## 1AC

### 1AC---Internet Freedom ADV

#### Advantage One is Internet Freedom---

#### ICANN, the body governing allocation of internet domain names, shifted its allocation of generic Top-Level Domains, or gTLDs, to allow companies to buy domain names that mirror their trademarks, allowing explicitly anti-competitive deal-making

Nelson Drake 18, J.D. from American University’s Washington College of Law and a B.A. in Political Science from Georgia College and State University, “Going Rogue: The National Telecommunications And Information Administration's Transfer Of IANA Naming Functions To ICANN”, 3 Admin. L. Rev. Accord 83, 2018, lexis

II. THE IANA TRANSFER AND WHY IT MATTERS

As noted above, one of ICANN's powers with respect to the DNS and the IANA functions is its ability to adjudicate disputes about the existence of trademark rights in a domain name via the UDRP. This power was relatively uncontroversial because the UDRP's standard for determining the existence of trademark rights mirrored the USPTO's. However, **ICANN's introduction of its new TLD program has created new problems** because it permits trademark owners to purchase TLDs that mirror their trademarks. This is an issue because the prevailing policy of both ICANN and the USPTO was that TLDs are, generally, generic. 69 For example, under the Legal Rights Objections (LRO) period of the TLD application process, most trademark owners are unable to prevent the delegation of a TLD that matches their trademark. 70 These LRO decisions have since been supported by courts intent on maintaining the current policy. As a result, **plaintiffs have been unable to successfully bring a case against ICANN regarding the delegations of gTLDs.**

A. Image Online Design and the Trademark Perspective

The non-trademarkability of gTLDs was a primary issue in the case *Image Online Design, Inc. v. Internet Corp. for Assigned Names and Nos.*, which revolved around the delegation of the ".web" gTLD. 71 Image Online Design (IOD) is the operator of a registry for the ".web" TLD on a non-authoritative DNS, which means that it is not readily searchable by users without preconfiguring  [\*95]  their web browser. 72 However, this reconfiguration can be problematic because alternative DNS roots are not authoritative for ICANN-delegated TLDs, which could result in domain names that are identical to those on ICANN's root and a "naming collision" as discussed in Part I. 73

IOD's claim stemmed from the fact that ICANN did not consider IOD's 2000 application, and when ICANN moved forward with the ".web" delegation process, IOD sued for trademark infringement under their registered and common law ".web" trademarks. 74 In its defense, ICANN argued that: (1) the .web would not cause confusion because TLD registry services are a different class of goods than those protected by IOD's registrations and (2) that TLD's are not subject to trademark protection because they are generic. 75 Ultimately, the court ruled in favor of ICANN and summarily dismissed all of IOD's trademark claims. 76

The IOD's claim under 15 U.S.C. § 1125(a)(1) 77 and its common law trademark was the most important part of the court's ruling. In its opinion, the court reiterated a long-held standard of trademark law that **"TLDs are not generally source indicators."** 78 The court further supported its ruling by citing the official policy of the USPTO that states "[g]enerally, when a trademark . . . is composed, in whole or in part, of a domain name, neither the beginning of the URL ('http://www.') nor the TLD have any source-indicating significance." 79 The IOD attempted to refute this portion of the ruling by pointing out that the USPTO altered its position to require consideration of "any potential source-indicating function of the TLD. 80 In response, the court stated that the **only marks available for protection as a TLD are famous**  [\*96]  **marks**, such as .apple for Apple, Inc., and that some marks would continue to remain generic even if they are famous. 81 In the court's view, ".web" fell under the latter category because it would indicate a genus of a type of website available on the World Wide Web and not a particular company or manufacturer. 82

Because of the court's decision in Image Online Design, **corporate stakeholders are susceptible to competitive harm if ICANN uses its powers unfairly**, particularly if the harm is propagated at the behest of another stakeholder. The effects of this limitation are particularly acute considering the ICANN's own regulatory policies, which take a similar position on the existence of trademark rights in gTLDs moving forward. 83 Both the UDRP and LRO, ICANN's current dispute resolution policies intended to protect the rights of trademark owners, reiterate the common proposition that gTLDs are generally ineligible for trademark protection. 84 However, both panels governing these decisions have articulated that this general rule may have an exception. 85

While this may indicate that the perception that gTLDs are generic is shifting, in application both policies strongly indicate that trademarkability is the exception, not the rule. The LRO decisions, for instance, demonstrate that to successfully assert legal rights in a gTLD, the trademark owner must either be particularly famous or be able to point to facts indicating bad faith on the part of the applicant. 86 While the UDRP has indicated a departure from this rule, panel decisions are **not subject to precedent.** This means that trademark owners should not expect any consistency between panel decisions, and that these decisions will be extremely fact specific.

B. The Consequences of Image Online Design

The presumably generic gTLDs, the uncertainty of how this rule will be applied, and the amount of fame a trademark owner must possess to state a claim have **created an environment where only the largest private stakeholders can successfully assert a violation** of their trademark rights against ICANN in court. Even then, the success of these claims remains in doubt, especially if ICANN's decisionmaking becomes clouded by undue influence from other stakeholders. For example, in a matter involving Amazon, [\*97]  ICANN denied delegation of the ".amazon" gTLD for reasons of "public policy" following strong objections by Brazil. 87 After failing to have the decision changed using ICANN's appeal processes, Amazon challenged ICANN's decision and requested an independent review that found **ICANN caved to pressure from the Brazilian government and**, more concerningly, attempted to abuse its internal processes to the detriment of Amazon. 88

#### Anti-competitive allocation of gTLDs exponentially increases internet privatization and decks internet freedom

Daniela Spencer 14, J.D. candidate at the UC Berkeley School of Law, “Trademark Law: Much Ado About Nothing: ICANN's New gTLDs,” 2014, lexis

C. ICANN's Section 1 Antitrust Violations

Since there are currently a small number of gTLDs, critics have alleged that ICANN is hindering competition not only among registries, but also among consumers. 120 Since ICANN has unlimited contracts with registries, critics allege that ICANN is assisting in an agreement amongst registries to restrain trade, which is illegal under Section 1 of the Sherman Act. 121 Consumers have limited choices among existing registries, especially since many of them are not open to the public. As such, they are limited to using registries like VeriSign, which are well known and open to the public.

As of September 2013, fifty-three percent of all registered websites had the gTLD of .com, owned by VeriSign. The next highest percentage of websites (5.7 percent) were registered under the TLD of .net, which VeriSign  [\*880]  also owns. 122 In 2006, the Ninth Circuit found that ICANN awarded VeriSign the contract for .com without any bidding. 123 As such, one private company is essentially controlling close to sixty percent of the market with collusion from ICANN. 124

There is no indication that there are any alternative products or possible substitutes to the favorite .com gTLD. 125 Additionally, unlike in a standard market, where the product is relatively elastic and responds to changes in price, in this system, sellers have little incentive to offer low prices in a market where demand is inelastic.126 ICANN has no incentive to discourage or prevent individual registry operators like VeriSign from charging high prices because consumers have nowhere else to turn. In the last few years, the demand for .com has increased, as demonstrated by its growing percentage of use while the prices have stayed stable. 127

 [\*881]  However, despite its prima facie appearance of restricting competition, the agreement between VeriSign and ICANN does not actually restrain commerce in the relevant market. Consumers do not choose .com due to a conspiracy between VeriSign and ICANN to reduce access to other gTLDs, but rather due to outside pressures to use .com. 128 As such, even the advent of hundreds of new gTLDs would not produce an appreciable or effective increase in competition. Despite its claim, ICANN's new program probably will not increase competition in any meaningful way. 129

D. Potential for Other Antitrust Violations Due to gTLDs

In a hearing to the House of Representatives in 2011, Federal Trade Commission chairman Jon Leibowitz said, "We worry that if ICANN goes broadly and doesn't ensure accuracy, it's going to be exponentially worse. There is going to be a burden on businesses, which will have to defensively register. We see a lot of cost but not a lot of benefit."130 Currently, there are a number of worries that big name players will monopolize the Internet. Donuts, Inc. 131 has applied for 307 gTLDs, Neustar has applied for 234, Google has applied for 101, and Amazon has applied for seventy-eight. 132 John M. Simpson, the director of Consumer Watchdog's Privacy Project, wrote to the chairman of Senate Commerce, Science, and Transportation Committee:

If these applications are granted, large parts of the internet would be privatised. It is one thing to own a domain associated with your brand, but it is a huge problem to take control of generic strings. Both Google and Amazon are already dominant players on the internet. Allowing them further control by buying generic domain [\*882] strings would threaten the free and open Internet that consumers rely upon. 133

#### Corporate control undermines internet connectivity and interdependence

Julius Genachowski & Lee C. Bollinger 13, Former Chairman of the U.S. Federal Communications Commission; President of Columbia University, “The Plot to Block Internet Freedom,” Foreign Policy, 4/16/13, https://foreignpolicy.com/2013/04/16/the-plot-to-block-internet-freedom/

The Internet has created an extraordinary new democratic forum for people around the world to express their opinions. It is revolutionizing global access to information: Today, more than 1 billion people worldwide have access to the Internet, and at current growth rates, 5 billion people — about 70 percent of the world’s population — will be connected in five years.

But this growth trajectory is not inevitable, and threats are mounting to the global spread of an open and truly "worldwide" web. The expansion of the open Internet must be allowed to continue: The mobile and social media revolutions are critical not only for democratic institutions’ ability to solve the collective problems of a shrinking world, but also to a dynamic and innovative global economy that depends on financial transparency and the free flow of information.

The threats to the open Internet were on stark display at last December’s World Conference on International Telecommunications in Dubai, where the United States fought attempts by a number of countries — including Russia, China, and Saudi Arabia — to give a U.N. organization, the International Telecommunication Union (ITU), new regulatory authority over the Internet. Ultimately, over the objection of the United States and many others, 89 countries voted to approve a treaty that could strengthen the power of governments to control online content and deter broadband deployment.

In Dubai, two deeply worrisome trends came to a head.

First, we see that the Arab Spring and similar events have awakened nondemocratic governments to the danger that the Internet poses to their regimes. In Dubai, they pushed for a treaty that would give the ITU’s imprimatur to governments’ blocking or favoring of online content under the guise of preventing spam and increasing network security. Authoritarian countries’ real goal is to legitimize content regulation, opening the door for governments to block any content they do not like, such as political speech.

Second, the basic commercial model underlying the open Internet is also under threat. In particular, some proposals, like the one made last year by major European network operators, would change the ground rules for payments for transferring Internet content. One species of these proposals is called "sender pays" or "sending party pays." Since the beginning of the Internet, content creators — individuals, news outlets, search engines, social media sites — have been able to make their content available to Internet users without paying a fee to Internet service providers. A sender-pays rule would change that, empowering governments to require Internet content creators to pay a fee to connect with an end user in that country.

Sender pays may look merely like a commercial issue, a different way to divide the pie. And proponents of sender pays and similar changes claim they would benefit Internet deployment and Internet users. But the opposite is true: If a country imposed a payment requirement, content creators would be less likely to serve that country. The loss of content would make the Internet less attractive and would lessen demand for the deployment of Internet infrastructure in that country.

Repeat the process in a few more countries, and the growth of global connectivity — as well as its attendant benefits for democracy — would slow dramatically. So too would the benefits accruing to the global economy. Without continuing improvements in transparency and information sharing, the innovation that springs from new commercial ideas and creative breakthroughs is sure to be severely inhibited.

To their credit, American Internet service providers have joined with the broader U.S. technology industry, civil society, and others in opposing these changes. Together, we were able to win the battle in Dubai over sender pays, but we have not yet won the war. Issues affecting global Internet openness, broadband deployment, and free speech will return in upcoming international forums, including an important meeting in Geneva in May, the World Telecommunication/ICT Policy Forum.

The massive investment in wired and wireless broadband infrastructure in the United States demonstrates that preserving an open Internet is completely compatible with broadband deployment. According to a recent UBS report, annual wireless capital investment in the United States increased 40 percent from 2009 to 2012, while investment in the rest of the world has barely inched upward. And according to the Information Technology and Innovation Foundation, more fiber-optic cable was laid in the United States in 2011 and 2012 than in any year since 2000, and 15 percent more than in Europe.

All Internet users lose something when some countries are cut off from the World Wide Web. Each person who is unable to connect to the Internet diminishes our own access to information. We become less able to understand the world and formulate policies to respond to our shrinking planet. Conversely, we gain a richer understanding of global events as more people connect around the world, and those societies nurturing nascent democracy movements become more familiar with America’s traditions of free speech and pluralism.

That’s why we believe that the Internet should remain free of gatekeepers and that no entity — public or private — should be able to pick and choose the information web users can receive. That is a principle the United States adopted in the Federal Communications Commission’s 2010 Open Internet Order. And it’s why we are deeply concerned about arguments by some in the United States that broadband providers should be able to block, edit, or favor Internet traffic that travels over their networks, or adopt economic models similar to international sender pays.

We must preserve the Internet as the most open and robust platform for the free exchange of information ever devised. Keeping the Internet open is perhaps the most important free speech issue of our time.

#### Internet connectivity prevents global war

Dr. Asma Iqbal & Muhammad Rafi Khan 21, Assistant Professor of Political Science, Government Graduate College for Women Samanabad; Lecturer/Research Officer at Minhaj University Lahore, “Power and Interdependence with Internet,” Pakistan Social Sciences Review, Vol. 5, No. 1, pgs. 1142-1153, 3/30/21, https://pssr.org.pk/issues/v5/1/power-and-interdependence-with-internet.pdf

Interdependence

Reflecting a softer image of power and extending its domains to global social structures, interdependence is a multidimensional term, that gained traction with the emergence of the concept of globalization. It refers to a state, or a condition, that compels two or more actors to seek cooperation. For such cooperation, the absence of enmity is not a requirement. There are many examples of interdependence between fierce enemies, like Pakistan and India, China and India, and Russia and the US. The goals of this interdependence are to fulfill domestic and international deficiencies for national interest, and sometimes, international interest. The presence of Russia and the US in the Security Council, where both take decisions together in international interest, and can also veto any move for their own or their ally’s national interest.

The world today has mostly been eradicating the threats of war and becoming increasingly interdependent. Their actions are mostly based on the cost- benefit ratio. For instance, if a state must choose between war and trade and applying the statistical models for a complete understanding of both before deciding, the trade will supersede in choice over the war in most cases. That is why even enemies are doing trade, while the war of words also gains traction. This is because the cost of war is higher, and the benefit of trade is higher. The democratic peace theory and the McDonald Peace theory exist in almost the same domains, where political relationship and economic connectivity, both are eradicating scenarios of a possible war.

As an effective tool of soft power, the interdependence has shattered the isolation of introverted peoples and merged them with vibrant, dynamic, and socially linked societies. It relies on multidimensional mediums to avoid conflicts, increase connectivity, and inculcates multilateralism. Among these, the Internet is the most obvious, effective and resourceful medium that “frees us from geographic fetters and brings us together in topic-based communities that are not tied down to any specific place. Ours is a networked, globalized society connected by new technologies” (Dentzel, 2014).

The internet, coinciding with matters related to power, is a world of unknown depth. It is the most effective tool of connectivity in this modern world. It can also be designated as a doorway between traditional unilaterality and a multilateral world. It boosted interdependence and opened new horizons of connectivity and cooperation. Therefore, the virtual age has cut the distances short and challenged the hardships of the physical world with a counterbalance, depicted in the figure below.

#### Internet privatization is increasing and displaces responsive and legitimate governance

Marietje Schaake 21, International policy director at Stanford University’s Cyber Policy Center, “Big Tech is trying to take governments’ policy role,” 1/27/21, https://www.ft.com/content/7f85a5ff-326f-490c-9873-013527c19b8f

Both events demonstrate an ever-growing trend: technology companies think they should be deciding public policy, not governments.

It is not just social media platforms, either. These days, all kinds of businesses set rules for how technology affects people’s lives. Encryption standards, for example, determine the extent of national security. Facial recognition systems deny the right to privacy.

Since all of society is touched by such digitisation, this puts companies in the position of policymakers — but without the governance mandate, independent oversight or checks and balances deemed vital in a democratic process.

In fact, tech groups’ governance powers are encroaching on the role of the state at ever greater speed. Minting digital currencies, verifying digital identities, even building cyberweapons — it is all under the direction of boardrooms, not parliaments.

One consequence of this private sector digitisation is that governments have, in effect, outsourced cyber security and personal data protection to companies — companies that do not always have duties of disclosure.

We witnessed as much in the hacking of SolarWinds’ networking software, to distribute malware. Had it not been for cyber security firm FireEye, we may never have learnt of the intrusions on companies and many US institutions. Software made by the likes of SolarWinds and Microsoft forms the backbone of digital operations globally, yet a decision to forgo proper security safeguards by SolarWinds was taken without anyone noticing. There are too few processes to ensure the public interest is systematically safeguarded.

That is why laws need to be updated fast. This is not about “regulating the internet” but rather about upholding existing principles, such as democracy — online or offline. And it is surely an erosion of democracy when the agency of an elected government is reduced proportionately to the pace with which private companies are empowered.

For technology groups wondering how they can avoid being accused of failing to protect democracy — as social media platforms have of late — there is a simple solution. Before the ink is dry on new rules granting regulatory oversight of digitised processes, such as search algorithms, companies can embrace the rule of law today.

Aligning with democratic and human rights principles can be done now.

The world over, the power of technology companies is becoming ever more apparent. That is why we must not limit our assessment of potential harms to democracy to just social media platforms or search firms. They may be the services that are most visible to internet users, but they are not the only ones in need of scrutiny. The privatisation of governance in the digital world is now a systems problem.

After the US Capitol riots of January 6, there is a growing awareness of the power of companies in providing a platform for the stagers of a coup. It should make us even more wary of that other coup: the privatisation of governance across the digital world.

#### Extinction---shoring up the US model of public governance is key

Joseph S. Nye 17, University Distinguished Service Professor at the Harvard Kennedy School of Government, January/February 2017, “Will the Liberal Order Survive?,” Foreign Affairs, https://www.foreignaffairs.com/system/files/pdf/anthologies/2017/b0033\_0.pdf

The order will inevitably look somewhat different as the twenty-first century progresses. China, India, and other economies will continue to grow, and the U.S. share of the world economy will drop. But no other country, including China, is poised to displace the United States from its dominant position. Even so, the order may still be threatened by a general diffusion of power away from governments toward nonstate actors. The information revolution is putting a number of transnational issues, such as financial stability, climate change, terrorism, pandemics, and cybersecurity, on the global agenda at the same time as it is weakening the ability of all governments to respond.¶

Complexity is growing, and world politics will soon not be the sole province of governments. Individuals and private organizations—from corporations and nongovernmental organizations to terrorists and social movements—are being empowered, and informal networks will undercut the monopoly on power of traditional bureaucracies. Governments will continue to possess power and resources, but the stage on which they play will become ever more crowded, and they will have less ability to direct the action.¶

Even if the United States remains the largest power, accordingly, it will not be able to achieve many of its international goals acting alone. For example, international financial stability is vital to the prosperity of Americans, but the United States needs the cooperation of others to ensure it. Global climate change and rising sea levels will affect the quality of life, but Americans cannot manage these problems by themselves. And in a world where borders are becoming more porous, letting in everything from drugs to infectious diseases to terrorism, nations must use soft power to develop networks and build institutions to address shared threats and challenges.¶ China is unlikely to surpass the United States in power anytime soon.¶

Washington can provide some important global public goods largely by itself. The U.S. Navy is crucial when it comes to policing the law of the seas and defending freedom of navigation, and the U.S. Federal Reserve undergirds international financial stability by serving as a lender of last resort. On the new transnational issues, however, success will require the cooperation of others—and thus empowering others can help the United States accomplish its own goals. In this sense, power becomes a positive-sum game: one needs to think of not just the United States’ power over others but also the power to solve problems that the United States can acquire by working with others. In such a world, the ability to connect with others becomes a major source of power, and here, too, the United States leads the pack. The United States comes first in the Lowy Institute’s ranking of nations by number of embassies, consulates, and missions. It has some 60 treaty allies, and The Economist estimates that nearly 100 of the 150 largest countries lean toward it, while only 21 lean against it.¶

Increasingly, however, the openness that enables the United States to build networks, maintain institutions, and sustain alliances is itself under siege. This is why the most important challenge to the provision of world order in the twenty-first century comes not from without but from within.

#### Privatization enables large-scale attacks on critical infrastructure

Marietje Schaake 20, International policy director at Stanford University’s Cyber Policy Center, “The Lawless Realm: Countering the Real Cyberthreat,” November/December 2020, https://www.foreignaffairs.com/articles/world/2020-10-13/lawless-realm

THE WEAKENED STATE

For centuries, states enjoyed a monopoly on the use of force. Thanks to the asymmetric power facilitated by digitization and the proliferation of cyberweapons, that monopoly has slipped out of their grasp. Yes, many democratic countries—including the United States—have developed powerful tools to deploy in cyberspace, setting up sophisticated surveillance systems and launching attacks on adversaries. At the same time, developed countries wrestle with a private sector that exercises disproportionate power in the technological sphere, gobbling up data and taking on some key functions of the state, such as the protection of critical infrastructure.

Private companies both build the architecture of the digital world and largely govern its flows of data. They are often the victims of cyberattacks. But they are complicit in these attacks when they fail to protect databases and lose the personal information of their customers and clients. Worse, some companies are even developing and selling new technologies to adversaries around the world. Authoritarian (and several democratic) governments hire the services of hackers and buy commercially sold systems of digital surveillance and control. For instance, a U.S. company called Sandvine is alleged to have supplied the government of Belarus with the technology it used this past summer to shut down its citizens’ access to much of the Internet during antigovernment protests. Nonstate actors, such as militias or criminal gangs, can wreak disproportionate havoc through cyberattacks, hurting much more powerful states, companies, and international organizations.

Authorities often have a tough time understanding cyberattacks and identifying their perpetrators. As a result, attackers frequently act with impunity, using clever tactics and benefiting from a legal vacuum: there are few mechanisms that guarantee international cooperation and coordination in discovering and bringing to justice cyberattackers. “False flag” operations—in which actors conceal their identities and try to pin the blame on others—are common in the digital world. An intrusion directed from the other side of the world can be executed in milliseconds, almost invisibly. The speed of digital innovation outstrips the ability of states to prevent cyberattacks, hold perpetrators to account, and pass the necessary laws on encryption standards, data protection, and product liability (to hold manufacturers or sellers responsible for the goods they make or trade).

States are also unable to control private companies whose actions may imperil public safety; indeed, in some cases, a state finds itself dependent on just such a company. Earlier this year, a breach of a database belonging to the facial recognition company Clearview AI revealed that the firm was selling its technology and databases not just to vetted law enforcement agencies but also to a host of private companies. The breach showed how a private company can secretly share information about citizens without their consent and without transparency, as well as how such a company can be susceptible to hostile actors. And yet law enforcement agencies are increasingly reliant on the work of technology firms such as Clearview AI.

Society’s growing reliance on digitally connected devices creates more general vulnerabilities. A canny and willing attacker can exploit a software-powered fridge in a home or a street lined with data-collecting sensors in a smart city, finding multiple entry points to bring down a broader system. It is enough of a challenge for defense departments and intelligence services to man the ramparts and keep a lookout for such sophisticated adversaries. But the frontlines are now ubiquitous thanks to the pervasiveness of digital technology, and so doctors in hospitals, professors in university labs, and human rights activists in repressive countries—all must now contend with cyberthreats.

Such civilian targets are not always well prepared for this fight. Public institutions often employ poorly protected digital systems even when they process sensitive information. A clinic, for example, cannot be blamed for hiring an additional surgeon instead of a cybersecurity expert. A public university might choose to invest in computers for students but not acquire the more expensive protections to ensure that those new computer systems are safe. And an election board might decide to modernize electoral processes by installing voting machines and dispensing with paper ballots, without knowing the proper safeguards or having the means to invest in the requisite protections. Such well-intentioned efforts are understandable on their face, but they conspire to make societies vulnerable.

AIDING AUTHORITARIANS

The imbalance between the public and the private sector in democratic countries is obvious in another dangerous arena: the sale of cyberweapons to authoritarian regimes. Few laws limit how companies can trade in digital surveillance, blocking, and intrusion systems. Syria is a troubling case in point. As it wages civil war, the government of Bashar al-Assad has used operations in cyberspace to hit both adversaries abroad and opponents within the country. Hackers belonging to the so-called Syrian Electronic Army (which claimed to be acting independently of the Syrian government) gained visibility around the world for defacing the websites of Western media companies, such as The New York Times and the BBC, and for hacking the website of the U.S. Marine Corps. These brief propaganda victories were far less significant than the government’s digitally enabled attacks on domestic opposition figures and human rights defenders during the peaceful protests of 2011. That year, the Syrian government used sophisticated digital technology to collect communications between dissidents, which it then exploited to incriminate and detain the activists.

That one of the most violent regimes in the world engaged in such repression is not surprising; what is shocking is that European companies helped. The Assad government depended on technology and expertise from AREA, an Italian company. AREA sold technology to Syrian authorities that allowed them to monitor communications across the country, collecting and scanning Facebook posts, Google searches, text messages, and phone calls for key words or connections between particular individuals. The ensuing roundup of dissenting civilians led to torture and deaths.

Syria is not alone in receiving technological support from abroad for the purpose of domestic repression. Over the past few decades, companies based in Western countries have designed, marketed, and sold similar technology to a number of other authoritarian governments, including those of Egypt, Iran, Saudi Arabia, and the United Arab Emirates. When democratic countries fail to curb the sale of aggressive hacking systems by companies within their own borders to illiberal governments, they are undermining the worthy ambitions of their foreign policies. But the problem doesn’t seem to be going away. Some estimates predict that annual global sales of these systems will rise to hundreds of billions of dollars by 2021. China is now aggressively entering this market, too; it already is the global driver in developing and exporting technologies that enable repression, including facial recognition technology and predictive policing systems.

These technologies in the hands of nonstate actors is also a concern: such actors can [devastate] ~~cripple~~ far more powerful states, organizations, and companies through cyberattacks. In 2015, a hack of JPMorgan Chase compromised 83 million accounts; four individuals were eventually arrested. In 2017, “Rasputin,” a hacker who appeared to be operating alone, broke into databases of U.S. universities and government institutions, apparently hoping to sell access to the information. Earlier this year, a 17-year-old from Florida and two other hackers managed to take over 130 prominent Twitter accounts, including those of former U.S. President Barack Obama and former U.S. Vice President Joe Biden, and posted messages that convinced people to send money to a particular Bitcoin account. The hackers could have used that account access for far more sinister goals, including attempting to escalate geopolitical conflict or crash stock markets.

Some individuals with such exceptional skills sell their talents to the highest bidder. Among the most notorious companies hiring hackers is DarkMatter. This cybersecurity company, based in the United Arab Emirates, has hired former intelligence officials from the U.S. National Security Agency and the Israel Defense Forces, creating what amounts to a private intelligence service and blurring the lines of agency between companies and states. Such companies with top-grade skills may attract unsavory clients, including authoritarian regimes and even terrorist groups.

Democratic states have struggled to regulate the digital world and the market for cyberweapons, but some technology companies are beginning to take action. WhatsApp, through its parent company, Facebook, filed a lawsuit last spring against the NSO Group, an Israeli mobile surveillance company. The suit alleges that NSO covertly exploited a vulnerability in WhatsApp to illegally extract information from the phones of users. Facebook argues that NSO’s actions were unlawful. NSO is also the target of a lawsuit filed in Israel in 2018 by a Saudi dissident who claims that Saudi authorities used the company’s technology to spy on his communications, including those with Jamal Khashoggi, the journalist who was murdered in Turkey by Saudi operatives that same year. Forty-five countries are thought to be using the same NSO product, including democracies such as Mexico and Spain.

MAKING THE RULES

It shouldn’t be left to private companies and courts to determine the legitimacy of products and services that have the potential to compete with state intelligence services. Democratic countries must extend norms and rules to ensure safety in the digital world. Just as nations agreed to international laws governing the conduct of war and nuclear weapons, so, too, must they establish agreements to fend off threats in cyberspace. Perpetrators of cyberattacks have remained unaccountable for too long. Democratic governments especially need to take a number of steps to rebalance the power between states and private companies, which play too large a role in the digital world.

#### That goes nuclear, even if it fails

Vladimir Orlov 20, Founder & Director of the PIR Center, President of the Trialogue Club International, Head of the Center for Global Trends and International Organizations at the Diplomatic Academy, Ministry of Foreign Affairs of the Russian Federation, Co-Founder and Academic Supervisor of the International Dual Degree MA Program in Nonproliferation and Global Security Studies, MGIMO University, Professor at MGIMO University, author (or coauthor) of more than a dozen books and monographs and more than three hundred research papers, articles, and essays, publishes his views in Russian and foreign periodicals, “‘No Holds Barred’ and the New Vulnerability: Are We in for a Re-Run of the Cuban Missile Crisis in Cyberspace?,” SSRN Scholarly Paper, ID 3538078, Social Science Research Network, 02/14/2020, papers.ssrn.com, doi:10.2139/ssrn.3538078

Not hundred per cent of the dialogue has been frozen, fortunately. Certain informal, mostly offthe-record, meetings of US and Russian experts on cyber agenda continue taking place, both through Track 2 and Track 1.5. One of the most intellectually stimulating meetings, with frank exchanges, took place in Vienna in December 2018. The report produced after the meeting stressed “the significant risk […] that cyber-attacks could conceivably lead to a military escalation that may further trigger a nuclear weapons exchange, a fact that became more explicit with the adoption of the current Nuclear Posture Review. This issue gets complicated given that third parties may have the capabilities to invoke a cyber conflict between Russia and the United States. Whether a country or a non-state actor, they could put the two countries on the verge of an armed conflict by attacking critical infrastructure of either of them and making it look as if the aggressor were the other one”[22]. However, one should have no illusion: such informal meetings may be fully fruitful only when their reports and policy recommendations are utilized by the governments. And for that, a warmer climate in bilateral relations is a must. So far, we see exactly the opposite: mercury falling to freezing levels.

Risk of cyber clashes growing into a chaotic global cyber war has been emphasized by the UN Secretary-General Antonio Guterres in his Agenda for Disarmament: “Malicious acts in cyberspace are contributing to diminishing trust among States… States should implement the recommendations elaborated under the auspices of the General Assembly, which aim at building international confidence and greater responsibility in the use of cyberspace.[23]” However, as the members of the US-Russian Track 1.5 working group on strategic stability recently concluded, “without a constructive dialogue on cyber issues between the United States and Russia, the world would most likely fail to agree on any norms of responsible behavior of states in cyber space”[24].

Do we really have to survive a cyber equivalent of the Cuban Missile Crisis to realize the importance of achieving some kind of agreement on cyber issues, and on the broader agenda of international information security?[25] Or is that kind of talk plain old alarmism?

I don’t want to sound a fatalist, but I am even less keen on sounding like an ostrich that’s buried its head in the sand. We cannot ignore the obvious: whether the world’s most powerful actors like it or not, the world is sliding to another major crisis like the one in 1962. The cyber war is already raging. There are no rules of engagement in that war. The uncertainty is high. The spiral of tension is getting out of control. The cyber arms race is gaining momentum. And there are no guarantees that the next crisis will be controllable, or that it will result in a catharsis as far as international information security regulation is concerned. There’s no telling what will happen once the cyber genie is out of the bottle.

#### The plan is goldilocks---antitrust enforcement over the gTLDs regulates ICANN without undermining its authority

Nelson Drake 18, J.D. from American University’s Washington College of Law and a B.A. in Political Science from Georgia College and State University, “Going Rogue: The National Telecommunications And Information Administration's Transfer Of IANA Naming Functions To ICANN,” 3 Admin. L. Rev. Accord 83, 2018, lexis

CONCLUSION

Since it was created and commercialized, the Internet, and more specifically the domain name space, has been a place for free thought and open competition. This environment was successfully maintained through quasi-governmental regulation by ICANN in conjunction with the NTIA. This model was problematic as the United States became increasingly pressured to relinquish its oversight role. 139 This pressure led to the NTIA relinquishing its control over the IANA functions and transferring them to ICANN, which was already administering them on a day-to-day basis. 140 Following this transfer, **ICANN became uniquely positioned to control the DNS** through one of these functions, specifically the power to delegate gTLDs to  [\*106]  DNS registries in the authoritative root zone. 141 These functions **made ICANN both the judge and jury regarding the delegation of gTLDs.**

This transition also marks the beginning of an era in which **ICANN behaves like a regulatory agency** and creates the potential for abuse by ICANN and its Board. Potential abuses would be difficult to prevent because **ICANN has removed itself from U.S. courts** by requiring disputes to be handled through arbitration. 142 In addition, with respect to trademark owners, trademark law would be an ineffective deterrent because of the USPTO's position that gTLDs are generic and inherently incapable of denoting source. 143

Antitrust law, under **Section 1 of the Sherman Act** or the essential facilities doctrine, could effectively regulate ICANN's power **without undermining ICANN's authority to regulate the DNS.** First, ICANN is not immune from antitrust liability because its actions play an important role in Internet commerce. 144 ICANN is also not immune from liability because of its agreement with the NTIA. Instead, a reviewing court must determine whether the actions at issue were necessary to meet the needs of that agreement. 145 Second, a review of relevant case law shows that a court could find that agreements involving the delegation of gTLDs could constitute an illegal restraint of trade under Section 1 of the Sherman Act. 146 Finally, although it has not been attempted, this paper theorized that ICANN could also be found liable under the essential facilities doctrine provided that a plaintiff could prove the factors laid out in MCI v. AT&T. 147

In addition, though a court can stop the delegation of a gTLD, it cannot force ICANN to award the gTLD to the complaining party. This means that **an antitrust claim would only prevent stakeholders from abusing ICANN's authority, not usurping it.** Thus, ensuring that a U.S. court does not simply replace the NTIA in its oversight capacity. Furthermore, it would not open ICANN to unnecessary lawsuits from corporate stakeholders seeking to unnecessarily challenge ICANN's authority at every turn.

Overall, the Internet is entering a new era of DNS regulation. This era  [\*107]  was entered suddenly and haphazardly, but that does not mean that it will yield negative results. There are upsides to having DNS management out of the hands of the United States government, although they are not discussed here. It would be foolish to allow this transfer to occur without examining possible regulatory alternatives in the absence of a body capable of overseeing ICANN's use of its authority. Thus, this paper concludes that one form of **regulation** would be **through antitrust law** to **ensure that the DNS continues to be a place of open communication, commercialization, and innovation into the future.**

### 1AC---Plan

#### Plan: The United States federal government should prohibit anticompetitive business practices in the delegation of generic Top-Level Domains by the private sector.

### 1AC---Multistakeholder Governance ADV

#### Advantage Two Is Multistakeholder Governance---

#### Two internal links---

#### First---Norms---the plan uniquely fosters ICANN accountability by establishing its presence within international human rights norms

Monika Zalnieriute 19, Research Fellow and Lead of 'Technologies and Rule of Law' Research Stream at the Allens Hub for Technology, Law, & Innovation, Faculty of Law, UNSW Sydney, Australia, “From Human Rights Aspirations to Enforceable Obligations by Non-State Actors in the Digital Age: The Case of Internet Governance and ICANN,” 21 Yale J. L. & Tech. 278, 2019, lexis

While profitability might not necessarily be the only reason driving corporations and private bodies to adopt human rights policies, it is nonetheless widely accepted to be the most influential. When human rights and profitability conflict, the latter will often prevail. This is well illustrated by the infamous  [\*316] strategic alliance between IBM and Nazi Germany, as well as by the recent complicity of U.S. tech giants, such as Microsoft and Google, in restricting free speech in countries like China. In the case of the latter, even an enormous public outcry has not been enough to reverse agreements made by Google to return to China to expand its customer base. While Google's commitment to human rights were questioned by many people, even a special "China search database" does not seem to prevent Google from branding itself as a defender of "Internet freedom."

Similarly, market forces have not been favorable for human rights protection within ICANN so far, not least because ICANN is not a traditional corporation--it is a non-profit corporation, which has no direct customers in the traditional sense, nor does it really compete with any other organization for market share in the assigned names and numbers of the Internet. Therefore, it seems unlikely that ICANN will pay attention to calls by human rights advocates, such as the CCWP-HR, to embrace its CSR obligations and to respect human rights by adopting new or modifying existing policies to ensure that they comply with human rights standards. ICANN does not have to worry that domain name registrants will no longer purchase domain names, because it is essentially a non-profit global policymaking monopoly that does not have any customers or competitors. It is precisely this non-profit status which has thus far successfully insulated ICANN from societal and regulatory pressure.

Given the lack of a profit motivation on the part of ICANN, it is difficult to see why a non-profit body managing global Internet  [\*317] resources and operating solely in the public interest should be subjected to a lower standard for human rights protection than a public body would be. Indeed, the discussion in Section II supra demonstrates that ICANN has qualities that are much more similar to those of public organizations and transnational policymaking networks than those of transnational for-profit corporations. Increasing involvement in ICANN by states--which are bound by both national and international human rights law obligations--points to the increasingly public dimension of this unique international body. This increasingly public dimension, in turn, suggests that the human rights duties of such a quasi-governmental international body must go well beyond those required of business corporations. While for corporations, it may seem reasonable to accept that there is a narrower scope of human rights obligations when compared to states, the narrower scope of obligations appears not as relevant when considering non-profit corporations such as ICANN, which operate solely in the public interest. Indeed, this unique status and operation for the public interest render ICANN's duties to respect human rights much stronger, because its social mission is not complicated by motivations for profit. Therefore, ICANN's human rights duties should be stronger than those of a standard for-profit corporation.

C. Public Confidence and CSR

As a non-profit organization, ICANN might uphold "soft commitments" and CSR not because of competition in the market, but rather to increase public confidence in its operations and create a better public image. Other factors beyond profit considerations, such as public "naming and shaming" and pressure by regulatory bodies and civil society, might therefore be more effective.

Thus far however, public confidence and public image have not proven to be strong factors for ICANN in embracing its CSR to respect human rights. A potential reason for this is that ICANN  [\*318] is not a widely known organization, and many people are unaware of the human rights implications of its activities. Pressure by NGOs or by data privacy commissioners and authoritative intergovernmental organizations (such as the EU Commission or Council of Europe ), have been ineffective in preventing ICANN from adopting certain policies that seem to strongly contradict human rights law. For example, an outcry from human rights activists over the .gay top level domain name has not motivated ICANN to pay more attention to the rights of freedom of expression and freedom of assembly of the LGBTI community. Similarly, dozens of letters to ICANN from the EU data protection authorities and various NGOS over violations of data privacy rights in the WHOIS policy and in the Registrar Accreditation Agreement of 2013 have seemingly done little to bother ICANN, in terms of any decrease in public confidence or in trust from regulatory authorities. Moreover, ICANN's main accountability mechanism of independent  [\*319] arbitration, which can be used to challenge its decisions, has been employed only once since 2005.

Therefore, public accountability and the informal multistakeholder structure of ICANN have had a limited effect in actually holding the organization to human rights values. Public confidence might, however, become increasingly important, as ICANN is in the process of the IANA transition and is no longer supervised by the U.S. government, with ICANN declaring in its own words that it is "officially accountable to the global multistakeholder community."

D. Voluntary Commitments and CSR as "Social Branding"

A widespread practice by private actors of upholding CSR norms solely for the purpose of increasing public confidence has led some scholars to argue that CSR policies have been captured by business interests and commodified, as these policies are often used as marketing or social branding tools. In the case of ICANN, such CSR commodification does not relate to the promotion of its products (as it does not sell any), but rather to the strengthening of its institutional image in the global Internet governance regime as a relevant, transparent, and accountable institution that respects human rights. While ICANN is a non-profit, quasi-governmental corporation, its income is generated from numerous for-profit entities, such as registries and registrars that it contracts with. Thus ICANN perhaps could be indirectly compared to what some scholars describe as "market-oriented NGOs." These are sponsored by  [\*320] businesses but aim to be associated with civil society organizations; they "disseminate and actualize corporate-inspired versions of 'social responsibility.'" An example of a market-oriented NGO is the International Chamber of Commerce (ICC).

Some have convincingly argued that a powerful platform for "corporate-inspired versions of social responsibility" was created by the UN Guiding Principles. For example, the organization Rights and Accountability in Development (RAID) uses empirical evidence collected during the five years since the adoption of the UN Guiding Principles to argue that corporations endorse the UN Guiding Principles because they "offer companies a way to manage human rights risks, thereby protecting their business reputation, insuring against claims, and managing problems to avoid their escalation. Ultimately, like any other risk management process, it is an approach which protects profits by reducing costs."

E. CSR as a Risk and Information Management Tool

Empirical research by RAID further suggests how corporations might adopt company-based grievance mechanisms to overcome barriers to accessing judicial review, while at the same time introducing numerous controls to monopolize information, such as legal waivers and confidentiality clauses. This essentially channels victims through a review mechanism of the company's own making, which is centrally devised and controlled.

This is relevant for ICANN, as its institutional structure is based on contractual agreements and memoranda of understanding, and is filled with numerous legal waivers and confidentiality clauses. Lack of compliance with human rights laws is often  [\*321] well hidden behind the numerous legal actions and waivers between ICANN and various parties. For example, as mentioned in Section II supra, ICANN is seeking injunctions to ensure that accredited registrars keep collecting and revealing personal information in WHOIS, as required under its contracts, which contravenes the EU data protection framework under the GDPR. Similarly, the incompatibility of the Registrar Accreditation Agreement (RAA) agreement with the EU data protection law is managed via the so-called "data retention waiver" system, exempting several registrars from the specified data retention requirements, so that they can comply with EU data protection law.

It is not yet clear how such "legal management" systems will be impacted (if at all), once the human rights Bylaw comes into effect. The Impact Assessment Evaluation of the new Bylaw by the ICANN staff states, "The area where ICANN will be most impacted is in bringing in tools so that the policy development takes into account human rights considerations." Does this mean that ICANN will adopt ex ante human rights impact assessments for each policy it is developing, and will not simply try to manage incompatibility ex post? It would be naive to expect that when implementing the human rights Core Value, ICANN would act fundamentally differently from other transnational corporations, and without resort to legal management mechanisms, such as the waivers which it has readily employed in the past.

 [\*322]  F. Would Regulatory and Punitive Action Help?

Given the limited ability of multistakeholder accountability mechanisms to hold ICANN to its self-imposed human rights commitments, regulatory action against private actors in Internet governance might provide lessons for holding ICANN accountable for its human rights commitments. In this regard, a relationship between influential Internet platforms and EU regulators (such as the EU Commission and the Article 29 Working Party) could provide such lessons for ICANN, as well as for the business and human rights movement more generally. In particular, Google's market dominance saga and Facebook's Cambridge Analytica scandal suggest that private actors will rarely change their policies and procedures unless threatened with direct legal and punitive actions by influential institutions, such as the EU Commission or the U.S. Department of Commerce, for disregarding and violating fundamental rights norms.

#### ICANN accountability cements international support for multistakeholder internet governance

Megan Stifel 17, Founder and Chief Executive Officer of Silicon Harbor Consultants, “Maintaining U.S. Leadership on Internet Governance,” 2/21/17, Council on Foreign Relations, Digital and Cyberspace Policy Program, https://www.cfr.org/report/maintaining-us-leadership-internet-governance

Challenges for Multistakeholder Governance

The reformed multistakeholder internet governance approach faces significant challenges. The sophistication of cybercrime continues to increase, as does the use of computer attacks for espionage, disruption, and influence by states. In October 2016, unknown actors used thousands of unsecured devices to launch a massive attack that limited many users’ access to Twitter, Amazon, and other major websites. Left unchecked, these growing threats and other technical vulnerabilities could ~~cripple~~ [destroy] the internet. Developing economies are only now beginning to grapple with these challenges as increasing numbers of their citizens go online. If the multistakeholder model is seen as ineffective in addressing the vulnerabilities that enable cybercrime, or being completely peripheral to the issue, developing economies could question its legitimacy and seek answers in the multilateral system.

In addition, authoritarian governments, many of which are increasing their efforts to control internet activity within their own borders, continue to challenge multistakeholder models of governance. These countries cherry-pick multilateral and other standards organizations to find those most likely to promote a state-centric approach to governance. Recent efforts to create a technical standard to catalogue all devices connected to the internet failed, but it can be expected that China, Russia, and others will find new opportunities to promote other standards that could frustrate innovation.

There are also worries that ICANN, the operator of the IANA functions, will abuse its authority and ignore the interests of internet users. In the past, ICANN has been accused of ignoring the views of governments, prioritizing private sector interests, and mismanaging its finances. ICANN recently implemented enhancements to address these and similar concerns. Nevertheless, ensuring that ICANN remains accountable will be critical to demonstrating that the multistakeholder approach works. It will also act as a bulwark against Russian and Chinese efforts at greater intergovernmental control over the internet.

#### Externally---ICANN responsiveness spills over globally, securing a rights-based framework throughout digital governance

Andi Wilson Thompson 17, Senior policy analyst at New America’s Open Technology Institute, “Protect the Free and Open Internet,” 1/19/17, New America, https://www.newamerica.org/weekly/protect-free-and-open-internet/

ICANN: The Internet Corporation for Assigned Names and Numbers (ICANN) is a little-known non-profit organization that helps manage the “inner workings of the internet.” Put simply, ICANN maintains a complex system of naming and numbering that directs people to the right website. The U.S. has had a veto over ICANN decisions since its creation—a responsibility it has never exercised—but the Department of Commerce recently completed the long-awaited process of relinquishing that role. ICANN has matured and can now function as an independent organization. This transition led to strong statements by President-elect Trump, who accused the U.S. of “surrendering control of the internet to foreign powers.” In reality, as our paper points out, the change will make it easier to fight for internet freedom around the world by removing the common complaint that the U.S. is in charge. Given Trump’s critical statements, there is concern that he could take steps to derail the progress that the United States has made toward more global internet governance. We strongly recommend that the incoming administration strengthen mechanisms that ensure the independence, accountability, and transparency of ICANN’s decision-making processes, and work with the private sector and other governments to build independent and accountable financial support mechanisms for diverse global participation.

Rebecca MacKinnon, director of the Ranking Digital Rights project (incubated at New America), said it best during the launch event for these recommendations: Internet freedom starts at home. Domestic policy influences international policy, U.S. policy influences global policy, and threats to internet freedom in the United States embolden governments that are looking to limit the access of their citizens to a free, open, and secure internet. The Trump administration has a duty to assert its unique leadership on policy issues, including those above, and to continue the decades-long, bipartisan support that internet freedom policy has previously held. Further, it must take steps to protect, promote, and strengthen freedom online—at home and around the world—through policies that align with our long standing international commitments to uphold human rights and the rule of law while also strengthening our economy and protecting us from threats to national security.

#### Second---Foreign Capture---lack of domestic antitrust enforcement over ICANN incentivizes foreign actors to fill the gap---that causes litigation to discredit the body and prompts a shift to state-based multilateral governance

Szóka et al. 16, Berin Szóka is President of TechFreedom; Brett Schaefer is the is Jay Kingham Senior Research Fellow in International Regulatory Affairs at The Heritage Foundation; Paul Rosenzweig is a Visiting Fellow at The Heritage Foundation and formerly served as Deputy Assistant Secretary for Policy in the Department of Homeland Security, “ICANN Transition is Premature,” 9/8/16, http://docs.techfreedom.org/TF\_White\_Paper\_IANA\_Transition.pdf

To the extent that’s true, those who worry that ICANN may be subject to capture and used in anticompetitive ways actually should worry about the Transition, not necessarily because the Transition changes the legal analysis over whether ICANN can be sued, but because if U.S. antitrust law can’t provide an effective remedy (or deterrent), one could legitimately worry that the Transition means giving up the leverage the U.S. has now: the possibility of putting the IANA contract out for re-bid (to an organization other than ICANN) if ICANN misbehaves.

And what about foreign antitrust law? Foreign courts are, in general, not only more willing to allow suit against state actors but also to discount pro-competitive justifications and, frankly, to allow firms to bring suits against their rivals. So it’s entirely possible that, while U.S. antitrust law might under-enforce, ICANN could be vulnerable to antitrust suit in other jurisdictions.

One might think the two would balance out, and that foreign courts would allow valid suits that might fail in the U.S. for whatever legal reason. Maybe. But there are so many potential antitrust suits that could be brought. While they’d all, no doubt, be framed as protecting consumers, some may really have narrow corporate agendas or broader political agendas.

China and Russia have made no secret of their push to gain greater control over Internet governance. And there’s every reason to think they would use antitrust as a weapon to that end. It wouldn’t be hard for them to find (or create) plaintiffs to carry their water. Again, it’s hard to say exactly what the suits would look like, but it’s clear what their basic objective would be: to portray ICANN as a cartel dominated by, in particular, American companies. The fact that U.S. courts might have tossed out such suits would simply help with the political framing. The goal would be to say that the Transition isn’t enough, that Internet governance should be transferred to the ITU, where it would be “democratically accountable” (i.e., dictated by governments).

#### It’s likely---there’s a coming push to displace ICANN and dislodge its model

David Ignatius 21, Associate editor and columnist for The Washington Post, “Russia’s plot to control the Internet is no longer a secret,” 5/4/21, Washington Post, https://www.washingtonpost.com/opinions/2021/05/04/russias-plot-control-internet-is-no-longer-secret/

Russia’s campaign to control the Internet isn’t just a secret intelligence gambit any longer. It’s an explicit goal, proclaimed by Russian President Vladimir Putin as a key element of the Kremlin’s foreign policy.

Putin complained during his annual address to the Russian federal assembly on April 21 that the United States and other western countries are “stubbornly rejecting Russia’s numerous proposals to establish an international dialogue on information and cybersecurity. We have come up with these proposals many times. They avoid even discussing this matter.”

Asking for “international dialogue” takes some nerve, coming from the world’s biggest cyberbully — a country that notoriously meddled in the 2016, 2018 and 2020 U.S. elections, and has engaged in similar Internet mischief throughout the world. Controlling the “information space,” as the Russians sometimes call it, has long been an intelligence priority for Moscow.

Russia is waging its cyberdiplomacy offensive on two fronts: First, the United Nations has embraced Russia’s proposal to write a new treaty governing cybercrime, to replace the 2001 Budapest convention that Moscow rejected because it was too intrusive. And second, Russia is lobbying for its candidate to head the U.N.’s International Telecommunications Union (ITU) and use it to supplant the current private group, known as ICANN, that coordinates Internet addresses.

These international regulatory battles sound obscure, but they will help determine who writes the rules for Internet communications for the rest of the 21st century. The fundamental question is whether the governance process will benefit authoritarian states that want to control information or the advocates of openness and freedom.

Secretary of State Antony Blinken stressed on Tuesday the importance of this contest. “There are relatively few items that are ultimately going to have a greater impact on the lives of people around the world than the ITU post. It may seem dry and esoteric, but it’s anything but. And so we’re very, very actively engaged on this front,” Blinken said in an email message, elaborating on comments he made to me during an April 7 interview.

Russia outlined its ITU game plan in unusually forthright comments by Ernst Chernukhin, the foreign ministry’s special coordinator for political use of information and communications technology. He spoke on April 21, the same day Putin made his speech.

“The optimal option . . . would be transferring Internet management prerogatives specifically to the ITU, as it is a specialized U.N. body, which has the needed expertise on these issues,” Chernukhin said. “This strategic objective may be achieved by electing or promoting the Russian candidate to the position of the ITU Secretary-General in the 2022 elections . . . and by holding the 2025 anniversary U.N. Internet Governance Forum in Russia.”

Russia’s candidate for ITU secretary-general is Rashid Ismailov, a former deputy chief of the Russian communications ministry and a former executive at the Chinese telecommunications company Huawei. In announcing Ismailov’s candidacy on April 7, Maxim Parshin, the current deputy minister, underlined Moscow’s governance takeover plan: “We believe it is important to define an entity, within the U.N. framework, that would develop and implement legal norms and standards in the field of Internet governance. We think that the ITU could become such an entity.”

The Biden administration’s candidate for the ITU post is Doreen Bogdan-Martin, an American telecommunications expert who’s currently director of the ITU’s development bureau. The State Department, which has sometimes been lackadaisical in such international regulatory contests, is campaigning aggressively for Bogdan-Martin, and officials hope she’ll have sufficient support in Africa, Europe, Latin America and elsewhere to win the post. The election will take place at an ITU gathering late next year in Romania.

Internet technical governance today is managed by ICANN, which stands for Internet Corporation for Assigned Names and Numbers. This gathering of engineers and other experts was founded in 1998 to supervise domain names for the Defense Department’s ARPANET system, and it operated under a contract with the Commerce Department until 2016, when it went fully private.

The American roots of the Internet seem to both upset Putin and fuel conspiratorial talk. The Russian leader said during a 2014 interview translated by RT that the Internet “first appeared as a special CIA project . . . and the special services are still at the center of things.” Dmitry Medvedev, Russia’s former president, complained in a February interview: “The Internet emerged at a certain time, and undoubtedly the key rights to control are in the United States.”

Russia is ready to rumble over the rules that will shape the future of Internet communications. Fortunately, the Biden administration seems determined to fight back hard to maintain fair and open rules.

#### Multistakeholder governance is key to fend off authoritarian takeover but overzealous governmental intervention backfires

Joe Kane & Milton Mueller 18, Graduate research fellow at the Mercatus Center; Professor at the Georgia Institute of Technology School of Public Policy, “U.S. government should not reverse course on internet governance transition,” Brookings Institute, 2/7/18, https://www.brookings.edu/blog/techtank/2018/02/07/u-s-government-should-not-reverse-course-on-internet-governance-transition/

ICANN is an imperfect organization with politics and problems of its own. But the transition led to dramatic improvements in ICANN’s accountability and corporate governance. The relevant alternatives at this point are leaving IANA stewardship in the hands of ICANN or, if legally possible, transferring it back to the U.S. government. There are no perfect solutions here, only tradeoffs. Accepting stewardship by ICANN is still preferable to reverting to the NTIA, which would bring injurious consequences for global internet freedom. For those who value global internet freedom, the former is the only option.

The internet protocols are used globally, rendering internet governance a matter of global concern. A free and open internet run by the private sector and relatively free of geopolitics was the reason for delegating authority over IANA to ICANN in the first place.

As global commerce and civil society become increasingly reliant on the internet, committing to private governance, rather than government or intergovernmental control, is more critical than ever. If the U.S. wants to be a legitimate force in combating authoritarian regimes who seek greater control over the internet, it must hold fast to its principle of multi-stakeholder governance by non-state actors, and it must be able to keep moderate countries from abandoning the ICANN regime and embracing governmental control.Reversing the IANA transition would tell the world that we want governments to be in charge of the internet—and China and Russia would not hesitate to assert their respective claims.

The issue here is as much about rhetoric as it is about substance. The IANA functions themselves do not directly impinge on whether authoritarian governments gain more influence over the internet, but how the United States reacts to the transition will nudge diplomatic debates one way or another. If the U.S. government is seen to be grasping at more control over the internet, countries that would otherwise be on the fence might support a greater role for intergovernmental bodies in internet governance.

On the other hand, going through with the transition has improved the United States’ negotiating position. By committing to private governance of the internet, it has been and will be able to augment its credibility in arguing against more government control. Attempting to reverse the transition would undermine whatever influence the U.S. has gained since it took place.

This problem is now especially acute because of this November’s Plenipotentiary Conference of the UN’s International Telecommunication Union, a body that has notoriously sought to establish intergovernmental control over the internet in the past. Authoritarian governments want nothing more than to paint the U.S. as a hypocrite that touts internet freedom while secretly grabbing the controls. How far they seek to go at this year’s conference will partly depend on how far the U.S. goes in attempting to reverse the IANA transition and how many moderate-country votes they can swing to their side.

Of course, it might be that Redl’s promised “panel of experts” was a political ploy. It may never materialize or, if it does, it may return a verdict consistent with his original answer at the confirmation hearing, that “it’s very difficult to put the genie back in the bottle.” Either way, both Redl and Cruz should look ahead to address real internet governance threats from authoritarian governments, like an expanded role for the ITU and ICANN’s Government Advisory Committee, rather than trying to undo the privatization of the IANA functions.

We have been living in a post-transition world for over a year now, and nightmare scenarios of Russia and China somehow being empowered by this change have yet to materialize. Trying to undo the transition only makes these harmful outcomes more likely.

#### A transition fractures global ICT interoperability

* ICT: information and communications technology

Isabella Wilkinson 21, Research Associate at Chatham House’s International Security Programme, “Digital standards are key for protecting democracy,” 5/17/21, https://www.chathamhouse.org/2021/05/digital-standards-are-key-protecting-democracy

Geopolitical tensions in digital technical standards

And it could not have come at a better time. China has proposed a ‘new IP’ within key standards development organizations (SDOs) such as the International Telecommunications Union (ITU), dubbed by one expert as ‘the most important UN agency you have never heard of’.

Proposals for a decentralized internet infrastructure threaten global ICT interoperability and have serious consequences for human rights: China’s proposals may facilitate the implementation of its social credit scheme. And since the launch of its Belt and Road Initiative (BRI), and 2035 Standards Strategy, Chinese proposals to reshape standards have gained momentum, as well as some support from its trusted trade partners.

To complicate matters further, ITU secretary general Zhao Houlin is known to favour China-backed proposals and, with US candidate Doreen Bogdan-Martin likely pitted against Russia’s Rashid Ismailov in the ITU 2022 plenipotentiary, stakes have never been higher. Ismailov is a former Huawei executive and, for Russia, the ITU presidency offers a unique opportunity to champion its vision for closed, nationally-controlled internet; for example, by supplanting ICANN, the current group coordinating internet addresses.

But these threats run deeper than just Russia and China. Globally, there are a diversity of regimes with long-term, vested interests in shaping standards for their own benefit, willing to throw their weight behind China’s proposals. Like-minded democracies must urgently rethink their approach to standards – and a multi-stakeholder strategy could offer a solution.

What more stakeholders bring to the table

To assist G7 partners in their preparation for the Ministerial Declaration, experts at the Chatham House-DCMS workshop (held on 3 March 2021) recognized that multi-stakeholderism encourages coalition-building, nurtures local and cross-border innovation, and bolsters shared normative commitments to safeguarding the transparency, openness and interoperability of ICTs.

For years, industry has dominated efforts to shape digital technical standards, with everyday tech items and their standards, such as USB specifications, developed by coalitions of ICT companies. But new challenges demand new approaches. ICT giants offer technical expertise and digital leadership experience, but it is time to broaden the field.

Governments have always played a role in standards development, with the power to identify policy issues, facilitate partnerships, and provide financial incentives, but the G7 declaration signals a reimagining of government responsibilities vis-à-vis industry’s leadership. At a national level, governments can lead strategic coordination and invest in capacity-building for non-state actors, while internationally, governments can encourage coalitions between stakeholders.

The G7’s declarations on ICTs are steps in the right direction, as are national standards strategies such as Germany’s Standardisation Roadmap on AI, and the UK’s focus on standards in the Integrated Review. But non-state actors also have a legitimate, urgent role to play. In the past, knowledge gaps, financial barriers, and a lack of incentives have prevented sustained engagement from civil society and academia in SDOs.

These actors bring much to the table, such as technical expertise, existing networks, and under-represented voices, such as young adults and children. Plus, they already raise awareness about the importance of certain standards, and serve as barometers for their societal impact.

It may be easy to forget that the SDOs themselves are also stakeholders, setting the tone for inclusion, coordination, and engagement, so their leadership and norms matter. US Secretary of State Anthony Blinken noted there are ‘relatively few items that are ultimately going to have a greater impact on the lives of people around the world’ than the ITU leadership race.

Why multi-stakeholderism matters

From a technical standpoint, the more perspectives involved in determining technical interoperability, the better – especially with the onset of disruptive technologies such as quantum and AI which are likely to have a wide, societal impact. Building deeper knowledge-sharing networks between academia and SMEs can generate resilient standards that reflect policy principles.

But more importantly, multi-stakeholder approaches build cross-sector and cross-border coalitions rooted in normative commitments to open, democratic societies and enhancing shared prosperity. Meaningful engagement on standards with a variety of stakeholders at national and regional levels is even more urgent for technologies with far-reaching societal impacts – such as smart cities and autonomous vehicles – to avoid societal harms.

By championing open, transparent, consensus-based multi-stakeholderism in standards-setting, states bring home more than just majority votes on key proposals. Changing ICT culture by institutionalizing multi-stakeholderism and diverse representation would generate good practices which can be replicated in areas such as the UN cybercrime treaty deliberations proposed by Russia to supplant existing agreements, and negotiations on responsible state behaviour in cyberspace.

There is a long way to go, as states still need to develop effective outreach mechanisms and invest in coordination at all levels, and there are clear trade-offs between stakeholder inclusion and the efficiency of expert groups.

But faced with some states’ aspirations to shape the internet, telecoms, and emerging technologies, like-minded states interested in protecting open, democratic societies cannot afford to adopt a siloed approach to digital technical standards. Multi-stakeholderism is both urgent and necessary – before it is too late.

#### Global ICT interoperability prevents extinction from disease, food, and environmental collapse

N. Kishor Narang 20, Research Advisor at the Institute of Informatics and Communication at the University of Delhi, Member of the Academic Council at D Y Patil International University, Member of the Academic Committee at Electronics & ICT Academy at National Institute of Technology, ““Protecting the Planet with Standards” ... Mentor’s Musings on the World Standards Day 2020.”, LinkedIn, 10/14/2020, https://www.linkedin.com/pulse/protecting-planet-standards-mentors-musings-world-day-narang

It has been observed that the technologies developed by human beings in the last two to three centuries have had a major impact on the earth’s climate and our nature’s equilibrium. Some believe that we have reached a point of no return. This can have a huge impact on life on earth, especially on the human species.

However, while technology has been responsible for most of it, technology also seems to have a solution for it.

The COVID-19 pandemic, a humanitarian challenge, has caused widespread disruption in the global business community. The issues involved in the pandemic are both nuanced and complex. Global business dynamics are going to witness a sea change in the coming times.

The COVID-19 crisis has upended urban life, as we know it. Cities are on lockdown, and the once bustling streets of Paris, New York, London, Rome, Bombay and more now sit virtually empty. Technology and Standards have been critical to the way cities and society have coped with the crisis. Online delivery companies have been essential for getting food and supplies to residents, while their restaurant delivery counterparts have helped keep restaurants up and running during the lockdown. Urban informatics has helped track the virus and identify infection hot spots. As cities begin to reopen, digital technologies are being leveraged to better test and trace the virus as well as to ready urban infrastructure, like airports, public transportation, office buildings, and businesses, to open back up safely.

Safety in the interconnected world - As organizations across the world ramp up their operations and strive to serve their consumers, they are also faced with increased cyber security threat. Cybercriminals can exploit the weaknesses and vulnerabilities to exploit the connected devices and the network itself. This presents a challenge to the cybersecurity teams who must learn to evolve with the evolving threat perception.

As work from home increases, users who don’t have the same quality of security ecosystem as at their offices are finding themselves to be the targets of directed phishing, smishing, vishing and ransomware attacks. Home Wi-Fi systems usually suffer from a low degree of protection and are presenting opportunities for hackers. Since more and more people are working from home, there is a fear that the ever-increasing number of IoT devices in the household are easy targets for hackers, who can use them as gateways to undermine the security of the larger systems they connect to.

Managing disruption during a global pandemic - The current health crisis which has gripped the world can be seen as an inflection point between Digital Transformation and businesses. It has also impressed upon various stakeholders to invest more robustly in digital technologies. It is also a challenge to the security planners who have to guard against security threats and also ensure business continuity. Hospitals must have emergency backup systems which ensure seamless continuity of operations and databases. Rogue nations and intelligence agencies who attempt attacks on healthcare facilities must be warned of immediate consequences.

The question most people would ask is – What do STANDARDS have to do with all this?

Although most people do not realize it, standards and the methods used to assess conformity to standards are absolutely critical. They are essential components of any nation's technology infrastructure—vital to industry and commerce, crucial to the health and safety of citizens, and basic to any nation's economic performance. About 80 percent of global merchandise trade is affected by standards and by regulations that embody standards.

Standards enable us to pre-solve complex problems.

International standards enable and provide society with efficient ways to get work done while maintaining the safety of producers who create and provide goods and services, as well as the end-users receiving the benefits from these goods and services. International Standards are an important instrument for global trade and economic development. They provide a harmonized, stable and globally recognized framework for the dissemination and use of technologies. Standards provide people and organizations with a basis for mutual understanding, and are used as tools to facilitate communication, measurement, commerce and manufacturing. Standards are everywhere and play an important role in the economy by facilitating business interaction.

Standards: details of "Mega" importance - The topic of standards and the challenge of effective standards development can bewilder, by immersing the uninitiated in a blizzard of details. To some degree, this is unavoidable. After all, standards are details. They specify characteristics or performance levels of products, processes, services, or systems.

Standards are becoming increasingly important due to several intensifying trends:

· the pace of technological innovation is quickening;

· trade volumes are growing faster than national economies; and

· business operations are globally distributed.

There is extreme pressure for the standards community to reckon fully with the realities of the brutally competitive, extremely fast-paced global economy. This is because standards are necessary complements of modern products, processes, and services. Standards can:

· promote industrial and market efficiency;

· foster international trade;

· lower barriers to market entry;

· diffuse new technologies; and

· protect human health and the environment.

Hence, it is critical to achieve worldwide use of International Standards and Conformity Assessment Services that ensure the safety, efficiency, reliability and interoperability of electrical, electronic and information technologies, to enhance international trade, facilitate broad electricity access and enable a more sustainable world.

Standardized protocols and regulatory controls will allow seamless sharing of information and data between various devices. This will help in managing security breaches and dealing quickly with them. Adoption of universal standards will result in faster and more efficient response to any future disaster or pandemic.

Since Standardization is a collective churning, deliberation & collaboration process, we need to moderate, as well as, expand our individual thoughts on any subject to make it acceptable globally.

Innovation and technology development are accelerating. Strategic plans and roadmaps are needed to help ensure that the market is suitably served with best practices that is pertinent to the goals and context of this very large market.

Standards support our need to balance agility, openness and security in a fast-moving environment. Standards provide us with a reliable platform from which we are able to innovate, differentiate and scale up our technology development. They help us control essential security and integrate the right level of interoperability. Standards help ensure cyber security in ICT and IoT systems.

The world has never been as competitive as today, yet cooperation is a must to deliver solutions for increasingly complex systems. No technical committee and no standards organization are able to single handedly develop all the Standards that are needed. We all need to work together.

Given the scale, moving forward cannot be successfully, efficiently, and swiftly accomplished without standards. The role of standards to help steer and shape this journey is vital. Standards provide a foundation to support innovation. Standards capture tacit best practices and standards set regulatory compliance requirements.

Covid-19 has brought us face to face with systemic problems, we have long chosen to ignore collectively: Inequalities, environmental degradation, hunger, poverty, oppression, and the digital divide. In this age of technological progress, many of us are tempted by the promising thought of quick technological fixes to these deeply-ingrained issues. But technology alone will not save us. We must put the well-being of people, communities, and the planet back at the centre. We need to ask ourselves: What are the futures we want to create? What do we value? What kind of world do we want to live in?

The socioeconomic disruption caused by COVID-19 will be a lasting one and poses a challenge to planners and leaders globally; a number of fundamental changes in policy and mindset are necessary. As we have already witnessed, because of interconnected trade and business, any future pandemic may spread rapidly globally and infect millions. Some countries may be less geared to tackle the crisis than others. But with challenges come opportunities. Marrying Human Intelligence and labor with Disruptive Technologies to find solutions is the way to go. Necessity is the mother of inventions and hopefully, public-private partnerships can lead to many new innovations. Without a collaborative approach, any global approach to deal with any future pandemic will be compromised. And, Standards shall play a crucial role in providing INTEROPERABILITY, SAFETY, SECURITY, RELIABILITY and last but not the least a comprehensive TRUST in the minds of procurers, users and citizens.

This pandemic has catapulted two diametrically opposite paradigms to the focus of the mankind – ‘Sustainability’ and ‘Digitalization'.

Facing the global pandemic, multiple nations have seen lockdowns, changed social interactions and challenging isolations. But in these testing times, nature has been our constant friend. From our windows to the world, we have been comforted by nature’s presence all around us — we have been delighted by the birdsong we can now hear. We have finally seen the sheen on the wings of a delicately fluttering butterfly, the industriousness of ants as they march by, the green-gold of trees as they sway in a magical breeze, the pink glow of dawn, the night’s coverlet of stars.

However, alongside appreciating nature’s beauty, we must also understand the lesson it is offering us now. The Covid-19 pandemic has been brought about by humanity disturbing nature’s ecological cycle. Similarly, climate change is being driven by humanity’s exploitation of nature as a captive resource — our constant need to consume more and more is consuming the very planet we call our home. As global temperatures, driven by greenhouse gas emissions, rise, we see the science manifest before our eyes. There is no eliding the truth of melting glaciers now, or rising oceanic levels, increasing land desertification, droughts and unseasonal storms. If we persist in damaging the environment in this way, scientists state, the pandemic may look small compared to the impacts of climate change.

This pandemic is a way of the Earth saying she has had enough of years of exploitation and excesses and needs restoring. Then again, it can be seen through another moral lens. It is evident that the pandemic is a counterstrike to our collective human consciousness that has been corrupted by indifference and culpability in sufferings across the world.

We may not yet know how this story ends, but we already know for sure that this pandemic has brought the greatest reversal of our times, turning the world along with its wisdom on its head… This is our freak chance to unlearn and learn. Let’s not blow it. So, why not re-visit our history and re-learn. Maybe we shall get an opportunity to re-calibrate our approach for defining and developing our future ways of leading lives… And, we still have a chance. Indeed, nature has given us an epochal opportunity to transform ourselves. Such transformation is possible at multiple levels.

Be it a drop in pollution & GHG emission or self-healing of the Ozone layer; the last few months have amply demonstrated the resilience of Mother Nature by reversing the damage mankind has done to the planet’s climate in last many decades due to sheer arrogance and complacence. It is now evident that widespread adoption of nature-inspired solutions will catalyse a new era in design and business that benefits both people and the planet. Let’s make the act of asking nature’s advice a normal part of everyday inventing. We can create solutions inspired by nature that even address the United Nations ‘Sustainable Development Goals’ (SDGs).

We need to develop sustainable solutions for a balanced ecosystem by empowering people to learn and apply nature-inspired strategies in design. We need to develop repositories of resources and launch design challenges where people learn by practicing, provide comprehensive support for bringing solutions to market, and create a conducive environment & platform for a global network of innovators. In short, together, we need to learn about, teach, and practice a radically different way to build our world.

We need to change how we think about technology and innovation. Rather than allowing technological advancement to steer our narratives, innovation and technology should help us build bridges between the worlds we inhabit now and the ones we imagine for tomorrow.

#### Splintering ICT interoperability causes de-globalization, hostile economic blocs and hot and proxy wars that go global

Dr. Nouriel Roubini 19, PhD in Economics from Harvard University, BA from Bocconi University, Former Professor of Economics at New York University's Stern School of Business, Chairman of Roubini Macro Associates, “The Global Consequences of a Sino-American Cold War”, Project Syndicate, 5/20/2019, https://www.project-syndicate.org/commentary/united-states-china-cold-war-deglobalization-by-nouriel-roubini-2019-05

Regardless of which side has the stronger argument, the escalation of economic, trade, technological, and geopolitical tensions may have been inevitable. What started as a trade war now threatens to escalate into a permanent state of mutual animosity. This is reflected in the Trump administration’s National Security Strategy, which deems China a strategic “competitor” that should be contained on all fronts.

Accordingly, the US is sharply restricting Chinese foreign direct investment in sensitive sectors, and pursuing other actions to ensure Western dominance in strategic industries such as artificial intelligence and 5G. It is pressuring partners and allies not to participate in the Belt and Road Initiative, China’s massive program to build infrastructure projects across the Eurasian landmass. And it is increasing US Navy patrols in the East and South China Seas, where China has grown more aggressive in asserting its dubious territorial claims.

The global consequences of a Sino-American cold war would be even more severe than those of the Cold War between the US and the Soviet Union. Whereas the Soviet Union was a declining power with a failing economic model, China will soon become the world’s largest economy, and will continue to grow from there. Moreover, the US and the Soviet Union traded very little with each other, whereas China is fully integrated in the global trading and investment system, and deeply intertwined with the US, in particular.1

A full-scale cold war thus could trigger a new stage of de-globalization, or at least a division of the global economy into two incompatible economic blocs. In either scenario, trade in goods, services, capital, labor, technology, and data would be severely restricted, and the digital realm would become a “splinternet,” wherein Western and Chinese nodes would not connect to one another. Now that the US has imposed sanctions on ZTE and Huawei, China will be scrambling to ensure that its tech giants can source essential inputs domestically, or at least from friendly trade partners that are not dependent on the US.

In this balkanized world, China and the US will both expect all other countries to pick a side, while most governments will try to thread the needle of maintaining good economic ties with both. After all, many US allies now do more business (in terms of trade and investment) with China than they do with America. Yet in a future economy where China and the US separately control access to crucial technologies such as AI and 5G, the middle ground will most likely become uninhabitable. Everyone will have to choose, and the world may well enter a long process of de-globalization.

Whatever happens, the Sino-American relationship will be the key geopolitical issue of this century. Some degree of rivalry is inevitable. But, ideally, both sides would manage it constructively, allowing for cooperation on some issues and healthy competition on others. In effect, China and the US would create a new international order, based on the recognition that the (inevitably) rising new power should be granted a role in shaping global rules and institutions.

If the relationship is mismanaged – with the US trying to derail China’s development and contain its rise, and China aggressively projecting its power in Asia and around the world – a full-scale cold war will ensue, and a hot one (or a series of proxy wars) cannot be ruled out. In the twenty-first century, the Thucydides Trap would swallow not just the US and China, but the entire world**.**

#### Proxy wars spill over, draw-in outside powers, and escalate to World War III

David Kampf 20, Senior PhD Fellow at the Center for Strategic Studies at The Fletcher School, MA in International Affairs from Columbia University, BA in Political Science from Bates College, “How COVID-19 Could Increase the Risk of War”, World Politics Review, 6/16/2020, https://www.worldpoliticsreview.com/articles/28843/how-covid-19-could-increase-the-risk-of-war

And by focusing solely on interstate wars, the optimists miss half the story, at least. Wars between states have declined, but civil wars never disappeared—and these internal conflicts could easily escalate into regional or global wars.

The number of conflicts in the world reached its highest point since World War II in 2016, with 53 state-based armed conflicts in 37 countries. All but two of these conflicts were considered civil wars. To make matters worse, new studies have shown that civil wars are becoming longer, deadlier and harder to conclusively end, and that these internal conflicts are not really internal. Civil wars harm the economies and stability of neighboring countries, since armed groups, refugees, illicit goods and diseases all spill over borders. Some 10 million refugees have fled to other countries since 2012. The countries that now host them are more likely to experience war, which means states with huge refugee populations like Lebanon, Jordan and Turkey face legitimate security challenges. Even after the threat of violence has diminished in refugees’ countries of origin, return migration can reignite conflicts, repeating the brutal cycle.

A Yugoslav Federal Army tank.

Perhaps most importantly, recent research indicates that civil wars increase the risk of interstate war, in large part because they are attracting more and more outside involvement. In a 2008 paper, researchers Kristian Skrede Gleditsch, Idean Salehyan and Kenneth Schultz explained that, in addition to the spillover effects, two other factors in civil wars increase international tensions and could possibly provoke wider interstate wars: external interventions in support of rebel groups and regime attacks on insurgents across international borders.

Immediately after the Cold War, none of the ongoing civil wars around the world were internationalized. According to the Uppsala Conflict Data Program, there were 12 full-fledged civil wars in 1991—in Afghanistan, Iraq, Peru, Sri Lanka, Sudan, and elsewhere—and foreign militaries were not active on the ground in any of them. Last year, by contrast, every single full-fledged civil war involved external military participants. This is due, in part, to the huge growth in U.S. military interventions abroad into civil conflicts, but it’s not only the Americans. All of today’s major wars are in essence proxy wars, pitting external rivals against one another. Conflicts in Syria, Yemen and Libya are best understood not as civil wars, but as international warzones, attracting meddlers including the United States, Russia, Saudi Arabia, Turkey, Iran, France and many others, which often intervene not to build peace, but to resolve conflicts in a way that is favorable to their own interests. These internationalized wars are more lethal, harder to resolve and possibly more likely to recur than civil wars that remain localized. It is not that difficult to imagine how these conflicts could spark wider international conflagrations. Wars, after all, can quickly spiral out of control.

As Risks Increase, Deterrents Decline

To make matters worse, most of the global trends that explained why interstate war had decreased in recent decades are now reversing. The theories that democracy, prosperity, cooperation and other factors kept the peace have been much debated—but if there was any truth to them, their reversals are likely to increase the chance of war, irrespective of how long the coronavirus pandemic lasts.

Democracy is often considered a prophylactic for war. Fully democratic countries are less likely to experience civil war and rarely, if ever, go to war with other democracies—though, of course, they do still go to war against non-democracies. While this would be great news if democracy and pluralism were spreading, there have now been 14 consecutive years of global democratic decline, and there have been signs of additional authoritarian power grabs in countries like Hungary and Serbia during the pandemic. If democracy backslides far enough, internal conflicts and foreign aggression will become more likely.

Other theories posit that economic bonds between countries have limited wars in recent decades. Dale Copeland, a professor of international relations at the University of Virginia, has argued that countries work to preserve ties when there are high expectations for future trade, but war becomes increasingly possible when trade is predicted to fall. If globalization brought peace, the recent wave of far-right nationalism and populism around the world may increase the chances of war, as tariffs and other trade barriers go up—mostly from the United States under President Donald Trump, who has launched trade wars with allies and adversaries alike.

The coronavirus pandemic immediately elicited further calls to reduce dependence on other countries, with Trump using the opportunity to pressure U.S. companies to reconfigure their supply chains away from China. For its part, China made sure that it had the homemade supplies it needed to fight the virus before exporting extras, while countries like France and Germany barred the export of face masks, even to friendly nations. And widening economic inequalities, a consequence of the pandemic, are not likely to enhance support for free trade.

This assault on open trade and globalization is just one aspect of a decaying liberal international order, which, its proponents argue, has largely helped to preserve peace between nations since World War II. But that old order is almost gone, and in all likelihood isn’t coming back. The U.N. Security Council appears increasingly fragmented and dysfunctional. Even before Trump, the world’s most powerful country ratified fewer treaties per year under the Obama administration than at any time since 1945.

Trump’s presidency only harms multilateral cooperation further. He has backed out of the Paris Agreement on climate change, reneged on the Iran nuclear deal, picked fights with allies, questioned the value of NATO and defunded the World Health Organization in the middle of a global health crisis. Hyper-nationalism, rather than international collaboration, was the default response to the coronavirus outbreak in the U.S. and many other countries around the world.

It’s hard to see the U.S. reluctance to lead as anything other than a sign of its inevitable, if slow, decline. The country’s institutionalized inequalities and systemic racism have been laid bare in recent months, and it no longer looks like a beacon for others to follow. The global balance of power is changing. China is both keen to assert a greater leadership role within traditionally Western-led institutions and to challenge the existing regional order in Asia. Between a rising China, revanchist Russia and new global actors, including non-state groups, we may be heading toward an increasingly multipolar or nonpolar world, which could prove destabilizing in its own right.

Finally, the pacifying effect of nuclear weapons could be waning. While vast nuclear arsenals once compelled the United States and the Soviet Union to reach arms control agreements, old treaties are expiring and new talks are breaking down. Mistrust is growing, and the chance of an unwanted U.S.-Russia nuclear confrontation is arguably as high as it has been since the Cuban missile crisis.

The theory of nuclear peace may no longer hold if more countries are tempted to obtain their own nuclear deterrent. Trump’s decision to abandon the Iran nuclear deal, for one thing, has only increased the chance that Tehran will acquire nuclear weapons. It’s almost easy to forget that, just a few short months ago, the United States and Iran were one miscalculation or dumb mistake away from waging all-out war. And despite Trump’s efforts to negotiate nuclear disarmament with Kim Jong Un’s regime in Pyongyang, it is wishful thinking to believe North Korea will give up its nuclear weapons. At this point, negotiators can only realistically try to ensure that North Korea’s nuclear menace doesn’t get even more potent.

In other words, by turning inward, the United States is choosing to leave other countries to fend for themselves. The end result may be a less stable world with more nuclear actors.

If leaders are smart, they will take seriously the warning signs exposed by this global emergency and work to reverse the drift toward war.

If only one of these theories for peace were worsening, concerns would be easier to dismiss. But together, they are unsettling. While the world is not yet on the brink of World War III and no two countries are destined for war, the odds of avoiding future conflicts don’t look good.

The pandemic is already degrading democracies, harming economies and curtailing international cooperation, and it also seems to be fostering internal instability within states. Rachel Brown, Heather Hurlburt and Alexandra Stark argue that the coronavirus could in fact sow more civil conflict. If this proves accurate, the increase in civil wars is likely to lead to more external meddling, and these next proxy wars could soon precipitate all-out international conflicts if outsiders aren’t careful. With the usual deterrents to conflict declining around the world, major wars could soon return.

# 2AC

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#### ‘Expand’ means to increase the extent

Merriam-Webster’s 21 Online Dictionary, ‘expand’, https://www.merriam-webster.com/dictionary/expand

transitive verb

1: to open up : UNFOLD

2: to increase the extent, number, volume, or scope of : ENLARGE

#### ‘Scope’ refers to activity at the present time, not the abstract potential application of law

Frank G. Clement 16 Jr, Judge on the Tennessee Court of Appeals, “Hamer v. Southeast Res. Group, Inc.”, Court of Appeals of Tennessee, At Nashville, 2016 Tenn. App. LEXIS 176, 3/3/2016, Lexis

When interpreting a contract, ordinary words typically have their ordinary meanings unless there is evidence [\*13] that the parties intended for the words to have a special meaning. Madson v. Madson, 636 So. 2d 759, 761 (Fla. Dist. Ct. App. 1994). The ordinary meaning of a word is often described as its meaning in the dictionary. See Siegle v. Progressive Consumers Ins. Co., 788 So. 2d 355, 360 (Fla. Dist. Ct. App. 2001); Beans v. Chohonis, 740 So. 2d 65, 67 (Fla. Dist. Ct. App. 1999). The ordinary meaning of a word or phrase is also described as "a natural meaning or the meaning most commonly understood when considered in relation to the subject matter and circumstances." See J.N. Laliotis Eng'g Constr. v. Mastor, 558 So. 2d 67, 68 (Fla. Dist. Ct. App. 1990) (quoting Granados Quinones v. Swiss Bank Corp., 509 So. 2d 273, 275 (Fla. 1987)).

If parties wish to depart from the ordinary meaning of common words and assign uncommon meanings to them, they must do so explicitly. See Madson, 636 So. 2d at 761. "One who would ascribe an exotic meaning to a term in a contract which otherwise has perfectly ordinary connotations must take pains to define the term either expressly or by express reference." E. Ins. Co. v. Austin, 396 So. 2d 823, 825 (Fla. Dist. Ct. App. 1981); see Russ v. State, 832 So. 2d 901, 907 (Fla. Dist. Ct. App. 2002) ("[W]here a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense." (alteration in original)); Koplowitz v. Imperial Towers Condo., Inc., 478 So. 2d 504, 505 (Fla. Dist. Ct. App. 1985) ("Whether they appear in a statute or in a declaration of condominium, words of common usage should be construed in their plain and ordinary sense.").

Here, this dispute exists because the parties' agreement does not define "scope" or "scope and purpose." Furthermore, the agreement does not identify the point in time when the "scope" of [\*14] Action's business is to be determined. Southeast contends that "scope and purpose" is ambiguous because it is susceptible to multiple reasonable interpretations. According to Southeast, "scope and purpose" means "at a minimum any business opportunity to be marketed to credit union members, including the telemedicine opportunity." However, the entirety of the parties' agreement and the "inconvenience, hardship, or absurdity" that would result from Southeast's proposed interpretation demonstrate that the agreement is not ambiguous and that the parties intended for the words "scope and purpose" to have their ordinary meanings. See Branscombe, 76 So. 3d at 948.

"Scope" and "purpose" are commonly-used words with commonly-understood meanings. Therefore, if the parties intended to ascribe an uncommon meaning to "scope" or "scope and purpose," they should have explicitly defined those terms. See E. Ins. Co., 396 So. 2d at 825. Instead of explicitly stating that these words have an uncommon definition, the agreement provides that its terms, covenants, and provisions "shall be construed simply and according to [their] fair meaning[s] . . . ." Consequently, the failure to specify a unique meaning for "scope and purpose" and the inclusion of the above-quoted section [\*15] indicate that the parties intended for these words to have their ordinary meanings. See id.; see also Russ, 832 So. 2d at 907; Koplowitz, 478 So. 2d at 505.

Under Southeast's interpretation, Plaintiff agreed to disclose and make available every business opportunity "to be marketed to credit union members." Such a broad definition appears to encompass every product or service imaginable, whether they have anything to do with Action or not. Under this interpretation, Plaintiff would be required to disclose an opportunity to sell cars to credit union members even though Action's business is not related to cars at all. The inconvenience, hardship, or absurdity that would result are weighty evidence that the parties did not intend for "scope and purpose" to have this meaning, especially when interpreting the agreement based on the ordinary meaning of "scope" avoids these difficulties. See Branscombe, 76 So. 3d at 948 HN9 ("The inconvenience, hardship, or absurdity of one interpretation of a contract or its contradiction of the general purpose is weighty evidence that such meaning was not intended when the language is open to an interpretation which is neither absurd nor frivolous and is in agreement with the general purpose of the parties.").

HN10 The ordinary meaning of words is found in the dictionary and is the most commonly understood meaning in relation to the subject matter of the parties' agreement. See Siegle, 788 So.2d at 360; Beans, 740 So. 2d at 67; J.N. Laliotis, 558 So. 2d at 68. According to one dictionary, "scope" means "1. The range of one's perceptions, thoughts, or actions. 2. Breath or opportunity to function. 3. The area covered by a given activity or subject." The American Heritage College Dictionary 1222 (3d ed. 1997). The operating agreement is concerned with the relationship of Action's members to each other and to Action, and the subject matter of section 6.6 is the duty to make certain business opportunities available to Action in order to avoid competition between Action and its members. [\*18] Based on the dictionary and the subject matter of the parties' agreement, "scope" most naturally refers to the range or breadth of the business that Action is engaged in at the relevant time.

Southeast contends this interpretation renders "purpose" redundant because "by definition, scope would always be within the purpose." We respectfully disagree. Contrary to Southeast's contentions, "scope" and "purpose" refer to different concepts. "Purpose" is aspirational and refers to what Action is capable of doing in the future (i.e. all lawful business for limited liability companies). In contrast, "scope" refers to what Action actually is doing or has done at the relevant point in time. Thus, an opportunity might be within Action's scope but not its purpose if, for example, Action had been organized for a limited purpose (e.g. to acquire real estate in Florida) but was in fact also engaged in the business of selling disposable mobile phones to college students. In this example, a business opportunity to sell mobile phones to college students would be within Action's scope but not its purpose.

Therefore, under the ordinary meaning of "scope," a member is required to disclose a business opportunity [\*19] if that opportunity (1) is within Action's aspirational goal — its purpose; and (2) is within the area that Action's business has or is actually covering at the relevant point in time. As a result, interpreting "scope" according to its ordinary meaning does not render any part of the agreement redundant.

Having concluded that "scope" refers to the breadth of the business Action is or has engaged in, we must turn our attention to determining when Action's "scope" should be assessed. The agreement does not specify whether Action's scope is to be determined as of the date of the agreement, the date of the discovery of an opportunity, or some other date. After reviewing the agreement, we conclude that the parties intended for Action's scope to be determined at the time when a member seeks to pursue the business opportunity in question.

## K

### Framework---2AC

### Perm

#### The ALT’s misanthropic skepticism is naïve decolonization that prematurely discards valuable tools for emancipation at the first whiff of colonial association.

Thomas Meagher 18, University of Connecticut, “Maturity in a Human World: A Philosophical Study,” <https://opencommons.uconn.edu/cgi/viewcontent.cgi?article=8155&context=dissertations>

Of course, these reflections take as their point of departure not a universal and ahistoric form of patriarchy, misogyny, or sexism, but rather a historically particular form instantiated through Euro-modern colonialism (Wynter, 1990; Oyèwùmí, 1997; Lugones 2007). What is it at issue is not so much the intersection of standalone forms of racism and sexism, but rather their mutual co-constitution through an imperial and colonial matrix of power. Following Sylvia Wynter, we may then raise the issue that the problem of maturity may be linked to what she terms “the over-representation of Man as if it were the human” (2003). “Man” takes as its point of reference a white, European or Euro-American bourgeois male, a “global breadwinner” whose economic mastery is attributable not to illegitimate regimes of appropriation and exploitation but rather to Man’s intrinsic virtue. The modern episteme, Wynter contends, is premised on elevating Man to the status of an a priori ideal of humanity. A consequence is that modern forms of knowledge are shrouded in a logic of “biodicy” (Wynter, 2006), in which whatever ills humanity confronts can be attributed not to the misdeeds of Man but rather to the intrinsic lack of value to be found in those human beings who are not Man – women, people of color, the global poor, etc. As such, the imperative lurking behind Euro-modern conceptions of maturity, as well as their enshrinement and naturalization within Euro-modern institutions, may be not only “be a man” but simply “be Man.”

“Man,” of course, stands ambiguously at the heart of many modern discourses. On the one hand, “man” can be taken to refer explicitly and particularly to adult males. On the other hand, “man” and “mankind” are taken to refer to humanity in general, with similarly gendered pronouns and suffixes serving as generic referents. Feminist thought has long had to reckon with the ripe conditions for equivocation that this engenders, and Wynter and other thinkers confronting problems of racism and coloniality have gone further in establishing that for Euromodernity, “man” equivocates between references to all human beings and references merely to European peoples (and perhaps the occasional “honorary white”).

Yet receiving much less attention is another central ambiguity: if “man” has an equivocal relation to categories of race and gender, what of its relation to age and adulthood? If Euromodern discourses on man over-represent a racialized, gendered, classed subject as if it represented humanity writ large, is there a similar error in over-representing the adult as if it were all humanity? Clearly, it would be an error to say, for instance, that human rights are rights by virtue of one’s having attained adulthood; the “rights of man” often refer to rights that would appear to be the human rights of children as well as adults. Indeed, there may be some human rights that are distinctly owed to children – consider, for instance, S. Matthew Liao’s argument that children have a right to be loved (Liao, 2015). Yet here the issue of paternalism emerges, a source of recurring debates in Euro-modern thought due to its imbrication in colonial and patriarchal modes of power. If children have a right to have guardians, then the debate rages as to whether the child-like should likewise have some form of protectorate imposed upon them.

Here a critical response emerges: if paternalism functions as a Trojan horse for colonization and patriarchy, then perhaps it simply ought to be rejected wholesale. Hence, what if decolonizing values requires discarding the notion of maturity altogether? In other words, maturity is woven into the fabric Euro-modern values, and it is therefore a medium for the propagation of coloniality. Where efforts to value maturity are present, it seems, the valorization of “Man” and devalorization of women, people of color, etc. lurks in the shadows. If Wynter’s call is for “the human after Man,” then it might follow that what is needed is the achievement of the human after maturity.

b. The Problem of Naïve Decolonization

The notion that any values associated with colonialism or coloniality ought to be discarded, however, is fraught with problems. The apt metaphor here pertains to the folly of throwing babies out with the bathwater. Colonialism is an effort to instrumentalize land, people, culture, values, and knowledge; it invariably makes use of that which is valued prior to colonization. This is not to say that colonialism does not introduce new values of its own, but even where this is the case, colonialism often seeks to impose these through projects of cooptation that are established in reference to the values that precede them. In brief, the issue is that efforts to value maturity are by no means original or exclusive to Euro-modernity and coloniality.

Consider here Ifeanyi Menkiti’s contention (1984, 2004) that it is typical of African conceptions of personhood that one must mature in order to become a person. Full personhood is not a product of birth alone but is rather achieved through the acts and influences that make one meaningfully a member of a community. The claim, then, is not simply that it is better to be mature than not, but rather that a type of maturity is requisite to attain an ontological status of personhood: “passage through time helps create not only a qualitative difference between young and old, but also an ontologically significant one” (Menkiti, 2004: 325). The notion of maturity as bearing normative significance and even the notion of maturity as constitutive of the difference between those who are fully human and those who are not are not purely European or colonial inventions. This is not to say that Europe did not re-invent notions of maturity or bring to them a significance that was distinctly colonial and not indigenous to a pre-colonial context. Nor is it to claim that it was African societies’ normative attachment to forms of maturity that made them more susceptible to efforts of European colonization. The point is simply that maturity refers, ultimately, to ideals about which many societies have had constructive ideas prior to colonization, and the fact that there are colonial ideals of maturity, as well as precolonial conceptions of maturity that have been colonized and transformed in the process, does not imply that maturity ought to be discarded wholesale on the grounds that it is no more than a colonial artifact.

The effort to reject whatever is associated with colonizers or epochs of colonization can be termed “naïve decolonization.” I do not mean to suggest that decolonization is itself naïve but rather that one can distinguish between forms of decolonization that are naïve and forms that are mature. Naïve decolonization often works according to the logic of guilt by association. Under this framework, decolonization’s chief responsibility becomes to repudiate whatever happens to be associated with the colonizers. The problem with such an approach is one that Aimé Césaire raised in Discourse on Colonialism (2000): that to oppose colonialism, to maintain that it dehumanizes both colonized and colonizer, does not mean that one can go back to a pre-colonial world. Frantz Fanon, likewise, issued the call to “Leave this Europe where they are never done talking of Man, yet murder men everywhere they find them” (1963: 311), but this “leaving” meant to refuse the claim that Europe was an adequate model, that its “successes” made it worthy of imitation. “It is a question,” Fanon wrote, “of the Third World starting a new history of Man, a history which will have regard to the sometimes prodigious theses which Europe has put forward, but which will also not forget Europe’s crimes, of which the most horrible was committed in the heart of man, and consisted of the pathological tearing apart of his functions and the crumbling away of his unity” (1963: 315). In short, the imperative to build a world no longer suffering from colonial pathologies may require that one not discard all European thought in much the way that European intellectuals often claimed that all non-European thought could be discarded. Naïve decolonization regards repudiation of the colonial as sufficient for decolonization; mature decolonization confronts a responsibility to build a world that is genuinely after colonialism, a world, as Fanon called for, in which tools would not possess human beings and enslavement would be brought to a permanent end, and wherein it would be possible for human beings to discover and love each other, wherever they may be (1967a: 231).

In that sense, we may issue a warning that Wynter’s call for “the human, after Man” may not mean, as such, the death of Man. The obvious points of reference here are Michel Foucault’s vision that man could be erased “like a face drawn in the sand at the edge of the sea” (Foucault 1994: 387) and Friedrich Nietzsche’s “God is dead. … And we have killed him” (Nietzsche 2001: §125). The problem with a call for Man’s death is that the death of Man is not necessarily the end of Man’s power. That Man should have hegemonic power in shaping the world, in organizing it in such a fashion so that each of its part serves Man’s ends, is an acute concern. But the death of Man does not guarantee the diminishment of such power. Foucault had expressed a similar concern in warning that having literally cut off the king’s head does not ensure that one will have done likewise in the realm of political theory (Foucault, 1978: 88-9); the question can remain, though, as to whether even cutting off the king’s head in political theory would eradicate the king’s power over how politics is thought about. Here African ontologies suggest a relevant point of consideration: the death of ancestors does not eradicate their power with regard to present and future generations (Gyekye, 1995: 68–84; Henry, 2000: 26–43; L.R. Gordon, 2006: 58–61).

Wynter, in building off of and beyond Foucault’s framework, discussed these matters in terms of “transumptive chains” that govern the shift from one episteme and epoch of power to another. The symbols and modes of knowledge production put into effect to undergird one regime of power, do not “resume” so much as “transume” – that is, their interruption by revolutions and epistemic breaks yields their continuation in altered forms. The “death of God” at issue for Nietzsche and others was less an issue of God’s absence and more an issue of how God had been replaced; could science, philosophy, or Man really serve the knowledge- and world-orienting roles that God had? To ask of humanistic institutions that they replace God is, in its own way, a continuation of the power of God: it is to impose a demand that is exogenous to those institutions and that may transcend their capacities quite drastically. The degodding of the Western episteme, Wynter contends, moved it out of a Christocentric framework of knowledge production into a partially secularized episteme of Man-1, premised on the centrality and ideality of “homo politicus,” which in turn was further degodded and begot Man-2, the episteme of “homo oeconomicus” (Wynter, 2003, 2006). But the structure of the argument implies that present efforts toward decolonization could, simply, beget Man-3, and simply because one takes as one’s aim that one will kill Man-2 does not negate the possibility that one’s efforts will culminate in the hegemony of Man-3.

A further reference point of relevance, then, is Sigmund Freud’s notion of the Oedipus complex (Freud, 1977: 207–8, 328–38). Human beings enter into a world in which they are cared for, but their maturation facilitates the diminution of that care. Confrontation with an adult world, though, may spark forms of resentment that engender an anxious or oppositional relation to those by whom one has been nurtured. The notion of the Oedipus complex suggests a desire to displace and replace those sources of care, and the structure of such desire would be to persist without reflective awareness: e.g., I want to spite my father by surpassing him and reincarnate my mother’s love through another, but I may fail to understand that this desire is implicitly manifest in my acts. The psychoanalyst, then, can point to the structural tendency of human existence to produce Oedipal desires, and for the patient under analysis, this can facilitate reflection on how one’s behavior may ultimately be the symbolic expression of the Oedipal. Fanon (1967a), though, by taking this method seriously, saw that a rigid interpretation of it would have to be transcended, for in a colonized society, the sociogenesis of Oedipal structures would be quite different than it would be in the European context that stimulated Freud’s explorations. If in both France and Martinique it was Man that was symbolically produced as paragon of value, then the investment of Oedipal desire in one’s father could be typical among white children in France and atypical among black children in Martinique. The tragic consequence is that many black people would, in turn, act upon these desires unreflectively, pursuing dreams of integration and white acceptance that were simply unrealizable. Hence, the Oedipal could, in the colonial context, be an extension of colonial power, part of the array of psychological tools that undergird domination. A further problem, then, is evident even in opposition to the colonizer: pursuing the death of the colonizer, to passionately seek the death of Man, could be to fail to confront the causes of one’s debilitation and, indeed, to exacerbate them.

Psychoanalysis hinges on the importance of moving from a naïve understanding of one’s desires to a mature one. Ironically, this point is often lost on many of those who repudiate Freudian psychoanalysis. Indeed, both in positivist and post-structuralist psychologies there is much evidence of an Oedipal relationship to Freud, an over-investment in, as it were, cutting off his head in psychological theory. This may take pathological expression where it means that one recapitulates the worst of Freud’s mistakes and discards his most prescient insights. An example is illustrated by Emma Perez’s criticism of Félix Guattari and Gilles Deleuze’s Anti-Oedipus. If Guattari and Deleuze are correct that the Oedipal does not arise in the pre-colonial kinship structures of the non-West, it does not thereby follow, Perez contends, that colonization has not imposed the Oedipal on them. To resist the Oedipal diagnosis, in short, does not combat the “Oedipalization” that coloniality puts into place (Perez, 1999: 102–110). The “anti-” of antiOedipus may, ultimately, betray an Oedipal anxiety at the heart of post-structuralist efforts to hasten the death of their forbears. So, too, for positivist approaches that, repelled by the limitations of the “talking cure” approach of psychoanalysis, beget an uncritical and at times fetishistic relationship to neurophysiological reductionism. That there are limitations to the early articulations of psychoanalysis does not entail that one ought to overlook its strengths, in the same way that the psychoanalyst may recommend that the patient respond to the influence of a flawed parent by at least attempting to grasp and understand the parent’s genuine virtues and accomplishments; otherwise, the disdain may become pathological. The point of examining structures of Oedipal desire is not to discover an inevitable fate – to find that one is doomed to pathology and catastrophe – but rather to help one take responsibility for reflecting upon what one really wants and needs and, to use Fanon’s term, to be actional in the face of powers one cannot fully eradicate.

What Fanon and Perez point to, then, is a model of mature decolonization for which the mere acceptance and application of European ideas and concepts is inadequate but for which the wholesale and uncritical repudiation of those ideas and concepts is undesirable and irresponsible. Hence, the maturity of decolonization involves heeding both Audre Lorde’s warning that it would be naïve to expect the master’s tools to dismantle the master’s house (Lorde, 1984: 110–3) as well as Jane and Lewis Gordon’s warning that the effort to dismantle the master’s house is necessary but insufficient for projects of decolonization (Gordon and Gordon, 2006). The master is, indeed, well-versed in how to use his tools to maintain his house; for this reason, decolonization that limits itself to immanent critique of the Euro-modern intellectual canon is likely doomed to tilt at windmills, for this canon was by and large erected in order to facilitate enduring modes of coloniality. But the diminution of the master’s power is not merely a matter of dismantling his house, and tools that the master has sought to employ might nonetheless be useful to construct other houses, to create alternative possibilities and futures. In short, naïve decolonization takes its responsibilities as delimited by the need to overthrow the master, but mature decolonization encounters an expanded responsibility which demands the creative and critical apprehension of the resources and inventions that can build a new world and set afoot a new humanity. As such, it needs to be wary of naïve decolonization, for, among other issues, naïve decolonization is a tool that masters can manipulate, have manipulated, and may even at times appropriate as their own. Think, for instance, of the many ways in which the ideal of a color-blind society, offered up initially as an anti-colonial idea, has been turned into an asinine but effective tool for passing and upholding policies with racist effects, or the ways in which the expansion of U.S. colonial power drew upon exploitation of the so-called “Black Legend” to replace Spanish colonial power without eradicating the colonial standing of the locales thus “liberated.”

To speak of “naïve decolonization” at all, though, is to raise a thorny linguistic issue, for “naïve” shares its etymological roots with the term “native.” The notion that its articulation in modern French and English vernaculars is completely unrelated to conceptions of “natives” in the colonies strains credulity. To decolonize the concepts that shroud intellectual production and normative life requires critical reflection on the relationship between the concepts as inherited and the greater conceptual scheme of which they are parts. So, for instance, we may speak of the efforts of those like Kwasi Wiredu (1997: 136–144) or Ngũgĩ wa Thiong’o (1986) toward decolonization by way of rethinking concepts from the perspective of languages not imposed by colonizers and, indeed, to be able to think enmeshed in these languages rather than as a merely occasional visitor to them. But it does not follow that one is in all cases better off by having abandoned terms that appear in the language of the colonizer, and the imperative of crosscultural communication – both in general and in the particular case of projects of decolonization – may require being able to critically and reflectively employ language that is neither purely innocent nor purely colonizing in its pragmatic effects. “Naïve” may simply refer to a cultural universal with transcultural validity, whereas the peculiar sense of “native” in Euro-modern languages may be the cultural particular of a cultural formation guided by the telos of colonization.4 And where “naïve” is used in such a way as to implicate this “native” baggage, one need not throw one’s hands up and abandon the term, since the alternative of distinguishing better and worse uses of it remains.

#### Concepts can be re-appropriated, they don’t have a problematic essence and that is not an impact.

Gregory Fernando Pappas 17, Associate Professor of Philosophy at Texas A&M University, “The Limitations and Dangers of Decolonial Philosophies: Lessons from Zapatista Luis Villoro,” Radical Philosophy Review, vol. 20, no. 2, 2017, pp. 265–295

For Villoro a serious study of ideologies has to be as specific to time and place as possible. The quest for theoretical barometers of good and evil at a global level and across history should be subject to critical suspicion and may be futile since the present ideological function of a concept/category is not always determined by its past use or the original purpose for which it was created. A distinction created to oppress may play a different function or have different functions in different social contexts. Modernity and liberalism have not always functioned as ideologies or to the same degree, nor does it make sense to claim that they always will. Even native thought (indigenismo) can become an ideology if adopted to keep the oppressed in their place, i.e., if it perpetuates subordination or oppression.39 If Villoro is correct in the above analysis then decolonial views are vulnerable to inaccuracy and insensitivity, especially those that wish to trace back to 1492 and across different countries the ideologies that have supported coloniality—such as modernity, capitalism, or liberalism. Villoro did not ignore how historically similar colonial structures were throughout the Americas, but for him ideologies and the logic of domination that operate in one particular place and time may not operate in the exact same way in another, especially in such a complex and diverse region as the whole of Latin America. If domination and exclusion via ideologies are local, its diagnosis and remedies must also have to be local. We need to be careful when we extrapolate from one context to another.

Villoro raised a similar criticism of leftist reactions to the problem of Eurocentrism that relies on simple formulas that state we just need to embrace what is “ours” and reject what is European. Although Villoro was a critic of Eurocentrism and admirer of indigenous thought, he warned Zea and the Latin Americanist or indigenismos movement to not react to Eurocentrism and the colonial Manichaean ideas, where what is “ours” or indigenous is denigrated, with a mere inversion of the Manicheanism.

For Villoro the Left must resist the temptation to rely on lazy theoretical barometers of good and evil. It must be able to provide a basis for being critical of Western ideas beyond the fact that they are Western or come from the oppressor. Not all Western concepts, standards, and categories are oppressive even to the most non-Western people. To decide between good and evil requires intelligent discriminative judgment and not easy theoretical formulas according to geopolitical coordinates or cultural origins. Again, even native thought (indigenismo) can become an ideology. He expected the Left to be sensitive to this, but what he actually experienced was a Left slipping dangerously toward subtle Manichaean assumptions, i.e., simplistic barometers about the boundaries between good and evil. This, I am afraid, is a danger in decolonial thought, one that seems unavoidable as long as they make central to their project the coloniality axis that relies on binaries to determine the direction of good and evil. I am aware that it is not easy to oppose a binary without just inverting it, but we must be careful.

To be fair, decolonial thought has been critical of Manichaeism as part of the colonial legacy and there is no doubt about their good intentions to move in a pluralistic direction where there is no one central epistemology. However, this center-versus-periphery framework is easily susceptible to slipping into the simplistic view that all evil comes from what is at the center—Europe, the West, modernity, liberalism, capitalism. For instance, Mignolo describes the decolonial project as “delinking” from the West and recovery of the indigenous as if this determines what is the right path from evil toward the good.40 This smells like a subtle Manichaeism or at least a position that does not permit inquiry that is sensitive to historical context. The decolonialists’ criticism of the hegemony of the West is warranted and important, but for it to continue as a growing project that does not succumb to the excesses (vices) of the Left that Villoro diagnosed it must be careful to not slip into any of the following assumptions:

• Modernity and liberalism were and are totally bad; they are ideologies for dominating, colonizing, and oppressing or only have a darker side.

• Eurocentrism (interpretation, standpoint) is bad, but philosophy from the periphery is good. •Western concepts have been used to distort or occlude indigenous (non-Western) ones therefore all or most Western concepts distort or contaminate, or are tools of domination.

• Western epistemologies are imperialistic; the epistemologies of each of the colonialized regions are good.

Finding particular instances where these assumptions have been explicitly articulated in the decolonial project is not necessary since the point is about the latent danger of slipping into these assumptions due to what the project is centered on or stresses. However, to make the case that I am pointing to a real danger, I next present some examples and controversies within the decolonial literature where a subtle Manicheanism has already raised its ugly head.

Mignolo has come closer than any other decolonial thinker to assume the view that Western epistemologies are imperialistic. Linda Alcoff criticizes Mignolo for “often operating with what appears an overly simplified account of Western philosophical positions.” 41 One way to make Manicheanism work is to provide or assume simplistic accounts of both the good and evil poles. In Mignolo’s case, varieties of epistemologies in Europe and the United States are lumped together into a single category before they are all easily dismissed according to an implicit barometer of domination/liberation.

### AT: Extinction Link

#### Future-making and legal strategies for incremental reform grounded in the right to exist do NOT reinvest in settlerism OR linear time---rather, it’s an act of imagining plural futures for the making against settler threats to the present

Joseph Weiss 18, Assistant Professor of Anthropology, has been conducting fieldwork with the Haida community of Old Massett since 2010, explores the intersections between time, ecology, and Indigenous sovereignty and self-determination, “Conclusion: Unsettling Futures,” Shaping the Future on Haida Gwaii: Life beyond Settler Colonialism, UBC Press, 2018, pp. 246–258

For its opponents on Haida Gwaii, Enbridge presages a rather different future, one in which the unpredictable waters of the Hecate Strait all but guarantee a tanker spill. Such a spill would devastate the waters and lands of the islands and the neighbouring coastline of British Columbia, destroying the fish and poisoning the plants that currently draw on ocean waters and the animals that feed thereon. Neither eagles nor ravens could survive, living as they do on a diet that consists primarily of marine life. All this would all but guarantee the disappearance of Eagles and Ravens, the Haida people whose lifeways are so fundamentally tied to the islands of Haida Gwaii. Haida Gwaii could no longer be home. A song recorded in protest again Enbridge by Aboriginal artist Kinnie Starr and animated as a music video by Haidawood,3 a team of Haida and non-Haida stopmotion artists and animators, makes this threat explicit, asking in its opening lines: “Who will save our waters, save them for our great granddaughters, save them for our great grand-daughter’s sons, ... save them before all is dead and done?”4

This nightmare future, this future that is no future, is one that looms large over the whole of this book. It is familiar because it is a reiteration of the horror of ecological cataclysm that the CHN formed itself in opposition to, that the hippies risk metonymically bringing about by taking from the lands and waters without respect. But it is also familiar because, in a broader sense, it is the future that settler colonialism attempted to give to Native peoples – indeed, rendered as their already given destiny. This is the future of Indigenous erasure, of ultimate disappearance, of a closed temporality that can only end in “all dead and done.” However, Haida people take the future of “no future” neither as inevitable nor as already determined; rather, the work of future-making acts to ward off the nightmare future of Haida erasure, putting in its place multiple possible futures in which Haida people continue. Take the blue signs on the lawns of the Masset(t)s, Old and New, implicitly answering Kinnie Starr’s question with the bold declaration that the islands (will) stand “UNITED” against Enbridge. But the social significance of these futures is never encompassed solely by the ways in which they respond to the threat of nightmare futures. As we have seen, the production of a future of Haida and non-Haida unity is considerably more complicated than a declaration of shared solidarity, speaking, as it does, to a particular history of Haida and settler relations and fantasy schemas, and productive ways in which non-Haida can be integrated into Haida systems of sociality and responsibility. To speak of a future united against Enbridge is thus necessarily to speak of many other things, just as is the case when speaking of a future of Haida return, a future of care-full leadership, or a future of traditional authority. Larger social worlds unfold out of the constitution of particular futures.

This is why, more than anything, I want to make clear that the significance of Haida future-making does not lie simply in the specific ways in which individual futures respond to the particular dilemmas of the settler colonial present; rather, what is most crucial about future-making as a way of thinking out from within the temporal brackets of settler colonialism’s deferred erasure is the fact of futuremaking itself. What matters most is the capacity to say, as Haida rapper Ja$e ElNino does in a guest appearance in Starr’s song, “Now expect the best from the northwest / What’s next? Just guess.” ElNino asserts the openness of the future, challenging his listeners to attempt to predict the field of possibilities still to come. At the same time, ElNino clearly locates the space out of which this field of possibilities emerges – “expect the best from the northwest,” he raps, specifying the capacity to produce “what’s next” as belonging to the “northwest,” to the coast’s First Nations and perhaps also to their non-Indigenous allies, united against Enbridge. In so doing, ElNino rejects the overdetermination of his lands and his people, suggesting that they themselves have the capacity to build their own futures that, by virtue of their very existence, challenge settler projects of destruction, environmental and otherwise.

This is the space of possibility that I sketch out in Shaping the Future on Haida Gwaii. Now I want to highlight its significance for our understandings of Indigenous political life under settler colonialism and within the field of political anthropology more generally. Thinking and working with the future in the ways that Haida people do can be understood as its own potent assertion of sovereign self-determination, even though it is not restricted to any one particular legal or political claim. Rather, Haida forms of future-making track between the formal realms of law and politics and a host of other concerns, constraints, aspirations, and projects in everyday Haida life. The constitution of an autonomous Haida government that promises to protect the islands from settler incursion for the sake of future generations co-exists with the hope that those future generations will also find success in the settler world. Love for Haida Gwaii and the desire for it to endure ecologically can be understood equally as the ground for proper Haida care-full politics, the opportunity for non-Haida to learn to engage respectfully with Haida on significant environmental issues, and the object of problematic hippie fantasies. The fact that such moments can be encompassed within a relatively coherent Haida lived world and can be imagined as part of Haida futures suggests that Haida are actively retaking – and to an extent have already retaken – control of their continuing existence outside the temporal foreclosures of the project of settler colonialism.

We might ask, however, to what extent this reassertion of the rights to continuing existence is of largely symbolic significance in the context of the seeming fixity of colonial nation-states and the domination of Native (and non-Native) lives by the demands of settler capitalism. To what extent can Haida people determine their futures if those futures are always calibrated according to the demands and expectations of settler society, economically and otherwise? What does future-making truly accomplish, especially when it is as much aspirational as it is something that has the capacity to be actualized? I argue that Haida future-making unsettles. It does not overthrow colonial domination, nor does it carve out an autonomous Indigenous space within Canada; rather, it proceeds through interdependencies and adoptions, ambivalences and anxieties, situating Haida people as necessarily in relation to and in relations with non-Haida. But this is also its potential power. Just as the forms of Haida time work to gradually realign temporal sensibilities on Haida Gwaii even as they appear to be bounded within the constraints of settler time-discipline, Haida future-making carries the potential for the strategic reiteration of the settler colonial present, shifting its realities even as it reinscribes them.

Sovereignty

Haida future-making takes place in the midst of a struggle over sovereignty. And this not just in the sense of the Council of the Haida Nation’s ongoing assertion of its sovereign right to govern the lands and waters of Haida Gwaii on behalf of all Haida people. Rather, as Joanne Barker argues, over the course of the latter half of the twentieth century sovereignty has emerged as a “particularly valued term within Indigenous scholarship and social movements and through the media of cultural production. It [is] a term around which analyses of Indigenous histories and cultures were organized and whereby Indigenous activists articulate their agendas for social change” (Barker 2005b, 18). Through the assertion of sovereignty, Indigenous political leaders, activists, and scholars refute “the dominant notion that Indigenous people [are] merely one among many ‘minority groups’ under the administration of state social service and welfare programs”; instead, “sovereignty defines Indigenous people with concrete rights to self-government, territorial integrity, and cultural autonomy under international law” (Barker 2005b, 18). The trouble is, of course, that Indigenous claims to sovereignty are always made within the context of colonial nationstates, whose own legitimacy is put at risk both by the prospect of self-determining Indigenous Nations (re-)emerging within their boundaries and by the troubling of their own historical narratives of sovereign rights (Comaroff and Comaroff 2003). One of these narratives reinterprets Indigenous lands as terra nullius and thus open to occupation. Thus, while sovereignty might indeed “define” Indigenous peoples with concrete rights to territorial title and selfdetermination, in theory equal under international law to the states who also lay claim to their territories, that definition does not in and of itself make possible the practice of this sovereignty. In this regard, settler states such as Canada have shifted in their response to First Peoples’ sovereignty claims from outright rejection to selective recognition, but even the latter still positions Native nations as being subject to the authority and oversight (if not the structural forms) of the state.

This means that Indigenous governments such as the CHN are in a precarious position, attempting to constitute their own sovereign authority without access to many of the conventional means of sovereignty in Western political thought – for example, the monopoly on legitimate violence (Weber 1946), decisive authority to make and enact law (Schmitt 2005), and/or exclusive territorial control (Brown 2010; Hobbes 1994). Alongside this precarity is the equally anxious question of whether or not sovereignty is even an appropriate analytic around which to centre Indigenous rights precisely because it is historically a Western concept, one that has been drawn on to dispossess Indigenous peoples over the course of settler colonial history (Barker 2005b, 18–19). Indeed, the very next essay in Barker’s edited volume, by Taiaiake Alfred, categorically rejects sovereignty, calling it an inappropriate tool for Indigenous political assertions not only for these reasons but also because it draws attention away from developing and furthering “genuinely” Aboriginal political modes of thought (Alfred 2005; see also Alfred 2009).

The fact that sovereignty remains such a preeminent concept in the struggle for Indigenous rights even though it is both epistemologically problematic and politically constrained has meant that there has been a recent push in both anthropology and Indigenous studies to “widen” the definition of sovereignty so that it might encompass multiple forms of Indigenous social, political, and legal practice outside of the conventional purview of “sovereign power” (e.g., Cattelino 2008; Richland 2011; Simpson 2000, 2014). Or, as Joanne Barker puts it:

There is no fixed meaning for what sovereignty is – what it means by definition, what it implies in public debate, or how it has been conceptualized in international, national, or Indigenous law. Sovereignty – and its related histories, perspectives, and identities – is embedded within the specific social relations in which it is invoked and given meaning. How and when it emerges and functions are determined by the “located” political agendas and cultural perspectives of those who rearticulate it into public debate or political document to do a specific work of opposition, invitation, or accommodation. It is no more possible to stabilize what sovereignty means and how it matters to those who invoke it than it is to forget the historical and cultural embeddedness of Indigenous peoples’ multiple and contradictory political perspectives and agendas for empowerment, decolonization, and social justice. (Barker 2005b, 21, emphasis in original)

The opening up of sovereignty as flexible, multiple, and subject to all manner of diverse rearticulations carries particular weight since, as a historical concept in Western political theory, sovereignty is overwhelmingly concerned with closure. As Wendy Brown argues in her Walled States, Waning Sovereignty, the classic vision of sovereign power rests in the capacity to divide the inside from the outside, to make borders around a people – a “nation” – and separate that people from those outside it. Thus Schmitt’s “friendenemy” distinction, for instance, or even John Locke’s consistent preoccupation with fences as a way of marking the existence of territory (Brown 2010; Schmitt 1996; Locke 1988). The historical conditions of Indigenous sovereignty claims in the context of settler colonialism make such absolute closures impossible for Indigenous peoples.

We might add, though, that the persistent presence of these claims also challenges the closure of the settler nation-state. Indeed, this is part of Brown’s point. The fact that we see ever more spectacular performances of sovereign power on the part of contemporary nation-states – for example, the titular “walls” that are being constructed along the borders of an increasing number of states – is a sign of the insecurity of their political authority (Brown 2010).5 The conditions of settler colonial sovereignty, in other words, may be rather more “open,” and thus closer to those of Indigenous “nation-within-nations,” than they may at first appear. If this means, in turn, that the future for settler political life is becoming as uncertain as the future for Indigenous life has been since the advent of settlement, then this means what we have already begun to see: the dilemmas facing the Haida people in their future-making practices are also the dilemmas facing settler society. Take, for example, how the absence of any “one” definitive governing entity compels the constitution of an aspirational framework of accountability that could, were it realized, render Haida relations navigable to the many governments that claim Haida loyalty. Such dilemmas are not restricted to the Haida sociopolitical world; rather, they may be endemic to contemporary democratic societies and the multiple forms of governance (licit and otherwise) that emerge therein.

In suggesting that there are Haida ways of refiguring a shared Haida-settler set of contemporary problematics, we might think of Haida future-making both as an instantiation of the multiple, flexible, and always contingently located practices of sovereignty to which Barker points and as a different way of thinking about Indigenous political potentiality. In the former sense, Haida future-making is without doubt concerned with carving out spaces in which Haida existence can continue, expand, and change without losing the capacity to reproduce itself as Haida existence – thus the processes of homecoming or the explicitly political attempts to establish control over the islands for future generations. If the absence of Indigenous sovereignty is the absence of the capacity of an Indigenous people to (self)-determine their own futures, then the constitution of Haida futures can be seen as sovereign work, whether in the overt sense of the CHN’s assertions or in the somewhat more implicit mode of Alice Stevens’s proposed mass adoptions. Significant here, though, is the fact that these acts of future-making carry meanings beyond their status as responses to the social and political dilemmas of contemporary Haida life. Thus Alice Stevens’s adoption project seeks to bring hippie children into the framework of Haida kinship relations, not only neutralizing their potential threat but also constituting a complex new network of social relations between Haida and non-Haida whose potential significance goes well beyond the protection of Haida territory and resources. Thus the CHN emerges as a state-like governing entity through its authorizing promise to take care of the islands, but in so doing it takes on a series of new roles in Haida political life whose full consequences remain to be seen. If it is a sovereign action to envision an opening of possible futures for Haida people, then this very openness might also exceed the boundaries of sovereignty as a problematic for Indigenous people even as it responds to them.

Which is also, perhaps, why Haida futures seem so consistently to sketch out social, ecological, and political fields that encompass non-Haida – more, that are futures for Canada as well as for the Haida people living within the nation-state’s borders. What would it mean to figure an Indigenous sovereignty that speaks beyond itself, one that promises to invert the order of settler domination through reconfiguring the shared futures of Indigenous and settler peoples? This would not be a sovereignty premised on territorial closure or even absolute political autonomy. It would, however, decisively overturn any settler colonial anticipations of the inevitable erasure of Native peoples. Quite the opposite, it would position Indigenous practices of anticipation, aspiration, certainty, and anxiety at the forefront of contemporary modes of political imagination. Rather than perceiving Indigenous peoples to be running out of time, we might all be understood – or at least imagined – to be running on Haida time.

Whether or not we accept the possibility that Haida future-making opens up the boundaries of sovereign possibility for Indigenous people, what is not contestable is that Haida people continue. They continue traditional practices and lifeways in sometimes transformed, sometimes continuous ways. They continue asserting their capacity to engage with settler Canadian society. And, more than anything, they continue to assert their right to envision, imagine, expect, contest, and constitute their futures. This is not always as explicit as the CHN’s authoritative attempts to safeguard the islands or even as Alice Stevens’s adoptions. More often than not, Haida people produce their futures simply by not even considering the possibility that this is not something they can, should, and have a right to do. They treat their right to continue temporally, socially, and otherwise as if it were already given and so work to reconfigure the present to make it so.

Beyond the Settler Colonial Moment

That the Haida people believe in their right to determine their futures does not mean that they believe that they have any exclusive power to do so in precisely their own terms. To paraphrase Marx, Haida people make their own futures, but they do not make them as they please.6 As has been noted, the flow of Haida departures and returns unfolds within the broader context of the settler, capitalist state; indeed, these departures and returns are made necessary by the current absence of economic opportunity on island, just as the arrival of potentially threatening strangers is a result of their privileged position in the very capitalist economy they seek to escape. Constituting futures in which Haida people have the freedom to engage with that economy (and settler society more generally) as they see fit while retaining the capacity to come home reiterates the inescapability of some form of engagement with the mainstream settler economy. Likewise, the notion of Haida Gwaii as Haida homeland cannot be separated from current Haida struggles to assert their rights to the lands and waters of Haida Gwaii, the resources found therein, and the sovereign capacity of Haida people to govern themselves and the islands in the ways they find appropriate. This is, recall, the very crux of the CHN’s commitment to the assurance of futurity, as it is only by positioning itself as the rightful, sovereign government of the Haida Nation and its homeland of Haida Gwaii that it can adequately care for the islands and protect them from external threat. And the continued advance of the Enbridge project, despite fierce opposition from the CHN, the Old Massett Village Council, their Haida constituents, and the non-Haida actors with whom they are “united against Enbridge” gave the nightmare futures of environmental collapse a frightening immanence. The assertion of the openness of the future is made, in short, in and against a context in which closures remain endemic.

But note what has changed in the nature of these closures since the forecasts of Indigenous disappearance with which Shaping the Future on Haida Gwaii begins. In the narratives of colonial actors like Duncan Campbell Scott, it was absolutely clear that “Indians” were disappearing because their social worlds were being superseded by more “civilized” ways of living and being, ways that Native peoples would inevitably adopt; if they did not, they would perish outright. There was a future: it was simply a settler one. But the nightmare futures that Haida work to ward off in their own future-making reach beyond Haida life alone. Environmental collapse, most dramatically, threatens the sustainability of all life; toxins in the land and the waters put human lives at risk regardless of their Indigeneity, race, or gender (e.g., Choy 2011; Crate 2011). Put another way, the impetus for non-Haida to be “united against Enbridge” with their Indigenous neighbours is due to the fact that an oil spill would profoundly threaten the lives and livelihoods of non-Aboriginal coastal residents. Nor is the anxiety that young people might abandon their small town to pursue economic and educational advantages in an urban context limited to reserve communities: the demands of capitalist economic life compel such migrations throughout the globe. The nightmare futures against which Haida people constitute alternatives are not just futures that threaten the erasure of Indigenous peoples under settler colonialism: they are also futures that threaten the erasure of settler society itself.

The work of Haida future-making, then, is not restricted to the borders of reserves like Old Massett or Skidegate, porous as they may already be; instead, in Haida future-making we find the implicit assertion that Haida people can make futures that address the dilemmas of Haida and settler life alike – futures that can at least “navigate,” to borrow Appadurai’s phrasing, towards possible futures that do not end in absolute erasure. If Povinelli and Byrd are correct and settler liberal governance makes itself possible and legitimate through a perpetual deferral of the problems of the present, then part of the power of Haida future-making is to expose the threatening non-futures that might emerge out of this bracketed present. This work reveals as a lie the liberal promise of a good life always yet to come and attempts, instead, to constitute workable, livable alternatives. In so doing, Haida futures challenge the possibility that there could be any single, coherent settler future. The imaginary of “replacement” that grounds the settler colonial project is revealed as an aporia, an empty anticipation that at best only masks the complex and shifting landscape of Indigenous-settler relationships that characterize contemporary settler states like Canada. There is no one liberal good life waiting on the horizon, and there is no horizon in the settler state that can be imagined without the presence of Haida and other Indigenous peoples.

This, I would submit, is the unsettling dimension of Haida futuremaking, its capacity to reveal that, as Derrida might say, settler colonial time has always been “out of joint” with itself (Derrida 1994).7 And it gains this unsettling capacity precisely because Haida future-making as we have seen it does not (and perhaps cannot) escape from the larger field of settler-colonial determination. Existing as a nation within a nation, envisioning ways of being Canadian that do not conflict with the essential practices, values, and traditions of Haida history, Haida future-making is at the same time Canadian future-making. Incorporated within the Canadian settler state, Haida people now have no choice but to make futures for it, even as they do so in terms of their own particular perspectives and histories. Perhaps what remains is for the rest of Canada to catch up. After all, when Ja$e ElNino suggests that the members of his audience can only guess at what’s next, he might be implying that they lack the conceptual resources to truly make their own futures, something that is most definitely not the case for Haida people. “Expect the best from the northwest,” he sings.

Or so we hope. So much of future-making is ideational. It emerges in discourse as people talk about how things are and how they should be, as they assert what will certainly happen in defiance of other possibilities, make claims and offer criticisms, make plans and voice hopes. What will come to pass from it all is rarely terribly clear. We are not sure, for instance, whether other projects like the Enbridge Northern Gateway Project will emerge, even though that project has been rejected, at least for now, by the federal government. But this does not mean that future-making does not accomplish social work. Thinking about the future enables Haida people to address dilemmas of the present, to suggest solutions to issues that seem intractable in the moment. These are not just the problems of Indigenous people; rather, we have seen that many rural communities face challenges of mobility and migration, that questions of political accountability resonate across (neo)liberal democracies, and that environmental struggles seek to protect the planet itself. As part of Haida lived worlds, these futures ground various political and social strategies that address contemporary concerns on Haida Gwaii. So, too, they sketch out different relationships between Haida and non-Haida, sometimes totally new, more often simply shifted towards the more respectful, the more care-full, the more equitable. And regardless of what emerges from any of these particular futures, for good or for ill, they represent, in the strongest possible terms, the assertion that Haida life has not been foreclosed in contemporary Canada; rather, Haida people continue, and they continue to imagine, anticipate, predict, work towards, and aspire to their futures. Not just about to be erased, not always about to disappear. Ongoing.

#### Imagining possible futures is key to indigenous environmental organizing.

Julian Brave NoiseCat & Anne Spice 16, NoiseCat is an enrolled member of the Canim Lake Band Tsq'escen in British Columbia and a graduate of Columbia University and the University of Oxford; Spice is a Tlingit member of Kwanlin Dun First Nation and a doctoral student in anthropology at the CUNY Graduate Center, A History and Future of Resistance, <https://www.jacobinmag.com/2016/09/standing-rock-dakota-access-pipeline-protest/>

The struggle against the Dakota Access Pipeline is rooted in this history. Indeed, the pipeline violates the same treaty that underwrote the AIM occupation of Wounded Knee. And just as AIM demanded respect for the treaties and indigenous sovereignty, the Standing Rock Sioux are demanding that the Fort Laramie Treaty be honored and the land and water be protected.

The people who have endured centuries of dispossession and attempted elimination — the poorest of the poor, the most likely to be killed by law enforcement, the most easily forgotten — are still here and still fighting. They have built alternatives within and beyond capitalism for hundreds of years. They are the carriers of traditions of indigenous resistance and resurgence simultaneously rooted in Lakota land and history, and global in scope.

In recent decades, this struggle has been threatened by neoliberal cooptation. Repelled by a colonizing state, many indigenous groups found themselves in an uneasy alliance with neoliberals who denounced “big government” and jumped at the opportunity to slash the welfare state and restructure tribes as junior corporate partners in the global economy. “Tribal sovereignty” became increasingly conflated with owning and profiting from an Indian casino.

Yet despite the absence of a free-market critique in some indigenous circles, Standing Rock and other actions have emerged as exemplary counterweights to this pernicious drift.

And elsewhere, indigenous land protectors are also navigating the currents of globalization to great effect. The Unist’ot’en camp in northern British Columbia has, thus far, blocked construction of numerous potential and proposed pipelines through their territory, building a space where indigenous lifeways can persist on lands defined by industry as an “energy corridor.” In Minnesota, the energy company Enbridge recently shelved plans for the Sandpiper pipeline, partially in response to tribal opposition. And the Obama administration nixed the Keystone XL Pipeline, after facing enormous pressure from tribes and their allies.

In each of these instances, indigenous peoples are more than cameo extras. They are central protagonists in the fight against the forces of capitalist expansion, who would destroy the land and water, and trample indigenous sovereignty, all for the purposes of resource extraction.

At Standing Rock, disparate tribes have set aside differences and come together as one. People from indigenous nations across the continent have travelled thousands of miles to stand with them. Indigenous people are rallying in support from New York City to San Francisco. Together, they are envisioning a future without a Dakota Access Pipeline, and enacting a future where indigenous nations exercise their rights to define a more just, equal, and sustainable path forward, as stewards of land, water, humanity, and each other.

At Standing Rock, the audacious vision for an indigenous future, handed down from Wounded Knee and global in force, is alive and well. This is how you Ghost Dance in 2016.

#### Our extinction impact is real---NOT a metaphor for the abolition of settlerism, which is all their card assumes---that’s the case debate.

#### Our reps identified a shared threat stemming from the settler present, the avoidance of which opens plural futures for the making---which is good

--CHN = Council of the Haida Nation, government of the peoples of the Haida Gwaii, an archipelago claimed by Canada

--FYI about the Haida People / Council of the Haida Nation: used courts, human blockades to prevent logging in the forests of “Haida Gwaii,” other progressive approaches => winning support of Canadian citizens, government officials, and judges, eventually led to the Supreme Court of Canada recognizing their absolute title to their land---along the way explicitly rejected violent action

Joseph J. Z. **Weiss 15**. Ph.D. candidate, Anthropology, University of Chicago. December 2015. “Unsettling Futures: Haida Future-Making, Politics and Mobility in the Settler Colonial Present.” p.216-232, https://knowledge.uchicago.edu/bitstream/handle/11417/1121/Weiss\_uchicago\_0330D\_13139.pdf?sequence=1&isAllowed=y

Conclusion: “What’s next? Just guess.” Signs of the Future One of the more recent additions to the socio-landscape of Old Massett, which I noticed on a return visit in 2014, was a series of blue signs that had appeared in many of the lawns on reserve and a good few uptown. The sign was a good two feet high and emblazoned with capitalized text: UNITED AGAINST ENBRIDGE. Below the text was a picture of a salmon. The salmon and the first word, “UNITED,” were in stark, attention-grabbing white, while the other text was in black. The signs, I later discovered, were distributed for five dollars each by the “Friends of Wild Salmon,” a coalition of northern British Columbia residents – including both First Nations and non-First Nations members – working together to oppose the Enbridge Gateway Pipeline Project.1 Perhaps appropriately, then, I noticed the sign on the lawns of both Haida and non-Haida, in Old Massett, (New) Masset, and out by Towtown. The signs may have been new, but their message is one that should have become familiar to us at this point: The people of Haida Gwaii oppose “Enbridge;” that is, The Enbridge Northern Gateway Pipelines Project. The project, first proposed in the mid-2000s, seeks to construct two pipelines to transport crude oil and condensate from northern Alberta to Kitimat on the coast of British Columbia.2 The oil would then be transported via “super-tanker” from the coast, through the Hecate Straight that passes between the west coast and the islands of Haida Gwaii before being exported to other nations (particularly China). Enbridge has received heavy support for the project from Canada’s current Conservative government, headed by Prime Minister Stephen Harper, and in 2013 the Enbridge Joint-Review Panel – despite the words of hippies and Haida alike, alongside fierce opposition from all over the northwest coast - approved the pipelines, albeit with 209 required conditions.3 As a partnership between Canadian federal and corporate interests, the Enbridge Pipelines Project promises a future horizon of economic prosperity, one that unequivocally justifies any environmental risk in the present. On Haida Gwaii, Enbridge presages a rather different future, one in which the unpredictable waters of the Hecade Straight all but guarantee a tanker spill. Such a spill would devastate the waters and lands of the islands and the neighbouring coastline of British Columbia, destroying the fish and poisoning the plants that currently draw on ocean waters and the animals that feed thereon. Neither eagles nor ravens could survive, living as they do on a diet that consists primarily of marine life, a fact which all but guarantees the disappearance of Eagles and Ravens, the Haida people whose lifeways as such are so fundamentally tied to the islands of Haida Gwaii. Haida Gwaii could no longer be home. A song recorded in protest again Enbridge by Aboriginal artist Kinnie Starr and animated as a music video by Haidawood, a team of Haida and non-Haida stop-motion artists and animators, makes this threat explicit, asking in its opening lines “Who will save these waters, save them for our great granddaughters, save them for our great grand-daughter’s sons, […] save them before all is dead and gone?”4 This nightmare future, this future that is no future, is one that looms large over the whole of this dissertation. It is familiar because it is a reiteration of the horror of ecological cataclysm that the CHN formed itself in opposition against, that the “hippies” risk metonymically bringing about by taking from the lands and waters without respect. But it is also familiar because in a broader sense it is the future that settler colonialism attempted to give to Native peoples; indeed, to render as their already given destiny. This is the future of indigenous erasure, of ultimate disappearance, of a closed temporality which can only end in “all dead and gone.” As I have also hopefully shown in each of my chapters, however, the future of “no future” is never taken as inevitable or already determined by Haida people. The work of future-making instead always acts to ward off the nightmare future of Haida erasure, always puts in its place instead multiple possible futures in which Haida people continue. Take the blue signs on the lawns of the Masset(t)s, Old and New, implicitly answering Kinnie Starr’s question with the bold declaration that the islands (will) stand “UNITED” against Enbridge. But the social significances of these futures are never encompassed solely by the ways in which they respond to the threat of nightmare futures. As we saw in Chapter 3, for instance, the production of a future of Haida and non-Haida unity is considerably more complicated than the declaration of shared solidarity, speaking back to a particular history of Haida and settler relations and fantasy schemas, looking forward towards finding productive ways in which non-Haida can be integrated into Haida systems of sociality and responsibility. To speak of a future united against Enbridge is thus necessarily to speak of many other things, just as it is the case when speaking of a future of Haida return, a future of care-full leadership, or a future of traditional authority. Larger social worlds unfold out of the constitution of particular futures. This is why, more than anything, I want to make clear in the final, concluding chapter of this dissertation that the political (if not the existential) significance of Haida future-making does not lie simply in the specific ways in which individual futures respond to particular dilemmas of the settler colonial present. Rather, what is most crucial about future-making as a way of thinking out from within the temporal brackets of settler colonialism’s deferred erasure is simply the fact of future-making itself. What matters the most is the capacity to say, as Haida rapper Ja$e ElNino does in a guest appearance in Starr’s song, “Now expect the best from the northwest/ What’s next? Just guess.” ElNino asserts the openness of the future, challenging his listeners to even attempt to predict the field of possibilities still to come. This does not mean, though, that this openness is unmoored. Quite the opposite, ElNino asks us to “expect the best of the northwest,” in response to the threat of Enbridge and, I think, more generally. In this spirit, in what follows I highlight the significance of location to indigenous futurity, exploring how Old Massett, its neighbouring communities along Masset Inlet, and the lands and waters of Haida Gwaii act as locations around which the very openness of Haida futures can be articulated. My discussion will be largely synthetic, reading together my previous chapters to attempt to arrive at a few conclusions for this dissertation at a whole. I begin with a discussion of Haida Gwaii, once again, as “home,” asking what it means to consider the islands as a Haida homeland (and one that requires “care” as such) in the light of the futures I have sketched out. I then draw on this to pose a few suggestions for the political anthropology of indigenous peoples and its abiding contemporary concern with sovereign rights and territoriality. Finally, I conclude by drawing out the multiple meanings of my titular phrase, “unsettling futures,” in the context of Haida futuremaking. Homeland Haida Gwaii is in at least some sense at the center of each of the futures I have discussed in this dissertation. It is the home to which Haida are expected (and expect) to return, the “cornucopia” of off-the-grid fantasy, the ongoing historical space of complex social and material relations that these fantasies elide, the perpetually at risk ecological landscape which demands (and authorizes) the CHN’s care and respect. And, as we have seen, these various futures for the islands are not isolated from one another. Quite the opposite, futures proliferate in response to each other. The potential for non-Haida homing necessitates strategic forms of future-oriented social integration to bring these new arrivals into respectful relations with the Haida world, the nightmare non-future of ecological collapse is warded off by the attempt to constitute care-full futures under Haida control. What all these Haida futures have in common – at least as they relate to the islands - is that they work to preserve Haida Gwaii, and the community of Old Massett in particular, as spaces in which Haida futures remain possible. This fact, as I have already begun to suggest in Chapter 2, might help us to resolve some of James Clifford’s dilemmas in relation to indigenous mobility. As I pointed towards then, the notion that “place” is significant to indigenous peoples – politically, socially, affectively, culturally – has become one of the essential components of how “indigeneity” is understood as a global phenomenon and a strategic identity from which rights claims can be advanced. Take Article 25 of the Universal Declaration of the Rights of Indigenous Peoples: Indigenous peoples have the right to maintain and strengthen their *distinctive spiritual relationship* with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard (Assembly 2007:10, emphasis mine). But what precisely does it mean to have a “distinctive, spiritual relationship” to a place, and who determines what might constitute that relationship? Here one of the perils of Povinelli’s “cunning of recognition,” as indigenous rights to territory become conflated with - and evaluated against - essentialized settler notions of Native ecological spirituality and/or emplacedness (cf: Raibmon 2005; Nadasdy 2003). If indigeneity thereby takes on the significance of being “rooted” in a particular place, of having certain identifiably “distinctive” cultural relationships to that place that others might lack, then the fact of indigenous mobility would indeed pose a profound dilemma for the category of indigeneity on the one hand and the capacity to make claims to territorial rights *qua* one’s indigeneity on the other. But there is a remarkable temporal shallowness to all this. To give a representative example, the Australian state criteria for what constitutes “cultural rights to territory” that Povinelli interrogates function solely in the past and the present, mandating that Aboriginal people show continuity of occupation and of the cultural practices associated with “Aboriginal occupation” in the mind of the court in order to be recognized as possessing a rightful claim to their home territories (Povinelli 2002). Erased in this is the possibility that a territory could be the site of departure and return, that it could have a future horizon that is flexible, subject to transformation alongside the transformations of the people(s) who call it home, without thereby necessarily losing its integrity as a rightful space of indigenous occupation. Such a possibility is not controversial for my Haida interlocutors. Rather, it has the status of an already-given certainty, community common sense - though there is without doubt much social work that goes into the production of that certainty. What makes indigenous mobility fraught, then, might have rather more to do with the constitution of settler polities than it does with the actual practices of indigenous peoples. Consider the various ways in which we have already seen colonial authorities attempt to control Haida movement, from the forced expulsions of 19th century Victoria to the removal of Haida children from the islands for residential schools less than a century later. Consider too the manufacture of the reserves themselves, the fixing of two Haida “Bands” with their own federally determined territories, beyond which Haida people could claim no rights over land, waters, or resources (cf: Harris 2002). This is a logic of containment, of isolation. In leaving their assigned spaces, Native peoples were assumed by colonial authorities to be leaving the space of their Nativeness behind, assimilating into settler society on its terms. Indeed, this was the motivating logic of the residential schools program, which took as its premise the idea that “Indians” could always “backslide” into “savage customs” as long as they remained in their homes and with their families. Aboriginal children thus had to be brought somewhere else to learn how to join “civilized,” that is, white Christian, society (Miller 1996). Reserves could thus be rendered as the last bastions of a “weird and waning race,” to quote Scott, their inhabitants temporally foreclosed and spatially fixed. The notion that indigenous people could move without ceasing to be (or ceasing to fight for their rights to self-determination and Title to their lands) unsettles this narrative, just as does the intertwined possibility of indigenous futurity. The relationship to Haida Gwaii that we’ve seen sketched out by the Haida futures explored in this dissertation does not preclude the possibility of “distinctive spiritual relationships” between Haida and their home territories. Quite the opposite, the ineffable quality of homing alone suggests that many of my interlocutors feel a connection to their home that goes beyond the kinds of practices that are only possible on the islands, their beauty or their history. Indeed, when considered as home, when considered as a site that requires care, there is little doubt that Haida Gwaii can encompass a wide range of phenomenological, affective, social, and cultural ways of relating to its lands and waters by Haida people (and their neighbours, at times for good, at times for ill). But it is not these relations as such that encompass the totality of Haida Gwaii’s significance. Rather, what is of greatest concern to my interlocutors is the continuing future possibility that relations like that *could be* formed, that people *could continue* to be called home to Haida Gwaii once they’ve fully explored the world off-island, that the qualities that precisely *make* Haida Gwaii home *could* be preserved. This is what it means, I think, to “take care” of Haida Gwaii, to allow it to continue as a homeland for uncounted future generations. Though they certainly emphasize the need for Haida Gwaii to be maintained as a location for Haida futurity, this does not mean that the futures we have seen expend all the possible ways in which such future forms of Haida social, material, ecological, and relational life could be formed. Recall Ja$e ElNino’s challenge of a future so open that its possible contents can only be guessed at. What Haida future-making demonstrates is that there are a set of potentialities which are worth protecting so that Haida people can continue to access them, to come home to them, even as continuing forms of mobility and political processes can also shape and reshape Haida social and cultural life on and off the islands. Homeland is not a regimented place where Haida people *must* always live in order to be authentically Haida. Rather, it is a location where they should always be able to, in their own (necessarily multiple, often contested, sometimes even contradictory) terms. Sovereignty At the same time, there is an inescapably political dimension to the attempt to render Haida Gwaii as the homeland of a still open Haida future. The assertion of the (located) openness of the future does not necessarily make it so. As I noted in the first part of this dissertation, the flow of Haida departures and returns unfold in the broader context of the settler, capitalist state; indeed, they are made necessary in part by the current absence of economic opportunity on island, just as the arrival of potentially threatening strangers is a result of their privileged position in the very capitalist economy they seek to escape. Constituting futures in which Haida people have the freedom to engage with that economy (and settler society more generally) as they see fit while retaining the capacity to come home (complicated as that process might be) also reiterates the inescapability of some form of engagement with that socio-economy. Likewise, the notion of Haida Gwaii as Haida homeland cannot be separated from current Haida struggles to assert their rights to the lands and waters of Haida Gwaii, the resources found therein, and their sovereign capacity to govern themselves and the islands in the ways they find appropriate. This is, recall, the very crux of the CHN’s own commitment to the assurance of futurity, as it is only by positioning itself as the rightful, sovereign government of the Haida Nation and its homeland of Haida Gwaii that it can adequately care for the islands and protect them from external threat. And the continuing advance of the Enbridge project despite fierce opposition from CHN, the Old Massett Village Council, their Haida constituents, and the non-Haida actors with whom they are “united against Enbridge” (and this alongside protest all over the northwest coast) gives the nightmare futures of environmental collapse – pushed through by corporate interests and Canadian politicians - a frightening immanence. The assertion of the openness of the future is made, in short, in (and against) a context in which closures remain endemic. And yet, something has changed in this landscape from the initial erasures of Native futurity we drew out in the first chapter. In the narratives of colonial actors like Duncan Campbell Scott, it was absolutely clear that “Indians” were disappearing because their social worlds were being superseded by more “civilized” ways of living and being, ones that these Native subjects would also, inevitably, in the end, adopt (or failing that, perish outright). There was a future. It was simply a settler one. But the nightmare futures of that my Haida interlocutors ward against in their own future-making reach beyond Haida life alone. Environmental collapse, most dramatically, threatens the sustainability of all life; toxins in the land and the waters threaten human lives regardless of their relative indigeneity, race, or gender (e.g. Choy 2011; Crate 2011). Put another way, the impetus for non-Haida (and non-First Nations subjects more generally) to be “united against Enbridge” with their indigenous neighbours comes in no small part because an oil spill also profoundly threatens the lives and livelihoods of non-Aboriginal coastal residents, a fact which Masa Takei, among others, made clear in Chapter 3. Nor is the anxiety that young people might abandon their small town to pursue economic and educational advantage in an urban context limited to reserve communities. Instead, the compulsions of capitalist economic life compel such migrations throughout the globe. The nightmare futures that Haida people constitute alternative futures to ward against are not just future of indigenous erasure under settler colonialism. They are erasures of settler society itself. There is thus an extraordinary political claim embedded in Haida future-making, a claim which gains its power precisely *because* Haida future-making as we have seen it does not (perhaps cannot) escape from the larger field of settler-colonial determination. Instead, in Haida future-making we find the implicit assertion that Haida people can make futures that address the dilemmas of Haida *and* settler life alike, ones that can at least “navigate,” to borrow Appadurai’s phrasing, towards possible futures that do not end in absolute erasure. If Povinelli and Byrd are correct and settler liberal governance makes itself possible and legitimate through a perpetual deferral of the problems of the present, then part of the power of Haida future-making is to expose the threatening non-futures that might emerge out of this bracketed present, to expose as lie the liberal promise of a good life always yet to come and to attempt to constitute alternatives. It is no coincidence that we find this in the midst of a struggle over sovereignty. And this not just in the sense of the Council of the Haida Nation’s ongoing assertion of its sovereign right to govern the lands and waters of Haida Gwaii on behalf of all Haida people, as we saw in Chapter 5. Rather, as Joanne Barker has argued, over the course of the latter half of the twentieth century sovereignty has emerged as a: particularly valued term within indigenous scholarship and social movements and through the media of cultural production. It [is] a term around which analyses of indigenous histories and cultures were organized and whereby indigenous activists articulate their agendas for social change (Barker 2005:18). Through the assertion of sovereignty, indigenous political leaders, activists and scholars refute “the dominant notion that indigenous people [are] merely one among many ‘minority groups’ under the administration of state social service and welfare programs.” Instead, “sovereignty defines indigenous people with concrete rights to self-government, territorial integrity, and cultural autonomy under international law” (18). The trouble is, of course, that indigenous claims to sovereignty are always made within the context of colonial nation-states, ones whose own legitimacy is put at considerably risk both by the prospect of self-determining indigenous Nations (re)-emerging within their boundaries and the troubling of their own historical narratives of sovereign rights (cf: Comaroff and Comaroff 2003b). (One of these narratives, which reinterpreted indigenous lands as *terra nullius* and thus open to occupation, we’ve encountered already in Chapter 3). Thus, while sovereignty might indeed “define” indigenous peoples with concrete rights to territorial Title and self-determination, in theory equal under international law to the states who also lay claim to their territories, that definition does not in and of itself make possible the *practice* of this sovereignty. In this regard settler states such as Canada have shifted in their response to First Peoples’ sovereignty claims from outright rejection to a set of policies of selective recognition,5 but even the latter still positions Native nations as being subject to the authority and oversight (if not the structural forms) of the state. This means, as we have seen in Chapter 5, that indigenous governments such as the Council of the Haida Nation are in a precarious position, attempting to constitute their own sovereign authority without access to many of the conventional means of sovereignty in Western political thought – e.g., the monopoly on legitimate violence (Weber 1946), decisive authority to make and enact law (Schmitt 2005), or exclusive territorial control (Brown 2010; cf: Hobbes 1994). Alongside this precarity is the equally anxious question of whether or not sovereignty is even an appropriate analytical to center indigenous rights around precisely because it is historically a Western concept, one that had been drawn on to dispossess indigenous peoples over the course of settler colonial history (Barker 2005:18–19). (Indeed, the very next essay in Barker’s edited volume, by Mohawk scholar Taiake Alfred, categorically rejects sovereignty as an inappropriate tool for indigenous political assertions for these reasons and, also, because it draws attention away from developing and furthering “genuinely” Aboriginal political modes of thought (Alfred 2005; cf: Alfred 2009). The fact that sovereignty remains such a preeminent concept in the struggle for indigenous rights even though it is both epistemologically problematic and politically constrained has meant that there has been a recent push in both anthropology and indigenous studies to “widen” the definition of sovereignty, so that it might encompass multiple forms of indigenous social, political and legal practice outside of the conventional purview of “sovereign power” (e.g. Cattelino 2008; Richland 2011; Simpson 2000; Simpson 2014). Or, as Joanne Barker puts it: There is no fixed meaning for what *sovereignty* is – what it means by definition, what it implies in public debate, or how it has been conceptualized in international, nation, or indigenous law. Sovereignty – and its related histories, perspectives, and identities – is embedded within the specific social relations in which it is invoked and given meaning. How and when it emerges and functions are determined by the “located” political agendas and cultural perspectives of those who rearticulate it into public debate or political document to do a specific work of opposition, invitation, or accommodation. It is no more possible to stabilize what *sovereignty* means and how it matters to those who invoke it than it is to forget the historical and cultural embeddedness of indigenous peoples’ multiple and contradictory political perspectives and agendas for empowerment, decolonization, and social justice (Barker 2005:21, emphasis original). The opening up of sovereignty as flexible, multiple, and subject to all manner of diverse rearticulations carries particular weight (and, perhaps, ambiguity) since, as a historical concept in Western political theory, sovereignty was overwhelmingly concerned with closure. As Wendy Brown argues in her Walled States, Waning Sovereignty, the classic vision of sovereign power rests in the capacity to divide the inside from the outside, to make borders around a people – a “nation” – and separate that people from those outside it. Thus Schmitt’s “friend-enemy” distinction, for instance, or even John Locke’s consistent preoccupation with fences as a way of marking the existence of territory (Brown 2010; cf: Schmitt 1996; Locke 1988). The historical conditions of indigenous sovereignty claims in the context of settler colonialism make such absolute closures impossible for indigenous peoples. We might add, though, that their persistent presence also challenges the closure of the settler nation-state. Indeed, this is part of Brown’s point. The very fact that we see ever more spectacular performances of sovereign power on the part of contemporary nation-states – e.g., the titular “walls” that are being constructed along the borders of an increasing number of states - is a sign of the very insecurity of their political authority (Brown 2010).6 The conditions of settler colonial sovereignty, in other words, may be rather more “open,” and thus closer to those of indigenous “nation-within-nations,” then they may at first appear. If this means, in turn, that the future of settler political life is becoming as uncertain as the future for indigenous life has always been since the advent of settlement, then this means only what we have already begun to see: the dilemmas that Haida people confront in their future-making practices are also the dilemmas facing settler society. Take Chapter 4, in which the absence of any “one” definitive governing entity compels the constitution of an aspirational framework of accountability which could, were it realized, render navigable Haida relations to the many governments that claim their loyalties. As I hinted at there, such dilemmas are not restricted to the Haida sociopolitical world; rather, they may in fact be endemic to contemporary democratic societies and the multiple forms of governance (licit and otherwise) that emerge therein. In suggesting that there are Haida ways of refiguring a shared Haida-settler set of contemporary problematics, we might think of Haida future-making as simultaneously an instantiation of the multiple, flexible and always contingently located practices of sovereignty to which Barker points and a different way of thinking about indigenous political potentiality. In the former sense, Haida future-making is without doubt concerned with carving out spaces in which Haida existence can continue, expand, and change without losing the capacity to reproduce itself as, precisely, Haida existence. Thus the processes of homecoming we explored in Chapter 2, or Chapter 5’s explicitly political attempts to establish control over the islands for future generations. If the absence of indigenous sovereignty is the absence of the capacity of an indigenous people to (self)-determine their own futures, then the constitution of Haida futures can be seen exactly as sovereign work, whether in the overt sense of the Council of the Haida Nation’s assertions or the somewhat more implicit mode of Alice Stevens’ proposed mass adoptions. Significant here, though, is the fact that these acts of future-making carry meanings beyond their status as “responses” to the social and political dilemmas of contemporary Haida life. Thus Alice Stevens’ adoptions bring “hippie” children into the framework of Haida kinship relations, in one sense neutralizing their potential threat, but also constituting a complex new network of social relations between Haida and non-Haida whose potential significances go well beyond the protection of Haida territory and resources; thus the Council of the Haida Nation emerges as a “state-like” governing entity through its authorizing promise to “take care” of the islands, but in so doing takes on a series of new roles in Haida political life whose full consequences remain to be seen. If it is a sovereign action to envision an opening of possible futures for Haida people, then this very openness might also exceed the boundaries of sovereignty as a problematic for indigenous people even as it responds to them. Which is also, perhaps, why Haida futures seem so consistently to sketch out social, ecological, and political fields that encompass non-Haida; more, that are futures for Canada as well as for the Haida people living within the nation-state’s borders. Or, at least, futures that have the capacity to be so. What would it mean to figure an indigenous sovereignty that speaks beyond itself, one that promises to invert the order of settler domination through reconfiguring the shared futures of indigenous and settler peoples? This would not be a sovereignty premised on territorial closure, or even absolute political autonomy. It would, however, decisively overturn any settler colonial anticipations of the inevitable erasure of Native peoples. Quite the opposite, it would position indigenous practices of anticipation, aspiration, certainty, and anxiety at the forefront of contemporary modes of political imagination. Unsettling Futures A question remains, however. Could such a refiguring of the temporal and political horizon of settler and indigenous relationships remain possible even if the futures that indigenous people work to constitute remain unrealized in the settler colonial present? Or, put another way, we must always be careful not to conflate a capacity *to* form new futures for settler nation-states with the actual materializations of these futures. The Haida futures that I have discussed, even as they promise possible ways of navigating – of restructuring, even – the settler-Haida present, remain firmly bound by the colonial constraints of this present. But perhaps the stakes here have never been about overthrowing the Canadian colonial order outright. Rather, what I hope this dissertation has shown is that Haida future-making has the capacity to *unsettle* the settler colonial present, to challenge its received categories and demonstrate how, slowly, gradually, Haida people are reconfiguring its terms through the work of producing the future. Certainly, the sheer fact of Haida futurity should put to the lie any further notion that Haida people exist only to replicate their past or live only in the deferral of their eventual disappearance. The future is alive and well in Old Massett, although this does not meant that it is not also a site of profound anxieties. In working to ward off those anxieties through the juxtaposition of nightmare futures against their more desirable alternatives, then, Haida people unsettle the epistemological foundations of the forms of settler colonialism and liberalism against which Byrd and Povinelli write. At the same time (if you’ll pardon the pun), I think we can see the social work that futuremaking does iteratively, as a gradual reshaping of the actual conditions of Canadian society. Here I borrow Judith Butler’s suggestion, following Foucault, that the regulatory norms of society function only through their consistent and unstable reiteration (and materialization) in everyday social life.7 From this perspective, the ways in which Haida people work within and even reiterate the constraints and demands of Canadian settler mainstream society can also slowly and strategically *shift* those very constraints and demands, materializing a HaidaCanadian future that might in fact be quite different from the present even as it does not ever fully “escape” from its dilemmas. Perhaps the most unsettling potential of all here lies simply in the ways in which Haida people incorporate the conditions of the settler colonial present as being paths towards Haida futures. Not vanished, or vanquished. Ongoing.

### AT: Extinction Link---AT: Dalley

#### Psychoanalysis does not justify the immutability of settler colonial ontologies.

Alex Trimble **Young &** Lorenzo **Veracini 17.** Alex Trimble Young is an honors faculty fellow in the Barrett Honors College at Arizona State University. He serves on the editorial collective of the interdisciplinary journal Settler Colonial Studies. Lorenzo Veracini is at the Swinburne University of Technology in Melbourne, Australia. His research focuses on the comparative history of colonial systems. He has authored Israel and Settler Society (2006), Settler Colonialism: A Theoretical Overview (2010), and The Settler Colonial Present (2015). Lorenzo is coeditor of The Routledge Handbook of the History of Settler Colonialism (2016) and editor in chief of Settler Colonial Studies. 2017. “‘If I Am Native to Anything’: Settler Colonial Studies and Western American Literature.” Western American Literature, vol. 52, no. 1, pp. 1–23.

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

### AT Alt

#### The alt locks in cycles of violence---must adopt an ethic of reconciliation precisely because of its impossibility.

Julie **McGonegal 04**. Former Lecturer at Laurentian University at Georgian College, former Postdoctoral Research Fellow at University of Tasmania, Ph.D., M.A., English, McMaster University, B.A., English, Political Science, University of Western Ontario. 09-01-2004. “Imagining Justice: the Politics of Postcolonial Forgiveness and Reconciliation,” Open Access Dissertations and Theses, Paper 1580. http://digitalcommons.mcmaster.ca/cgi/viewcontent.cgi?article=2113&context=opendissertations

Postcolonial studies has generally neglected to address the politics of reconciliation, despite the recent emergence of reconciliation policies and movements in a wide range of national and international contexts. When critics in the field have considered this phenomenon, it has, more often than not, been to denounce or dismiss reconciliation as an inherently repressive or regressive idea. Even prior to the constitution of the field as such, Frantz Fanon, one of its key predecessors, insisted in his typically virulent fashion that "no conciliation is possible" in postcolonial societies (Wretched of the Earth 39). For Fanon, reconciliation is not only undesirable but also impossible: undesirable in that violence, in his view, is a purgatory force that releases the colonized from a state of melancholic apathy, and impossible in that once colonialism has officially ended, there would, he predicted, be no "interest" on the part of the colonizers "in remaining or in co-existing" (Wretched 45). What Fanon did not account for, of course, was that, for the sake of creating the conditions of a sustainable future, those on both sides of the colonial divide would have a stake in engaging practices of reconciliation. Despite the hopes, however, that, since Fanon, have been invested in its possibilities, postcolonial critics frequently downplay or deny, in the same way he did, the potential political efficaciousness of a politics of reconciliation. Inveighing against what she perceives as the field's undue emphasis on consensus and negotiation, Benita Parry, for one, launches a heavy-handed postcolonial critique of reconciliation, which she contends entails a relinquishment of responsibility on the part of the dominant culture and a refusal to remember on the part of the marginalized. In her view, reconciliation is necessarily instituted by- as well as in the service of - those who have committed heinous acts, and primarily for the purpose of promoting forgetfulness about the past. Referring to what she calls "the competing demands of reconciliation and remembrance" (88). Parry interprets the former as the imposition of a historical narrative that elides the invasive and expropriative terms of the imperial enterprise. She insists, moreover, that a project of reconciliation cannot unfold until such time as social and material transformation has already been effected. In an age of late capitalism, it is "premature" and also "inequitable" to advance an agenda of consensus and settlement: "our best hope for universal emancipation," Parry concludes, "lies in remaining unreconciled to the past and discontented with the present" (95). Yet must a politics of reconciliation necessarily exclude a critique of the contemporary condition? What I want to suggest is that it is precisely because of the prevalence of violence and injustice in the postcolonial era that working towards the possibility of reconciliation constitutes such a profoundly important project. Whereas Parry thinks that reconciliation prohibits radical social and material change, I argue that the conditions of inequality that structure postcolonial societies cannot be altered unless we venture to seriously engage an ethics of reconciliation, unless we strive to realize a time and space beyond violence. To realize that future it is necessary, certainly, to actively engage with the past, not in order to efface it from memory of course, but for the sake of reprocessing it into something new, of recuperating it as a resource for superseding the injustices of the present. In proposing an alternative view of reconciliation. I want to interrogate, and in some senses challenge, the prevailing meanings and constructions of the term. First, I want to acknowledge that the very etymology of the word presents a problem, as it were, for postcolonial analyses of projects of reconciliation. For reconciliation suggests a return to a prior stage, a stage in which there was conciliation; yet for postcolonial societies there can in fact be no return, of course, to some past era of settlement or concord, for such an era never existed in the first place. I employ the concept here, then, more for its convenience as a terminological marker of recent political policies, processes, and movements, and out of an awareness that it renders a problematic temporality. I also employ the concept aware of the dubious aura that surrounds it, that is, cognizant that it comes equipped, to the mind of most, with little evocation of contemporary power relations. Indeed, in much the same way as "postcolonial," "reconciliation" is a theoretically and politically ambiguous term, one that is frequently considered incompatible with a politics of resistance. For in its English usage, the term can signify - particularly if the verb "reconcile" is followed by the preposition "to" an attitude of resignation, surrender, or submission that precludes the possibility of struggle, antagonism, or opposition. Perhaps this explains the reluctance on the part of many postcolonial critics to concede the possibilities of a politics of reconciliation, since what the term conjures, almost immediately, is the image of oppressed and marginalized communities capitulating to the violent and unjust conditions of contemporary life. In other words, what the phrase "postcolonial reconciliation" may at once seem to imply is the worrisome idea that disempowered people ought to acquiescently accept existing dominations, exploitations, and inequalities. Of course, the suspicion of government policies and practices of reconciliation is well founded given that oftentimes they are devised primarily by state and government officials, without adequate consultation with indigenous groups and grassroots organizations. When one considers the program of reconciliation undertaken by the Howard government in Australia, for example, one is forced to admit that the discourse of reconciliation can operate more in the interests of national consolidation and less in those of indigenous compensation. Indeed, it is worth emphasizing that despite their internationalization, reconciliation movements are complex and differentiated, with some enabling very little in the way of social and political transformation. Without denying the political realities that often hinder projects of reconciliation, I wish in this thesis to maintain a commitment to reconciliation as an ethical ideal, and in so doing to put forward another possible interpretation of the concept, one that is somewhat more open, I hope, to its positive and enabling inflections.8 8 In putting forward this definition of reconciliation, I want to register the various meanings of the term when deployed outside of an Anglophone context. While reconciliation is typically associated with resignation, consolation, and compensation in the English language, Michael Hardimon points out that one of the German equivalents of the term, Versöhnung, conveys a process of transformation: "When two parties become genuinely versöhnt," he explains, "they do not resume their old relationship unchanged. They become versöhnt by changing their behavior and attitudes in fundamental ways. Parties who have attained Versöhnung do not have to decide to get along together: their getting along is, instead, the natural result of their being in a new, transformed state" (85). I define reconciliation not as the reinforcement or reproduction of colonial or neocolonial relations but as the establishment of new conditions of interactions-conditions centred on the ideals of negotiation, collaboration, and reciprocity.9 9 I should note that although political projects of reconciliation might, given their goals of concord and unity, be interpreted by postmodern critics as potentially pernicious attempts to discipline, homogenize, or devalue some other (e.g. race. class. culture, or gender), reconciliation as I conceive it here is not an attempt to exclude or overcome otherness but rather to overcome the systems of violence which arise in response to categories of otherness. As I understand it, reconciliation involves something somewhat more than merely a "departure from violence" (282), which is how John Borneman defines it; it involves an entire, yet nevertheless ongoing and perpetually unfinished, project of completely transforming the brutal and violent conditions that are the legacy of colonialism. Far from being opposed to resistance, then, reconciliation, as a conceptual ideal, entails precisely a radical revision to existing relations of inequality.10 10 The proliferation of reconciliation processes might be interpreted as a symptom of contemporary political malaise, as if the era of resistance - which many think limited to the 1960s - is now definitely over. In other words, the redirection of political conflicts into processes of reconciliation may be seen as the emergence of a form of politics that places a greater priority on preserving and integrating the nation than on altering the material conditions of oppressed and marginalized groups. Yet reconciliation by no means does away with resistance, and in fact, in many cases, marginalized collectivities pursue reconciliation processes as a means of forcing those in positions of power to assume responsibility for the violence of colonization, racism, or sexism. A caveat or two is in order: first, reconciliation, properly and practically Speaking, cannot be forced or imposed by those occupying positions of power. Rather it must, if it is to have any efficacy at all, be a consensual process in which the "work," as it were, of reconciling is not assumed only, or even primarily, by those who have been wronged. Furthermore, by no means is reconciliation antithetical to the aims of justice, although some critics have suggested as much. Rather, to aspire to and engage in a politics of reconciliation is to strive, relentlessly and indefatigably, to bring about a state of justice such as has never existed before. The notion that the project of reconciliation is fundamentally an exercise in preventing justice is built on the problematic assumption that retributive justice is the form of justice par excellence. Thus Mahmood Mamdani, perhaps the TRC's most vociferous critic, is operating, I suggest, from a narrow and ultimately unimaginative concept of justice when he contends that reconciliation diminishes justice: "To reconcile is to restore," Mamdani announces, "to return to a status quo ante" ("Reconciliation without Justice," 182).11 In a recent collection of essays entitled The Burden of Memory, The Muse of Forgiveness, Wole Soyinka launches a similar - and, in my view, similarly limited - attack on frameworks of justice that prioritize reconciliation. Casting doubt on the capacity of truth telling procedures to benefit victims, Soyinka proclaims that, "the problem with the South African choice is its implicit, a priori exclusion of criminality, and thus responsibility," The TRC's refusal to perform "the rites of vengeance," as he calls it, is, according to Soyinka, a fundamental oversight, for punishing perpetrators would, he assumes, provide a "sense of closure" or a form of "catharsis" to victims by pressing the wrongdoers "into service in a reversal of roles" (33). To this claim, I would ask: is it possible for the crimes committed by the perpetrators of apartheid to be accurately recorded and tallied up to create a sum total of meanings? And does reckoning with violence through retribution necessarily restore to victims that which has been lost? If survivors opt not to punish their perpetrators, does that then mean that they are essentially ignorant or careless of the ramifications of their decision? What I wish to suggest, by way of response, is that although they may disconcert or stupefy those of us situated in post modern contexts, the rhetoric and rituals that structure reconciliation processes may be crucial to a departure from colonialist and racist relations, and to the commencement of a new, more equitable, future. Indeed, it is a central premise of mine that paradigms and practices of reconciliation may, despite their defiance of dominant juridical categories, constitute important, albeit hitherto discounted, alternatives to modern conceptualizations of justice. In arguing for a consideration of the possibilities of reconciliation that acknowledges the validity of indigenous notions of justice, I am following the provocative lead of Rosemary Jolly, whose advocacy of the TRC takes the form of acknowledging and affirming the terms of resistance selected by marginalized communities. Questioning the assumption of many postmodern critics that the TRC's invocation of Christian rituals of confession constitutes a colonialist imposition, Jolly observes that "Our familiarity and comfort with modern judicial rituals can leave us uncomfortable with rituals that defy the secular claims of modernity" (696). This uneasiness with models of justice that do not conform to a secular, rationalist framework is problematic to the extent that it tends to reinscribe a Western developmentalist narrative that casts South Africa as irrational and backward. Jolly explains: The Western press's predominant dismissal of the TRC may appear to emerge from a sense of concern for the denial of human rights in those countries of the world considered to be undemocratic by Western European and North American standards. Acceptance of this appearance rests on the notion that the industrial or postindustrial countries of the West have the knowledge and right to export their particular notion of the subject and her or his rights as part and parcel of the benefits of the processes of globalization. (698) Jolly's comments me a salutary reminder that we need to be particularly vigilant about the problems of dismissing reconciliation processes out of hand, for what may lurk in our apparent concern that "justice be done" is the unspoken belief that the civilized West has the exclusive rights to the definition of justice and its modes of operation.12 There are serious dangers, then, to viewing only those models of justice authorized by secular modernity as legitimate and authoritative. In this thesis, I take seriously those dangers, offering a sustained consideration of the possibilities of those reconciliatory models that enable marginalized communities to be their own agents of change, and subjecting the notion that retributive justice is the only solvent to postcolonial crimes to rigorous scrutiny. In asking for a critical reevaluation of the politics of reconciliation, I am calling deeply into question the commonly held view that justice is reducible to the punishment of evil. Reckoning legally with violence through retribution is, I propose, not the only possible, nor even always the most viable, form of response to the infliction of racial and (post)colonial injuries. While some have argued that retributive justice is an important precondition to reconciliation that vindicates victims through a kind of quid-pro-quo settling of accounts, I suggest that this assessment not only discounts the views of those victims who decide not to pursue criminal and civil remedies but also a priori assumes that legal accounting can recuperate the losses suffered by survivors. With Pal Ahluwalia, I propose that reconciliation offers a potential alternative to the cycle of revenge that characterizes many postcolonial societies, and I ask how postcolonial theory might be developed in the interests of reconciliation. While he does not consider the implications of his proposal for the notion of forgiveness, Ahluwalia suggests that the attendant cycle of revenge and counter-revenge might be broken through the gift, and makes the argument that postcolonialism is instructive for examining processes of reconciliation, as it attempts to reimagine the past and the present. Pointing to such prominent African leaders as Nelson Mandela and Jomo Kenyatta, he focuses on the possibilities they symbolize for national reimagination and reconstruction: "They emerge from prison," he observes, "not with a sense of revenge, but with the intention to break the cycle of revenge" (\98). But as much as "founding fathers," as Ahluwalia calls them, are important for the symbolic import they lend reconciliation movements, grassroots organizations are possibly even more important, to the extent that they create the conditions for reconciliation at the local level. Without the initiatives of the Aborginal and Torres Strait Islander Commission (ATSIC) in Australia, for Example, or the various community-based organizations in the north and south of Sri Lanka, reconciliation would not even be a possibilty. In turning to the concept of reconciliation in the hopes of moving beyond violence and hostility, these organizations emphasize that no compensation can ever adequately redress wrongs, and that the losses suffered by victims can never be fully recovered. A complete recuperation is impossible no matter what route to justice is sought. That said, in relinquishing the right to resort to the rule of law, victims may not be passively authorizing or assenting to their oppression: rather their decision may well arise out of, for example, a perception of the stakes involved in the consolidation of democracy, or out of an attempt to create a new start by breaking a cycle of rebounding violence. Let me propose, then, that to subscribe to a politics of reconciliation - to opt not to endorse principles of punishment or retribution - is perhaps to place one's wager on the future, to take up the challenge of beginning anew without denying an ongoing sense of loss. This task is paradoxical by definition, for it involves creating an end that one knows to be fundamentally fictional in character (Borneman 284). Certainly my own analysis of reconciliation is characterized by an unceasing awareness that the vision underlying it may seem Janus-faced in that it assumes both the prevalence of power relations and the possibility of their reconstitution. But this tension may be a crucial condition, after all, of any vision of reconciliation that confronts the challenge of the project: to make possible the impossible; to recuperate losses that are fundamentally irrecoupable. In attempting this challenge, I bear in mind throughout this study that for ~~victims~~ [survivors] of colonialist and racist violence, there can ultimately be no complete recovery, no absolute resolution of loss.13 While those victims who opt to reconcile with their wrongdoers may, as a result, be able to reclaim a sense of selfhood and dignity, the loss that they have suffered - whether it derives from, say, the death of loved ones, or from the damage inflicted on their own psyche - obstinately remains. Because traumatic loss is experienced repeatedly and retrospectively, as Cathy Caruth has famously noted, complete recovery can only be worked toward, never definitively achieved. Because, in other words, the traumatic event or some aspect thereof is not registered at the actual time of occurrence, and is never fully apprehended by the victim, reconciliation can never happen "once and for all" but only as the perpetually deferred outcome of a long mourning process. Reconciliation may inaugurate the task of mourning but that task is never quite finished, never completely fulfilled: oddly, a recovery that might be a reconciliation only becomes possible, as John Borneman has suggested, through the relentless mourning of loss (284). Another way of saying this is that victims of postcolonial trauma are perpetually beset by a melancholia that might be alleviated, but certainly not stopped or defeated, through acts of memory and narration. The endlessness of mourning must, I think, be kept constantly in mind, else we risk assuming, as Paul Ricoeur has, that mourning has reconciliation as its teleological end. Drawing on Freud's famous distinction between melancholia and mourning, Ricoeur suggests that whereas melancholia forecloses the possibility of reconciliation, mourning is, in fact, tantamount to reconciliation. 14 Melancholia, he writes, consists of "a longing to be reconciled with the loved object which is lost without hope of reconciliation," while "mourning," by contrast, "is a reconciliation:' a process that results in the recuperation of loss ("Memory" 7). In assuming that it offers the victim the possibility of a normalizing closure, a definitive end to melancholic grief and ambivalence, Ricoeur forgets the paradoxical character of mourning and, subsequently, of reconciliation. Is not mourning, if nothing else, a process of striving towards, yet never entirely realizing, reconciliation with the lost other? It is only through relentless mourning that the promise of release from suffering and recuperation of the other emerges, as Derrida, in his reflections on the impossibility of reconciliation, suggests. Derrida challenges the myth of reconciliation between the mourner and her lost object by insisting on the interminability of the mourning process. Questioning the successful, introjective mourning prescribed by Freud, he reflects on the ethical difficulties posed by the discourse of "self-restoration," and speculates that "the most distressing, or even the most deadly infidelity" might be that "of a possible mourning" (Memoires 6). Calling for an impossible mourning, he further suggests that the promise of reconciling with the other is what gives mourning a chance. It is this hope of reconciliation that mourning offers, as well as the dream of forgiveness of which Derrida also writes, that should propel us, I believe, to engage in the difficult work of imagining a different future, an alternative to the violences of colonialism, racism, and sexism.

#### Their notion of queerness isn’t radical---they define it in advance as merely being oppositional to a norm. This removes the undeciability and risk of agency necessary for true transformations.

**Rand, Syracuse communication and rhetorical studies professor, 2014**

(Erin, Reclaiming Queer Activist and Academic Rhetorics of Resistance, pg 22-25)

It is no accident that in the essentializing gesture that produces the rhetorical agency of Queer Nation-what I have described above as the necessary failure of utopian futurity that occurs through the manifesto form-it is the most radical impulses of "Queers Read This," the statements that most clearly "defy translation" or "throw sense off track," that must be deferred. 61 The aspects of the flyer that cannot be constituted in an audience in the present and are beyond the current limits of intelligibility provide an inkling of what is, in fact, the most queer about Queer Nation. I use the word "queer" here quite deliberately to describe not what is the most resistant to dominant structures of power or what most forcefully attempts to disrupt normative categories of gendered and sexualized identity; rather, the queerness that I am identifying in Queer Nation is rooted in indeterminacy and excess and appears as the undecidability that must be deferred as agency is enacted. That is, the unpredictability and risks-the queerness-of rhetorical action is the very condition of possibility for agency itself My definition of queerness clearly works against the prevailing academic and popular trends to employ "queer" either as an umbrella term for "gay; lesbian, bisexual, and transgender" identities or as a label for sexualities and politics that disrupt the hetero/homo binary. This is a de-essentialized notion of queerness that disconnects "queer" from any particular referent and refigures it as the undecidability from which rhetorical agency is actualized. This definitional move unhinges queerness from a specific sexual or political standpoint, but it does not desexualize or depoliticize the implications of the queerness of agency. As Lee Edelman argues in his discussion of homosexuality's relationship to language and writing, homosexuality is not only available to signification but also comes to "signify the instability of the signifying function per se, the arbitrary and tenuous nature of the relationship between any signifier and signified." It is not merely that homosexuality is the binary opposite of heterosexuality but also that homosexuality marks "the potential permeability of every sexual signifier-and by extension, of every signifier as such-by an 'alien' signification."62 Thus, Edelman notes that sexuality is always already embedded in language; more importantly, he contends that it is homosexuality in particular that both enables and perpetually destabilizes language's signifying function. Similarly, I understand queerness as the resource through which rhetorical agency is possible, as well as the excess and unpredictability that shape the dispersion of effects of a rhetorical act. Any instance of rhetorical agency arises from a catachrestic but provisional gesture that defers temporarily the possibility of acting or speaking otherwise and that inaugurates the illusion of the intending subject. Viewing queerness in this way is also a departure from-though not a contradiction to-many of the activist and academic discussions of queerness that this book investigates. The spirit of brash critique and opposition that was so central to queer activism of the late 1980s and early 1990s also marked the temperament of early queer academic interventions, with queer theory often mirroring queer activism's stance vis-a-vis heteronormative institutions; that is, both queer activism and queer theory were defined in terms of their resistance, opposition, and dissension. Queer communities were thus described as being unified by "shared dissent," queer politics was radical insofar as it was positioned "in opposition to dominant norms," and queer theory's purchase was in its ability to articulate "forms of resistance to cultural homogenization."63 While I certainly share an investment in the need for radically oppositional politics, this figuration of queerness as resistance poses a problem for conceptualizing the agency through which resistant actions might occur. If the very definition of "queer" presupposes resistance at the level of intentions and/or effects, then the identification of an agency that works queerly is always already circumscribed by the extent to which actions are perceived to be oppositional. In other words, if a queer agency inevitably implies resistance or opposition, then the risks and unforeseen entailments of acting (the conditions necessary for agency to exist) are disavowed. After all, rhetorical agency persists only insofar as the meaning and effects of one's rhetorical acts are not settled in advance. Furthermore, defining queerness as resistance presents a theoretical quandary: agency's queerness can be conceptualized and identified only to the extent that resistance can be detected. However, on what basis can one ultimately determine dissent, opposition, or resistance? For instance, should Queer Nation's attempts to reformulate identity politics be considered queer because they were intended to resist normative identity categories, even if these attempts were widely misunderstood, unrecognized, or unsuccessful? Or should the queerness of an action be based on its effects, regardless of the radicalism or conservatism that may have motivated that action? As Queer Nation so fittingly illustrates, any conclusion regarding the resistant nature of a given practice or event is always complicated by the gaps between, first, an actor's intentions and the act and, second, between the act and its effects. The first gap arises because the intent of the rhetor or author, though certainly not irrelevant or absent, does not, as Derrida puts it, "govern the entire scene and system of utterance."64 This is not to deny intentionality but to question its telos, suggesting that because intentionality is structured by iteration, it can never fully determine the act. The second gap, between the act and its effects, occurs because, as I have described above in reference to "Queers Read This," the saying is never identical to the doing; Butler suggests that within this gap resides the possibility for "counter-speech," for "talking back"-in a word, for resistance. 65 Thus, I am claiming as queerness the lack of a necessary or predictable relation between an intending agent and the effects of an action, and the gaps I have described are not only the spaces or moments of potential misfire but also the conditions of possibility for agency. What I am proposing in this project is a rethinking of agency and an exploitation of queerness by reopening these two crucial gaps: the gap between the agent and the action and the gap between the action and its uptake and effectivity. 66 By maintaining the first gap, I am suggesting that being positioned as a queer agent does not necessarily ensure that one will act queerly and that apparently queer actions may issue from sites that do not seem to be queer. Opening the second gap suggests that the effects of an action cannot be determined by examining the action itself but only by analyzing its uptake and effects. The resistance of any given practice or act, in other words, is conjunctural: it does not reside in the intentions of the actor nor in the act itself but in the practice's or act's effectivity-an effectivity that cannot be controlled or predicted by the actor. The tendency to nudge these gaps closed, I think, reflects the urge to limit the risky (the queer) nature of acting and to guarantee (though this is impossible) the resistant effects of agency. But risk should not be thought as the danger of agency's failure; on the contrary, it is the productive indeterminacy that makes agency possible. As Derrida contends, the risk of rhetorical action is the necessary and productive condition from which all language arises. Refuting the position that risk is external to language, and that it is a trap that must be avoided, he argues that risk is instead language's "internal and positive condition of possibility" or its "very force and law of ... emergence."67 Butler also asserts that embedded in risk is the potential for "something we might still call agency, the repetition of an originary subordination for another purpose, one whose future is partially open."68 Agency emerges not as the ability to create intentionally a certain set of effects but as a process made possible by the very undecidability or riskiness of those effects. If rhetorical agency might be understood to determine, at least provisionally, a specific meaning and effect for a text, it does so by briefly controlling the risks of language and its signification by temporarily deferring queerness. To assert a particular meaning or effect for a text is also to suspend its potential to mean or work otherwise. Thus, queerness is both the general economy of undecidability that makes agency possible and also what is always displaced at the moment that agency is actualized. As my earlier discussion of rhetorical agency asserts, rhetorical forms work as materializations of power through which discourse becomes intelligible; as such, it is the formal conventions of texts that effectively displace queerness in order to actualize agency. Rhetorical forms therefore function in a perversely paradoxical fashion, always marked by the trace of the queer, always excluding-although never fully or finally-the queerness they already contain.

# 1AR

#### Victorious Russia will install a global white supremacist regime that co-opts racial radicalism in the service of neo-fascist geopolitical goals.

Lee Edwin **Coursey 18**. International affairs and history analyst and software engineer in the field of artificial intelligence. 01-07-18. “Russia’s Plan for World Domination – and America’s Unwitting Cooperation With It.” LeeCoWeb. https://www.leecoweb.com/russian\_plan/

In the aftermath of the Cold War, Russia experienced a crushing recession that left millions unemployed. The subsequent vacuum in the decades that followed saw the rapid expansion of the European Union and its single free market eastward. The EU now includes several former Soviet states, including some immediately bordering Russia (e.g., Estonia and Latvia.) More importantly, from a Russian security perspective, the NATO military alliance also expanded aggressively eastward after the Cold War, adding over a dozen European countries as members between 1999 and 2017. This expansion has put NATO allies, and NATO weapons, into countries immediately bordering Russia. The spread of western ideals such as free speech, free and open elections, and multiculturalism into eastern Europe are perceived as a threat to Russian culture and Russian influence. From the Russian point of view, the collapse of the Soviet Union and the end of the Cold War was both a humiliating defeat and a harsh rebuke of Soviet-style Communism. A new post-Soviet, neo-fascist political philosophy rose from the ashes of Communism, and Russia is actively engaged in pursuing this philosophy. Their goal is nothing less than the creation of a new Eurasian Empire controlled by, and answering to, Russia. A New Blueprint (or “Putin’s To-Do List”) The Russian political elite could not tolerate the growing threat on their western border, but they needed a new geopolitical strategy – one that would establish goals and methods different from those that had failed the Soviet Union. In 1997, Aleksandr Dugin articulated and defined that new Russian strategy in a 600-page treatise entitled Foundations of Geopolitics. According to historian and Hoover Institution specialist John B. Dunlop, “There has probably not been another book published in Russia during the post-communist period which has exerted an influence on Russian military, police, and statist foreign policy elites comparable to that of Aleksandr Dugin’s 1997 neo-fascist treatise.” The Foundations of Geopolitics sold out in four editions, and continues to be assigned as a textbook at the General Staff Academy and other military universities in Russia. [source] Eurasian-ism As espoused by Dugin, Russia’s ultimate goal should be nothing less than rule of the world by ethnic Russians, based on a Eurasian empire extending from “Dublin to Vladivostok.” The philosophical basis for this empire will include the rejection of “Atlanticism,” identification of America as a common enemy, and refusal to allow traditional liberal political ideals (e.g., freedom of the press, freedom of speech, free markets, civil rights, etc.,) to affect Russia’s society or political system. According to political scientist Andreas Umland, the Russian political elites, headed by Vladimir Putin, view Dugin’s new Eurasian Empire not as a restoration of an idealized Russian Empire, but as a replacement for the Soviet Union. Eurasianism provides an ideological basis for a new form of Russian imperialism. As for strategic stepping stones toward a new Russian empire, Dugin offers a long list objectives. I have listed just a few of these below: Separate the United Kingdom from Europe. Russian annexation of Ukraine. A strategic alliance between Russia and Iran. Create “geopolitical shocks” within Turkey. Russian annexation of Tibet, Mongolia, and Manchuria. Finland should be absorbed into Russia. Encourage Germany and France to cooperate with each other and isolate themselves from Europe. Dismember the nation of Georgia. Geopolitical defeat of the United States Sound familiar? In terms of tactics, Foundations of Geopolitics recommends subversion of America and its alliances by encouraging and supporting separatism, isolationism, nationalism, and the creation of factions. It also calls for supporting radical separatist movements in western countries, including support for organizations that espouse extremist, racist, and sectarian ideals. Here is a passage taken directly from Dugin’s Foundations of Geopolitics (via Dunlop): “It is especially important to introduce geopolitical disorder into internal American activity, encouraging all kinds of separatism and ethnic, social and racial conflicts, actively supporting all dissident movements — extremist, racist, and sectarian groups, thus destabilizing internal political processes in the U.S. It would also make sense simultaneously to support isolationist tendencies in American politics.” Evidence Russia Is Actively Pursuing Dugin’s Strategy Russia’s actions, both overt and covert, offer strong indications that her political and military leaders are actively pursuing the strategy described in Foundations. The overt actions include: Russian invasion of the nation of Georgia (2008.) Russian annexation of the Crimea region of Ukraine (2014.) Economic and military support for anti-western regimes in Syria and Iran. As for covert (or disguised) actions by the Russian government in support of the Foundations strategy, consider these recent findings from western intelligence and news agencies: BREXIT: “More than 150,000 Russian-language Twitter accounts posted tens of thousands of messages in English urging Britain to leave the European Union in the days before last year’s referendum on the issue. … Most of the messages sought to inflame fears about Muslims and immigrants to help drive the vote.” – New York Times, 15-NOV-2017 US ELECTIONS: “Posts that circulated to a targeted, swing-state audience on Facebook railed against illegal immigrants and claimed “the only viable option is to elect Trump.” They were shared by what looked like a grassroots American, anti-immigrant group called Secured Borders, but Congressional investigators say the group is actually a Russian fabrication designed to influence American voters during and after the presidential election.” – ABC News, 27-SEP-2017 US ELECTIONS: “Russian agents intending to sow discord among American citizens disseminated inflammatory posts that reached 126 million users on Facebook, published more than 131,000 messages on Twitter and uploaded over 1,000 videos to Google’s YouTube service.” – New York Times, 30-OCT-2017 US ELECTIONS: “In July 2015, Russian intelligence gained access to Democratic National Committee (DNC) networks and maintained that access until at least June 2016.” – Findings from the Office of the Director of National Intelligence, 6-JAN-2017 US SOCIAL UNREST: “Two Russian Facebook pages organized dueling rallies in front of the Islamic Da’wah Center of Houston. Heart of Texas, a Russian-controlled Facebook group that promoted Texas secession, leaned into an image of the state as a land of guns and barbecue and amassed hundreds of thousands of followers. One of their ads on Facebook announced a noon rally on May 21, 2016 to “Stop Islamification of Texas.” A separate Russian-sponsored group, United Muslims of America, advertised a “Save Islamic Knowledge” rally for the same place and time. – The Texas Tribune, 1-NOV-2017 US SOCIAL UNREST: “A social media campaign calling itself “Blacktivist” and linked to the Russian government used both Facebook and Twitter in an apparent attempt to amplify racial tensions during the U.S. presidential election. Both Blacktivist accounts regularly shared content intended to stoke outrage. “Black people should wake up as soon as possible,” one post on the Twitter account read. “Black families are divided and destroyed by mass incarceration and death of black men,” another read. The accounts also posted videos of police violence against African Americans. These fake accounts provide further evidence that Russian-linked social media accounts saw racial tensions as something to be exploited in order to achieve the broader Russian goal of dividing Americans and creating chaos.” CNN, 28-SEP-2017 NOTE TO READERS: Even in light of the information above, I DO NOT necessarily believe that Hillary Clinton would have won the 2016 US Presidential election in the absence of Russian interference – I simply do not have enough data from which to draw that conclusion. I am however certain that Russia wanted Trump to win and spent millions of dollars on propaganda directed at Americans toward that end. How We (Americans) Are Helping Russia Achieve Its Imperialistic Goals Russian propaganda and incitements to separatism are spread through social media, and their success depends on our willingness to reflexively share stories that outrage us. As unwitting agents for Russia, each of us is helping spread the seeds of our own political and economic demise. Hundreds of fake Facebook accounts operating from within Russia purchased $100,000 worth of Facebook ads between mid-2015 and early 2017. These fake Facebook accounts managed to reach 126 million Facebook users during this time frame. Besides their sheer volume, one of the most striking aspects of the ads purchased by these fake accounts is their alignment with the strategy described in Foundations of Geopolitics, namely the creation of division and mistrust among Americans. Alex Stamos, the Chief Information Security Officer for Facebook, issued a statement about the ad placements on September 6, 2017. In it, he made these observations: The vast majority of ads run by these accounts didn’t specifically reference the US presidential election, voting or a particular candidate. Rather, the ads and accounts appeared to focus on amplifying divisive social and political messages across the ideological spectrum — touching on topics from LGBT matters to race issues to immigration to gun rights.