer is not a way out. What I have to offer is an analysis of the problem. And I don’t trust me as much as I trust Black people on the ground. Wilderson is aware that the AP™ rely on their activist supporters and social media following to maintain their privileged position within the university – without the activists and organisers on the ground, the AP™ could not prove the market value of its work to the neoliberal institution. By creating a framework for the analysis of race that lends itself to co-optation by corporate interests, the AP™ has certainly demonstrated that it can convert Blackness into profit. All the while, these theorists delude themselves that they are spearheading a truly radical Black movement. In the introduction to a collection of essays on AP™, the editors (who presumably include Sexton and Wilderson) even have the audacity to claim that they are ‘motivated by a desire to contribute to […] bringing these writings out of the ivory towers of the academy’ and that they wish to ‘remove the materials from this sitting place and see them proliferate among those in the streets and prisons’. True, they have succeeded in disseminating a watered-down version of their musings to activists and organisers; but what they have passed on is nothing short of anti-Black, in the sense that it works against the true liberation of Black people of all classes. Today, such Blackness (and the pseudo-politics that is attached to it) is more useful for academic promotions, Instagram hashtags, and Nike adverts than for any revolutionary or emancipatory politics worthy of the name. The people who truly benefit – or rather profit – from the AP™ brand are the academics and the various university presses and journals who jump at every opportunity to unleash a plethora of AP™ books and articles onto the academic book market. While the AP™ may seem like a niche theoretical discourse, its influence extends far beyond the university: as Olaloku-Teriba argues, the AP™’s theoretical framework provides ‘the structuring logic of various political formations in the era of #BlackLivesMatter’. What is at stake in the debate, therefore, is nothing less than the possibility of a revolutionary Black politics. Maybe African-Americans on the streets or in prison would do well to reach for George Jackson’s Soledad Brother and steer clear of the AP™ and Black Ops.

III. The Afterlives of Slavery

The retreat of the AP™ and Black Ops from politics poses a problem for activists and scholars looking to engage in struggles that take seriously the political economy of race and the need for cross-racial solidarity. But how have these key themes of radical Black movements from the 1960s and 70s – from the Black Panthers to African anti-colonial struggles – disappeared in the AP™’s theories? The erasure of radical Black and anti-colonial struggles rests almost entirely on misreading – or in some cases not reading – Marxist contributions to the study of race, colonialism and slavery. And this unfounded dismissal of the entire Marxist tradition allows the AP™ to kill two birds with one stone: on the one hand, it can position itself as a radical critique of Eurocentric left discourses. On the other hand, it allows the AP™ to disregard a vast body of Marxist scholarship that has ‘raced’ the history of capitalism and developed a nuanced analysis of the relationship between New World Slavery and capitalist accumulation on a global scale. Thus, the AP™ can ignore the specificities of how different Black populations are racialised and displace the study of political economy (and particularly of imperialism) in favour of ontological questions. In the interview ‘We’re trying to destroy the world: Anti-Blackness & Police Violence after Ferguson’ Wilderson makes the bizarre claim that ‘slaveness is something that has consumed Blackness and Africanness, making it impossible to divide slavery from Blackness’. If this assumption sounds familiar, look no further than the Afro-pessimism of old, with its conflation of Africanness and Blackness and its disregard for the African continent and its inhabitants. But how has an approach that attempts to grapple with the complexities of Black being ended up rehashing the same assumptions and prejudices of Eurocentric discourse designed to dehumanise Black people on the African continent in the first place? The AP™’s theoretical position is riddled with contradictions: how can Blackness be separated from white supremacy, neocolonialism or imperialism and women’s reproductive labour, when these are the mechanisms that structure the quotidien experience of most people racialised as Black on a global scale? Moreover, if the Black/Slave exists in a state of powerlessness and natal alienation – characterised by the loss of ties of birth in ascending and descending generations – how do we theorise the Blackness of those whose ancestors remained in Africa throughout the translatlantic slave trade? Skimming the AP™’s bibliographies, one can be forgiven for thinking that the sheer number of references to radical scholarship reflects a close reading and consideration of the texts and arguments in question. Unfortunately, this is not the case. In ‘The Avant-Garde of White Supremacy’, Steve Martinot and Jared Sexton claim that Marxist approaches treat racism as merely a divide-and-conquer strategy for class struggle and super exploitation, and that Marxists fail to understand that racism – and anti-Blackness in particular – is not an ideology that can be refuted but is rather ‘fundamental to class relations themselves’. Wilderson’s ‘Gramsci’s Black Marx: Whither the Slave in Civil Society’ advances a similar critique, arguing that the Black/Slave poses an insoluble problem for the Gramscian discourse on race, since it is not wage labour exploitation but ‘the despotism of the unwaged relation’ that drives anti-Black racism. For Wilderson, this discourse fails to think anything other than capitalism as the ‘base’ structure, from which other superstructural phenomena such as racism emerge. Marxists have thus failed to recognise that ‘Capital was kick-started by the rape of the African continent’ and that it is ‘as close to capital’s primal desire than is exploitation’. The Black/Slave blows apart key assumptions in Marxist thought, which renders it useless to for the analysis of the afterlife of slavery; this is the ‘scandal of historical materialism’. But Wilderson’s and Sexton’s critique of Marxism is shallow at best. In volume one of Capital, Marx clearly states that ‘the turning of Africa into a warren for the commercial hunting of black skins’ signalled ‘the rosy dawn of the era of capitalist production’. In a letter to Russian literary critic Pavel Vasilyyevich Annenkov, Marx also writes that: We are not dealing here with indirect slavery, the slavery of the proletariat, we are dealing with direct slavery, the slavery of Blacks in Surinam, in Brazil, in the southern states of North America Marx makes a clear distinction between slave labour and wage labour, refusing to conflate both in the category of the proletarian. In the specific case of the United States, he believed that the worker’s movements had been paralysed by the existence of slave labour and their inability to adequately address it. In Capital, he writes, ‘labour in a white skin cannot emancipate itself where it is branded in a black skin.’ The possibility of a unified proletarian revolution thus relies on the abolition of slavery. While this may sound as if Marx’ is theorising race as merely a divide and conquer strategy, as many critics have accused him of doing, there is an entire discourse within Marxism that has taken seriously the role that the racial plays in structuring social formations in the Americas. Instead of going back to what Marx did or didn’t say about slavery, however, it may be more constructive to ask in what ways transatlantic slavery forces us to rethink the fundamental categories of Marxist political economy. Robin Blackburn’s historical studies of the transatlantic slave trade offer a more nuanced perspective that is entirely at odds with the strawman Marxism of the AP™. Blackburn acknowledges that New World slavery was more than just a divide and conquer strategy; it represented an intensification and racialisation of prior forms of slavery. Like early African or Roman slavery, chattel slavery was based on the idea that a person could be bought and sold. But unlike previous techniques, the New World version institutionalised slavery and made it hereditary. Once a person had been enslaved, it was highly likely that their descendants would continue to exist in a relation of bondage. Where Blackburn’s analysis diverges from the AP™ is in his emphasis on the interrelation between slavery, colonialism and capitalism, and his efforts to understand how the racial structures the mode of production in each instance. For Blackburn, New World slavery was a central product of the rise of capitalism, not of an a priori anti-Blackness, and therefore cannot be neatly be separated from the early stages of capitalist accumulation and the violent expansion of European (early Spanish and Portuguese as well as later British) colonialism in Africa, Asia and the Americas. As Greg Thomas argues in ‘Afro-Blue Notes’, Walter Rodney already recognised this, in ‘Slavery and Underdevelopment’ and ‘Plantation Society in Guyana’, when he showed that plantation slavery in America is colonial slavery. In short, ‘there is no system of slavery in any part of these Americas that is not still settler colonial slavery; no settler colonialism without chattel slavery or racial slavery and their neo-slaveries’, Blackburn and other radical historians of slavery draw on Cedric Robinson’s concept of ‘racial capitalism’, which can be used to refute the claim that slaveness and Africanness are one and the same. In Black Marxism Robinson argues that racism was already present in Western civilisation prior to the flourishing of capitalism. Thus, capitalism and racism grew together from the old order to produce the ‘racial capitalism’ characteristic of the modern world; a new world system relying on slavery, violence, imperialism and genocide for its continued expansion. The value of Robinson’s work lies in its ability to uncover the contingent relationship between slavery and Blackness: he argues that early European proletarians were racialised subjects from oppressed groups, such as the Irish, Jews, Roma or Slavs, who were victims of dispossession, colonialism and slavery within Europe. With the dawn of the transatlantic slave trade, new notions of difference emerged, based on more aggressively racialised conceptions, that were used to justify the political economy of slavery. For Robinson, white supremacy masked itself as an economic rationale, which in turn organised racial hierarchies, with the production of cotton at its core. As Chris Chen writes in ‘The Limit Points of Capitalist Equality’, the colonial and racial genealogy of European capitalism’ were ‘encoded directly into the economic “base” through an ongoing history of racial violence which […] binds surplus populations to capitalist markets. There are also several surprising omissions in the AP™ account of slavery that point towards its entrenched African-American exceptionalism, most notably that of the slave trade in the Americas more broadly. Although the African-American experience of chattel slavery is overrepresented in the AP™ narrative, only about 4 per cent of all enslaved Africans, out of over 10 million that were taken to the Americas between the sixteenth and nineteenth centuries, were carried to North America. Close to five million enslaved Africans were taken to Portuguese America (Brazil) alone between 1501 and 1866, and whose labour became the driving force for the sugar economy in the early 1600s, and gold and diamond mining from about 1690 onwards. While the AP™ continue to structure their analysis of Blackness and slaveness around the official abolition of slavery in the United States in 1865, they seem to forget that slavery wasn’t abolished in Brazil until 1888. But in the AP™’s ‘afterlife of slavery’, these histories don’t play any role. The legacy of US chattel slavery consumes all Black experience, both historical and contemporary. If the AP™ were to pay attention to the peculiarities of Brazilian slavery, it would have to adapt its concept of Blackness to develop an account of how race has structured a social formation with the second largest Black population in the world. In Nigeria, the country with the world’s largest Black population, the ‘afterlife of slavery’ takes on a completely different meaning than in the US. While slavery had existed in Igbo society before colonisation, it accelerated with the increasing demand for slaves on the other side of the Atlantic. When slavery was officially abolished in many parts of the West, Adiele Afigbo writes in The Abolition of the Slave Trade in Southeastern Nigeria, 1885–1950, Igbo slave markets were flooded with ohu and osu slaves, whose descendants to this day retain the stigma of their ancestors – they cannot intermarry with freeborn and are excluded from important community organisations. In a recent New Yorker article Nigerian novelist Adaobi Tricia Nwaubani argues that: Igbo discrimination is not based on race, and there are no visual markers to differentiate slave descendants from freeborn. Instead, it trades on cultural beliefs about lineage and spirituality. Discrimination of slave descendants is thus based on their role as outsiders, since the ohu have never really lost their outsider status in a society where community ties are extremely important. Afigbo’s periodisation also points to another important aspect of slavery in Nigeria: it was only officially abolished by the British in the early 1900s but continued informally for at least another forty to fifty years. What this means is that we cannot understand slavery in Nigeria within the Igbo system with reference to an African-American concept of race, conditioned entirely by the experiences of US chattel slavery. For the descendants of ohu slaves, the afterlife of slavery is not characterised by the condition of the Black/Slave but rather by something quite different. In this case, the equation of the Black/Slave with the African does not hold. So what can we learn from these different histories of slavery and racialisation? Brazilian academic Denise Ferreira da Silva draws the following conclusion in ‘Facts of Blackness’, her comparative study of race in the US and Brazil, I was convinced that our shared blackness has been traversed by the particular effects of specific nation, gender and class conditions. Slavery and colonialism composed the historical ground upon which race, gender and nationess have written the various versions of black subjectivity […] That instrinsically multiple quality of black subjectivity demands attention to the specific historical and discursive developments informing a society’s strategies of racial subordination. In her more recent book Toward a Global Idea of Race, Silva further contends that we cannot comprehend the ‘present global configuration’ unless we ‘unpack how the racial, the cultural and the nation institute the modern subject’ and analyse the context in which the modern subject emerged and was produced. For Silva, racial difference is not an ideological or cultural construction but rather a real category and is responsible for structuring the contemporary global configuration. And precisely because race supplies the discursive basis for the subordination of non-white people, even specific studies of Blackness must be placed in the global historical context in which racialised subjects emerged. In this way, we can avoid US-centric ontological (supposedly universal) conceptions of Blackness while simultaneously emphasising the histories of interconnection between Black populations across the world. In short, the object of analysis is not the afterlife of slavery but the multiplicity of afterlives of slavery and colonisation; the aim is to study how these exist within a global system structured by imperialism. This is not to say that there aren’t glimmers of hope in the US literary and academic scene. John Keene’s part-historical, part-fictional (and undoubtedly political) retelling of the slave experience in Counternarratives, gives equal weight to the specificities of slavery in Brazil under Portuguese rule and in North America in the pre-Civil War era. Counternarratives weaves together these diverging but interconnected histories to draw out the underlying logic structuring gender, race and class under different forms of slavery and colonisation. Most importantly, however, Keene plays with the engrained Eurocentric prejudices that colonisers used to belittle and ‘other’ colonial subjects. Irrationality and spirituality become sources of power: Keene’s characters actually possess the magical powers that have been attributed to them by the colonisers – these are in turn transformed into a basis for Black insurgency. While Keene opens the collection with a quote from Fred Moten on the relationship between philosophy and slavery (‘The social situation of philosophy is slavery’), his exposition of the lived histories of enslaved peoples in various social formations, moves beyond the realm of simple African-American exceptionalism, and his deconstruction of Eurocentric prejudices more in line with the ‘thin’ and strategic deployment of essentialism than the ‘thick’ ontological essentialism of the AP™.

#### Internationalism DA particularly true in the context of our aff because they can’t explain motivations of actors like Russia or China which have motive to carry out cyber attacks

#### Prevents political alliances, divides communities, erases black/decolonial thought, and is biological essentialism

Wekker 20, Emeritus Professor of Gender and Ethnicity at Utrecht University in The Netherlands, social and cultural anthropologist, who attained her master's degree in 1981 from the University of Amsterdam, in 1992 she received a PhD from the University of California, Los Angeles (UCLA), with a doctoral dissertation on Afro‐Surinamese women's sexuality (Gloria Wekker, 11-21-2020, Afropessimism” review of Frank B. Wilderson III’s book Afropessimism,” European Journal of Women’s Studies, https://doi.org/10.1177/1350506820971224)

When the author Frank Wilderson III was recently asked in an interview to summarize his third book Afropessimism in one sentence, he replied: ‘With the narrative drive of a captivating novel and the intellectual rigor of critical theory, “Afropessimism” illustrates how black death is necessary for the material and psychic life of the human species’ (Williams, 2020). I partly agree with his characterization: Afropessimism is a mixture of memoir and theory, which intersect in almost every chapter, and the narrative part of this non-linear book does function as ‘captivating novel’. But with the second part of Wilderson’s characterization, namely ‘with the intellectual rigor of critical theory’ and his subsequent core argument about the death of Blacks, I cannot possibly agree. The compelling nature of Wilderson’s prose makes it tempting to overlook the shortcomings of his theorizations. In the end, I came to the conclusion that I find Afropessimism, as expressed in this book, loveless, hopeless and divisive. Moreover, this body of thought, although it claims otherwise, lapses into the old laziness of not being intersectional in any way.1 The insight Wilderson offers us into a contemporary Black boy’s and man’s life from a male perspective is rare these days and he paints his life, recent American political and social history, and his relationships with women with verve, sometimes conjuring up beautiful, vivid images. The book may, according to Vinson Cunningham (2020), be seen as a genre, termed ‘auto-theory’, an attempt to arrive at a philosophy by way of the self. Several African American academics, especially women, have taken up this exciting genre in recent years. A personal narrative is linked to a theoretical deepening of the important themes in a text, which, often have to do with Black death, with fungibility, the absolute substitutability and interchangeability of Black people. Christina Sharpe (2016) does this with In the Wake: On Blackness and Being and Saidiya Hartman (2007) had previously used the genre with Lose Your Mother: A Journey along the Atlantic Slave Route. Yet, Hartman (1997), like other authors, will have an axe to grind with Wilderson, because he derives all kinds of important insights and concepts from her work, especially from Scenes of Subjection; Terror, Slavery and Self-Making in Nineteenth Century America, which although he references her, also incorporates her into the current of Afropessimism, while she herself emphatically rejects that positioning (Royal Tropical Institute, personal communication, Amsterdam, October 2018).

African American academic thought

In this article, I will undertake a critical reading of Afropessimism, using an intersectional and Black feminist European perspective. First, I give some much-needed context. It exceeds the limitations of this article to give a comprehensive overview of the academic thought that Black America has produced, starting with the first Black sociologist William Edward Burghardt Du Bois (1868–1963), founder of the NAACP (National Association for the Advancement of Colored People), who, educated at Harvard and the Humboldt University in Berlin, was long associated with Atlanta University. His contributions to modern sociology are still not sufficiently appreciated. Whether it concerns the rewriting of American history during the Civil War and the period of Reconstruction, in which he takes as a starting point the important roles that Black people themselves played2 ; his contributions to urban sociology, to Pan-Africanism, to a vision of the future for Black people in America, led by ‘the talented tenth’, or to the description of Black consciousness in the heart-breaking collection of essays The Souls of Black Folk (1903), Du Bois is incorrectly not included among the founders of modern sociology. He is also hardly mentioned, let alone taught in introductory courses in that discipline, in The Netherlands and other European countries. For a description of the meaning of Du Bois and the conflict of ideas with his contemporary and rival Booker T. Washington, I refer to the beautiful study by Aldon Morris (2015), The Scholar Denied. 3 If I now confine myself to the last few decades, intersectionality is important Black American feminist intellectual heritage. Intersectionality was initiated by the second wave of feminists of colour, and in particular by Black feminists, including The Combahee River Collective, Audre Lorde, Patricia Hill Collins and Kimberlé Crenshaw, but Chicana and Asian feminists, such as Cherríe Moraga, Gloria Anzaldúa and Mari Matsuda, have also contributed to it. Crenshaw formulated the term intersectionality in 1989 (Crenshaw, 1989). According to some interpretations, including mine, intersectionality goes back to the ideas of 19th-century Black women, such as the women’s rights activist and abolitionist Sojourner Truth with her famous speech Ain’t I a woman? in Akron, Ohio, in 1851. At a meeting of White women who were fighting only for their own suffrage, she asked again and again, ‘Ain’t I a woman?’4 Intersectionality is the key concept within the discipline Gender and Women’s Studies in the Netherlands. In short, intersectionality means that it is not enough to analyse reality using just one analytical toolbox, whether it concerns gender, race, class, sexuality or another variable, but that all these different grammars of difference work simultaneously, influencing and co-creating each other. They should therefore be studied simultaneously and not alongside or separately from each other.5 Intersectionality is characterized by systematic attention to power differences, by complexity and by a certain ‘elasticity’.6 In my ‘pliable’ view, it is possible for anyone to make intersectional analyses, not only Black women; intersectionality is not only concerned with subjectivity/identity, but lends itself well to the analysis of structural social power relations, and finally, the object of research does not have to be Black, but can very well be applied, for example, to the study of Whiteness or sexuality.

Afropessimism and Afropessimism 2.0

In the last two decades, the most recent Black American academic body of thought and export product ‘Afropessimism’ has emerged, in the form in which it is now presented to us by Frank Wilderson et al. Some critics refer to this new form as Afropessimism 2.0 (AP 2.0), and I will do so, too, because Afropessimism was and still is prevalent in White Western circles and it is related to the ‘unrelentingly negative coverage of Africa in Western news media, especially in terms of its tendency toward arrested development’.7 In this discourse, hopelessness about the African continent and neo-coloniality fight for priority. The denial of the complete superfluousness and counterproductivity of the development industry on the continent is also part of this discourse. From this perspective, Africa is seen as one big tragic mess: ‘corruption, cronyism and ethnic conflict are thought to provide the governing logics of politics and other daily experiences’.8 However, Wilderson et al. do not say a word about this first, widespread movement of Afropessimism, which is strange because AP 2.0 would gain credibility as a theoretical framework, if it were to situate itself and indicate how it relates to this earlier Afropessimism, which was and is deeply rooted in Western culture. This total omission of the original and still ubiquitous Afropessimism is symptomatic and gives a first impression of an ahistorical slant, of intellectual carelessness, of African American exceptionalism, that is, being stuck in an African American framework, ~~blind~~ [ignorant] to knowledge from other parts of the Black Diaspora. British researcher Kevin Ochieng Okoth reproaches Afropessimists 2.0 for erasing all post-war anti-colonial African thought9 – and I would add Négritude from France and decolonial thought, which originates mainly from Latin America. Moreover, other Black authors, such as Frantz Fanon, Orlando Patterson, Silvia Wynter, Hortense Spillers and Saidiya Hartman, are being cannibalized. Finally, there is an apodictic propensity, an unsubstantiated grandstanding, with which there can be no dialogue under penalty of the accusation of ‘anti-Black racism’. AP 2.0 comes from circles of Black Studies or African American Studies and Frank Wilderson III and Jared Sexton are its founders. AP 2.0 is a theoretical lens, a metatheory, which, using Marxism, psychoanalysis, feminism and other critical theories, has the ambition to clarify the irreconcilable difference between, on one hand, the violence of capitalism, gender oppression and White supremacy, and, on the other hand, Anti-Black violence. In this metatheory, the world is divided into People, that is, Whites and their junior partners; that concept includes everyone except White heterosexual men and Black men and women. Junior partners, which quite intentionally already sounds nasty, are people of colour (POC), or Non-Black POC (NBPOC) members of all other minority groups, such as Palestinians and Indigenous people, the working class, all women and LGBTIQs (lesbian, gay, bisexual, transgender/transsexual, intersex and queer) who are not Black. On the other side of this classification are Blacks, who are not Human. Whites and their junior partners become Human by separating themselves from Blacks, also called, confusingly, BPOC, who are ontologically placed outside the Human order (pp. 78, 84). There can be no analogy or equivalence between the suffering of Blacks and that of Whites and their junior partners and therefore no solidarity. Black suffering is incomparable and unique. One of the core beliefs of AP 2.0 is that there is a fundamental Human need for violence against Blacks, the free, naked violence of social death. The core of AP 2.0 is that being Black equals being a Slave, during slavery, but also afterwards, ‘the afterlife of slavery’, it has remained so, with violence against Blacks being the structuring mechanism of the modern world. Human life depends on the death of Blacks for its existence and cohesion (p. 39). AP 2.0 relies heavily on the work of Jamaican sociologist Orlando Patterson (1982), particularly Slavery and Social Death, in which he introduces the concept of ‘social death’ as a characteristic of the life of Blacks. Social death is what characterizes the position of Blacks: not being a subject, not having property, not being able to assert rights to land or to family. There are three central concepts within AP 2.0 when it comes to Blacks: naked, unpunished violence against them is possible, desirable and completely normalized; total powerlessness and general dishonour; and alienation from birth, in generations before and beyond (p. 177). Black suffering and the death of Blacks is the life force of the world, and that death must be constantly repeated visually. What society needs from Blacks is not their labour force, their country or their sexuality, as is the case with the junior partners, the Marxist proletariat, the (neo)colonial subject, or White and coloured women, respectively, but the affirmation of their Humanity. Because Blacks are excluded from being Human from the outset, they lend cohesion to that Humanity. The Black/Slave is ontologically absent, a living dead person. While Blacks know ‘We are a kind of sentient beings [not persons/subjects] who cannot be wounded or killed, because we are already dead to the world’ (p. 155), Whites and their junior partners think ‘I know I am a Human, because I am not Black’ (p. 175). So the fundamental distinction in AP 2.0 is that between being a Black Non-Person and being a Non-Black Person. Anyone who does not want to see or take account of this fundamental difference is guilty of anti-Black racism. It is important to determine how and for whom the term ‘Black’ is used in AP 2.0. Annie Olaloku-Teriba (2018) devotes an incisive study to this and concludes that there is conceptual ambiguity about who is Black in AP 2.0, because it is never explicitly mentioned, and consequently also about what Anti-Black racism is. Being Black is a stable category that ‘refers to a historically coherent group of people, whose experiences of violence are necessarily linked by a common ethnicity’ (p. 10). Being a Slave is something that is permeated by both being Black and being African (p. 8), ignoring the very different historical circumstances in which different collectivities have come into being – and which is precisely what should be investigated – and thus there is an implicit biological, essentialist conception of being Black. AP 2.0 is essentially an ethnocentric, African American analysis of being Black that applies to all others classified as Slaves. Notwithstanding this conceptual muddiness, Afropessimism is high-profile both within the academy and in circles of Black activists, in the United States and in Europe. At the same time, it is controversial thinking that divides Black communities and communities of colour, internally and in relation to each other. This way of thinking has been initiated by Black men, and recently Black feminists and feminists of colour have been trying to reconcile and bring together AP 2.0 and intersectionality, which are in a complex and often tense relationship with each other (Bilge, 2020). It is still too early for me to say whether this reconciliation project is fruitful; in any case, it is urgent explicitly to mention the merits and shortcomings of AP 2.0, and I have to confess that I have some difficulty seeing the merits. I find it difficult to think how AP 2.0, with its essentialist, unshakeable and irreconcilable division of the world, can be worth saving or rethinking. That is why I find it shocking that many, especially of the younger generation in the Netherlands as well, apparently find AP 2.0 so attractive. This is particularly shocking in the light of a Black, migrant and refugee (BMR) feminist history of the late 1970s and early 1980s, in which solidarity between different groups of women, who initially identified themselves as (politically) Black and later as BMR women, was paramount (Deekman and Hermans, 2001).10 I add that it was BMR women, not BMR men, who developed a joint, protointersectional analysis of their/our situation across all their own and institutional boundaries. Women from the former Dutch East Indies, including from the Moluccan islands, Surinamese-, Antillean-, Turkish- and Moroccan-Dutch women worked on change, both within their own women’s groups and communities and with each other. Researcher Chandra Frank recently uncovered a letter from the archives of Atria in which the Black lesbian group Sister Outsider, of which I was a member, introduced ourselves to Audre Lorde after she accepted our invitation to visit us in the Netherlands. The letter makes clear that we are Black lesbian women from South Africa, Suriname and Indonesia. I had forgotten about that letter, which is not dated, but was written sometime in 1983, but when Chandra showed it to me, I realized this is an intersectional analysis, which moreover shows our shared colonial histories with the Netherlands and with each other (Frank, 2019). It was great to see that our joint study sessions, our hours of discussions, and the feverish devouring of Black American and Black British feminist stencils and pamphlets gave us an analysis of the Netherlands that still stands. What is the curious, topical appeal of AP 2.0 to younger generations? I suspect there are three things at play here. I’m following Myriam Aouragh (2018, 2019) and Annie Olaloku-Teriba,11 who point out the complex constellation of political and social factors that have come together in the last two decades. These include a general pull to the right, a weakening of the left, and the usual erasure of BMR men and women and their activities as well as (Black) anti-racist left-wing activism that has now embraced a narrowed conception of anti-racist struggle. Priority has been given to checking and disciplining White, but in particular NBPOC privilege, that personal and individualized measure of ‘undeserved privileges’, instead of paying attention to social justice in a structural sense, to transnational and anti-imperialist perspectives and to intersectionality. In particular, the relationship between race and class requires a well-considered analysis, as developed earlier, from Black Panthers to WOC women’s movements. Apart from the fact that such an approach to anti-racism is more complex, takes a longer breath and calls for alliances, tackling White and – what is seen as – NBPOC Privilege offers the immediate advantage of a positioning that puts supporters of AP 2.0 a priori in the right. After all, the basic principles do not lend themselves to refutation and the accusation of Anti-Black racism is easily made. I will come back to this in the last paragraph, but within AP 2.0, nothing is in fact asked of Black people other than to be Black. In addition, I have to conclude with pain that there is simply a lack of transgenerational knowledge about our own Dutch BMR feminist and anti-racist history, in which the search for alliances and solidarity were so prominent. Audre Lorde (1984) says noteworthy things about that in the collection of essays Sister Outsider: ‘Too often, we pour the energy needed for recognizing and exploring difference into pretending those differences are insurmountable barriers, or that they do not exist at all’ (p. 115). It was precisely externally imposed, essentialist identity constructions that were questioned, while they simultaneously led a double life, in the sense that it was acknowledged that there were, of course, differences between women from different countries of origin, but that those differences should not in any way stand in the way of cooperation. And finally, related to the previous point, I think that the popular misinterpretation of intersectionality, as if it only had to do with subjectivity and identity, is apparently also at issue.

A memoir on Black masculinity

But first let me say something about the successful part of Afropessimism. It is a compelling and beautifully told narrative; an exciting and adventurous coming of age story, a memoir of a Black man in his mid-sixties, who is now a professor in African American Studies and Drama, at the University of California, Irvine. Born in 1957, he gives us a picture of how he experienced the end of the Vietnam War; the Black liberation struggle; accompanied by the soundtrack of end of 1960s, 1970s Black music; and the birth of the AIM, American Indian Movement. Raised as the eldest son in the family of two Black psychologists, who were also activists in Minneapolis, Minnesota, in an overwhelmingly White neighbourhood, he attends a White elementary school, and he never feels at ease either in the neighbourhood or at school. He is always the Other, as when he describes that the mother of a friend, through the friend, asks him ‘what is it like to be a Negro?’ At the same time, it is a privileged childhood, in which the family travels a lot during summer vacations, especially to other American university cities. The parents are constantly on study trips or on trips with an activist purpose. When he is 18, he goes to study at élite Dartmouth College in New Hampshire, where, just before graduation, he gets kicked out for starting a political action for the poorly paid White cleaners and cafeteria staff. When he lives with his considerably older, Black lover Stella, a beautifully described, psychoanalytically analysed quarrel with their White flatmate Josephine, drives them on a hallucinatory escape from their apartment, driven by invisible assailants of an initially obscure nature. He finishes his studies at Dartmouth anyway and then becomes the first Black real estate agent in Minneapolis and earns big money. However, this existence does not give him satisfaction and after a few short episodes as a waiter and as an usher in a museum, he leaves for South Africa, to support the fight of the African National Congress (ANC) against Apartheid. He described his time in South Africa in his second book Incognegro: A Memoir of Exile and Apartheid (2008). He subsequently went back to the university and obtained his PhD, in the process suffering a psychic breakdown. This collapse has great symbolic significance and marks his entry into AP 2.0. His description of international academic conferences and presentations, which he gives as a much sought-after academic, are amusing and recognizable. Occasionally it is rather over the top, as when he compares the comments of his Marxist colleagues at a conference in Berlin, who do not take kindly to AP 2.0, without any irony or noticeable sense of exaggeration, with a lynching party, which he refers to as a ‘mixture of pleasure and psychological renewal’ (p. 74). I would like to dwell a little longer on his period as an usher in the museum, because it provides him with a key experience that will profoundly influence the development of his thinking. In conversation with his fellow hall guard, best friend and fellow revolutionary, the refugee Palestinian Sameer Bishara, the latter reveals that it is one thing to be searched by Israeli soldiers all the time, but that it is intolerable when this is done by Ethiopian Jews (p. 17, and further). Wilderson’s world collapses when he realizes that this means that he occupies the same dishonoured place in the collective unconscious of Palestinians, whom he had until then seen as his brothers in the revolutionary struggle, as he does in that of Whites in America. He concludes that Palestinian insurgents have more in common with the Israeli state and Israeli civil society than with Blacks. Sameer may have lost his country, but that is of a totally different order than the ontological placing of Blacks outside the Human Order. Later, when he has converted to AP 2.0, he systematizes that experience into a theoretically hermetic vision and a worldview in which there can be no equivalence and solidarity between the suffering of Black people and that of Whites and their junior partners, such as Sameer. A number of miraculous things happen here. The ease with which Wilderson lumps all others than Black people together, without applying any differentiations, is astonishing. Whites and their junior partners, who are subordinated and disadvantaged, but do belong to Mankind, have made common cause with each other in their negrophobogenesis, or negrophobia. With this statement, it becomes clear once again that Wilderson does not think intersectionally, but in singular terms. How is it possible to think about all these categories of people without considering the overlaps between them? Take a working-class Black woman: does she fall into the most damned category of Blacks or under the junior partners? Or how should we understand a Black Palestinian? According to Wilderson, their Blackness comes first and that cancels all their other characteristics. In other words, race is a more fundamental, ontological category, while class and gender are just ‘conflicts’ that can be resolved. Furthermore, it is problematic that one extremely unpleasant, racist experience is identified as the genesis of his exclusive vision. The exceptionalism and uniqueness of Black suffering and his anti-Palestinian point of view, part of the broader anti-NBPOC stance, curiously resembles a Zionist argument in which the suffering of Jews cannot be compared or seen in relation to the suffering of other groups. Wilderson’s position is also inconsistent with reality. In a public conversation with Gayatri Spivak in Berlin in June 2018, Angela Davis said about AP 2.0 and Palestinians: When we think of the solidarity work that Palestinian activists did in 2014, when the protest against Ferguson served as a catalyst for a new movement in the US, a Black Freedom Movement, the Black Lives Matter movement, we realize how central Palestinians were to the production of a new historical moment for Black people in the US.12 Another possible interpretation would be that some Palestinians also take part in the older Afropessism or, in my own terms, that they have mastered the dominant cultural archive, but I always want to keep open the possibility that they could liberate themselves from it. There is no such exit with AP 2.0; the relationships between Blacks, their masters and the junior partners are chiselled in marble and there is no escaping it. That is why I call AP 2.0 loveless and hopeless. Finally, what is striking about this fragment and AP 2.0 in general is, as Aouragh (2019) and Olaloku-Teriba (2018) also point out, that it is not so much Whites, but the NBPOC in particular, who, drawing parallels between Black struggles and the struggles of other groups, are the object of his ire. This is not only a break with earlier more comprehensive analyses of anti-racist struggles, it is also hopeless to fool other dominated groups into believing that they are fundamentally and irrevocably implicated in, and benefiting from, the oppression of Blacks. While we are in the midst of the uprising for the murder by a police officer of George Floyd in Minneapolis, it is tempting to think that Black suffering is unique and incomparable, but that suffering is related to other forms of suffering, and it is neither possible nor productive to establish a hierarchy in them.

### 2ac – AT: Innev – Threshold

#### Winning just one instance of positive reform is sufficient to derail the impact to their links b/c it relies on an unflinching truism

### 2ac – AT: Innev – Non-falsifiable

#### The nonfalsafiability of the negs ontology claims makes genuine conclusions impossible, but it’s net beneficial to act as though state engagement can be beneficial, because overly deterministic perspectives risks absolving individuals of the responsibility to act which magnifies their impacts

### 2ac – AT: Psychoanalysis

#### Reject psychoanalysis---it’s antiblack

Frosh 13

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This article explores the prospects for a psychological contribution to postcolonial thought through the mediation of psychoanalysis. It does not attempt to deconstruct or historicize postcolonialism itself, at least to any significant extent, further than to state the need for a postcolonial theory of the subject that incorporates an understanding of affective and “subjective” issues—precisely the area with which psychoanalysis is primarily concerned. The positioning of psychoanalysis as a progressive, critical approach is not, however, a particularly secure one. The central difficulty is the way psychoanalysis has frequently aligned itself with conformist and even “repressive” tendencies that reproduce colonial and at times racist tropes, often in the context of psychological individualism, but sometimes in an explicitly political manner (Jacoby, 1983; Frosh, 1999). This is despite the existence of a contrary urge in psychoanalysis, especially reflected in the “critical theory” tradition that made use of it in the 1950s and 1960s (e.g., Marcuse, 1955) but also in the work of several followers of Lacan (Stavrakakis, 2007) and some British social reformists (Rustin, 1991). The tendency of American ego psychology to give prominence to “adaptationist” perspectives has been widely noted and has been criticized both by political radicals (e.g., Jacoby, 1975, 1983) and by Lacanians (cf. Roudinesco, 1990, p. 175: “According to [Lacan] such a psychological science had been affected by the ideals of the society in which it was produced”). The adoption of a strong antihomosexual bias by orthodox mid-20th century psychoanalysts has had particularly damaging consequences for the practice and reputation of psychoanalysis as a whole, even though recent attempts to reconcile psychoanalysis and queer theory are beginning to bear fruit (Frosh, 2006; Campbell, 2000). Psychoanalytic assumptions about the nature of a civilized mind will be briefly discussed below; but overt forms of racism, notably antisemitism, have also on occasions been evident in its institutional practices (Frosh, 2005, 2012). Most relevantly, colonialism is a deeply problematic issue for psychoanalysis, because it is engrained in much psychoanalytic thinking and terminology, and this has effects on contemporary theory and practice in ways that are not always recognized. For example, as discussed further below, psychoanalysts often draw on the language of the “primitive” to refer to unreasoning elements of people’s psychic lives. Thus, a notion that someone might be evincing a “primitive fantasy of destruction” is a very familiar one, but what is not acknowledged is that this terminology not only has its roots in a colonial opposition between primitive and civilized, but it also reproduces this division “unconsciously” when it is used. This is to say, the terminology is full of associations that position some ideas as civilized and some as primitive, reinforcing a developmental scheme that is heavily inflected by assumptions about the relationship between seemingly irrational and rational thought processes— and in particular who might “own” them. The history of this stretches back to the beginnings of psychoanalysis, reflecting the colonial and racist (including antisemitic) assumptions prevalent in the Europe out of which psychoanalysis arose. Freud deployed the idea that the thinking of what he called “savages” was not only contrasted to “civilized” mentality, but also revealed the origins of mental life both for the culture as a whole (the contemporary savage being a throwback to the precursors of modern “man”) and for the individual (the savage mind being like that of a child). For example, at the beginning of Totem and Taboo, subtitled Some Points of Agreement between the Mental Lives of Savages and Neurotics, he wrote, There are men still living who, as we believe, stand very near to primitive man, far nearer than we do, and whom we therefore regard as his direct heirs and representatives. Such is our view of those whom we describe as savages or half-savages; and their mental life must have a peculiar interest for us if we are right in seeing in it a well-preserved picture of an early stage of our own development. (Freud, 1913, pp. 1) The repetitive first person plural pronoun is notable here: “we believe,” “we do,” “we regard,” “our view,” “we describe,” “us,” “our own development”. The savage is the other, the not “us”; though as will be outlined briefly below, there is quite a degree of subtlety in what this might mean. Freud also was explicit about how “savages” share attributes with children, both in terms of how they think, and how they are thought about by “we adults”. “It seems to me quite possible,” he wrote (p. 99), “that the same may be true of our attitude toward the psychology of those races that have remained at the animistic level as is true of our attitude toward the mental life of children, which we adults no longer understand and whose fullness and delicacy of feeling we have in consequence so greatly underestimated”. The adoption of a binary between savage and civilized is not perhaps intrinsically racist and colonialist, but the assumption that the latter always displaces the former and, more importantly, that the terms can be applied to different people, is. In Freud’s thought, savage societies hold to various types of irrational thinking (concreteness, mystical attitudes to death, etc.), processes reviewed throughout Totem and Taboo (Freud, 1913) and explicitly linked with children in more “civilized” societies. For instance, in writing of wish fulfillment (p. 84), Freud commented, If children and primitive men find play and imitative representation enough for them, that is not a sign of their being unassuming in our sense or of their resignedly accepting their actual impotence. It is the easily understandable result of the paramount virtue they ascribe to their wishes, of the will that is associated with those wishes and of the methods by which those wishes operate. These ways of thinking make them “primitive” in the developmental sense that they should normatively be overcome by more advanced modes of being—a theme also taken up in the analysis of religion in The Future of an Illusion (Freud, 1927). Although Freud himself does not press for political action that does this— he was interested rather in how science might overcome superstition—the general approach is consistent with the justification of colonialism and even slavery on the grounds of the inherent inferiority of the primitive. There is another subtle turn here, however, that is specific to Freud and the early history of psychoanalysis, relating to the intense antisemitism of Freud’s time. Gilman (1993) showed how deeply rooted antisemitism was in the beliefs of many Europeans, markedly so in the Viennese among whom psychoanalysis grew up, and how widespread were ideas such as that Jews were castrated (hence, feminine), that they were “oriental” and maybe even “black,” and that they were primitive in the religious sense (Christianity having displaced Judaism) but also psychologically, socially, and racially. Gilman suggested that Freud, consciously or unconsciously, constructed some of the most conspicuously radical elements of his theory in response to this. For instance, Gilman argued that the trope that Jewish men are castrated through circumcision is replaced in psychoanalysis by the idea that the castration complex is universal, so that all people— including the most gentile—follow a model set by the Jews. This Freudian impulse to disarm antisemitism by positioning the Jews as the truly civilized people (which was mirrored in the idea that as nationalism took hold in Europe at the end of the 19th century, the Jews might be the only “true Europeans” oriented toward a transnational comity) results in a shifting of the “other” of European society away from the Jew and toward the “savage,” that is, the colonized, Black “primitive” of slavery and the European imagination. This theoretical move attempts to relieve Jews from the opprobrium of primitivity (unsuccessfully, as was demonstrated unequivocally just a few years later) by passing it onto the colonized other. There is always a danger with summary accounts such as this one, that the history it sketches simplistically reduces a tension-filled and ambiguous process to a linear narrative. It is certainly the case, for example, that psychoanalysis was from the start full of impulses that challenged and subverted the assumptions of the societies in which it found itself. Indeed, this is one reason for the mixture of explosive embrace and resistance that characterized the response to psychoanalysis: On the one hand, it fuelled enormous shifts in self-perception, artistic creativity and even political and economic thought (not confined to outspoken radicals— see, e.g., John Maynard Keynes’, 1919, 1936, post-World War 1 use of Freudian ideas to argue for the importance of emotional factors in economics). In many respects, it is precisely in the tension between what Toril Moi (1989, p. 197) called, in relation to the attitude of psychoanalysis to femininity, Freud’s “colonizing impulse” and its contrary acceptance of “the logic of another scene”—the specific expressiveness of unconscious life—that the creativity of psychoanalysis inheres. Nevertheless, consideration of the rootedness of much psychoanalytic thought in colonial assumptions is important not merely to sweep away the ideological detritus, but also to identify where the investments of psychoanalysis can provide leverage for understanding the place of psychosocial theory in the postcolonial project. A further example of the “detritus” might be found in some work by Celia Brickman (2003), which offers an extensive account of how the language of primitivity infects psychoanalysis. Like Gilman, she notes how Freud’s “universalizing reconfigurations” (p. 165) turn the despised Jewish body into the model for humanity as a whole. From the perspective of postcolonialism, however, this move, which is subversive in relation to antisemitism, is “made at considerable expense,” because “the modalities of inferiority previously ascribed to the Jews did not simply disappear but were ambivalently displaced onto a series of abjected others: primitives, women and homosexuals”. Brickman elaborated on how the assimilation of the Jewish other to Europeanism positions psychoanalysis as a colonialist discipline and incorporates racism into its fabric of argumentation. Categorized as a member of a primitive race, Freud repudiated primitivity, locating himself and his work within European civilization, with both its scientific and colonizing enterprises, and replacing the opposition of Aryan/Jew with the opposition of civilized/primitive (p. 167). In relation to psychoanalytic practice, primitive usually means either or both of fundamental and irrational. A primitive impulse is never a rational one; it always arises unmediated from the unconscious and hence has not been worked over by the secondary processes of thought. The sleight of hand then is to link this kind of primitivity with the irrationality of the colonized other and then to make rationality itself the marker of civilized human society— or even of what it means to be human at all. After all, when one loses one’s power of reason, one ceases to be able to function as human at least to the degree that equal citizenship is at risk. In the colonial context, this justifies colonization: irrational primitives cannot be trusted to run their own affairs; the civilized European is justifiably superior, for everyone’s good. Commenting on Freud’s anthropological speculation, Brickman (2003) noted how the psyche comes to be envisaged as a representation of colonialism and hence how Freud explicitly parallels the structure of the mind with that of (colonial) society: [By] correlating the progression of narcissism, the oedipal stage, and maturity with animism (savagery), religion (barbarianism), and science (civilisation), Totem and Taboo transposed the racial assumptions of the cultural evolutionary scale onto the modern psyche . . . The psychoanalytically conceived norm of mature subjectivity was, by virtue of the correlation of libidinal development with the cultural evolutionary scale, a rationalism whose unstated color was white, just as its unstated gender was male. (p. 72) Even though these Freudian assumptions are mainly unstated, the terminology and the conceptual baggage of the savage” and the barbarian remained with psychoanalysis for some time and is still lying only just-dormant in those references to “primitive feelings” that often can be found in clinical psychoanalytic discussions. A certain mode of rationality is given priority here, which is attached to masculine “reason” as it has developed over the period of industrial modernity (Frosh, 1994). That which falls short of it—the “unreason” attributed to women, children, and primitive cultures—is derogated and made subject to reason’s imperialism. This is not, of course, to imply that one should fully affirm unreason as a simple alternative to colonial reason; it is rather to claim that the reason– unreason opposition is itself rooted in a colonial mentality that supports it and narrows the range of what is culturally validated. In a similar vein, Neil Altman (2000, p. 591) commented, “When Freud the ego psychologist said, ‘Where id was, there ego shall be,’ he defined the goals of psychoanalysis in terms reminiscent of the colonial mentality. In this sense, the structure of racism is built into structural psychoanalytic theory, particularly in its ego-psychological form”. This claim is itself resonant of the critique of ego psychology mentioned earlier. The argument runs that because this form of psychoanalysis assumes reason to be superior to unreason, its concurrent assumption that unreason is characteristic of “primitives” means that it is promoting a colonizing process (reason trumping unreason; civilized displacing primitive) that is embedded in a racist paradigm. As an instructive aside, it is perhaps worth noting that ego psychology itself has a complex set of origins, one of which regularly gets lost when its notions of adaptation are pronounced solely conformist and colonialist. The occlusion here is of the personal history of most of the postSecond World War American ego psychologists as migrants or refugees from Nazi Europe. Their concerns were indeed to find creative ways to adapt to a new society; in addition, they were exercised by the explosion of irrationality that had overwhelmed their lost homelands, and their impulse to find ways to fend this off and protect future societies from its recurrence was perhaps understandable.

#### It's also nonfalsifiable---their evidence is assertions without evidence of motivation of individuals actions---no 1ac card describes the psychoanalytic basis for their claims so you shouldn’t just take it on face value---that was cross-ex.

#### It can’t scale which wrecks the neg’s politics

[it can’t explain group phenomena, is unique to the individual studied, and is not a universal theory]

Gunder 5 - Senior planning lecturer in the School of Architecture and Planning at the University of Auckland, previous president of the New Zealand Planning Institute (Michael Gunder, 2005, “Lacan, Planning and Urban Policy Formation”, *Urban Policy and Research*, 23.1)

Not surprisingly, the application of Lacanian theory to the understanding of society and culture is not without concern. Some clinical practitioners of Lacanian psychoanalysis are “suspicious of the wider ‘application’ of the theory to those not actually in analysis” (Parker, [2004](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib74), p. 69). Alternatively, Lacan's teachings have been criticised by social theorists as being only theoretical and void of empirical material (Sarup, [1993](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib84), p. 26). Further, in contrast to psychology ([Rose, 1998](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib79)), the inability to reconcile the nuance of each particular psychoanalytical case to a meaningful universal theory of the unconscious that is testable is a fundamental constraint for considering psychoanalysis a science, or by extension, a valid scientific body of thought applicable to the understanding of aggregate human behaviours ([Fink, 2004](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib29)). In this regard, Lacan was unable to successfully legitimise and advance Freud's psychoanalytical theory as a science of the unconscious even with his application of mathematical theory and linguistics to Freud's metapsychology ([Althusser, 1996](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib2); [Morel, 2000](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib71); [Fink, 2004](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib29)). Consequently, this author views Lacan's work in a manner originated by Althusser ([1996](http://www.tandfonline.com.proxy.lib.umich.edu/doi/full/10.1080/0811114042000335287#bib2), p. 93), as best being understood as a “philosophy of psychoanalysis” from which subsequent understandings of society and culture may be derived and, where possible, tested.

### AT: Libid Econ

#### Libidinal investments can manifest themselves in degrees---pure psychoanalytic explanations ignore specific social and cultural value systems and confuse habit with instinct.

Peter Hudis 15, Professor of English and History @ Queens College, 2015, “Frantz Fanon: Philosopher of the Barricades,” Pg. 35-37

Fanon’s vantage point upon the world is his situated experience. He is trying to understand the inner psychic life of racism, not provide an account of the structure of human existence as a whole. Racism is not, of course, an integral part of the human psyche; it is a Social construct that has a psychic impact. Any effort to comprehend social distress that accompanies racism by reference to some a priori structure- be it the Oedipal Complex or the Collective Unconscious- is doomed to failure. Carl Jung sought to deepen and go beyond Freud's approach by arguing that the subconscious is grounded in a universal layer of the psyche- which he called "the collective unconscious:' This refers to inherited patterns of thought that exist in all human minds, regardless of specific culture or upbringing, and which manifest themselves in dreams, fairy tales, and myths. Jung referred to these universal patterns as "archetypes:' It may seem, on a superficial reading, that 1 Fanon is drawing from Jung, since he discusses how white people tend to unconsciously assimilate views of blacks that are based on negative stereotypes. Even the most "progressive" white tends to think of blacks a certain way (such as "emotional;' "physical," or / "aggressive"), even as they disavow any racist animus on their part. However, Fanon denies that such collective delusions are part of a psychic structure; they are not permanent features of the mind. They are habits acquired from a series of social and cultural impositions. While they constitute a kind a collective unconscious on the part of many white people, they are not grounded in any universal "archetype." The unconscious prejudices of whites do not derive from genes or nature, nor do they derive from some form independent of culture or upbringing. Fanon contends that Jung "confuses habit with instinct." Fanon objects to Jung's "collective unconscious" for the same reason that he rejects the notion of a black ontology. His phenomenological approach brackets out ontological claims on both a social and psychological level insofar as the examination of race and racism is concerned. He writes, "Neither Freud nor Adler nor even the cosmic Jung took the black man into consideration in the course of his research.” This does not mean that Fanon rejects their contributions tout court. He does not deny the existence of the unconscious. He only denies that the inferiority complex of blacks operates on an unconscious level. He does not reject the Oedipal Complex. He only denies that it explains (especially in the West Indies) the proclivity of the black "slave" to mimic the values of the white "master." And as seen from his positive remarks on Lacan's theory of the mirror stage, he does not reject the idea of psychic structure. He only denies that it can substitute for an historical understanding of the origin of neuroses .23 Fanon adopts a socio-genetic approach to a study of the psyche because that is what is adequate for the object of his analysis. For Fanon, it is the relationship between the socio-economic and psychological that is of critical import. He makes it clear, insofar as the subject matter of his study is concerned, that the socio-economic is first of all responsible for affective disorders: "First, economic. Then, internalization or rather epidermalization of this inferiority."24 Fanon never misses an opportunity to remind us that racism owes its origin to specific economic relations of domination- such as slavery, colonialism, and the effort to coopt sections of the working class into serving the needs of capital. It is hard to mistake the Marxist influence here. It does not follow, however, that what comes first in the order of time has conceptual or strategic priority. The inferiority complex is originally born from economic subjugation, but it takes on a life of its own and expresses itself in terms that surpass the economic. Both sides of the problem-the socio-economic and psychological-must be combatted in tandem: "The black man must wage the struggle on two levels; whereas historically these levels are mutually dependent, any unilateral liberation is flawed, and the worst mistake would be to believe their mutual dependence automatic:''5 On these grounds he argues that the problem of racism cannot be solved on a psychological level. It is not an "individual" problem; it is a social one. But neither can it be solved on a social level that ores the psychological. It is small wonder that although his name never appears in the book, Fanon was enamored of the work of Wilhelm Reich. This important Freudian-Marxist would no doubt feel affinity with Fanon's comment, "Genuine disalienation will have been achieved only when things, in the most materialist sense, have resumed their rightful place:'27

### 2ac – AT: Innev – Science

#### \*Blackness’ relationality to death is founded psychologically, but not precognitively AND it is restructured by political engagement which disproves their sweeping thesis

Mina Cikara and Jay Van Bavel, 15 – Mina, Assistant Professor of Psychology and Director of the Intergroup Neuroscience Lab at Harvard University; Jay, Assistant Professor of Psychology and Director of the Social Perception and Evaluation Laboratory at New York University; "The Flexibility of Racial Bias," *Scientific American*, 6-2-2015, https://www.scientificamerican.com/article/the-flexibility-of-racial-bias/

The city of Baltimore was rocked by protests and riots over the death of Freddie Gray, a 25-year-old African American man who died in police custody. Tragically, Gray’s death was only one of a recent in a series of racially-charged, often violent, incidents. On April 4th, Walter Scott was fatally shot by a police officer after fleeing from a routine traffic stop. On March 8th, Sigma Alpha Epsilon fraternity members were caught on camera gleefully chanting, “There Will Never Be A N\*\*\*\*\* In SAE.” On March 1st, a homeless Black man was shot in broad daylight by a Los Angeles police officer. And these are not isolated incidents, of course. Institutional and systemic racism reinforce discrimination in countless situations, including hiring, sentencing, housing, and even mortgage lending.

It would be easy to see in all this powerful evidence that racism is a permanent fixture in America’s social fabric and even, perhaps, an inevitable aspect of human nature. Indeed, the mere act of labeling others according to their age, gender, or race is a reflexive habit of the human mind. Social categories, like race, impact our thinking quickly, often outside of our awareness. Extensive research has found that these implicit racial biases—negative thoughts and feelings about people from other races—are automatic, pervasive, and difficult to suppress. Neuroscientists have also explored racial prejudice by exposing people to images of faces while scanning their brains in fMRI machines. Early studies found that when people viewed faces of another race, the amount of activity in the amygdala—a small brain structure associated with experiencing emotions, including fear—was associated with individual differences on implicit measures of racial bias. This work has led many to conclude that racial biases might be part of a primitive—and possibly hard-wired—neural fear response to racial out-groups.

There is little question that categories such as race, gender, and age play a major role in shaping the biases and stereotypes that people bring to bear in their judgments of others. However, research has shown that how people categorize themselves may be just as fundamental to understanding prejudice as how they categorize others. When people categorize themselves as part of a group, their self-concept shifts from the individual (“I”) to the collective level (“us”). People form groups rapidly and favor members of their own group even when groups are formed on arbitrary grounds, such as the simple flip of a coin. These findings highlight the remarkable ease with which humans form coalitions.

Recent research confirms that coalition-based preferences trump race-based preferences. For example, both Democrats and Republicans favor the resumes of those affiliated with their political party much more than they favor those who share their race. These coalition-based preferences remain powerful even in the absence of the animosity present in electoral politics. Our research has shown that the simple act of placing people on a mixed-race team can diminish their automatic racial bias. In a series of experiments, White participants who were randomly placed on a mixed-race team—the Tigers or Lions—showed little evidence of implicit racial bias. Merely belonging to a mixed-race team trigged positive automatic associations with all of the members of their own group, irrespective of race. Being a part of one of these seemingly trivial mixed-race groups produced similar effects on brain activity—the amygdala responded to team membership rather than race. Taken together, these studies indicate that momentary changes in group membership can override the influence of race on the way we see, think about, and feel toward people who are different from ourselves.

Although these coalition-based distinctions might be the most basic building block of bias, they say little about the other factors that cause group conflict. Why do some groups get ignored while others get attacked? Whenever we encounter a new person or group we are motivated to answer two questions as quickly as possible: “is this person a friend or foe?” and “are they capable of enacting their intentions toward me?” In other words, once we have determined that someone is a member of an out-group, we need to determine what kind? The nature of the relations between groups—are we cooperative, competitive, or neither?—and their relative status—do you have access to resources?—largely determine the course of intergroup interactions.

Groups that are seen as competitive with one’s interests, and capable of enacting their nasty intentions, are much more likely to be targets of hostility than more benevolent (e.g., elderly) or powerless (e.g., homeless) groups. This is one reason why sports rivalries have such psychological potency. For instance, fans of the Boston Red Sox are more likely to feel pleasure, and exhibit reward-related neural responses, at the misfortunes of the archrival New York Yankees than other baseball teams (and vice versa)—especially in the midst of a tight playoff race. (How much fans take pleasure in the misfortunes of their rivals is also linked to how likely they would be to harm fans from the other team.)

Just as a particular person’s group membership can be flexible, so too are the relations between groups. Groups that have previously had cordial relations may become rivals (and vice versa). Indeed, psychological and biological responses to out-group members can change, depending on whether or not that out-group is perceived as threatening. For example, people exhibit greater pleasure—they smile—in response to the misfortunes of stereotypically competitive groups (e.g., investment bankers); however, this malicious pleasure is reduced when you provide participants with counter-stereotypic information (e.g., “investment bankers are working with small companies to help them weather the economic downturn). Competition between “us” and “them” can even distort our judgments of distance, making threatening out-groups seem much closer than they really are. These distorted perceptions can serve to amplify intergroup discrimination: the more different and distant “they” are, the easier it is to disrespect and harm them.

Thus, not all out-groups are treated the same: some elicit indifference whereas others become targets of antipathy. Stereotypically threatening groups are especially likely to be targeted with violence, but those stereotypes can be tempered with other information. If perceptions of intergroup relations can be changed, individuals may overcome hostility toward perceived foes and become more responsive to one another’s grievances.

The flexible nature of both group membership and intergroup relations offers reason to be cautiously optimistic about the potential for greater cooperation among groups in conflict (be they black versus white or citizens versus police). One strategy is to bring multiple groups together around a common goal. For example, during the fiercely contested 2008 Democratic presidential primary process, Hillary Clinton and Barack Obama supporters gave more money to strangers who supported the same primary candidate (compared to the rival candidate). Two months later, after the Democratic National Convention, the supporters of both candidates coalesced around the party nominee—Barack Obama—and this bias disappeared. In fact, merely creating a sense of cohesion between two competitive groups can increase empathy for the suffering of our rivals. These sorts of strategies can help reduce aggression toward hostile out-groups, which is critical for creating more opportunities for constructive dialogue addressing greater social injustices.

Of course, instilling a sense of common identity and cooperation is extremely difficult in entrenched intergroup conflicts, but when it happens, the benefits are obvious. Consider how the community leaders in New York City and Ferguson responded differently to protests against police brutality—in NYC political leaders expressed grief and concern over police brutality and moved quickly to make policy changes in policing, whereas the leaders and police in Ferguson responded with high-tech military vehicles and riot gear. In the first case, multiple groups came together with a common goal—to increase the safety of everyone in the community; in the latter case, the actions of the police likely reinforced the “us” and “them” distinctions.

Tragically, these types of conflicts continue to roil the country. Understanding the psychology and neuroscience of social identity and intergroup relations cannot undo the effects of systemic racism and discriminatory practices; however, it can offer insights into the psychological processes responsible for escalating the tension between, for example, civilians and police officers.

Even in cases where it isn’t possible to create a common identity among groups in conflict, it may be possible to blur the boundaries between groups. In one recent experiment, we sorted participants into groups—red versus blue team—competing for a cash prize. Half of the participants were randomly assigned to see a picture of a segregated social network of all the players, in which red dots clustered together, blue dots clustered together, and the two clusters were separated by white space. The other half of the participants saw an integrated social network in which the red and blue dots were mixed together in one large cluster. Participants who thought the two teams were interconnected with one another reported greater empathy for the out-group players compared to those who had seen the segregated network. Thus, reminding people that individuals could be connected to one another despite being from different groups may be another way to build trust and understanding among them.

A mere month before Freddie Gray died in police custody, President Obama addressed the nation on the 50th anniversary of Bloody Sunday in Selma: “We do a disservice to the cause of justice by intimating that bias and discrimination are immutable, or that racial division is inherent to America. To deny…progress – our progress – would be to rob us of our own agency; our responsibility to do what we can to make America better."

The president was saying that we, as a society, have a responsibility to reduce prejudice and discrimination. These recent findings from psychology and neuroscience indicate that we, as individuals, possess this capacity. Of course this capacity is not sufficient to usher in racial equality or peace. Even when the level of prejudice against particular out-groups decreases, it does not imply that the level of institutional discrimination against these or other groups will necessarily improve. Ultimately, only collective action and institutional evolution can address systemic racism. The science is clear on one thing, though: individual bias and discrimination are changeable. Race-based prejudice and discrimination, in particular, are created and reinforced by many social factors, but they are not inevitable consequences of our biology. Perhaps understanding how coalitional thinking impacts intergroup relations will make it easier for us to affect real social change going forward.

### 2ac – AT: Social Death - Patterson

#### Social death theory wrong

Patterson 18 - author of Slavery and Social Death (1982) John Cowles Professor of Sociology at Harvard University (Orlando, interview with the Harvard Gazette, “The Kerner Report on race, 50 years on,” <https://news.harvard.edu/gazette/story/2018/03/harvard-professor-reflects-on-the-kerner-report-50-years-on/>)

GAZETTE: In 1968, the Kerner Report concluded that “the nation was moving toward two societies, one black, one white — separate and unequal.” What is your assessment of the situation 50 years later? PATTERSON: Since then, there have been very important changes, but also some disappointments. There is no doubt that in the public sphere, particularly in the political realm, there have been substantial improvements. A good example is the election of a black president, but we should see this simply as the result of major changes in our political system that allowed blacks to be elected as mayors, congressional and senatorial representatives, and the occasional governor in the past 50 years. The Obama election didn’t mark a post-racial era. That’s an exaggerated and absurd claim. It’s nonsense. We all know that the major disadvantages that African-Americans face have roots in their enslavement. For most of the time African-Americans have lived in this country, they have been viewed as the quintessential outsiders, as people who didn’t belong to the dominant political or moral community. That was reflected in the absence of blacks in important political positions but also in the national conversation, up to about the 1960s. That has changed completely. In addition to that, there are some important economic changes, and this shouldn’t be sniffed at. There is a genuine black middle class. Finally, there is also the strong influence of blacks in the cultural life of the country. But in spite of their presence in the public sphere, black Americans still remain quite segregated in their private lives. GAZETTE: What are the factors that allowed segregation to continue? Some experts argue that segregation is almost as bad as before, or perhaps even worse. PATTERSON: Here is the great irony: The highest levels of segregation are in the most liberal Northeastern states, including New York, which deems itself the pre-eminent liberal state. On the other hand, cities that have experienced the highest levels of integration are the new Sun Belt cities — Houston, for instance. Part of the reason is that in newer cities people don’t feel that they and their ancestors have been living there for generations. And outsiders are not seen as suspicious because everybody is an outsider in a new city. There have been some changes in education at the elite level. But by and large this has been a major area of disappointment. The number of black students in overwhelmingly majority-black schools is as great as it was when the report came out. That, of course, is related to housing segregation. Now, blacks can afford good schools if they can afford to live in places that have such schools. There was a time when they wouldn’t get in or were admitted in token numbers. But much of the progress has been at the upper-middle-class level. Those at the bottom, the black poor, are not seeing much change. In relative terms, the black poor may even be slightly worse off. They certainly are as segregated as they ever were, and the violence in the inner cities has increased substantially since the Kerner Report. GAZETTE: The report blamed “structural racism” created by “white institutions” and “white society” for the violence and the conditions of the ghettos and the inner cities. One of its recommendations was to improve the conditions of the ghettos or simply get rid of them. Why has it been hard to accomplish this? PATTERSON: There is evidence that indicates that the ghettos must go. But it’s important to know there is some ambivalence within the African-American community. For many, having a black community ensures black cultural and communal life, both of which could dissipate if blacks are integrated in the broader white community. I disagree. Ghettos never worked. When people say that black neighborhoods are needed for black culture to live on, I point to the Jews, because even as they integrated, they preserved their culture. All other groups in America recognize that staying clustered in ghettos is not good. That was true of Jews. It’s been true of Asians. That’s also true of Irish and Italians, and more recently it’s been true of Hispanics. There is a growing Hispanic middle class that is very integrated. I don’t see why black Americans can’t do the same. Researchers found that blacks who moved to better neighborhoods were better off than those who stayed in their neighborhoods with similar resources. GAZETTE: What other factors have prevented integration from happening? PATTERSON: There has always been right-wing and racist opposition to any government attempt at integration. There was already some hostility to the [federal government’s] Moving to Opportunity for Fair Housing program in the late ’90s. But there is also the hypocrisy and the “not-in-my-backyard” view of many middle- and upper-middle-class people, including white liberals, who have strongly resisted attempts at building moderate-income and low-income housing in the suburbs. And finally, there is the reluctance of some black leaders to promote integration too vigorously because of the argument that we need black neighborhoods to preserve African-American traditions, racial pride, a sense of identity, as well as the political advantages of being clustered. But Martin Luther King Jr. strongly supported integration, and he referred to an integrated society as America’s beloved community. Between the right-wing opposition, the white liberal hypocrisy, and the ambivalence of black leaders, integration has faded away from the national agenda. But the main reason for the lack of integration is that blacks don’t have the income to integrate; they can’t afford to live in the suburbs or send their kids to private schools. Some can do it, and that’s some progress, but it’s not enough. GAZETTE: Some are saying it’s time for a new report on the racial divide in the U.S. Do we need a new version of the Kerner Report? PATTERSON: It can do no harm, but I don’t think it would be effective. Bill Clinton tried a National Conversation on Race, and it didn’t lead to much. What I think is more important is that the leadership within both the black and the liberal communities work together to improve the situation in the inner cities. Right now, people are fully aware of the despair and pessimism that exist in the black community, especially in regard to black youth, police brutality, black unemployment, and mass incarceration, which is an abomination. One in three black youth is likely to risk imprisonment. That’s an abomination for all Americans. We know what the solutions are: integration, education, and decent jobs. Whether we need another commission to say that again, I don’t think so. There has to be a joint effort of all communities and a massive infusion of support at the local, state, and federal level to provide better education in the inner cities because this goes beyond providing jobs. The jobs are not coming back even for white people in the Midlands, and I don’t expect them to come back in the inner cities. GAZETTE: Finally, how relevant is the Kerner Report in the era of Black Lives Matter? PATTERSON: We’re going through a period of extreme despair about the situation of African-Americans. The most extreme form of this despair is a movement called Afro-pessimism, which holds that black Americans are still viewed as they were viewed in the slavery days as different, inferior, and as outsiders. I find myself in an odd situation because the Afro-pessimists draw heavily on one of my books, “Slavery and Social Death,” which is ironic, because I’m not a pessimist. I don’t think we’re in a situation of social death, because one of the elements of social death is that you’re not recognized as an integral member of the civic community, the public sphere, and we certainly are, on the political and cultural levels. And we’re very integrated in the military, which is the quintessence of what defines who belongs. The Afro-pessimists are right, though, to point to persisting segregation in the private sphere. When the report came out, it was a period of turmoil. It was one of those times when people felt that civilization was on the brink of collapse. In a way, what is happening now is similar to what happened then. And like in the past, the right and the left are at loggerheads about which direction to take. People on the right view behavior as the reason for poverty and crime, while liberals point to structural factors, as well as racism. My take is that the problems of black America go back several centuries. The state sanctioned both slavery and Jim Crow after Reconstruction as a form of neo-slavery. When slavery was finally abolished in 1865, it ended the legal capacity of one person to own another, but the culture of slavery and the set of institutions that were built up to support that system persisted. The state also legally sanctioned and economically supported the postwar growth and segregation of the suburbs. So I see this as a state-sanctioned, structurally created problem, and therefore the state must bear a major responsibility in correcting it. The question is how we move forward. In a fair world, the state will assume its responsibility and invest in a giant, massive infusion of support at the local, state, and federal levels to reverse the situation. Maybe, on second thought, we do need another report to alert people to the fact that the level of segregation is as great as it ever was.