## 1NC

### 1NC --- Kritik

#### Blackness exists as a metaaporia that interrogates the cyclical ways violence onto blackness is morphed and ultimately appropriated. The 1AC relies on a redemptive narrative of humanity that is fundamentally inaccessible for blacks. Their project is ultimately meant to hide and recreate moments of black death for the sake of redeeming Human life.

Wilderson 20 [Frank B. Wilderson, professor of Drama and African American studies at the University of California, Irvine, “Afropessimism”, page 13-17, JMH]

For most critical theorists writing after 1968, the word aporia is used to designate a contradiction in a text or theoretical undertaking. For example, Jacques Derrida suggests an aporia indicates “a point of undecidability, which locates the site at which the text most obviously undermines its own rhetorical structure, dismantles, or deconstructs itself.” But when I say that Black people embody a meta-aporia for political thought and action, the addition of the prefix meta- goes beyond what Derrida and the poststructuralists meant—it raises the level of abstraction and, in so doing, raises the stakes. In epistemology, a branch of philosophy concerned with the theory of knowledge, the prefix meta- is used to mean about (its own category). Metadata, for example, are data about data (who has produced them, when, what format the data are in, and so on). In linguistics, a grammar is considered as being expressed in a metalanguage, language operating on a higher level of abstraction to describe properties of the plain language (and not itself). Metadiscussion is a discussion about discussion (not any one particular topic of discussion but discussion itself). In computer science, a theoretical software engineer might be engaged in the pursuit of metaprogramming (i.e., writing programs that manipulate programs). **Afropessimism**, then, **is** less of a theory and more of **a metatheory: a critical project that, by deploying Blackness as a lens of interpretation, interrogates the unspoken, assumptive logic of Marxism, postcolonialism, psychoanalysis, and feminism through rigorous theoretical consideration of their properties and assumptive logic, such as their foundations, methods, form, and utility; and it does so, again, on a higher level of abstraction than the discourse and methods of the theories it interrogates.** Again, Afropessimism is, in the main, more of a metatheory than a theory. **It is pessimistic about the claims theories of liberation make when these theories try to explain Black suffering or when they analogize Black suffering with the suffering of other oppressed beings. It does this by unearthing and exposing the meta-aporias, strewn like land mines in what these theories of so-called universal liberation hold to be true.** If, as Afropessimism argues, Blacks are not Human subjects, but are instead structurally inert props, implements for the execution of White and non-Black fantasies and sadomasochistic pleasures, then this also means that, at a higher level of abstraction, the claims of universal humanity that the above theories all subscribe to are ~~hobbled~~ [constricted] by a meta-aporia: a contradiction that manifests whenever one looks seriously at the structure of Black suffering in comparison to the presumed universal structure of all sentient beings. Again, Black people embody a meta-aporia for political thought and action— Black people are the wrench in the works. Blacks do not function as political subjects; instead, our flesh and energies are instrumentalized for postcolonial, immigrant, feminist, LGBTQ, transgender, and workers’ agendas. These so-called **allies are never authorized by Black agendas predicated on Black ethical dilemmas. A Black radical agenda is terrifying to most people on the Left**—think Bernie Sanders—**because it emanates from a condition of suffering for which there is no imaginable strategy for redress—no narrative of social, political, or national redemption**. This crisis, no, this catastrophe, this realization that I am a sentient being who can’t use words like “being” or “person” to describe myself without the scare quotes and the threat of raised eyebrows from anyone within earshot, was crippling. I was convinced that if a story of Palestinian redemption could be told . . . its denouement would culminate in the return of the land, a spatial, cartographic redemption; and if a story of class redemption could be told . . . its denouement would culminate in the restoration of the working day so that one stopped working when surplus values were relegated to the dustbin of history, a temporal redemption; in other words, since postcolonial and working-class redemption were possible, then there must be a story to be told through which one could redeem the time and place of Black subjugation. I was wrong. **I had not dug deep enough to see that though Blacks suffer the time and space subjugation of cartographic deracination and the hydraulics of the capitalist working day, we also suffer as the hosts of Human parasites, though they themselves might be the hosts of parasitic capital and colonialism**. I had looked to theory (first as a creative writer, and only much later as a critical theorist) to help me find/create the story of Black liberation—Black political redemption. What I found instead was that **redemption, as a narrative mode, was a parasite that fed upon me for its coherence. Everything meaningful in my life had been housed under the umbrellas called “critical theory” and “radical politics.”** The parasites had been capital, colonialism, patriarchy, homophobia. And now it was clear that I had missed the boat. My parasites were Humans, all Humans—the haves as well as the have-nots. If critical theory and radical politics are to rid themselves of the parasitism that they heretofore have had in common with radical and progressive movements on the Left, that is, if we are to engage, rather than disavow, **the difference between Humans who suffer through an “economy of disposability” and Blacks who suffer by way of “social death,” then we must come to grips with how the redemption of the subaltern** (a narrative, for example, of Palestinian plenitude, loss, and restoration) **is made possible by the (re)instantiation of a regime of violence that bars Black people from the narrative of redemption**. This requires (a) an understanding of the difference between loss and absence, and (b) an understanding of how the narrative of subaltern loss stands on the rubble of Black absence. Sameer and I didn’t share a universal, postcolonial grammar of suffering. Sameer’s loss is tangible, land. The paradigm of his dispossession elaborates capitalism and the colony. When it is not tangible it is at least coherent, as in the loss of labor power. But how does one describe the loss that makes the world if all that can be said of loss is locked within the world? **How does one narrate the loss of loss? What is the “difference between . . . something to save . . . [and nothing] to lose”?** Sameer forced me to face the depth of my isolation in ways I had wanted to avoid; a deep pit from which neither postcolonial theory, nor Marxism, nor a gender politics of unflinching feminism could rescue me. Why is anti-Black violence not a form of racist hatred but the genome of Human renewal; a therapeutic balm that the Human race needs to know and heal itself? Why must the world reproduce this violence, this social death, so that social life can regenerate Humans and prevent them from suffering the catastrophe of psychic incoherence— absence? Why must the world find its nourishment in Black flesh?

#### The politics of “care”, whether institutional or individual, are coopted by the state not to reduce harm, but increase it---their moral calls for helping others only mask the articulation of blackness as a threat to the smooth functioning of a white supremacist government

Sharron, 19 - Kelly Christina Sharron, Doctorate in Philosophy from the University of Arizona, 2019(“THE CARING STATE: THE POLITICS OF CONTRADICTION IN FERGUSON, MISSOURI,” Proquest Dissertations Library, bam)

Introduction: The Politics of Care: Feminism, Feminist Theory, and the State

This dissertation emerged out of an ongoing interest in state power, particularly as it relates to the carceral state. The conversation and events that overwhelmed these topics, for me, have been police violence. The shooting of Michael Brown, an unarmed black teenager, by white officer Darren Wilson in Ferguson, Missouri became a national story, and framed what would become ongoing attention to police brutality. Moreover, the degree to which the police force and National Guard responded with military equipment, weapons, tanks, and riot gear sparked debate about what role police forces play in communities, if they have overstepped their authority, and the legitimacy of protest. While these are all important and worthy contributions, what seemed more troubling was the way that people readily accepted the solutions offered by the state. These solutions, and the rhetoric surrounding them, are what I have framed as “care.” They included things like community policing, accountability, and soft reforms like body cameras. As more unarmed people of color were killed by the police, it became immediately clear that the solutions offered were not enough to upend the problem, policing itself.

One of the most popular images to circulate after the Ferguson grand jury decision is one of a young black boy in an embrace with a white cop during a protest taking place in Portland, Oregon. This photo was shared over 400,000 times on Facebook, and marked a desire for reconciliation without meaningful change. The police officer appears to be comforting the boy, who is sobbing; it marks a tender moment between two differently affected groups, as though this could have been Wilson and Brown under different circumstances, if only they would have exhibited more care. In telling the story behind the photo, the pictured police Sgt. Bret Barnum approached the boy, Devonte Hart, who was holding a “free hugs” sign, “not as a police officer but just as a human being” (Grinberg 2014). Barnum continued, “it really solidified what all of us do this work for – this job for – to create good will” (Grinberg 2014). This isn’t the only “feel good” photo to circulate, there were other hugs, high fives, sharing food, etc. that all indicated this sense of peace and racial harmony. This sentimental moment between officer and person of color demonstrates a will and desire to care. These moments of sentimentality, as embodied in the state, are at the center of this dissertation. They foster the feeling that policing could be about good will, and that the state doesn’t necessarily intend to commit harm.

It is not just that the caring solutions and rhetoric offered by the state were ineffectual. These responses actually produce more harm. What on face appears to be contradictory aims and effects of state power, violence and care, are actually integral to each other. The reforms and sympathetic rhetoric offered by the state do not contribute to less policing, but rather extend policing. Rather than take on the serious critiques of policing, these reforms are offered as a way to harmoniously and surreptitiously continue and exacerbate the violent effects of policing. As it became clear in the years that followed, reforms failed to substantially affect police brutality, and in fact helped to short circuit some of the critiques about policing, all the while making the state appear kinder and gentler.

This dissertation investigates this range of political effects, from the violence and militarization to the use and popularization of care as a technique of re-legitimization and extension of state power. Brown’s death was not the first killing of an unarmed black person by a white officer to rise to public attention, but it did garner a particular resonance among activists, political officials, and the media. This dissertation takes stake in two particular moments: the death of Brown and the grand jury’s decision to not indict Wilson. These moments sparked larger questions about the function of the criminal justice system and who is afforded legal protections. The criticism of the grand jury decision and Ferguson policing practices culminated in a Department of Justice (DOJ) investigation that found racial injustices and disproportionately distributed revenueraising practices. In looking to care as a state technique, this dissertation examines media, state, and activist discourses surrounding the death of Brown, as well as the historical and political context of St. Louis. Using a cultural studies framework, I examine these discourses and archives asking: What are the particularities of Ferguson that catalyzed such a response? What is the context in which racist policing practices emerge? How does the political system admit injustice while also maintaining the fiction of colorblind democracy? This dissertation reveals the nuances and contradictions of state practice with respect to history, space, militarization, and justice. Finally, I consider the practices of social movements and the possibilities of incorporating care into more revolutionary frameworks amidst state-based care.

I situate my discussion of the shooting of Michael Brown in four fields of study: feminist theory, state theory, cultural studies, and political geography. I deploy feminist theory to understand how difference is made meaningful and contributes to disparate life outcomes; state theory to contextualize this iteration of statecraft with regard to care and violence; cultural studies to read and interpret language, discourse, and texts that are made meaningful through power; and political geography to discuss the impact of processes of spatialization and differentiation on policing practices. As I argue, in the contemporary U.S. landscape, state power relies on violence alongside inclusion, sympathy, and recourse. While Brown was shot in an act of violence, and the Grand Jury resulted in a legal violence, the subsequent responses of the Attorney General, President Obama, and the Department of Justice illustrate the ways in which the violence of the state is reoriented into rhetoric of justice, sympathy, and impending equality. Both violence and the more insidious operations of power are necessary to the functions of the state.

Brown’s death has a continued resonance in the ongoing attention to police violence, yet it was not the first, last, or most extraordinary. While Ferguson lies at the heart of this dissertation, I explore the political, social, and cultural milieu in which Ferguson is situated and articulated. Amidst a background of ongoing police militarization, dominant frameworks seek to maintain that blackness, as a constellation of ideas projected on and embodied in particular people, is the threat to American peace and justice rather than the extra-/illegal actions of the police. This dissertation seeks not only to unravel this claim, and demonstrate the racist ideologies that guide police action under even its most benevolent forms, but also to demonstrate the racist, gendered, sexualized, and classed underpinnings of the most idyllic of terms and aspirations from the state, and the ways in which these contradictions are actually critical to its function. The events in Ferguson exceed the geographic and political stakes of the event itself. Ferguson is instructive to the larger context of police and state power. Brown’s death is not an isolated instance, and protest and social movements do not respond to Brown alone. Rather, Brown’s death points to the larger milieu of racist policing practices—past, present, and future—taking place in Ferguson and across the United States over generations. Stuart Hall et. al's Policing the Crisis (1978; 2013) provides a framework and model to think about the significance of a singular event (in their case, the Handsworth mugging) and its relationship to the social milieu. Of their method, they say: Our concern was to use such a starting point – concrete events, practices, relationships and cultures – to approach the 'structural configurations that cannot be reduced to the interactions and practices through which they express themselves'... we sought to emulate the ethnographic imagination but also to move beyond the focus on the here and now of everyday 'interactions and practices' by locating them in the histories taking place behind all our backs (Hall et al. 1978; 2013, xi).

The text shuttles between the historical context, the Handsworth mugging, the symbol of the mugger, the state, the media, and the structuring logics of law and order. I follow the method put forth in Policing the Crisis to describe the events in Ferguson, but also their larger histories, contexts, representations, and effects. I also describe the expressions of care and their contextualization amidst violent rhetoric and effects.

Care

Sara Ahmed opens The Cultural Politics of Emotion (2015) with a question: “How does a nation come to be imagines as having a ‘soft touch’? How does this ‘having’ become a form of ‘being’, or a national attribute?” (Ahmed 2015, 1). Deeply personal, and personalized, attributes like emotions, feelings, and orientations, take on a national form, and are narrated as traits of the nation. Taking Ahmed’s description of national emotions as a starting point, I explore these questions throughout: How are emotions imagined to be part of collective bodies and institutions? What are the implications of imagining care as an institutional activity or affective orientation? What does it mean to make the police care?

In The Care of the Self (1986) Michel Foucault talks about care as pertaining to the body and the soul, as a means to cultivate and perfect oneself. Foucault describes the evolution of care:

It took the form of an attitude, a mode of behavior; it became instilled in ways of living; it evolved into procedures, practices, and formulas that people reflected on, developed, perfected, and taught. It thus came to constitute a social practice, giving rise to relationships between individuals, to exchanges and communications, and at times even to institutions. And it gave rise, finally, to a certain mode of knowledge and to the elaboration of a science” (Foucault 1986, 45).

Foucault describes a shift in care from the self to more general realms like medicine, knowledge, and institutions. Care is an orientation toward the self, as well as to objects. Foucault provides the scaffolding to think of care as extending beyond the self, or relations between people, and to thinking about the state and police as institutions of care, or as institutions involved in caring relations. In other words, the state has the capacity to care, to invoke care, for its citizens.

The meaning of care includes many dimensions including care for the self, care for others, and institutionalized care. Care most often describes a relational, ethical orientation, which eschews individualism in favor of communitarian ethics (See Engster 2005; Thomas 1993). These discussions and various viewpoints on care are related to the central terms discussed by Ahmed and Foucault, namely the integration of care into institutions and the projection of care, feelings, and emotions onto national bodies. I briefly consider care and caring, particularly as they have been developed in feminist ethics and theory, as feminine, ethical, interdependent, blurring public and private spheres, and finally when oriented to the state. While the meaning of care and its implications are often debated and discussed, care is generally portrayed as a panacea to political problems with very little consideration of what some potential pitfalls of care, or how care could be mobilized in malevolent ways.

#### The caring state is endemic to democratic politics---even if the aff is a “new framing” of care, it still falls back into the same tropes of American exceptionalism their evidence critiques---which means even if our evidence is older, it better accounts for their phenomenon across time

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As I was writing during the 2016 U.S. election, I considered the election to be part of the pageantry of the caring state. On the one hand there was the establishment Democratic party attempting to appease, and give lip service to more progressive liberals, all the while continuing what had been business as usual politics: large donors, the neoliberal doctrine, and the continuation of status quo power and privilege. On the other, there was what seemed to be a circus with a large field of candidates giving way to an explicitly sexist, racist, and billionaire populist. Democrats and Hillary Clinton seemed content to define themselves through distance from the more violent rhetoric of President Trump’s campaign. Instead of offering substantive change, Democrats presented the continuation of the status quo, nothing radical, nothing revolutionary, but not Trump. It seemed like the perfect moment to define the caring state, and as though Trump had presented its violent foil. The caring state upholds personal liberty, it praises the inclusion of difference, it wags its finger at the violent state apparatus, with a little wink behind everyone’s backs. Before the election, it seemed somewhat nauseating to continue to praise, and vote in favor of, the caring state, but at least it was better than the alternative (which of course is precisely the point – be gracious because it could be much worse).

This dissertation develops the caring state within the context of Brown’s death in Ferguson, Missouri, and the events of the next year that followed, roughly the time period of 2014-2015. It was a time defined by the Obama presidency, referenced many times throughout this dissertation, as marking the progress of the nation. President Obama, and other people of color in leadership was indicative of the ways the state had changed. It was the hallmark of care, the ability of leaders to empathize and understand the charges of racism, and to be able to frame that pain within the state rubric. This dissertation has been critical of inclusion, empathy, and care as state strategies and techniques to further violence. Much of the analysis in this dissertation is grounded in the rhetoric of President Obama and his appointees like Attorney General Eric Holder. The connection between caring and the state seemed to rely on what had now become Democratic party principles. President Trump and his supporters seemed to favor a much bolder, more violent will of the state that can’t neatly be captured by care. This violent rhetoric was obvious with regard to the U.S./Mexico border and the prison industrial complex, inciting rational fear, the effects of which have been made evident in the years since.

After the 2016 election, it seemed as if the caring state had given way, or returned, to the violent state. Instead of tolerance and inclusion, there was a return to hate speech, exclusion, and the shrinking sphere of legal protections. In the wake of Trump’s election and in the myriad of racist, homophobic, and transphobic people being appointed to new positions of leadership, the topic of state violence rose to prominence, not inflected through any particular moment, but as an overarching sense of doom. Movements formerly on the fringes of mainstream hate now have a President that speaks to and for them, and one who has the power to wield the American war machine. In this conclusion, I discuss the contemporary political moment, and ask if the caring state is indeed over. Returning to Ahmed’s original query about Britain, was the U.S. election also a reaction to being “soft?” Is the election of Donald Trump a reaction to care? Here I frame Trump’s rise to power as a transition from the pseudotolerant neoliberalism to the fascist impulses of populism. Rather than as a distinct break, these forms of governance exist on a continuum, a continuum that needs to be resisted at all levels, not just at either easily recognizable pole.

After November 8th, 2016, people were forced to grapple with the implications of the election. Two kinds of rhetoric emerged, either that President Trump represents a wholly new kind of leadership, the likes of which we’ve never seen, or a continuation and logical outcome of increased militarization, migration, and economic destitution, trends that arguably started in the wake of World War II. Both explanations seem insufficient to explain the current political landscape, a landscape that has willingly given a voice to the most vile of opinions. The 2016 election had many questioning if we had left neoliberalism and headed toward fascism. Neoliberalism operates by way of consent, albeit a manufactured consent based in economic privatization, unfettered wage gaps, and the collusion of state and capital. Fascism, by contrast, is meant to signify a nationalist, violent, concentrated form of authoritarian governance with a strong leader. The American check on these forms of power has consistently been articulated as representative democracy through voting, term limits, and Constitutional authority vested in the courts. As has always been clear, these checks are insufficient for marginalized populations, and do little to ward off either fascism or neoliberalism. There is nothing new or un-American about anti-Semitism, white supremacy, or heteropatriarchy, and to think there would be short sighted, however new the framing of “alt-right” may be. This is perhaps the greatest flaw in the American democratic experiment and the logic of American exceptionalism - there is nothing inherently moral or ethical about the will of the people.

Neoliberalism and fascism are not as distinct as their common definitions may suggest and both are possible under US democracy. Since the rise of neoliberalism, the transition from “difference” to “diversity” has resulted in the normalization of difference based on its proximity to whiteness, heterosexuality, and upward mobility. Difference has been evaluated based on its offerings to the generalization of the US as a benevolent nation. In other words, minorities are strategically deployed to serve the state’s interests, and those acts of benevolence are only a calculated use of care to mitigate violence. The question of diversity has played out in a puzzling way as people try to grapple with the phenomenon that two-time Obama voters were moved to endorse the racist working-class rhetoric of Trump. The fall of the “blue wall” and the power of angry, white voters in those states of industrial decay are articulated as a failure of the Clinton campaign to take seriously a Republican threat in those blue strongholds and the lack of economic messaging to those areas ravaged by globalization. Throughout his Presidency, Obama contended with increasing racial tensions, the attention paid to police brutality, targeted mass shootings, and the rise of BLM. In the face of white brutality, whiteness resurged and was perceived to be under attack. America, it seems, was growing too diverse, while forgetting the hard work of white Americans that had “made America great.” The very dynamics of care had propelled the electorate to more severe forms of violence

#### Slavery morphs and recodes itself in different ways- it relies on the sadism of liberal progress narratives to perfect itself and maintain “life”. Only the alternative can disrupt this project and render these promises incoherent.

Wilderson 20 [Frank B. Wilderson, professor of Drama and African American studies at the University of California, Irvine, “Afropessimism”, page 94-96, JMH]

Northup’s book implies, without stating directly, why this generalization of sadism—brutality as the constituent element of family bonding—cannot be understood as being triggered by transgressions. It is as ubiquitous as the air he breathes. “It was rarely a day passed without more whippings . . . It is the literal, unvarnished truth, that the crack of the lash and the shrieking of slaves, can be heard from dark till bedtime . . .” Patsey and Solomon, unlike Stella and me, were living in a place and time when civil society and the Human were neither ashamed nor embarrassed by this. A thousand miles upriver and one hundred twenty six years later, Josephine was shocked by this inheritance, but it didn’t take her long to recover, and to claim it. Though the structure of Stella’s “life” (or, better, **the paradigm of social death**, for the quotation marks are essential here) **cannot be reconciled with the** structure of Josephine’s life (or **the paradigm of social life**), there is a connection. But **this connection is parasitic and perverse—regardless of what the socially dead Black person (i.e., Stella and Patsey) or the socially alive Human (i.e., Josephine or Mary Epps) might say about their “relationship.”** It is parasitic because White and non-Black subjectivity cannot be imbued with the capacity for selfknowledge and intersubjective community without anti-Black violence; without, that is, the violence of social death. In other words, **White people and their junior partners need anti-Black violence to know they’re alive.\*** If Hattie McDaniel were to truly die, as Stella proclaimed, it would be tantamount to the death of a parasite’s host. This is what makes social death something more surreal than the end of breath. It is, in the words of David Marriott, a deathliness that saturates life, not an embalming; a resource for Human renewal. **It is perverse for many reasons: one of which is the fact that as civil society matures** (from 1853 to December 1979, when it all went south with Josephine)—and we move historically from the obvious technologies of chattel slavery to universal suffrage, the discourse of human rights, and the concept of universal access to civil society— the anti-Black violence necessary for the elaboration and maintenance of White (and non-Black) subjectivity gets repressed and becomes increasingly unavailable to conscious (as opposed to unconscious) speech. (“I judge people by the quality of their character,” as Dr. King said, “and not the color of their skin”; or the commonly spoken, “At the end of the day, we’re all Americans and we’re in this together”— and other such malarkey of the conscious mind.) But the pageantries of naked and submissive Black flesh, pageantries of bleeding backs and buttocks, whip marks, amputations, and faces closed by horse bits, provide evidence of the role sadism plays in the constitution of White subjectivity, and *12 Years a Slave* makes this visible on the screen, despite its repression in the narrative of both the film and civil society writ large. It is tempting and commonplace to reduce Mary and Edwin Epps’s sadism to individual psychopathology. Or one might think that Edwin Epps is one of a group of exceptionally sadistic people who lived in an exceptionally sadistic time and place. But the film, and to an even greater extent the autobiography, sees (rather than narrates) sadism—the sexual perversion in which gratification is obtained by inflicting physical or mental pain on a love object—not as the individual pathology of a handful of people, but as a generalized condition; generalized in that pleasure, as a constituent element of communal life, cannot be disentangled from anti-Black violence. Conventionally, **the object of sadism can**, tomorrow, **become the subject of sadism**. But the sadism that constitutes the spectacles of *12 Years a Slave*, and which constitutes early nineteenth century society, is not imbued with such reciprocity. The Slaves of social death cannot switch places and make Edwin Epps or his equally cruel wife the love objects of their collective sadism. If they did so in private (if Patsey beat Edwin or Mary in a private bedroom encounter, for example) **it is because such a reversal was occasioned and allowed—in other words, the master used his prerogative and power to play a different game, one in which he suffers because suffering fulfills his fantasy and because, unlike the Slave, his fantasies have “objective value.”** Such role reversals do not imbue the encounter with reciprocity. **The changes that begin to occur after the Civil War and up through the Civil Rights Movement, Black Power, and the American election of a Black president are merely changes in the weather. Despite the fact that the sadism is no longer played out in the open as it was in l840, nothing essential has changed.**

#### Only through embracement of disorder and incoherence via the alternative are we able create revolutionary politics that disrupt the generative mechanism of civil society.

Wilderson 20 [Frank B. Wilderson, professor of Drama and African American studies at the University of California, Irvine, “Afropessimism”, page 249-252, JMH]

Again, though this is a bond between Blacks and Whites (or, more precisely, between Black and non-Blacks), it is produced by a violent intrusion that does not cut both ways. Whereas the phobic bond is an injunction against Black psychic integration and Black filial and affilial relations, it is the lifeblood of White psychic integration and filial (which is to say, domestic) and affilial (or institutional) relations. For whoever says “rape” says Black; whoever says “prison” says Black; and whoever says “AIDS” says Black—the Negro is a phobogenic object: a past without a heritage, the map of gratuitous violence, and a program of complete disorder. If a social movement is to be neither social democratic nor Marxist, in terms of its structure of political desire, then it should grasp the invitation of social death embodied in Black beings. **If we are to be honest with ourselves, we must admit that the “~~Negro~~” “Black” has been inviting Whites, as well as civil society’s junior partners** (for example, Palestinians, Native Americans, Latinx) **to the dance of social death for hundreds of years, but few have wanted to learn the steps.** They have been, and remain today (even in the most anti-racist movements, like anti-colonial insurgency) invested elsewhere. Black liberation, as a prospect, makes radicalism more dangerous to the U.S. and the world. **This is not because it raises the specter of an alternative polity (such as socialism, or community control of existing resources), but because its condition of possibility and gesture of resistance function as a politics of refusal and a refusal to affirm, a program of complete disorder. One must embrace its disorder, its incoherence, and allow oneself to be elaborated by it, if indeed one’s politics are to be underwritten by a revolutionary desire.** What other lines of accountability are there when slaves are in the room? There is nothing foreign, frightening, or even unpracticed about the embrace of disorder and incoherence. The desire to be embraced, and elaborated, by disorder and incoherence is not anathema in and of itself. No one, for example, has ever been known to say, Gee whiz, if only my orgasms would end a little sooner, or maybe not come at all. Few so-called radicals desire to be embraced, and elaborated, by the disorder and incoherence of Blackness—and the state of political movements in the U.S. today is marked by this very Negrophobogenisis: Gee-whiz, if only Black rage could be more coherent, or maybe not come at all. Perhaps there is something more terrifying about the joy of Black than there is in the joy of sex (unless one is talking sex with a Negro). Perhaps coalitions today prefer to remain inorgasmic in the face of civil society—with hegemony as a handy prophylactic, just in case. If, **through this stasis or paralysis, they try to do the work of prison abolition, that work will fail, for it is always work from a position of coherence (such as the worker) on behalf of a position of incoherence of the Black: radical politics morphed into extensions of the master’s prerogative.** In this way, **social formations on the Left remain blind to the contradictions of coalitions between Humans and Slaves. They remain coalitions operating within the logic of civil society and function less as revolutionary promises than as crowding-out scenarios of Black antagonisms, simply feeding Black people’s frustration.** Whereas the positionality of the worker (whether a factory worker demanding a monetary wage, an immigrant, or a white woman demanding a social wage) gestures toward the reconfiguration of civil society, the positionality of the Black subject (whether a prison-slave or a prison-slave-in-waiting) gestures toward the disconfiguration of civil society. From the coherence of civil society, the Black subject beckons with the incoherence of civil war, a war that reclaims Blackness not as a positive value, but as a politically enabling site, to quote Fanon, of “absolute dereliction.” It is a “scandal” that rends civil society asunder. Civil war, then, becomes the unthought, but never forgotten, understudy of hegemony. It is a Black specter waiting in the wings, an endless antagonism that cannot be satisfied (via reform or reparation), but must nonetheless be pursued to the death. But lest we forget, this is not a question of volition. It is not as simple as waking up in the morning and deciding, in one’s conscious mind, to “do the right thing.” **For when we scale up from the terrain of the psyche to the terrain of armed struggle, we may be faced with a situation in which the eradication of the generative mechanism of Black suffering is something that is not in anyone’s interest.** Eradication of the generative mechanisms of Black suffering is not in the interest of Palestinians and Israelis, as my shocking encounter with my friend Sameer, on a placid hillside, suggests; because his anti-Black phobia mobilizes the fantasy of belonging that the Israeli state might otherwise strip him of. For him to secure his status as a relational being (if only in his unconscious), his unconscious must labor to maintain the Black as a genealogical isolate. “The shame and humiliation runs even deeper if the Israeli soldier was an Ethiopian Jew.” The Israelis are killing the Palestinians, literally; but psychic life, Human capacity for relations, is vouchsafed by a libidinal relay between them and their common labor to avoid ~~“niggerization”~~ [~~negroization~~] [racialization] (Fanon). **This relay is the generative mechanism that makes life life. It is also the generative mechanism of Black suffering and isolation. The end of this generative mechanism would mean the end of the world. We would find ourselves peering into the abyss.** This trajectory is too iconoclastic for working-class, post-colonial, and/or radical feminist conceptual frameworks. The Human need to be liberated in the world is not the same as the Black need to be liberated from the world; which is why even their most radical cognitive maps draw borders between the living and the dead. Finally**, if we push this analysis to the wall, it becomes clear that eradication of the generative mechanisms of Black suffering is also not in the interests of Black revolutionaries. For how can we disimbricate Black juridical and political desire from the Black psyche’s desire to destroy the Black imago, a desire that constitutes the psyche?** In short, bonding with Whites and non-Blacks over phobic reactions to the Black imago provides the Black psyche with the only semblance of psychic integration it is likely to have: the need to destroy a Black imago and love a White ideal. “In these circumstances, having a ‘white’ unconscious may be the only way to connect with—or even contain—the overwhelming and irreparable sense of loss. The intruding fantasy offers the medium to connect with the lost internal object, the ego, but there is also no ‘outside’ to this ‘real fantasy’ and the effects of intrusion are irreparable.” This raises the question, who is the speaking subject of Black insurgent testimony; who bears witness when the Black insurgent takes the stand? Who is writing this book?

### 1NC --- T-subset

#### “Antitrust law’ excludes subsets but includes enforcement.

Gerber ’20 [David; October; Distinguished Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology; Oxford Scholarship Online, Competition Law and Antitrust, “What is It? Competition Law’s Veiled Identity,” Ch. 1, p. 14-15]

C. A Core Definition

The Guide uses the terms “competition law” and “antitrust law” to refer to a general domain of law whose object is to deter private restraints on competitive conduct. We look more closely at the terms:

1. “General”—The laws included are those that are applicable throughout an economy and thereby provide a framework for all market operations (there are always some exempted sectors). Laws dealing only with specific markets (e.g., telecommunication) do not play that role.

2. “Domain of Law” here refers to a politically authorized set of norms and the institutional arrangements used to enforce them.

Is it law—or is it policy? The relationship between “competition law” and “competition policy” is not always clear. Often the terms are used interchangeably, but there can be important differences between them. Both can refer to norms used to combat restraints on competition, but they represent two different ways of looking at the relevant laws, and the differences can influence how norms are interpreted and applied. “Law” implies that established methods of interpretation are used to interpret and apply the norms and that established procedures are the sole or primary means of enforcing and changing the norms. In this view, the norms are a relatively stable component of a legal system. Thinking of those same norms as “policy,” on the other hand, implies that they are a tool of whatever government is in power and that it can use and modify them as it wishes.

3. “Restraint” refers to any limitation imposed by one or more private actors that reduces the intensity of competition in a market.

4. “Competition” refers to a process by which firms in a market seek to maximize their profits by exploiting market opportunities more effectively than other firms in the market.

#### Violation- the plan does not expand the scope of antitrust laws in every area but just against mea-merges.

#### Vote neg:

#### Limits- allowing any subset of antitrust laws to be topical- explodes the topic to infinite number of aff’s that makes the research burden for the neg too large

#### Ground- allowing subset affs encourages teams to find the smallest possible 1AC’s that access the largest possible impacts.

### 1NC --- CP

#### The United States federal judiciary should issue a call for the views of the Solicitor General regarding increasing prohibitions on patent thickets. The Office of the Solicitor General should find in favor of granting certiorari and appropriate legal change.

#### The CP solves the case by having the Supreme Court invite the legal view of the Solicitor General and then having the Office support legal modification---they’ll follow advice, but the process of letting it develop before prohibition builds SG independence.

Lepore ’10 [Stefanie; March 2010; Assistant General Counsel for Litigation at EQT Corporation, Former Adjunct Professor of Law at Duquesne University, JD from the George Washington University School of Law, BA in Politics and Philosophy from the University of Pittsburgh; Journal of Supreme Court History, “The Development of the Supreme Court Practice of Calling for the Views of the Solicitor General,” vol. 35]

I. Introduction

“When the Supreme Court invites you, that's the equivalent of a royal command. An invitation from the Supreme Court just can't be rejected.”1 The guest most frequently invited to the Supreme Court is the Solicitor General. Even before the practice of the Supreme Court calling for the views of the Solicitor General process developed, the Court occasionally invited the Solicitor General to participate as amicus in important cases by submitting a brief and/or participating in oral arguments before the Court.2 As then–Solicitor General Simon E. Sobeloff remarked to then–Attorney General Herbert Brownell in a 1954 letter about the landmark school desegregation cases, “The Supreme Court has expressly extended an invitation to the United States to participate in the reargument. While this by no means compels participation, such an invitation is not to be lightly declined.”3

The Solicitor General “has developed a unique relationship with the Supreme Court, one in which it serves as an adviser as well as an advocate.”4 The Solicitor General fulfills his role as the Court's adviser and advocate by responding to the Court's invitation to express the views of the United States in given petitions for certiorari.5 Here, the Solicitor General acts as a special type of amicus, because the Solicitor General is neither a party to the proceeding nor opining on behalf of one of the parties, but rather acting as a sort of “partner” to the Justices.6 When the Justices believe that, before they can grant or deny a petition for certiorari, they would like another opinion of the merits of a petition, they “call for the views of the Solicitor General,” known colloquially as CVSG.7 Because of the enormous amount of trust that the Court has in the Solicitor General's office, the Court values the Solicitor General's opinion as “provid[ing][the] best judgment with respect to the matter at issue.”8 However, this unique relationship of trust between the Court and the Solicitor General, such that the Solicitor General's opinion is treated as tantamount to the opinion of a tenth Justice,9 did not develop until the 1950s.

This paper will examine how the CVSG process developed. Part II will provide general background information, explaining the office of the Solicitor General, the Supreme Court practice of granting certiorari and the reasons for doing so, and the process by which the Supreme Court invites the Solicitor General to express the opinion of the United States. Part III will examine the environment that laid the groundwork for the CVSG process to emerge: the personal relationships that existed between individual Justices and attorneys in the Office of the Solicitor General and the political climate that instituted a political partnership between the Court and the Solicitor General. Finally, Part IV will argue that the CVSG process represents the culmination of the mutually beneficial relationship between the Court and the Solicitor General and then describe the first petitions for certiorari in which the Supreme Court exercised its option to CVSG.

II. Background Information

A. The Solicitor General

Congress created the Office of the Solicitor General with the Federal Judiciary Act of 1870.10 As an officer within the executive branch, the President appoints the Solicitor General, and the Solicitor General is then subordinate to both the President and the Attorney General.11 In appointing the Solicitor General, the President looks at the same criteria that affect the nomination of a Supreme Court Justice: well-respected, legal experience, and probably shares a similar legal philosophy of the President's administration.12 Because the Solicitor General is formally a member of the Department of Justice, his office is in that department's building.13 However, as a testament to the Solicitor General's dual roles as government lawyer and adviser to the Supreme Court, he also has permanent chambers in the Court.14

“Politics and law are at the intersection of the solicitor general's responsibilities.”15 The Solicitor General must be “learned in the law” and is entrusted with representing the interests of the United States, assisting the Attorney General, and “translating the policies of the government, the president, and the executive branch into litigation.”16 The Solicitor General decides which cases that the government lost in lower courts will be appealed to the Supreme Court, controls government litigation at the Supreme Court, advocates as amicus curiae in cases where the government is not a party, and advises the Supreme Court on petitions for certiorari.17 Although the Solicitor General experiences some political pressure from the President and the President's administration, the tradition of independence of the Solicitor General's office helps to ensure that the Solicitor General largely retains autonomy from political sways.18 Indeed, the Attorney General does not usually attempt to control the litigation strategy of the Solicitor General.19 Instead, the Solicitor General's agenda is structured by the Supreme Court's agenda: as the Supreme Court's power and docket changes, so does the role of the Solicitor General.20 Not only is the Solicitor General's agenda structured around the Supreme Court, but the Solicitor General helps to set that of the Court: a “principal chore of the Solicitor's office is to help the Supreme Court set its docket by screening petitions for certiorari.”21

B. Grant, Deny, or CVSG: The Certiorari Process

“A petition for certiorari is, stripping away the legal verbiage, a request to the Supreme Court to hear and decide a case that the petitioner has lost either in a federal court of appeals or in a state supreme court.”22 Parties can file petitions for certiorari throughout the year, and the petitions therefore generally accumulate at between 80 to 100 per week.23 When a petition for certiorari first arrives at the Court, it is sent to the “cert pool,” which was first created at the suggestion of Justice Powell in 1972.24 The “cert pool” consists of the law clerks of the participating Justices, who collectively pool their law clerks to divide the petitions for certiorari among themselves.25 The law clerks divide the thousands of petitions so that one of them reads every petition, assesses the worthiness of the petition for the Court's review, and writes an annotated certiorari memo “outlining the facts and contentions” of the petition.26 The law clerks circulate the annotated certiorari memos for each petition for certiorari to the participating Justices, who then review the memos and make a preliminary decision on how to vote on the petition.27 Before the Justices meet collectively to determine the fate of a petition for certiorari, the Chief Justice circulates a “discuss list”—a list of the petitions that he would like to discuss with the other Justices.28 The Associate Justices are also free to add petitions to the “discuss list,” and any petition for certiorari not discussed at a conference is denied certiorari without a vote.29 For much of the year, except during the Court's recess between July and the last week of September, the Justices vote on the petitions for certiorari in weekly conferences held in a room next to the Chief Justice's Chambers.30 These Conferences in which the Justices vote on petitions for certiorari are only attended by the Justices; “they are not open to the public or to other Court personnel.”31

When a petition for certiorari is on the discuss list at a weekly conference and therefore ready for the Justices' ultimate decision, the Justices have several voting options.32 Most obviously, they can vote to grant in full or deny in full certiorari.33 However, they have several options that fall between these two extremes. For instance, sometimes the Justices believe that more information is necessary before they can reach a full decision to grant or deny certiorari, and they will therefore CVSG.34 If several petitions for certiorari raise the same issue, the Court may accept all of them “to address that issue more fully than a single case would allow them to do.”35 The Court may also choose to narrow the granting of certiorari by choosing one issue raised in the petition or posing an issue sua sponte to the parties.36

After the Court has granted certiorari, either in full or in part, the Court then decides between giving the petition full consideration and giving it summary consideration.37 For petitions granted full consideration, the Court will hear oral arguments, receive briefing on the merits from the parties, and issue “a decision on the merits with a full opinion explaining the decision.”38 If, instead, the Court gives a petition summary consideration, the petition may take two routes.39 Usually, in summary consideration, the Court issues a “GVR,” which entails granting certiorari (G), vacating the lower court decision (V), and remanding the case to the lower court for reconsideration (R).40 In the remainder of summary consideration petitions, the Court issues a per curiam opinion—a short, unsigned opinion on the merits.41

When hearing and deciding cases on the merits, the Court operates by majority rule.42 However, when making certiorari decisions, the historical practice of the Court, called the “rule of four,”43 is to require four out of nine votes from the Justices.44 The Court has never been very forthcoming about why one petition is deemed worthy of certiorari and another not worthy. Instead, it advises that “certiorari will be granted only for compelling reasons.”45 Those compelling reasons, though “neither controlling nor fully measuring the Court's discretion,” are described in Rule 10 of the Rules of the Court.46 The criteria described in Rule 10 for evaluating a petition for certiorari are: (1) a conflict between two appellate courts, often called a circuit split; (2) a conflict between the court at issue and Supreme Court precedent; (3) importance of the issues in the petition; and (4) procedural posture of the case.47 Although these criteria for certiorari may seem somewhat imprecise and vague, it has long been certain that “[t]he Supreme Court is not, and never has been, primarily concerned with the correction of errors in lower court decisions.”48

C. The CVSG Process: Calling for the Views of the Solicitor General

“[T]he group of lawyers that has the greatest impact on the Court is the set of about two dozen who work for the Office of the Solicitor General in the Justice Department.”49 Indeed, when the Supreme Court calls for the views of the Solicitor General, the Solicitor General becomes “an important ally for the justices, who rely on the office's expertise to control their docket and help structure doctrinal development.”50 Essentially, the Supreme Court is requesting the Solicitor General's opinion on a petition for certiorari because the Justices believe that the petition is important and potentially worthy of certiorari but need more information, in the form of another legal opinion, before they can make a final decision.51 In the CVSG role, the Solicitor General puts aside any partisan advocacy concerns that the Office may otherwise have in order to “assist in the orderly development of the law and to insist that justice be done even where the immediate interests of the federal government may not appear to benefit.”52 The Solicitor General provides “a less partisan review of the law and a survey of existing precedent.”53 Traditionally, even where government interests would prefer otherwise, the Solicitor General does not hesitate to advise the Justices that the Court lacks jurisdiction over an issue raised in a petition or that the petition simply does not satisfy the Court's criteria for granting certiorari.54 There are a number of circumstances in which the Court will CVSG: where a federal interest is involved; where there is a new issue without established precedent; where there has been a change in the development of an issue; or where an evolving issue has become more complicated and attached to other issues.55 Former Solicitor General Kenneth Starr described the purposes of the CVSG process as follows:

The CVSG has a twofold purpose. First, it serves to guide the Court or assist the Court as to whether the case is important enough to merit review. Second, it serves to offer the position of the U.S. on the merits of the issue. With respect to the former …[i]t is a courtesy to the government. With respect to the latter—the position of the U.S.—there we followed the professional responsibility of assimilating the views of different parts of the Justice Department and the agencies and putting forth the best arguments.56

The high rate of correlation between the Solicitor General's certiorari recommendations and the Court's certiorari decisions is a testament to the Court's trust in the nonpartisan legal opinion of the Solicitor General.57 Indeed, the Terms from 2001 to 2006 saw a 100-percent correlation between the Solicitor General's recommendation that the Supreme Court grant certiorari and the Court's doing so.58 While the correlation is slightly less when the Solicitor General recommends that the Court should deny certiorari, the rate is still high enough to suggest more than simple coincidence.59

#### The net benefit is OSG: The Solicitor General is intervening in climate suits to control emissions but has limited bandwidth and influence.

Clark ’22 [Lesley; January 19; Reporter at E&E News/Politico, BA at the University of Massachusetts, Amherst, Former Washington and White House Correspondent at McClatchy; E&E News ClimateWire, “Biden Fails to Fulfill Pledge on Climate Lawsuits,” https://www.eenews.net/articles/biden-fails-to-fulfill-pledge-on-climate-lawsuits/]

A DOJ spokesperson said it had "taken a wide variety of actions that address the climate crisis and will continue to look for ways to do so, including opportunities" to participate in the cases. "While we can’t comment on the deliberative process, climate change and environmental justice remain among the department’s top priorities," spokesperson Wyn Hornbuckle said.

Biden’s pledge to get involved in the climate fight came as part of his environmental justice plan, which emphasized the need to reduce pollution in low-income neighborhoods and communities of color.

During her own presidential campaign, Vice President Kamala Harris called for oil companies to be “held accountable,” saying they are “causing harm and death in communities."

Climate lawyers had expected the Biden administration to stand in contrast to Trump’s DOJ, which filed a half-dozen "friend of the court" briefs in support of the oil industry’s arguments in a procedural battle that has stalled the climate liability lawsuits.

While state and local governments have filed the cases in state courts, industry attorneys have tried to get the challenges bumped to federal courts, where the companies may stand a better chance of winning. The Supreme Court last year allowed federal appeals courts to consider a broader set of arguments in favor of federal jurisdiction, further delaying the climate cases (Greenwire, May 24, 2021).

“The president pledged that they would ‘strategically support’ the cases, and they have failed to do that,” said Richard Wiles, president of the Center for Climate Integrity. “And that’s significant. The Department of Justice is an important voice on the legal landscape, and its absence is conspicuous.”

Wiles said the department under Biden has not submitted briefs “or offered any support” for any of the cases — most of which are currently entangled in disputes over whether the cases should be heard in state or federal court.

Wiles said it’s possible that DOJ lawyers don’t believe state courts are the proper venue but noted that federal appeals courts have mostly ruled in favor of keeping the lawsuits in front of state judges.

“You would think that the DOJ would not hesitate to concur with what the courts have said,” Wiles said. “But they’re not doing that.”

Taking on the oil industry

Wiles said the U.S. government has historically been reluctant to confront the oil and gas industry.

Biden’s political fortunes have been hurt by rising gas prices, and the president was forced to defend himself last fall against charges of hypocrisy for calling on the world’s largest oil producers to increase output, even as he called for the world to slash emissions and move beyond fossil fuels.

His administration last year opened up more than 80 million acres of the Gulf of Mexico for auction after a court ruling, despite a campaign pledge to ban new oil and natural gas leasing on public lands and waters (Greenwire, Nov. 17, 2021).

“In the broader context, this just continues a very sad trend of administration after administration failing to take on the industry in any meaningful way,” Wiles said.

Donald Kochan, a professor and deputy executive director of the Law & Economics Center at George Mason University’s Antonin Scalia Law School, suggested that the administration could be waiting for its proposed climate legislation to succeed — or fail — before it engages with the judicial branch.

If Biden is unable to land his ambitious climate spending package, its collapse could “add fuel” to the plaintiffs’ argument that legislative gridlock has made it impossible to achieve climate gains in Congress, Kochan said.

“It could give them the ammunition to say, ‘Once again, we tried to go the legislative route, and again it failed. The court is the last and only hope,’“ he said.

Yet Kochan said he believes intervention by the judicial branch would be a mistake.

“It’s not a legitimate argument to say that because the Legislature is not producing, that it’s a legitimate claim for expanding the constitutional powers of the courts,” he said. “The courts are limited and should stay in their own lane. Congress and the administrative agencies are the best suited to resolve complex issues of policy and science that require expert analysis.”

He added, “If the executive branch becomes a cheerleader for judicial encroachment into their own sphere of authority, then one of the primary constitutional checks breaks down.”

Climate challengers stay mum

Democratic state attorneys, who have used congressional hearings and letters to urge Garland and DOJ to intervene in the climate liability litigation, were largely silent on the Biden administration’s lack of action.

Minnesota Attorney General Keith Ellison, who wrote a March editorial calling Biden’s pledge to back the lawsuits a “vitally important part of the new administration’s broader effort to restore trust in government,” declined through a spokesperson to comment.

Ellison in June 2020 filed a lawsuit against Exxon; Koch Industries Inc.; and the American Petroleum Institute, an oil and gas trade group, accusing the industry of misleading Minnesotans about climate change.

He and five other Democratic state attorneys involved in the climate liability fight last year urged DOJ to disavow the amicus briefs that the Trump administration had filed on behalf of the fossil fuel industry in some of the cases (Climatewire, April 7, 2021).

A spokesperson for D.C. Attorney General Karl Racine, who led that missive, declined comment but pointed to the letter, which cited Biden’s campaign pledge and argued that intervention by Trump’s DOJ had undermined their efforts.

Sara Gross, chief of the Affirmative Litigation Division at the Baltimore City Law Department, said the city would “certainly welcome the administration’s support” in its efforts “to hold fossil fuel companies accountable for their deception about their products and climate change and the costs that their actions are imposing on our residents, workers and businesses.”

The 4th U.S. Circuit Court of Appeals will take a fresh look next week at Baltimore’s lawsuit against BP PLC for flooding and other climate-related damages.

‘Weaponize the DOJ’

Although the administration hasn’t intervened in the climate liability suits, Biden’s campaign promise has come up in at least one other case.

Energy Policy Advocates, a conservative research group, pointed to the pledge in a brief it filed last February in the U.S. Court of Appeals for the District of Columbia Circuit in defense of the Trump administration’s decision to leave ozone standards unchanged.

The group’s attorney — Christopher Horner, who in a Washington Times column called Biden’s pledge an effort to “weaponize the DOJ” — warned in the brief that if the states that had sued over the ozone standards were unsuccessful in challenging the government, they might try to pursue public nuisance litigation.

“Further troubling and adding to concerns … is that the new administration ran for office vowing to deploy its Department of Justice to assist the same plaintiffs in private litigation,” Horner wrote.

The American Petroleum Institute, the oil and natural gas industry trade group that has been named as a defendant in several of the climate liability lawsuits, criticized Biden for issuing the pledge when he released his environmental justice plan in July 2020.

Paul Afonso, API’s senior vice president and chief legal officer, said at the time that “rather than wasting taxpayer resources endlessly litigating,” the focus should be on industry innovation and emissions reduction.

While API did not directly address the administration’s role in the litigation, the group pointed to a statement from Afonso in which he said, “The record of the past two decades demonstrates that the industry has achieved its goal of providing affordable, reliable American energy to U.S. consumers while substantially reducing emissions and our environmental footprint. Any suggestion to the contrary is false.”

Karen Sokol, a law professor at Loyola University, said Biden’s DOJ likely has limited bandwidth as it prepares for what she called a “coming wave of anti-climate lawsuits” challenging the steps it has taken to address emissions. Opponents have sued over the administration’s pause on oil and gas leasing and are mounting challenges to Biden’s bid to raise the cost of carbon.

And Solicitor General Elizabeth Prelogar is getting ready to defend EPA’s ability to regulate greenhouse gases from power plants before the Supreme Court next month in a case that could have major implications for Biden’s climate agenda (Climatewire, Nov. 1, 2021).

But Sokol said she had expected the administration to at least counter the Trump DOJ argument that the climate liability cases should be heard in federal court.

“I know the DOJ has a lot on its plate, but that would seem to be something that is pretty easy for them,” she said. “This is not strategic support in terms of weighing in on the merits of these claims. This is just based on a federal/state jurisdictional matter, and the executive has something to say about that.”

#### Antitrust expansion forces the OSG to play partisan hardball, crashing the office’s overall effectiveness.

Cordray ’10 [Margaret and Richard Cordray; November 2010; Professor of Law at the Capital University Law School, JD from Boalt Hall School of Law, BCL from Oxford University, BA from University of the Pacific; Attorney General for the State of Ohio, BA from Michigan State University, MA from Oxford University, JD from University of Chicago Law School; Boston College Law Review, “The Solicitor General's Changing Role in Supreme Court Litigation,” vol. 51]

I. The Solicitor General

The Solicitor General, as the federal government's chief appellate lawyer, is the country's most influential litigator. 17 <<FOOTNOTE BEGINS>> 17 See 28 U.S.C. § 505 (2006). By statute, the Solicitor General is required to be "learned in the law." Id. The Solicitor General is also responsible for conducting all Supreme Court litigation, determining whether the government will pursue an appeal to any appellate court, and determining whether the government will file an amicus brief or intervene in any appellate litigation. 28 C.F.R. § 0.20(a)--(c) (2008). <<FOOTNOTE ENDS>> In recent years, the Solicitor General's involvement in the Supreme Court has changed in important ways, both at the certiorari and merits stages. 18 Before embarking on our discussion of these changes, we begin with a brief overview of the Solicitor General's office, describing its responsibilities, advantages, and extraordinary success in Supreme Court litigation.

A. Responsibilities

The Solicitor General is tasked with supervising all of the government's appellate litigation. 19 In performing this responsibility, the office focuses on two primary functions: coordinating the government's legal strategy across the various agencies and departments, and stepping in to represent the government in cases that have reached the Supreme Court level. 20

Consolidating all appellate litigation within the Solicitor General's office enables the federal government to coordinate and present a considered litigation strategy that looks beyond the immediate concerns of individual agencies to the longer-term interests of the federal government. 21 In a bureaucratic structure as vast as that of the United States, the specific litigation preferences of the individual agencies and departments often conflict with one another, or are inconsistent with the broader interests of the government as a whole. 22 The Solicitor General, however, is able to take a more comprehensive view, and thus pursue only those cases which present significant issues and are compatible with the government's larger goals. 23

Management of the government's overall litigation strategy is tightly interwoven with the Solicitor General's other primary focus--representing the United States in the Supreme Court. 24 Conducting all Supreme Court litigation involves a myriad of tasks, including selecting the cases on which to seek certiorari, writing briefs at the certiorari and merits stages, responding to the justices' requests for the Solicitor General's views on whether the Court should grant review in certain nongovernment cases, deciding whether to participate as amicus curiae, and presenting oral arguments. 25 Two of these tasks in particular--the selection of cases on which to seek certiorari and the decision of which cases to enter as amicus--are highly discretionary, and thus effectively enable the Solicitor General to set the government's legal agenda. 26

At the certiorari stage, the Solicitor General employs a rigorous screening process, petitioning for Supreme Court review in only a small fraction of the cases that the government loses below. 27 In determining which cases to pursue, the Solicitor General relies on the Supreme Court's own standards, which focus on the presence of a conflict between the lower courts and the importance of the issue. 28 The Court's standards, however, are highly amorphous, giving the justices virtually unfettered discretion and litigants limited guidance. 29

Nonetheless, former solicitors general have identified key factors that shape their decisions on whether and when to seek review. 30 First among these factors is the presence of a true conflict between the U.S. courts of appeals. 31 In addition, the Solicitor General looks for "important" cases, based on the degree to which the adverse ruling limits executive power, undermines enforcement of federal legislation, or restricts the federal government's power regarding the states or individuals. 32

Beyond these core factors, the Solicitor General considers whether the facts of a particular case present the issues and the government's position favorably, how the case will impact the long-term development of the law, whether the subject area will be of interest to the Court, and whether the government will win on the merits. 33 The Solicitor General also must prioritize, bringing only the most important cases to the Court. By carefully limiting the number of petitions filed, the Solicitor General's office not only safeguards its reputation with the Court, but also avoids ceding to the justices control over which cases from the federal government the Court will hear. 34 <<FOOTNOTE BEGINS>> 34 See SALOKAR, supra note 25, at 114-15 (noting that solicitors general must set priorities so as not to overburden the Court or undermine the Solicitor General's reputation with it); Lee, supra note 27, at 598-99 (opining that, if the Solicitor General did not sharply restrict the petitions for certiorari he files, he would enable the Court, rather than the administration, to decide which cases were comparatively most important); cf. Cohen & Spitzer, supra note 22, at 396, 421 (contending that the Solicitor General's screening processes are so selective that it changes the Supreme Court's "menu of cases," making unavailable to the Court cases it would like to hear); id. at 414 (estimating that the Solicitor General may be withholding twenty percent of the cases that the Supreme Court would like to review). <<FOOTNOTE ENDS>>

Political considerations also influence the Solicitor General's decision-making process. Although solicitors general frequently claim independence from politics, they are appointed by and serve at the pleasure of the President. 35 They are advocates for the policies and priorities of the administrations in which they serve, and ideology thus inevitably plays a role as they set the government's litigation agenda, select cases, and frame arguments. 36 <FOOTNOTE BEGINS>> 36 See Devins, supra note 21, at 318 (noting that in selecting cases, the "Solicitor General must also balance concerns far removed from the standard criteria for cert-worthiness, including policy objectives of the Department of Justice and the White House"); John O. McGinnis, Principle Versus Politics: The Solicitor General's Office in Constitutional and Bureaucratic Theory, 44 STAN. L. REV. 799, 802-08 (1992) (reviewing CHARLES FRIED, ORDER AND LAW: ARGUING THE REAGAN REVOLUTION--A FIRSTHAND ACCOUNT (1991)) (arguing that, under the Constitution, the Solicitor General's role is to advocate the President's positions); see also infra notes 183-213 and accompanying text (discussing the role of the Solicitor General). <FOOTNOTE ENDS>>

The role of ideology is perhaps most evident in the Solicitor General's decisions on whether to participate in a case as amicus curiae. 37 The Solicitor General has great leeway to enter cases in which the government is not a party; indeed, the Supreme Court's procedures facilitate, and even encourage, the Solicitor General's doing so. The Court's rules specifically exempt the Solicitor General from the standard requirement that a prospective amicus obtain the consent of the parties or the Court to file a brief. 38 And further, although the Court rarely grants an amicus's request to participate in oral argument, it routinely permits the Solicitor General to do so. 39

In addition, at the petition stage, the Supreme Court frequently invites the Solicitor General to provide views on whether the Court should grant certiorari (a privilege extended to no other litigant), 40 and then generally follows the Solicitor General's recommendation. 41 <<FOOTNOTE BEGINS>> 40 The Court periodically "calls for the views of the Solicitor General" on whether to review cases in which the United States is not a party. See Ruth Bader Ginsburg, Workways of the Supreme Court, 25 T. JEFFERSON L. REV. 517, 519 (2003) (opining that the Solicitor General "acts as a true friend of the Court" in this regard); Office of the Solicitor General Workload Report Compilation, 1984 Term Through 2008 Term 4-13 (Jul. 6, 2009) [hereinafter OSG Workload Reports] (unpublished data compilation) (on file with authors) (providing data on invitations received in each of the 1986-2008 Terms--ranging from a high of forty-three in the early 1990s to a low of eleven in the late 1990s--and the total number of amicus briefs filed at the petition stage). Most cases in which the Court takes this step are civil cases involving complex statutory or regulatory schemes. See David C. Thompson & Melanie F. Wachtell, An Empirical Analysis of Supreme Court Certiorari Petition Procedures: The Call for Response and the Call for the Views of the Solicitor General, 16 GEO. MASON L. REV. 237, 245, 280-81 (2009) (providing data on the Court's practices and examples of its inviting the Solicitor General's views in regulatory areas "involving complex regulatory regimes," including antitrust, intellectual property, and ERISA). The Solicitor General invariably files a brief in response to the Court's invitation both at the petition stage and, if the case is granted, at the merits stage. See SALOKAR, supra note 25, at 142-45 (discussing the Court's practice of inviting the Solicitor General to provide views on cases at the certiorari stage). The Court may also invite the Solicitor General to participate at the merits stage, but does so rarely. See EUGENE GRESSMAN ET AL., SUPREME COURT PRACTICE 738 (9th ed. 2007). <FOOTNOTE ENDS>> At this stage, the Solicitor General's office typically comes in as amicus only in response to such an invitation, although it occasionally participates as amicus without invitation. 42

At the merits stage, however, the Solicitor General exercises much greater discretion over whether to enter cases in which the government is not a party, and it is here that the office can "play partisan hardball." 43 Although most cases the Solicitor General enters involve legal issues that directly affect federal interests, 44 the office can, and periodically does, participate in cases raising issues of social policy independent of any direct federal interest. 45 <<FOOTNOTE BEGINS>> 44 See Lee, supra note 27, at 599 (providing examples of cases directly implicating federal interests, including Title VII cases, antitrust cases, securities cases, voting cases, and criminal cases); Cooper, supra note 38, at 686-90 (showing that, during the mid-1930s, mid-1950s, and mid-1980s, the Solicitor General filed the vast majority of the office's amicus briefs in cases involving either (1) the interpretation of federal codes or (2) a state issue that might affect a complementary federal issue (under, for example, the Fourth or Fifth Amendments to the Constitution)). <<FOOTNOTE ENDS>> In determining whether to participate as amicus, the Solicitor General considers whether presentation of the federal government's views will be valuable to the Court, whether there are significant federal law enforcement interests at stake, and whether the case presents issues that are critical to the administration's political agenda. 46 <<FOOTNOTE BEGINS>> 46 See CAPLAN, supra note 27, at 197 (describing the standards that former Solicitor General Archibald Cox employed in deciding whether to enter a case as amicus: the case had to present an important question of constitutional law, which would affect a large number of people, and would have an impact on the government's more direct interests, in the sense that the government would be directly affected by the outcome); Lee, supra note 27, at 599-600 (opining that "in every single case the Court would be better off if it had the benefit of [the Solicitor General's] views," but that the Solicitor General must carefully limit the number of cases entered, so as not to risk undermining the Solicitor General's special status with the Court); Steven Puro, The United States as Amicus Curiae, in COURTS, LAW, AND JUDICIAL PROCESSES 220, 221 (S. Sidney Ulmer ed., 1981) (quoting Robert Stern, former Acting Solicitor General, on the key question in deciding whether to participate as amicus: "'Is this case valuable in presenting the United States' arguments to the Court?'"). <<FOOTNOTE ENDS>> The significance of this last consideration is reflected in the pattern of amicus filings under different administrations: solicitors general in Democratic administrations have submitted substantially more amicus briefs in civil rights cases (and have primarily advocated pro-rights positions), whereas solicitors general in Republican administrations have submitted substantially more amicus briefs in criminal cases (and have generally advocated tighter restrictions on defendants' rights). 47

B. Success Rate

When the Solicitor General decides to pursue a case, the office enjoys remarkable success. This success begins with the petition stage and continues through the merits stage, whether the United States is participating as a party or as an amicus. 48

At the petition stage, the Court grants approximately 70% of the Solicitor General's petitions for certiorari, an astonishing number compared to the approximately 3% that the Court grants at the request of other litigants. 49 When the Solicitor General is participating as amicus at the petition stage--almost always at the Court's invitation 50 --the Court follows the Solicitor General's recommendation to grant or deny in well over 75% of the cases 51

At the merits stage, the Solicitor General's winning percentage is also extraordinarily high. Studies of various time periods show that when the Solicitor General represents the United States as petitioner, the Solicitor General wins 70-80% of the time (as opposed to other petitioners, who win approximately 60% of the time). 52 Even more impressive, as respondent the Solicitor General wins 50-60% of the time (as opposed to other respondents, who win approximately 40% of the time). 53 Overall, the Solicitor General's winning percentage is 60-70% (as opposed to the 50% win rate for all litigants). 54

When participating as amicus on the merits, the Solicitor General is even more successful than as a party. Overall, when the Solicitor General steps in as amicus, the office wins 70-80% of the cases, regardless of which side it supports. 55 And the Solicitor General's presence as amicus has a powerful effect on outcome: a petitioner's likelihood of winning increases approximately 17% when the Solicitor General comes in on its side and decreases approximately 26% when the Solicitor General supports the respondent. 56

C. Inherent Advantages

The Solicitor General's success is attributable to a variety of factors. Perhaps foremost is the expertise that the Solicitor General brings to each case. 57 The Solicitor General has a small staff of highly credentialed attorneys who specialize in Supreme Court advocacy. 58 These attorneys are experienced in crafting petitions for certiorari, writing briefs on the merits, and presenting oral argument, all of which demand different and specific skills. 59 In addition, the attorneys focus exclusively on the Supreme Court, so they are intimately familiar with the views and concerns of each justice, the nuances of precedent, and the most effective way to present argument. 60

With this expertise, the Solicitor General has built a reputation for excellence which has led the Court to rely on the Solicitor General to winnow out cases that do not merit the Court's attention, to present the Court with trustworthy arguments, and to provide the Court with valuable information about the practical ramifications of different decisions. 61 The Solicitor General carefully guards this special standing with the Court, "lest the reservoir of credibility which is the source of this special advantage be diminished." 62 <<FOOTNOTE BEGINS>> 62 Lee, supra note 27, at 597 (arguing that the Solicitor General must use the office's adversarial advantages "with discretion, with discrimination, and with sensitivity"); see also Strauss, supra note 61, at 172 (noting that the "Office's reputation with the Justices, and the Court's image of the Office, are very important both to the Office's ability to do its job for the Executive Branch and to the functioning of the government in general"); infra notes 263-266, 286-291 and accompanying text (discussing the debate over how political the Solicitor General can be without endangering the office's elevated status with the Court). <<FOOTNOTE ENDS>>

#### Climate suits are key to mitigation globally---extinction.

Oppenheimer ’22 [Michael, Noah Diffenbaugh, Christopher Field, Stephen Pacala, Daniel Schrag, and Susan Solomon; January 24; Albert G. Milbank Professor of Geosciences and International Affairs at Princeton University, Heinz Award Winner and Fellow of the American Association for the Advancement of Science; Amicus Brief in West Virginia, et al., Petitioners, v. Environmental Protection Agency, et al., Respondents, “Brief of Climate Scientists Michael Oppenheimer, Noah Diffenbaugh, Christopher Field, Stephen Pacala, Daniel Schrag, and Susan Solomon as Amici Curiae in Support of Respondents,” http://www.supremecourt.gov/DocketPDF/20/20-1530/211180/20220124150915825\_20-1530%20et%20al.%20-%20bsac%20ClimateScientists.pdf]

The question presented in this case is of great importance to amici because it has the potential to curtail the United States’ ability to combat climate change at the federal level at a critical time. It is extremely likely that humanity’s greenhouse gas emissions have already fundamentally altered the Earth’s atmosphere, raising global surface temperature levels by about 2 degrees Fahrenheit since the late 19th century. While Americans have already felt, and will continue to feel, the impacts of climate change, regulatory action by EPA can still mitigate future danger—assuming EPA retains broad authority to act.

SUMMARY OF ARGUMENT

A decade ago, this Court recognized that EPA had found “‘compelling’ evidence” that humanity’s greenhouse gas (e.g., carbon dioxide) emissions have changed the Earth’s climate. See American Elec. Power Co. v. Connecticut, 564 U.S. 410, 417 (2011). At the time, the “dangers of greenhouse gas emissions” were projected to include “heat-related deaths; coastal inundation and erosion”; “more frequent and intense hurricanes, floods, and other ‘extreme weather events’”; and “drought due to reductions in mountain snowpack and shifting precipitation patterns.” Id.

The perilous future identified in American Electric has begun to emerge. Since that ruling, the scientific community has only grown more certain that humanity’s actions have rapidly increased the Earth’s temperature. It is now “unequivocal that human influence has warmed the atmosphere, ocean, and land.” Intergovernmental Panel on Climate Change, Sixth Assessment Report, Headline Statements at 1 (Aug. 2021) (“IPCC Sixth Assessment”).3 And there is “[e]xtensive evidence[] … that human activities, especially emissions of greenhouse gases, are the dominant cause” of global warming since the 1950s. See U.S. Global Change Research Program, Climate Science Special Report: Fourth National Climate Assessment, Volume I at 10 (2017) (“Fourth National Climate Assessment, Vol. I”).4 Global surface temperature has already risen about 2 degrees Fahrenheit when compared to the late 19th century.5 It is not too late to limit further warming and if greenhouse gas emissions can be significantly reduced, additional warming may amount to less than 2 degrees (i.e., a total warming of less than 4 degrees since the late 19th century). In the absence of sustained efforts to reduce greenhouse gas emissions, however, the total increase in temperature could surpass 10 degrees—leading to physical and ecological impacts that would be irreversible for thousands of years, if ever.

To put those numbers into perspective, the current 2 degree increase in temperature already has had notable effects across the country. Summer heatwaves and other periods of unusually warm weather have become more frequent and more intense, leading to balmy Decembers on the Atlantic Seaboard and temperatures in the Pacific Northwest during the summer of 2021 that were hot enough to melt power cables and buckle roads. Climate change has increased total rainfall and extreme flooding from storms like Hurricane Harvey, causing losses of human life and destroying billions of dollars of property in Texas and Louisiana. And rising temperatures have set the stage for a prolonged drought in the American west, increasing devastation from wildfires in environments as different as Montana forestland and the suburbs of Boulder, Colorado. If the world remains on a path of high and rising greenhouse gas emissions, and the global temperature increases by 10 degrees or more, the impact on the American way of life is expected to be far worse. Absent large expenditures on measures to defend the coast, children born this year could see portions of coastal cities like New Orleans, Miami, and Annapolis disappear under a rising ocean. Such large increases in temperature, and accompanying increases in frequency or intensity of extreme weather events and drought could also have severe impacts on the United States’ food security, economy, and national defense. These impacts would continue or accelerate already existing trends, but a dramatic increase in temperature raises the possibility of black swan events that have severe consequences but are difficult to predict—for example, destabilization of parts of the Antarctic or Greenland ice sheets leading to rates of sea level rise several times current estimates.

These projections are not a counsel of despair. It is still possible to mitigate the human and economic costs of climate change—as particularly relevant here, if greenhouse gas emissions from existing power plants and other sources can be reduced. But such mitigation will require significant coordination at the federal level. And this Court has recognized that EPA is the nation’s “primary regulator of greenhouse gas emissions,” the entity with “the scientific, economic, and technological resources [necessary to] cop[e] with issues of this order.” American Elec. Power, 564 U.S. at 428. Because the D.C. Circuit’s ruling below recognizes EPA’s obligation to develop the rules necessary to reduce greenhouse emissions, we respectfully submit that the decision should be affirmed.

ARGUMENT

I. IT IS UNEQUIVOCAL THAT HUMAN ACTIVITY IS THE CAUSE OF UNPRECEDENTED GLOBAL WARMING

A. The Greenhouse Effect Controls The Earth’s Temperature, Which Has Been Rising At An Unprecedented Rate

The basic physics of the greenhouse effect are wellestablished. The Earth’s atmosphere contains not just nitrogen and the oxygen we breathe, but also greenhouse gases like water vapor, carbon dioxide, methane, and nitrous oxide. Fourth National Climate Assessment, Vol. I at 74-80. As this Court has summarized, “greenhouse gases are so named because they ‘trap … heat that would otherwise escape from the [Earth’s] atmosphere.’” American Elec. Power Co., Inc. v. Connecticut, 564 U.S. 410, 416 (2011). The resulting “‘greenhouse effect … helps keep the Earth warm enough for life.’” Id.

Indeed, much of the difference in surface temperature between the Earth, Venus (whose surface is hot enough to melt lead), and icy Mars can be explained by their respective greenhouse gas levels. See Climate Change, Part I: H. Comm. Hearing Before the Subcomm. on Environment at 3 (Apr. 9, 2019) (Testimony of Dr. Michael Oppenheimer) (“Oppenheimer 2019 Testimony”). 6 Without greenhouse gases, for example, the Earth’s average surface temperature would sink as lowas 0 degrees. NASA Earth Observatory, Effects of Changing the Carbon Cycle (June 16, 2011).7 It is similarly well-established that the Earth is warming at an unprecedented rate. See IPCC Sixth Assessment, Summary for Policymakers at 88; see also Fourth National Climate Assessment, Vol. I at 10 (“This period is now the warmest in the history of modern civilization.”). It can be stated with high confidence that the Earth’s surface temperature has risen more quickly since 1970 than it has in any other 50-year period since the days of Julius Caesar. Id. As a result, “the six warmest years on record have all occurred since 2012,” including 2021. See National Oceanic & Atmospheric Admin., U.S. saw its 4th-warmest year on record, fueled by a record-warm December (Jan. 10, 2022).9 For Maine and New Hampshire, 2021 was “their second warmest year on record” and one of the five warmest for 19 other “states across the Northeast, Great Lakes, Plains, and West.” Id.

We can state with high confidence that as temperatures have risen, the concentrations in the Earth’s atmosphere of the greenhouse gases (carbon dioxide, methane, and nitrous oxide) have also increased and now are higher than they have been in hundreds of thousands of years. IPCC Sixth Assessment, Summary for Policymakers at 8. Carbon dioxide alone makes up a higher percentage of the atmosphere than it has in millions of years. Id. As the National Oceanic and Atmospheric Administration charts below demonstrate, the concentration of carbon dioxide in the atmosphere has skyrocketed in the last sixty years—as is apparent by comparison with the prior 800,000 years.10

B. The Only Convincing Explanation For The Rapid Rise In Global Temperature Is That Human Activity Has Altered The Makeup Of The Earth’s Atmosphere

The observation of both a rapidly heating Earth and the skyrocketing levels of carbon dioxide in the modern era is not coincidental. Rather, the evidence is now “unequivocal that human influence has warmed the atmosphere, ocean, and land” and that “[w]idespread and rapid changes in the atmosphere, ocean, … and biosphere have occurred.” IPCC Sixth Assessment, Summary for Policymakers at 4. Indeed, “[g]reenhouse gas emissions from human activities are the only factors that can account for the observed warming over the last century; there are no credible alternative human or natural explanations.” U.S. Global Change Research Program, Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II at 39-40 (2018) (“Fourth National Climate Assessment, Vol. II”)11; see also, e.g., Mann et al., Record Temperature Streak Bears Anthropogenic Footprint, 44 Geophys. Res. Lett. 7936, 7936 (2017) (“th[e] sequence of record-breaking temperatures [between 2014-2016] had a negligible (<.003%) likelihood of occurrence in the absence of … warming” caused by human activity).

Specifically, the average surface temperatures both globally and in the United States have increased by about 2 degrees since the late 19th century, with the majority of that increase occurring in the last 35 years. See Lindsey & Dahlman, Climate Change: Global Temperature (updated Aug. 12, 2021);12 EPA, Climate Change Indicators: U.S. and Global Temperature (figs. 1-2) (updated Apr. 2021);13 Fourth National Climate Assessment, Vol. I at 14. With “significant reductions in the emissions of greenhouse gases,” it may be possible to limit that rise to less than 4 degrees. Fourth National Climate Assessment, Vol. I at 35. Without such reductions, the average global temperature increase could reach anywhere from 4 to 10 degrees by late in this century, depending on actual emissions. IPCC Sixth Assessment, Summary for Policymakers at 14.

Another demonstration of the connection between the rise in greenhouse gas concentrations in the atmosphere and global warming is a set of new observations from robotic thermometers (called “floats”) across the world’s oceans that are measuring heat absorption by the ocean at a global scale with unprecedented precision. See Destin, National Oceanic & Atmospheric Admin., The Argo Revolution (updated July 9, 2021).14 These floats show that the deep ocean is slowly warming across the globe, and such warming is a predictable consequence of rising atmospheric greenhouse gas levels. Johnson & Lyman, Warming trends increasingly dominate global ocean, 10 Nature Climate Change 757, 757, 760 (2020); Lyman et al., Robust warming of the global upper ocean, 465 Nature 334, 334, 336 (2010); IPCC, Special Report on the Ocean and Cryosphere in a Changing Climate, Summary for Policymakers at 7, 9 (2019) (“IPCC Ocean and Cryosphere”).15 Indeed, such sustained warming of the deep ocean cannot be explained by any process other than the rise of greenhouse gases.

As one of us has summarized, “the broad outlines of [this] problem bearing high risk for humans and society” have been clear for over thirty years, “even if many important details remained to be fleshed out.” Oppenheimer 2019 Testimony at 3. By the late 1980s, it was known that (1) “atmospheric carbon dioxide … was increasing and the only plausible explanation was fossil fuel combustion along with a lesser contribution from deforestation,” (2) “climate models projected a significant warming due to the increasing greenhouse effect,” and (3) “it was … understood that the warming could bring Earth to temperatures not experienced in several million years by the end of the 21st century.” Id. at 5. These findings led the United Nations—and later the United States, under the leadership of President George H.W. Bush—to create organizations dedicated to the study of climate change. Id. at 5-6 (discussing the founding of the Intergovernmental Panel on Climate Change); see also U.S. Global Change Research Program, Legal Mandate.16

Since its inception, the IPCC has released six full assessments of the basic science of climate change, the most recent of which is cited throughout this brief. Each report has provided increasingly strong evidence that human activity is responsible for the changes in the global climate:

* The Second Assessment, published in 1996, concluded that “The balance of evidence suggests a discernable human influence on global climate.” Oppenheimer 2019 Testimony at 6 (quoting IPCC, Second Assessment: Climate Change 1995 (1996) at 2217).
* The Third Assessment, published in 2001, found that “There is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities.” Id. (quoting IPCC, Third Assessment: Climate Change 2001 at 5 (first published 2001)18).
* The Fourth Assessment, published in 2007, “strengthened this finding further: ‘Most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in [human] greenhouse gas concentrations.’” Id. (quoting IPCC, Fourth Assessment: Climate Change 2007, Summary for Policymakers at 5 (first published 2007)19).
* The Fifth Assessment, published in 2013, stated that “‘[i]t is extremely likely that more than half of the observed increase in global average surface temperature from 1951 to 2010 was caused by [humanity’s] increase in greenhouse gas concentrations and other’ human activity.” Id. (quoting IPCC, Fifth Assessment: Climate Change 2014, Summary for Policymakers at 5 (first published 2013)20).
* And, as noted, the Sixth Assessment— published in August 2021—concluded that the evidence “unequivocal[ly]” shows that human activity has led to climate change. See supra p. 4.

The U.S. Global Change Research Program’s reports— which are jointly authored by thirteen federal agencies pursuant to the Global Change Research Act of 1990— have followed a similar trajectory as the IPCC’s.

* The first National Assessment, published in 2000, acknowledged that “[h]umans are asserting a major and growing influence on some of the key factors that govern climate” and that “[t]he intensity and pattern of temperature changes within the atmosphere implicates human activities as a cause.” See U.S. Global Change Research Program, Climate Change Impacts On The United States, Report Overview at 12-13.21
* The second National Assessment, published in 2009, stated that “[t]he global warming observed over the past 50 years is due primarily to human- induced emissions of heat-trapping gases.” See U.S. Global Change Research Program, Climate Change Impacts in the United States at 9 (emphasis added).22
* The third National Assessment, published in 2014, found that “observations unequivocally show that … the warming of the past 50 years is primarily due to human-induced emissions of heat-trapping gases.” U.S. Global ChangeResearch Program, Climate Change Impact in the United States at 5 (emphasis added).23
* And, as noted, the fourth National Assessment, first published in 2017, noted that there is “no convincing alternative explanation” for the global increase in temperature beyond human activity. Fourth National Climate Assessment, Vol. I at 10; supra pp. 4-5.

In sum, after decades of study, both the global and American scientific communities have arrived at the same, unequivocal conclusion: Human activity—in particular, the emission of greenhouse gases—has increased the Earth’s temperature. See, e.g., Fourth National Climate Assessment, Vol. II at 36 (“[T]he evidence of human-caused climate change is overwhelming and continues to strengthen.”).

II. CLIMATE CHANGE ALREADY AFFECTS EVERY AMERICAN AND—WITHOUT ACTION—ITS IMPACT ON DAILY LIFE IS EXPECTED TO GROW IN DRAMATIC AND NOT FULLY PREDICTABLE WAYS

1. Climate Change Has Already Had Notable Effects Across The Country

There is “a direct connection” between the 2 degree global temperature rise that has already taken place and “the resulting changes that affect Americans’ lives, communities, and livelihoods, now, and in the future.” Fourth National Climate Assessment, Vol. II at 36; see also id. at 55 (changes caused by warming “increasingly threaten the health and well-being of the American people”). Between 2015 and April 2018 alone, for example, “the United States … experienced 44 billiondollar weather and climate disasters …, incurring costs of nearly $400 billion.” Id. at 66-68. Indeed, warmer temperatures in the United States have already been associated with a number of interrelated long-term climate trends, short-term weather events, and resulting impacts, such as (1) extreme heat and heatwaves, (2) rising sea levels, and accompanying coastal flooding, (3) increases in the frequency and intensity of storms producing heavy precipitation, including hurricanes and typhoons, (4) more intense and longer droughts, (5) wildfires, and (6) habitat degradation increasing risk of local extinctions and biodiversity loss.

a. Extreme Heat and Heatwaves: Temperatures across the United States have “increased rapidly” since the 1970s and in recent years, “twice as many hightemperature records have been set as low-temperature records.” Fourth National Climate Assessment, Vol. I at 186, 190-192; see also supra p. 8. Heatwaves (i.e., “6- day periods with a maximum temperature above the 90th percentile”) have similarly increased in most places in the country. Fourth National Climate Assessment, Vol. I at 191. By the federal government’s estimate, the frequency has increased from 2 heatwaves per year in the 1960s to 6 per year in the 2010s. See EPA, Climate Change Indicators: Heat Waves (updated Apr. 2021).24 This is no coincidence, as historical warming has made the hottest days of the year both more likely and hotter between 1961 and 2010. Diffenbaugh et al., Quantifying the influence of global warming on unprecedented extreme climate events, 114 Proceedings Nat’l Academy Sci. U.S.A. (“PNAS”) 4881,4882 (2017).25 To take one recent example, an early study suggests that last summer’s heatwave in the Pacific Northwest—where temperatures rose 40 degrees above average, hot enough to melt power cables and make asphalt buckle—was “virtually impossible without human-induced climate change.” See Philip et al., Rapid attribution analysis of the extraordinary heatwave on the Pacific Coast of the US and Canada June 2021, World Weather Attribution (July 7, 2021);26 see also Januta, Pacific Northwest heat wave ‘virtually impossible’ without climate change-research, Reuters (July 8, 2021);27 see also Fischels, PHOTOS: The Record- Breaking Heat Wave That’s Scorching The Pacific Northwest, NPR (June 29, 2021).28

The increasing temperature is especially troubling because “[e]xtreme heat is the leading cause of climaterelated death in the” United States. See Climate Change Science: Hearing Before the H. Comm. on Science, Space, and Technology at 14 (Mar. 12, 2021) (Testimony of Dr. Michael Oppenheimer) (“Oppenheimer 2021 Testimony”).29 In particular, “[h]igh temperatures in the summer are linked directly to an increased risk of illness and death, particularly among older adults, pregnant women, and children.” Fourth National Climate Assessment, Vol. II at 55. From 1991 to 2018, 37% of heat-related summer deaths worldwide were attributable to human-caused climate change. Vicedo- Cabrera et al., The burden of heat-related mortality attributable to recent human-induced climate change, 11 Nature Climate Change 492, 492 (2021); see also Schwartz, More Than a Third of Heat Deaths Are Tied to Climate Change, Study Says, N.Y. Times (May 31, 2021).30

b. Sea Levels And Flooding: It can be stated with high confidence that global sea levels have risen faster since 1900 than over any prior century in 3000 years. See IPCC Sixth Assessment, Summary for Policymakers at 8. Rising sea levels are directly linked to climate change. Most of the heat trapped by greenhouse gases has been absorbed by the oceans, which have reacted to this heat as most liquids do—by expanding and taking up greater volume. Id. at 11; Oppenheimer 2021 Testimony at 5-6. At the same time, the ice sheets located around the Earth’s poles and mountain glaciers alike have begun to melt at an increasing rate—that meltwater eventually ends up in the ocean. See IPCC Sixth Assessment, Summary for Policymakers at 11; Oppenheimer 2021 Testimony at 5-6.

Ocean levels rose 2.5 times faster between 2006- 2015 (about 14 inches per century) than they did between 1901 and 1990 (about 6 inches per century). IPCC Ocean and Cryosphere, Summary for Policymakers at 10; Oppenheimer 2021 Testimony at 6. Rising sea levels have increased coastal flooding at high tide as much as “5- to 10-fold” over the norm in the 1960s in cities like Miami, Wilmington, North Carolina, and Charleston, South Carolina. Fourth National Climate Assessment, Vol. II at 99, 757. Similarly, areas of Norfolk, Virginia are now 4 times more likely to flood than they were in the 1960s. Id. at 758. And between 1932 and 2016, Louisiana lost 2006 square miles of land due in part to high rates of sea level rise. Id. at 775. That is the equivalent of one football field-sized piece of land disappearing every 34 to 100 minutes. Id.

c. Storms and Hurricanes: Heavy rain and snow storms across most of the United States “have increased in both intensity and frequency since 1901.” Fourth National Climate Assessment, Vol. II at 152. This result is consistent with higher temperatures leading to “higher levels of water vapor in the atmosphere, which in turn lead to more frequent and intense precipitation extremes.” Id. at 88. Storm-caused flooding inflicts billions of dollars in damage annually in the United States, and research suggests that intensifying storms have been responsible for about a third of those costs in recent years. Davenport & Diffenbaugh et al., Contribution of historical precipitation change to US flood damages, 118 PNAS 1, 3 (2021).31 For example, the exceptionally heavy precipitation and flooding events that occurred in the mid-Atlantic states including Pennsylvania, New Jersey, Maryland, and Washington, D.C. in 2018 were made 1.1 to 2.3 times more likely by human-caused climate change. Winter et al., Anthropogenic Impacts on the Exceptional Precipitation of 2018 in the Mid-Atlantic United States, 101 Bull. Am. Meteorological Soc’y 5, 5 (2020).32

Notably, the increase in intense rainstorms has combined with sea level rise to make hurricane season in the Atlantic Ocean more dangerous. Fourth National Climate Assessment, Vol. I at 27. While climate change may not necessarily increase the total number of hurricanes, hurricanes’ precipitation totals are expected to rise. Unusually high precipitation totals have been observed and directly linked to climate change in some recent hurricanes. For example, one study estimated that as much as 38% of the total rainfall from Hurricane Harvey—a storm that made landfall in Texas and Louisiana in 2017—was caused by “humaninduced climate change”; another study estimated that human activity made “the event itself three times more likely.” Fourth National Climate Assessment, Vol. II at 95. And higher sea levels in combination with storm surge have further increased the risk of coastal flooding. Trenberth et al., Hurricane Harvey Links to Ocean Heat Content and Climate Change Adaption, 6 Earth’s Future 730, 741-742 (2018) (using Hurricane Harvey to demonstrate how human-induced climate change causes higher sea temperature, intensifies storms, and increases flooding rains);33 Lin et al., Hurricane Sandy’s flood frequency increasing from year 1800 to 2100, 113 PNAS 12071, 12071-12073 (2016) (the frequency of Hurricane Sandy-like extreme flood events has increased significantly over the past two centuries due to the compound effects of sea level rise and storm surge).34

The results were catastrophic. The 2017 Atlantic hurricane season, for example, caused more than 250 deaths and $250 billion in damage. Fourth National Climate Assessment, Vol. II at 66. Hurricane Harvey’s rainfall in Houston was about 30 inches and higher amounts fell at some locations nearby, with its total rainfall “likely exceed[ing] that of any known historical storm in the continental United States.” Id. at 66, 95- 96. It killed 68 people and inflicted $125 billion in damage, National Oceanic & Atmospheric Admin., Service Assessment: August-September 2017 Hurricane Harvey iv (June 2018);35 it also “knocked out power to 300,000 customers in Texas,” including hospitals and water treatment facilities, Fourth National Climate Assessment, Vol. II at 643.

d. Droughts: Rising global temperatures can “play a critical role in increasing the rate of drought onset, overall drought intensity, and drought impact through altered water availability and demand,” Fourth National Climate Assessment, Vol. II at 399; and it can be said with medium confidence that “human-induced climate change” has made droughts worse by increasing the rate at which water evaporates into the atmosphere, IPCC Sixth Assessment, Summary for Policymakers at 8; see also id. at 24 (as temperatures increase in the future, “the level of confidence in and the magnitude of the change in droughts … increase”).

Drought conditions in recent years have caused billions of dollars in damage in the western half of the United States. Fourth National Climate Assessment, Vol. II at 67. For example, the Northern Great Plains region—which encompasses states like Idaho and North Dakota—endured a severe drought in 2017 that damaged wheat crops and forced ranchers to sell off their cattle because they were unable to feed them. Id. Even today, Lake Powell—the nation’s second-largest reservoir, which supplies drinking water to 40 million people in states like Utah and Arizona—is at just 27% of capacity. See Maffly, Feds tighten Colorado River flow at Glen Canyon Dam as ever-shrinking Lake Powell nears critical level, Salt Lake Tribune (Jan. 7, 2022);36 Meiners, Scientists see silver lining in fed’s latest efforts to avoid ‘dead pool’ at Lake Powell, St. George Spectrum & Daily News (updated Jan. 12, 2022).37

e. Wildfires: Climate change can also play a role in wildfires, as higher temperatures dry out vegetation and make forests more likely to burn. Fourth National Climate Assessment, Vol. I at 243. Extreme wildfires are increasing in the western United States and human-caused warming has contributed to at least two-thirds of that increase. Zhuang et al., Quantifying contributions of natural variability and anthropogenic forcings on increased fire weather risk over the western United States, 118 PNAS 1, 7 (2021);38 see also Diffenbaugh & Field, et al., Atmospheric variability contributes to increasing wildfire weather but not as much as global warming, 118 PNAS 1, 1 (2021) (Commentary).39 Specifically, “[h]uman-caused climate change is estimated to have doubled the area of forest burned in the western United States from 1984 to 2015.” Fourth National Climate Assessment, Vol. II at 521. During the summer of 2015 alone, “over 10.1 million acres—an area larger than the entire state of Maryland—burned across the United States.” Id. at 67-68. The scope of the wildfires in that year was unprecedented since recordkeeping began in 1960, burning over 5 million acres in Alaska and 1 million in Montana. Id. In both 2017 and 2020, more than 10 million acres across the United States were burned each year. Congressional Res. Serv., Wildfire Statistics (updated Oct. 4, 2021).40

As a more recent example, just last month, the suburbs of Boulder County, Colorado were hit by the most destructive wildfire in state history—one that damaged or destroyed roughly 1,000 homes, see NASA Earth Observatory, Colorado Faces Winter Urban Firestorm (Dec. 30, 2021).41 The six months prior to the fire were the warmest on record in the region, which was experiencing extremely dry conditions. Swain, The Deadly Dynamics of Colorado’s Marshall Fire, Outside (Jan. 11, 2022).42 Although climate change did not start the fire, in the words of one local researcher, it “led to a perfectly built stack of fuels in the fireplace, ready and waiting to be burned.” Freedman, Climate scientists grapple with wildfire disaster in their backyard, Axios (Jan. 3, 2022);43 see also Chuck, How climate change primed Colorado for a rare December wildfire, NBC News (updated Jan. 2, 2022).44

f. Loss of Biodiversity: Increases in temperature affect not just the land and seas, but the creatures that inhabit them. A hotter world “aid[s] the spread of invasive species” to new locations, while forcing other species to “shift[] their ranges … and [make] changes in the timing of important biological events.” Fourth National Climate Assessment, Vol. II at 53. For example, tree-killing bark beetles have been able to dramatically expand their ranges in both the eastern and western United States. Id. at 250, 649, 1115. And in the Mississippi River Basin—the home of over 300 fish species, as well as waterfowl, turkey, moose, and alligator—more frequent hot days and milder winters have begun to disrupt the wildlife’s mating and migration patterns. See National Wildlife Federation, A Hunter’s & Angler’s Guide to Climate Change: Challenges, Opportunities & Solutions 8-9 (Oct. 2021).45

In some cases, climate change has thinned species’ populations and contributed to local extinction. See Wiens, Climate-Related Local Extinctions are Already Widespread Among Plant and Animal Species, 14 PLOS Biology 1, 1 (2016) (“[C]limate-related local extinctions have already occurred in … 47% of the 976 species surveyed” and “will presumably become much more prevalent as global warming increases”);46 Panetta et al., Climate Warming Drives Local Extinction: Evidence from Observation and Experimentation, 4 Sci. Adv. 1, 1 (2018) (finding that “local warming is driving local extinction”).47 The Midwest, for instance, may soon lose iconic trees like the paper birch and the black ash. Fourth National Climate Assessment, Vol. II at 873, 886.

The loss of biodiversity is not limited to the land. Oceans are getting warmer, see supra pp. 11-12, 18, and “[i]t is virtually certain that human-caused [carbondioxide] emissions are the main driver” of ocean acidification, IPCC Sixth Assessment, Summary for Policymakers at 5. Acidification has caused a marked decrease in carbonate ions—the building blocks of coral and sea shells, Fourth National Climate Assessment, Vol. II at 357. The United States’ major coral reefs are thus both dying (from the increased water temperatures, among other contributors to decline) and unable to rebuild (due to acidification). Id. at 359, 368. If no action is taken to reduce greenhouse gas emissions, the percentage of live coral in Hawaii will decline from 38% in 2010 to 11% in 2050; in southern Florida, live coral will vanish almost entirely. See EPA, Multi-Modal Framework for Quantitative Sectoral Impacts Analysis: A Technical Report for the Fourth National Climate Assessment 171-172 (May 2017).48 Further north, the shellfish that live in the Gulf of Maine are also vulnerable to warming and ocean acidification, reducing the ability of Mainers to catch or raise shellfish like lobsters, scallops, blue crabs, and oysters. Fourth National Climate Assessment, Vol. II at 687. And on the other side of the country, salmon populations have been declining for decades and even facing extinction as a result of a warming climate. Crozier et al., Climate change threatens Chinook salmon throughout their life cycle, 4 Comms. Biology 1, 3, 5 (2021).49

2. Absent Action, More Severe Consequences Are Expected

Under any realistic emissions scenario, global surface temperature will continue to increase until at least 2050. IPCC Sixth Assessment, Summary for Policymakers at 14. If greenhouse gas emissions can be significantly reduced, additional warming may be limited to less than 2 degrees, or a total warming of less than 4 degrees since the late 19 century. Id. In the absence of sustained efforts to reduce greenhouse-gas emissions, the total increase in temperature could surpass 10 degrees. Id.

With “every additional increment[al]” change in temperature, “changes in extremes continue to become larger,” meaning “increases in the frequency and intensity of hot extremes, … heavy precipitation, … agricultural and ecological droughts; an increase in the proportion of intense tropical cyclones; and reductions in Arctic sea ice, snow cover and permafrost.” IPCC Sixth Assessment, Summary for Policymakers at 15. Failing to reduce greenhouse gas emissions will “impose substantial damages on the U.S. economy, human health, and the environment.” Fourth National Climate Assessment, Vol. II at 1347. It will also lead to physical and ecological impacts that would be irreversible for thousands of years—if ever. IPCC Sixth Assessment, Summary for Policymakers at 21 (noting that changes to ocean temperature and acidification—as well as to permafrost at the Earth’s poles—“are irreversible for centuries to millennia”).

Because listing all potential harms that could occur in the next thirty to eighty years as a result of climate change would require hundreds of pages, see, e.g.,Fourth National Climate Assessment, Vol. II at 72- 1308, we have included representative examples below.

a. Coastal Cities And Landmarks Flooded: Under even a low emissions scenario, oceans will rise approximately 7-13 inches by midcentury and approximately 11-23 inches in eighty years. Oppenheimer 2021 Testimony at 7; Oppenheimer, et al., Sea Level Rise and Implications for Low-Lying Islands, Coasts, and Communities 321, 327, in IPCC Special Report on the Ocean and Cryosphere in a Changing Climate.50 To put that amount of sea level rise in practical terms, by 2050, water levels during storms and very high tides that were only seen once a century are expected every year in places like Savannah, Jacksonville, Miami, and San Diego. Oppenheimer 2021 Testimony at 9. The Northeast also faces flooding, particularly in the historic districts of cities like Annapolis, Maryland and Newport, Rhode Island, as well as portions of Washington D.C. near the tidal basin. See Fourth National Climate Assessment, Vol. II at 695-696 (noting that the “historic districts” in coastal cities and towns—like Annapolis and Newport, Rhode Island—already “face the threat of rising sea levels”). Without reductions in greenhouse gas emissions, ocean levels would go even higher, as much as approximately 9-16 inches by midcentury and approximately 24-43 inches by 2100. Oppenheimer 2021 Testimony at 7; Oppenheimer, Sea Level Rise and Implications for Low-Lying Islands, Coasts, and Communities 327.

b. Food Security At Risk: In numerous parts of the world, “[c]limate change has already affected food security due to warming, changing precipitation patterns, and greater frequency of some extreme events.” IPCC, Climate Change and Land, Summary for Policymakers at 10 (2020).51 In the United States, “increases are expected in the incidence of drought and elevated growing- season temperatures,” which will decrease the “[a]verage yields of many commodity crops (for example, corn, soybean, [and] rice”) and “specialty crops” like fruits and vegetables. Fourth National Climate Assessment, Vol. II at 399-400; see also Gray, Global Climate Change Impact on Crops Expected Within 10 Years, NASA Study Finds, NASA (Nov. 2, 2021) (under a high emissions scenario, corn yields are projected to decline 24% by 2030).52

The Midwest’s agricultural sector will be hit particularly hard and is “projected to be the largest contributing factor to declines in the productivity of U.S. agriculture.” Fourth National Climate Assessment, Vol. II at 875. Indeed, “[p]rojected changes in precipitation, coupled with rising extreme temperatures before mid-century, will reduce Midwest agricultural productivity to levels of the 1980s” (assuming no major technological advances). Id. at 873.

c. Heat-Related Health Issues Spread: Rising heat will pose an increasing threat to human health. For example, if no action is taken to reduce greenhouse gas emissions, “almost three-quarters of the world’s population” will be exposed to deadly levels of heat and humidity for at least 20 days a year by 2100. Mora et al., Global risk of deadly heat, 7 Nature Climate Change 501, 505 (2017).

In North America, climate change is projected to shift the “geographic range and distribution of diseasecarrying insects and pests,” meaning that “more people” “could [be] expos[ed] … to ticks that carry Lyme disease and mosquitos that transmit viruses such as West Nile, … dengue, and Zika.” Fourth National Climate Assessment, Vol. II at 57, 545. Incidences of West Nile in particular “are projected to more than double by 2050[,]” “resulting in $1 billion per year in hospitalization costs and premature deaths under a higher [emissions] scenario.” Id. at 552. Moreover, “[i]ncreasing water temperatures associated with climate change are projected” to increase the number of “harmful algae and coastal pathogens” in fresh water. Id. at 545. In the Great Lakes, for example, “[i]ncreased water temperatures and nutrient inputs contribute to algal blooms, including harmful cyanobacterial algae that are toxic to people, pets and many native species.” Id. at 895.

d. Damage to National Economy: If greenhouse gas emissions are not reduced, the United States is projected to lose more than two billion labor hours a year by 2090 due to increasing temperatures, “costing an estimated $160 billion in lost wages.” Fourth Climate Assessment, Vol. II at 50. Other harms wrought by climate change, including to coastal property, air quality, roads, and inland flooding, are expected to lead to over $200 billion in additional damage on an annual basis. Id. at 1358. For consumers, energy and water costs may skyrocket—particularly in the southern United States—as the demand for air conditioning increases and the competition for water between individuals, farmers, and power plants continues to grow. See, e.g., id. at 777-778.

e. National Security At Risk: Rising temperatures and intensifying storms due to climate change also implicate the United States’ national security. The Department of Defense has recognized for well over a decade that “[g]lobal climate change will have wide ranging implications for U.S. national security interests.” See U.S. Department of Defense, The National Security Implications of Climate-Related Risks and a Changing Climate 2-3 (May 2015);53 see also U.S. Department of Defense, Climate Risk Analysis 4 (Oct. 2021) (“Climate change touches most of what th[e] Department does, and this threat will continue to have worsening implications for U.S. national security.”).54 For example, national security is directly “impacted by damage to U.S. military assets such as roads, runways, and waterfront infrastructure from extreme weather and climate-related events.” Fourth National Climate Assessment, Vol. II at 59. More broadly, “changes in climate increase risks … by affecting factors that can exacerbate conflict and displacement outside of U.S. borders, such as food and water insecurity and commodity price shocks.” Id. Indeed, “in worst-case scenarios[,] climate-change related impacts could … contribute to mass migration events or political crises, civil unrest, shifts in the regional balance of power, or even state failure.” U.S. Department of Defense, Climate Risk Analysis at 8.

f. Some of the Most Extreme Outcomes Are Unpredictable: It can be stated with high confidence that the probability of (currently) “low-likelihood, highimpact outcomes increases with higher global warming levels.” IPCC Sixth Assessment, Summary for Policy-makers at 27; accord Fourth National Climate Assessment, Vol. II at 66 (similar). For instance, “[h]uman influence has likely increased the chance of” multiple climate-change-related impacts occurring at the same time, like “concurrent heatwaves and droughts,” IPCC Sixth Assessment, Summary for Policymakers at 9 (emphasis omitted), or “extreme rainfall combined with coastal flooding,” Fourth National Climate Assessment, Vol. II at 44-45. The “physical and socioeconomic impacts” of such “compound extreme events can be greater than the sum of the parts.” Id. at 91. In the heatwave/drought example, demand for water would go up as supply goes down; in the extreme rainfall/coastal flooding example, ground that is already water-logged from the rain might absorb far less flood waters than normal.

Higher temperatures—and their accompanying effects— also increase the likelihood of “large-scale shifts in the climate system” (i.e., “tipping points”). Fourth National Climate Assessment, Vol. II at 66; see also IPCC Sixth Assessment, Summary for Policymakers at 27 (“with higher global warming levels,” “[a]brupt responses and tipping points of the climate system … cannot be ruled out”). For example, it can be projected with high confidence that—over the next eighty years—water from increased rainfall and melting ice will weaken the Atlantic ocean currents that move warm water north and cold water south. IPCC Sixth Assessment, Summary for Policymakers at 27; see also Fourth National Climate Assessment, Vol. I at 418. While it can be said with medium confidence that the currents will not collapse during this century, “[i]f such a collapse were to occur, it would very likely cause abrupt shifts in regional weather patterns and water cycles”—e.g., shifting rain events further south andaway from Europe, IPCC Sixth Assessment, Summary for Policymakers at 27 (emphasis omitted)—and could cause sea levels in the northeastern United States to rise as much as 1.6 feet, Fourth National Climate Assessment, Vol. I at 418. As another example, warming temperatures in the Arctic could release substantial amounts of carbon dioxide and methane trapped in the permafrost and the ocean floor, “driv[ing] continued warming even if human-caused emissions stopped altogether.” Id. at 418-419.

III. The United States Still Has the Opportunity to Help Mitigate the Effects of Climate Change

While we cannot avoid all negative effects from climate change, it is not too late to limit the harm. Indeed, “[m]any climate change impacts and associated economic damages in the United States can be substantially reduced over the course of the 21st century” through reducing greenhouse gas emissions. U.S. Fourth National Assessment, Vol. II at 1347. Practically speaking, this means that “[d]ecisions made today determine risk exposure for current and future generations” and “the severity of future impacts will depend largely on actions taken to reduce greenhouse gas emissions and to adapt to the changes that will occur.” Id. at 34.

As the nation with the second-highest emissions of carbon dioxide from fossil fuel combustion in the world (and higher than the largest emitter, China, on a per capita basis), Global Carbon Project, Global Carbon Budget at 19-20 (Nov. 4, 2021),55 the policies that the United States sets into place can make a substantial difference in the conditions that future generations will face. See IPCC Sixth Assessment, Summary for Policymakers at 27-29 (noting “with high confidence … that there is a near-linear relationship” between carbon dioxide emissions and global warming). Substantially reducing emissions could “avoid[] thousands to tens of thousands of deaths per year from extreme temperatures,” and “hundreds to thousands of deaths per year from poor air quality.” Fourth National Assessment, Vol. II at 1359. And if global warming can be limited to less than a total of 4 degrees, the ultimate economic costs of climate change this century could be less than 1/4 of what they would be under a high emissions scenario. Fourth National Assessment, Vol. II at 1360. This Court should exercise caution before unduly limiting EPA’s ability to enact rules that help protect the future for today’s and tomorrow’s children.

### 1NC --- Case

#### Whiteness is an existential threat— (let’s just do the impact debate here)

Preston, 17—Cass School of Education and Communities, University of East London (John, “Rethinking Existential Threats and Education,” Competence Based Education and Training (CBET) and the End of Human Learning pp 61-93, dml)

After Marxism, the second existential threat is one of negation and elimination of the subject and here I shall consider conceptions of this from CRT and black existentialism.

Various contemporary educational theories consider the equity and social justice implications of different forms of education with regard to race. The work of Sleeter and Grant (2007) makes the ethical and pragmatic case for multicultural social justice as a key value of education. This has been followed in contemporary work that attempts to consider the various dimensions of social justice. For example, Bhopal and Shain (2014), consider the twin axis of recognition and redistribution as goals of education. Other work examines the role of social distancing from the ‘Other’ by white students as a dynamic process in which Black, Asian and Minority Ethnic (BAME) and working-class students are disadvantaged. In many ways denial of social justice in terms of lack of resources, recognition or access to social space can be considered to be a form of dehumanisation. However, whilst work on social justice and education might consider the lack of humanity in these systems of oppression (applying concepts such as ‘bare life’, Lewis 2006; or ‘othering’ Lebowitz 2016) they do not consider directly existential threats. Threats to humanity on the basis of difference may arise from totalitarianism as much as through war and threats to the environment. The various genocides which have taken place throughout human history have often had a racial, or ethnic, cleansing purpose to them. They have been eugenic threats that are based upon spurious ideas of genetic and moral superiority. Writers on race from Fanon to Du Bois have considered that the threat posed to racial groups may be existential and that there is a short step from psychic, to real extermination. The negation of individuals through economic, social and psychological processes allows for their physical extermination. Du Bois (2014) deals explicitly with existential threat in his short story ‘The Comet’ where humanity is almost wiped out by a threat from space, leaving only a small number of people to carry on. As one of the survivors of the comet is an African American, this leads Du Bois to consider the state of race relations in the USA. The implication of the story is that the existential threat of the comet (which allows the African American character to live in a world entirely free of racial prejudice) allows release from the existential threat of eugenic attitudes. Building on Du Bois, in other work (Preston 2012), I have considered the ways in which preparation for threats, including existential threats such as pandemics and nuclear war, has been in many ways eugenic in that it prioritises the survival of some more than others based upon criteria which include race and ethnicity (Preston 2012). Preparing for disasters and emergencies often prioritises the interests of white people above those of other ethnic minorities. One reason for this is tacit intentionality which means that policymakers and practitioners do not consider human diversity in considering how people may respond to disaster. Policy is often biased as policymakers expect that people will be ‘like me’ which (at least in the UK and USA) means they will often be white, middle-class, educated, English-speaking men. In planning for threats, there will be various ways in which such biases are included. For example, they may not consider publishing advice in a number of languages, the resources necessary to survive a disaster, the mobility of people and the attitudes of emergency responders. This is unwitting prejudice in that by not considering diversity they are actually making it less likely for BAME people to survive, or protect themselves against, the disaster.

Although these biases may lead to a gradient in terms of survival by different groups in a disaster, they do not appear to relate to existential threat. However, existential threat can be interpreted in a different way in perspectives from critical whiteness studies and CRT.

In critical whiteness studies, whiteness is taken to be not a racial identity, but rather a system of power and oppression (Leonardo 2009). Whiteness was created as an identity not simply as a mode of social classification but as a way of exploiting and controlling others. There are obviously periods in history where this was objectively the case. During slavery in the USA, for example, whiteness was used as a means to distinguish between those people who had the right to own property (whites) and those who could not (Africans), Moreover, whiteness was the obverse of property in that only Africans could ‘be’ assets or property. Enslaved Africans were therefore treated as property and did not have access to the basic rights which would constitute humanity in American society (such as access to education, the right to own property, the right to decide who they should have relationships with). There are obviously parallels between this experience and holocaust when Jewish people (and other individuals) were dehumanised by the Nazis and denied access to basic resources. During imperialism there was also a period whereby other races were categorised to be less worthy than white people and this provided the justification for colonial control, exploitation and often extermination.

Advocates of whiteness studies go further than this and consider that whiteness is not merely a past system of oppression, but a continuing system of white supremacy (Leonardo 2009). The economy and society is comprised in such a way that white people will usually benefit, and BAME people will usually not. This is not only an economic and social system but also a psychological system whereby existence as a full human depends upon one’s racial categorisation. This idea has its roots in the work of Fanon (1986) who wrote that black identity was shaped by the white gaze, but also contemporary writers also consider the notion of whiteness as ‘death’, a categorisation that is rooted in past oppression and extermination, whose remnants exist to this day. This perspective on race and existence leads us to consider what is meant by life, and whether we are not currently living to our full potential (as Marxists would also propose) when existential threat is actually amongst us. For Marxists this would be the expansion of the ‘social universe’ of capitalism that flows between and through us, ‘capitalising humanity’. For critical whiteness studies, this existential threat would be one of whiteness and the negation of existence for a racially classified group of people.

In order to make this idea of constant existential threat more tangible (although the term is not used) critical race theorists use what are known as ‘counter-stories’ to consider how racial dynamics might develop in the future, or to highlight inequalities in the present (Delgado 1996). Derrick Bell (1992) who is considered to be the founder of CRT, uses a much cited counter-story ‘The Space Traders’ to consider the ways in which black people’s lives are classed as being not equal to those of whites in the USA. In ‘The Space Traders’ a race of aliens offer the USA a trade: all of America’s black citizens in return for unlimited, environmentally friendly, energy and technology. After some debate, the American people vote on the proposal and decide to give up all of America’s black citizens to the space traders in return for the futuristic technical goods. Of course, Bell is proposing an analogy between slavery in the past and the present situation of black people in the USA, and perhaps even suggesting that such a thing might happen again. On another level, though, there is also the idea that the existence of black people in America is categorised at a different level of metaphysical worth to that of white people. That life could be traded so cheaply, even plausibly (in the thought experiment) makes us pause for thought in terms of how we classify existential threat.

Although the relationship between CRT and black existentialism may not always seem obvious we can see that there is a nihilistic streak in the work of Bell (1992) with regard to the prospects for survival. In addition, the drawing on the work of Fanon by authors who use CRT as part of their work which shows the perpetual violence encountered by people of colour in education as well as the enduring influence of Du Bois on CRT (Delgado and Stefancic 2001) shows the close connection between the two theories. What links CRT and black existentialism is a basic concern with existence and the meaning of human life under constant threat that can be thought to underpin any concern with social justice. From CRT and black existentialism, we therefore see that existential threat is one of negation through economic, social and political systems and there are degrees of graduation between these forms of existential threats and actual genocide or extermination. The links between these points and CBET might be considered as obtuse but, as we shall see in the next chapter, systems of education can play a role in forms of negation. Obviously, there are social justice implications in the way in which people are treated in terms of race and ethnicity in education. The ‘triaging’ by race and ethnicity of access to education courses, the ways in which certain groups are rationed access to educational routes and the fragility of links between education and the labour market for BAME groups are all part of marginalisation, in which vocational education plays a large part. As part of this process, and probably not coincidentally, these groups are also more likely to find themselves in vocational, CBET courses. However, social justice is not the whole story, and there is a more profound form of equality associated with the right to existence. It is this that CBET threatens through the reduction of the subject to a digital organism as I will show in the next chapter.

#### The aff falsely unifies the world under the specter of the AMR apocalypse, which obscures the uneven distribution of apocalypse in the everyday.

Lynch, et al, 21—School of Population Health & Environmental Sciences Faculty of Life Sciences and Medicine, King’s College London (Rebecca, with Tristan Sturm and Joseph Webster, “Apocalyptic futures: morality, health and wellbeing at the end of the world,” Anthropology & Medicine, 28:1, 1-12, dml)

Clearly, however, any deployment of broader comparative notions such as ‘The Good’ or suffering needs to be undertaken with a view to simultaneously paying serious attention to particularity, which, in the context of this Special Issue, means attending to the social and cultural particularisms of human imaginations of catastrophe, mortality, health, and wellbeing. While many religious imaginings view the apocalypse as both singular and global, several contributors draw attention to the particular ways in which apocalypses are also scalar, be they global and regional (Sturm and Albrecht 2021), national (Foye 2021), or even confined within individual human bodies (Webster 2021). There are similarities here to what Williams (2010, 11) refers to as the ‘combined and uneven apocalypse.’ For example, not unlike P.D. James’s (1992) apocalyptic novel Children of Men, recent medical research has suggested that climate change has led to significantly more still births and miscarriages, a children of men scenario globally, which, while occurring at the scale of the home, is no less apocalyptic for those hoping for a family as they face an end to their familial wider world (Bekkar et al. 2020; See also Banner 2014). Here, global scales of environmental health apocalyptically impact health and wellbeing at the scale of the body and home.

Scaling up to the level of the regional, while they are not isolated entities (Lasrus 2012), for small island states drowning by sea level rise, the apocalypse is still enveloping, and for the health of such island communities, their world is ending; it is their apocalypse. It is for this reason we note a difference in speaking of the end of one’s ‘worlds’, as an epistemological (as opposed to ontological) delimitation of meaning in the lives of individuals (Lynch 2021), families (Zafar-Smith, 2021), communities (Whitaker 2021; Littlewood 2021), and nations (Hickman 2021). Scaling up again, this epistemological concern with how we know what (we assume) we know also points to the false globalism of many Western discourses about ‘the apocalypse’ – the destruction of capitalism, threats to democracy, dissolution of state borders, ‘World Wars’ – as, in reality, both Eurocentric and Christian-centric. For example, the now dominant comparison of Covid-19 to the 1918 Spanish Flu is amnesic of the apocalyptic loss of a different but equally relevant ‘world’, namely the smallpox, measles, and flu viruses that contributed to the genocide of an estimated 70-90% of American Indigenous peoples (Stannard 1992). As Lempert (2018) notes, this colonial damage to Indigenous peoples has meant that many are already living in the post-apocalyptic present.

Furthermore, Parkin, Krause, and Alex (2013) ask who defines a crisis – in this case, who decides something is apocalyptic? Whose values are being reproduced, and how are these framed? What techniques, regulations, technologies, and higher powers are drawn on to address it? What impact do these have on everyday life, in the here and now? Understandings of apocalypse are powerful moral narratives that pull people and time scales together in particular ways (see Hickman and Webster, in press), with profound repercussions for their emotional, biomedical, and religious lives in the forward-looking present. Building upon this observation, the papers in this Special Issue collectively suggest that by anthropologically attending to the temporal framing of apocalypticism and wellbeing, we might gain a more nuanced understanding of how particular human communities seek not just to survive, but to live and die well within whatever ‘end-times’ scenario they deem themselves to be facing.

Importantly, use of the register of apocalypticism is not limited to ‘lay’, ‘folk’, or ‘religious’ actors, but is also deployed within professional clinical and health-policy arenas (e.g. Domingo et al. 2020). Indeed, while notions of health, as well as fears about illness and the limits of medicine form both implicit and explicit elements of popular apocalyptic constructions, apocalyptic narratives are applied to biomedicine itself, as recent concerns about antimicrobial resistance (AMR) demonstrate (Nerlich and James 2009; Davies 2013; Brown and Nettleton, 2017). Through the example of AMR we see how the language of crisis has elevated the ‘antibiotic apocalypse’ – the disastrous consequences of not being able to treat common infections with antibiotics through the development of immune ‘superbugs’ – to more than a mere health problem. The suggestion of the then British Prime Minister, David Cameron, that a future failure of antibiotics would mean the UK would be ‘cast back into the dark ages of medicine’ (United Kingdom Government 2014), further implies, as Brown and Nettleton note, that the end of the effectiveness of antibiotics would be the undoing or unraveling of ‘modernity’s promissory progress’ (Brown and Nettleton, 2017).

As such, AMR is framed not only as a failure of medicine, but as a wider failure of modern life and humanity’s ability to control the environment; a social, political, environmental, and economic disaster. Indeed, that Cameron then went on to appoint an economist, Jim O’Neill, to oversee a review of antimicrobial resistance within the UK is telling. Here AMR seamlessly morphed from being primarily a medical issue, to, perhaps more fundamentally, a financial crisis – a process which clearly echoes many governments’ approaches to the coronavirus pandemic. Across these multiple contexts, using the language of apocalypse and catastrophe is clearly a way of drawing attention to an issue while attempting to motivate a unified response. Parkin, Krause, and Alex (2013) see notions of ‘crisis’ in a similar way, defined as ‘an accelerating emergency that requires extra-ordinary attention’ – a term particularly apt at capturing the sense of urgency behind efforts to produce new medical knowledge (2013, 118).

Yet, discourses of apocalypse, catastrophe, and crisis are not only forward-looking, but also deploy the backwards-looking glance of popular history and myth to achieve its aim of galvanizing diverse publics into various collective programs of medical and moral control. In the case of AMR, where health promotion and disease prevention efforts orbit around attempts to stop patients overconsuming (and clinicians overprescribing) antibiotics, the sign of an apocalyptic return to ‘the dark ages’ is often offered with a specific historical referent in mind, namely the Black Death. Invoked as arguably the most popular trope of a catastrophic failure of medicine (see Brown and Nettleton 2017), Bubonic plague – often simply ‘The Plague’ (capital T, capital P) – stands as a metonym for the Western medical apocalypse. While a third of the human population in Europe died as a result becoming infected, recent historical research suggest that medical interventions were not in vain, nor was the spread of the disease quite as indiscriminate as previously thought (Cohn 2002; 2010). Regardless, the point remains the same, namely that the mythos of ‘The Plague’, as an unstoppable, irreversible, and undiscerning killer that wipes out populations and destroys civil society remains a powerful cultural resource for hegemonic understandings of the failure (or end) of medicine as synonymous with the end of the world.

#### Pandemics won’t cause human extinction

Sebastian **Farquhar 17**. Director at Oxford's Global Priorities Project, Owen Cotton-Barratt, a Lecturer in Mathematics at St Hugh’s College, Oxford, John Halstead, Stefan Schubert, Haydn Belfield, Andrew Snyder-Beattie, 01-23-17, "Existential Risk Diplomacy and Governance", GLOBAL PRIORITIES PROJECT 2017, https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf

1.1.3 Engineered pandemics For most of human history, natural pandemics have posed the greatest risk of mass global fatalities.37 However, there are some reasons to believe that natural pandemics are very unlikely to cause human extinction. Analysis of the International Union for Conservation of Nature (IUCN) red list database has shown that of the 833 recorded plant and animal species extinctions known to have occurred since 1500, less than 4% (31 species) were ascribed to infectious disease.38 None of the mammals and amphibians on this list were globally dispersed, and other factors aside from infectious disease also contributed to their extinction. It therefore seems that our own species, which is very numerous, globally dispersed, and capable of a rational response to problems, is very unlikely to be killed off by a natural pandemic. One underlying explanation for this is that highly lethal pathogens can kill their hosts before they have a chance to spread, so there is a selective pressure for pathogens not to be highly lethal. Therefore, pathogens are likely to co-evolve with their hosts rather than kill all possible hosts.39

#### Increasing competition in pharmaceutical markets causes structural violence, global imperial warfare, and makes disease and antibiotic resistance worse.

Rawlinson, 17—Associate Professor in International Criminology, Western Sydney University (Paddy, “Pharmatechnologies and the ills of medical progress,” The Routledge Handbook of Technology, Crime and Justice, Chapter 12, pgs 221-225, dml)

In the commercially driven process of securitizing health, knowledge production plays a crucial role, operating both as a tool and a good. Security as a commodity requires the consumer (here the public, the state and the medical profession) to buy (literally) into a belief that the security products offered are effective in obviating or at least weakening the risk of disease or illness. This further involves ensuring that any risk involved in consuming the product, in this case the vaccine, is overridden by the threat posed by the disease against which it is affording protection. Creating a vigorous market for business in a competitive environment, as studies of corporate crime have consistently shown, can involve a range of deviant and criminal strategies and activities, including fraud, corruption, intimidation and bribery, activities that are ubiquitous and, in some cases, systemic within industry. Historically ‘Big Pharma’ has a poor track record for ethical behaviour (Braithwaite 1984; Dukes et al. 2014; Gotzsche 2013; Griffin and Miller 2011). Healy observes that unlike other health-risk businesses such as tobacco and the chemicals industry, in which ‘the best studies systematically point to hazards where they exist’ and where company studies tend to be a small component of evidence-production, often viewed with suspicion as being partial, the same does not pertain to the pharmaceutical industry:

with pharmaceuticals often the only studies are those of the drug companies themselves, and these studies, as one might expect, all seem to point to the beneﬁts of an ongoing use of the very chemicals that may in fact be causing the problem. (Healy 2012: 119)

Alongside vested-interest knowledge production, the pharmaceutical industry engages in other nefarious activities. These include obstructing the publication of negative data from clinical trials in medical journals, which are often ﬁnancially dependent on industry for advertising and the sale of reprints; intimidating whistle-blowers amongst medical researchers and doctors concerned about the safety of particular drugs; and the ubiquitous practice of aggressively promoting products to the medical profession including providing ﬁnancial inducements to win support for a particular drug (Gotzsche 2013; Healy 2012; Moynihan 2001). Nor are these deviant and harmful practices occasional aberrations, but instead reﬂect recidivist behaviour embedded within the industry (Braithwaite 1984; Dukes et al. 2014).

Despite a long history of insalubrious behaviour in the pharmaindustry, governments and intergovernmental organizations such as the WHO continue to focus on pharmaceuticalized solutions to what are arguably pharmaceutically constructed health risks. While obfuscating or down-playing the safety issues around the escalating administration of medical interventions, the pharmaindustry’s intensified participation in research and policy-making enables it to construct narratives of high risk around both the nature of diseases and their prevalence, and exaggerate the efficacy of its products, thereby creating an ever-expanding market (Healy 2012; Gotzsche 2013). This is especially the case in a product that is administered to a population. The vaccine industry is highly proﬁtable not only because of its numerical reach but because, in an increasing range of jurisdictions, vaccines carry a mandatory status.

These policies, which for critics of mandatory medical intervention, are regarded as a blatant violation of human rights, have been legitimized through the discursive modalities of securitization, in much the same way that torture and extraordinary rendition were reconstructed as necessary for the protection of the very phenomena they were consistently eroding (Chossudovsky 2005). In both cases, where the market operates as a crucial driver, in which defensive mechanisms are for sale, whether vaccines or arms, there must be no limitation to demand. Creating demand through the security narrative and ensuring supply through mandate enables the constant proliferation of an industry which simultaneously protects and destroys. Excessive protection can only lead to destruction (consider the proliferation of nuclear arms during the Cold War in what was termed MAD — mutually assured destruction). Esposito captures this in his consideration of the process of over-immunization as a political, juridical as well as bio-political phenomenon, whereby ‘the warring potential of the immune system is so great that at a certain point it turns against itself as a real and symbolic catastrophe leading to the implosion of the whole organism’ (2011: 17). Yet, as has been made clear in the aftermath of the global financial crisis, the voracious appetite of the market in its neoliberal manifestation continues apace ignoring the social and economic cannibalism of excessive profit—seeking. For the pharmaindustry that involves the presence, real or imaginary, of a constant threat of disease and infection.

State of infection

In its 2006 action plan to ‘increase vaccine supply’ the WHO informs us that ‘Inﬂuenza vaccine development and employment are critical elements of pandemic inﬂuenza preparedness’. In explaining how serious this risk of a pandemic actually is, and the consequent justification for spending billions of dollars on ﬂu vaccines globally, the WHO slips into ‘Rumsfeldian discourse’ describing the ‘the global burden of seasonal inﬂuenza’ as an ‘unknown’ (WHO 2006). We are now familiar with unknowns in their both knowable and unknowable states as being crucial to the extension of state power with its affiliate abuses. The ‘unknown burden’ of seasonal ﬂu has occasioned not only the mass manufacture of a vaccine that, in its current stage of development has proven to be less than effective (Gallagher 2015), but also the introduction of mandatory policies around the inﬂuenza vaccine for health workers and other professionals (Babcock et al. 2010). Indeed, mandating a range of vaccines has now become established practice in a number of countries including the US, Australia, France and Canada, with the UK being a notable exception.

Mandatory creep has been occurring over the past few decades, overriding the hitherto right to abstain from vaccination programmes on the basis of religious or ‘conscientious objection’ (a term originally used for nineteenth-century vaccine objectors and subsequently adopted by the military for those who refused compulsory conscription on similar grounds) in many cases leaving medical exemption the only acceptable criterion for refusal. Vaccine programmes involve mass immunization or herd immunity in which a large percentage of the population is required to be vaccinated against a disease to ensure its control and hopefully gradual eradication, thereby protecting those who cannot be vaccinated against possible infection. Unlike other medical interventions, the focus here lies on the protection of the population rather than an individual. For Foucault, immunization represents a distinctive break from other medical relationships which seek to heal the individual, but operates as ‘a way of individualizing the collective phenomenon of the disease, or of collectivizing the phenomena, integrating individual phenomena within a collective field, but in the form of the rational and identiﬁable’ (2004: 60). This brings another dimension to the philosophy of reponsibilization that dominates the neoliberal concept of health, a paradoxical position that transforms individual accountability into sacrifice (for even the strongest advocates of mandatory vaccination admit there is no such thing as one hundred per cent safety). It is a subtly crafted moral sleight of hand that turns adherence to the market of and for pharmatechnologies into an abnegation of self, where the self operates not simply as part of the collective but as subservient to it: capitalism functioning through a ‘communist’ guise. Human rights can thus be dismissed as ‘nonsense upon stilts’ or perhaps worse still, as the greatest threat to human rights itself.

Given that the 1948 Declaration of Human Rights emerged from inter alia some of the most horriﬁc medical abuses ever recorded it is even more ironic that the policy of mandatory vaccination is proliferating. It contravenes human rights contained within a number of conventions which establish individual autonomy regarding medical intervention. This includes Article 8 of the European Convention of Human Rights on the respect for one’s private life, that is ‘the right not to be physically interfered with’ (Liberty 2015) and more speciﬁcally, the International Covenant on Political and Civil Rights protection against ‘torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation’ (International Covenant on Civil and Political Rights 1966).

The combined rhetoric of security and science, fundamental to the justification and waging of war, not only assuages the retraction of human rights obligations by the state but can render these rights themselves as presenting a threat. As the war on disease, together with that on terror, has no defined end, no clear moment of victory, being non-territorial insofar as it has no physical jurisdiction, the suspension or weakening of human rights will continue and further entrench the ‘paradigm of security as the normal technique of government’ (Agamben 2005: 14). In this environment vaccine objection easily slips into criminalized activity and criticism appears as unpatriotic. Concerns over conﬂict of interest, data manipulation, bribery and intimidation are turned into politicized opposition and those who voice these concerns become enemies of the people, a security threat, health terrorists. In this context, punitive measures against those who refuse, both for themselves or on behalf of those under their guardianship, are also becoming more draconian and can range from financial penalties, the exclusion of children from day care centres, loss of jobs (within the medical profession) or even prison (Willsher 2014).

Informed consent lies at the heart of the numerous instruments for the protection of the human body; the notion of bodily integrity underpins a series of rights that have been allocated to citizens in democratic states, including the right to abortion. When the information aspect of informed is either denied or contains negative data concerning safety it is rational to assume that consent might not be always forthcoming. Collusion between industry and politics is a major concern, as Eisenhower warned. Mary Holland’s critique of mandatory vaccination lays out the extent of these collusive relationships in the US, which were even admitted by politicians themselves:

In 2000, a Congressional report on Conﬂicts of Interest in Vaccine Policy Making identiﬁed notable conﬂicts of interests in the FDA [Federal] and CDC [Center for Disease Control] advisory bodies that make national vaccine policy. These include ‘advisers’ ﬁnancial ties to vaccine manufacturers’ as well as ‘advisers’ permitted stock ownership in companies affected by their decisions’. (Holland 2012:77)

Declaring these activities in Congress has not deterred their occurrence. In 2007, an attempt was made by the erstwhile Governor of Texas, Rick Perry, to mandate the HPV vaccine in his state’s schools, a decision he was subsequently forced to overturn when it was revealed that Merck, the company that produced the Gardasil vaccine, had given donations towards his nomination (Eggen 2011). Nor will this be the last cosy relationship between politics and industry as mandatory vaccination policy continues to be applied to an increasing number of vaccines.

Conclusion

Pharmatechnologies manifesting as medical research, drug production and distribution, epistemological paradigms determining how health, disease and risk are to be conceptualized and negotiated, have now become a mode of governance in an increasingly authoritarian environment. This is not to detract from the benefits accrued from medical progress through pharmaceuticals and the important role played by vaccines in alleviating potential suffering. Yet, the benign discourses within which they operate can often obscure harmful outcomes, harms imposed as structural violence: opaque, unidentiﬁable and normalized (Zizek 2009). Victimization remains unseen or as a necessary price to pay for the greater good. In medical terms aspects of these harms are referred to as iatrogenesis, the unintended, often injurious, consequences of medical intervention. In this latter context it is akin to what military circles euphemistically term ‘collateral damage’, generally applied to the killing and maiming of non- combatants. However, some scholars who study state and corporate harms are less inclined to semantic generosity, not least when the majority of damage and injury inﬂicted falls on the same targets, the socio-economically vulnerable, gendered, racial, ethnic or other minorities whose lot it is to comprise the ﬂotsam and jetsam of ruthless markets and the politics of indifference. Intention, or lack of, as they argue, cannot disguise the power relations at play as the usual suspects emerge as perpetrators and beneficiaries of systemic abuses.

If we are to accept the argument put forward by Tombs and Whyte that ‘The problems caused by corporations — which seriously threaten the stability of our lives — are enduring and necessary functions of the corporation’ (2015: 4), a position supported by a plethora of cases, then all industry operating within a capitalist framework is intrinsically pathological. It is essentially a diseased entity, irrespective of the nature of goods and services produced or the rhetoric that designates it as benign. Ironically, this diseased entity in combination with an increasingly diseased political system, proclaims and even persists that it has both the authority and ability to produce and sell health. Yet, so strong is the belief in pharmaceuticalized health that so many literally buy into the ‘truths’ of pharmatechnologies failing miserably to discern how the contagion-riddled commodification of health is actually the greatest danger to health.

No business thrives on the elimination of demand for its goods. The technologies of war were justiﬁed through the eventual establishment of peace; so too the pharmaindustry legitimizes its existence through claims to health and healing. The existence of both is dependent on the perpetuation of the very phenomena they claim to defend us from, and in this they must continue to be producers of war and sickness. No longer does the potential for the disastrous rise of misplaced power exist, as Eisenhower warned, it has become fundamental to the industries of war and disease, to war on disease.

## Block

### 2NC --- Kritik

#### Social death is phenomenologically, psychoanalytically, and structurally crystallized as the paradigmatic positionality of black existence—their statistics are a unique link.

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To say the intervention of afropessimism has been contentious, for both black studies and the general public, would be an understatement. The reviews of Frank Wilderson’s latest work alone express a kind of resentment that is so sharp it’s hard not to believe that these writers did not interpret Wilderson’s work as a hand sealed personal condemnation of their livelihood (McCarthy 2020) (Cunningham 2020). These reviews are often written with a semi-performative defiance of Wilderson’s contention about their ‘social death’, but what cannot go overlooked in these types of responses is that even in their avowed defiance these reviewers cannot escape the political ontology that locates them on the other side, as opposed to the other end, of humanity. These reviews are written from an experience the reviewers often feel can approximate the experience of their apparent fellows, but Wilderson is concerned with the metanarrative of structural positionalities and not the performative capacities perceived in everyday existential experiences or personal expression. Wilderson is not challenging how they may feel from day to day, but what they are, or are not, in the grand scheme of things that exceeds performative political gestures through an extra-ordinary vulnerability.4

The distinction between the performance of blackness and its ontological status that motivates Wilderson builds primarily from the term social death, originally attributed to Orlando Patterson. The term has been adopted and deployed by many to describe the depraved or degraded status of persons under conditions of oppression. Wilderson adopts the definitional components of naked (gratuitous) violence, natal alienation, and dishonor from Patterson, but interprets them beyond certain ontic conditions—where, for instance, for Patterson anyone may become a slave—to a specifically black ontological paradigm that is crystallized phenomenologically and psychoanalytically in the work of Frantz Fanon and the interpretations of his work by David Marriott. Wilderson also takes up Hortense Spillers psychoanalytic framing and vocabulary of a foundational grammar of suffering that reoccurs indefinitely through a violation of the flesh over against a grammar of freedom of the body. Additionally, he builds off Saidiya Hartman—who also has Spillers, Patterson, and Fanon in mind—by replacing the terms of human degradation with logics of the object of commodification, whereby black social death is better conceived in terms of fungibility and accumulation instead of exploitation and alienation. Wilderson conceives the continuity and coalition of these black theorists—and others—to paint the picture of a black existence that demands an entire reimagining of the political through the lens of extra-ordinary vulnerability in three registers that will be explicated in the rest of this chapter: discursively, materially, and psychically.

Beginning at the discursive level, Wilderson’s discussions of black social death offers his readers a number of different perspectives and occasions to recognize the fundamental nature of this paradigmatic condition: from movies and theater, from political to social movements, from domestic to international understandings of blackness. In all these arenas, he remains steadfast in his analysis of the terms of social death as excessive to the limits of their restrictive economies. To reach the level of paradigmatic political positionality, he stresses the separation of the identity formations and performative gestures we may attribute to black people uniquely, or that they may even share with other groups, from the ontological or paradigmatic that overdetermines their stature as fungible, accumulative, and abject. In the essay “End of Redemption,” he states it bluntly:

Blackness is social death, which is to say that there was never a proper meta-moment of plentitude, never a moment of equilibrium, never a moment of social life. Blackness as a paradigmatic position (rather than as an ensemble of identities, cultural practices, or anthropological accoutrement), cannot be disimbricated from slavery. The narrative arc of the slave who is Black (unlike Orlando Patterson’s generic slave who may be of any race) is not an arc at all, but a flat line, what Hortense Spillers calls ‘historical stillness”: a flat line that ‘moves’ from disequilibrium to a moment in the narrative of faux equilibrium, to disequilibrium restored and/or rearticulated. (Wilderson III, Afro-Pessimism and the End of Redemption 2016)

There are two things to note. First, his contention that blackness is a paradigmatic position often is overlooked or misrepresented. Here he is insisting that the qualities we attribute to the performance of blackness, the unique ‘cultural practices’ or ‘anthropological accoutrement’ that one may recognize as contributing to what it means to be black—for example, black music or other cultural performances—are not definitive of the ontological or paradigmatic position of blackness. This is not to say they are completely distinct, but they are not essential and also cannot be separated, or ‘disimbricated’, from the structural foundation of white civil society as its negation. This is to say blackness cannot be separated from the structural position of ‘the Slave’. Of course, this does not mean blacks in contemporary society are subject to or the object of the same types of violence of chattel slavery, but their metaphysical role in the formation of the political world remains the same. Just as the proletariat who is not forced to work 80 hours or who attains healthcare and vacation days, is still the laborer and not the capitalist, the black sharecropper, prisoner, or CEO (or President!) is still in the metaphysical position of ‘the Slave’ and as such is discursively illegible at the level of political ontology, falling rather into the general economy of white supremacy.

We need only to recall the insistent fashion in which President Obama and his wife Michelle Obama—despite or perhaps in light of his office—had been hailed in terms of abject blackness through images of primates, to realize how their political agency was rendered illegitimate or simply illegible despite his properly America political behavior of, for instance, ordering drone strikes in the Middle East and being scornful of ‘absentee’ black fathers. We can describe this illegibility as extra-ordinary insofar as it exceeds the general level of discourse of an accepted humanism, while at the same time appearing banal, as an everyday regular preoccupation with the affective assertion of white supremacy. In other words, these images and the language of dehumanization supersede the discourse of the human and appeal to the paradigmatic black abjectness as cursed existence, regardless of President Obama’s performance (queue ‘Amazing Grace’) as the highest political agent in the land.

The second thing to note in Wilderson’s passage is that this ‘flat line’ or ‘historical stillness’ in the ‘narrative arc’ of ‘the Slave’ serves as another axis in the description of social death. For some the diachronic narrative arc of black life, particularly in America, projects a trajectory of increasing freedom. This would entail some initial point of coherence or equilibrium that is forgotten through violence and displacement only to be returned to, perhaps in a new light. This may be the narrative of Pan-Africanism, a return to the motherland with a newfound unity, or black liberalism, a return to foundations of American equality and fraternity; that is, ‘the arc of the moral universe is long, but it bends toward justice.’ However, these are false narratives, since with the creation of blackness any original equilibrium was eliminated. ‘Africa’ did not exist prior to European invasion and there is no ‘Africa’ or land of the free (for black people) to return to. With no place to retreat, the contours of a legible vulnerability are imagined with Pan-Africanism, but they are ultimately destroyed, since underneath these restricted conversations, there is no place or time that does not fall victim to the extra-ordinary vulnerability of its destruction by white supremacist disregard and/as destruction.

Instead, what we witness with different black political ‘movements’—the implication of motion can only be metaphorical at the paradigmatic level—is a historical stillness. Imagined equilibrium with moments like emancipation, the civil rights legislation, or decolonization only unveil the persistence of disequilibrium. There is no actual movement, or arc, in this historical narrative; no point of reference to imagine a newness as long as black people remain in the paradigmatic, ontological position of ‘the Slave’. How else does one come to understand the practically rote action and reactions to spectacular violence against black people—death, protests, deceptive or limited legislation,Footnote5 and repeat—if not the historical stillness of the black story; where history instead appears to be an eerily persistent and placid backdrop that exceeds all narrative possibilities? Sexton’s rubric of the general and restricted economies is translated into historiographical terms, whereby non-black political movements participate in restricted economies that contribute and participate in the story of the redemptive human; meanwhile, black narratives have no stable foundation against which to project such a narrative; instead, they are overwhelmed by the excesses of force of the white supremacist general economy that destroys narrative capacities. To further elaborate, the uniqueness of black social death via Orlando Patterson’s concepts, Wilderson explains on the next page:

Patterson’s three constituent elements of slavery—naked (or gratuitous) violence, general dishonor, and natal alienation—make the temporal and spatial logic of the entity and of setting untenable, impossible to conceive (as in birth) and/or conceive of (as in assume any coherence). The violence of slavery is not precipitated as a result of any transgression that can be turned into an event (which is why I have argued that this violence is gratuitous, not contingent); dishonor embodied by the slave is not a function of an event either; his or her dishonor is general, as Patterson writes, or as David Marriott has argued, it is best understood as abjection rather than degradation (the latter implies transition); and since a slave is natally alienated, s/he is never an entity in the meta-narrative genealogy. (Wilderson III 2016)

With Wilderson’s elaborations of Patterson’s elements of slavery in these terms of narrative and event we arrive at a clearer sense of what they entail: these elements are not based on any contingent relationship to the violation of the human story, instead they mark the permanent stature outside of it. In other words, ‘historical stillness’ is maintained because the elements of slavery are not predicated on any form of recognition that justifies their position. There are no events or substantive qualities that circumscribe black identity outside of being black, which must be insistently enforced. Antiblack violence comes from nowhere, everywhere, all the time; their lack of honor not only is an abjection they were born into, but has no origin story, no history—the proverbial Middle Passage and the very real forced miscegenation, territoralization, and one-drop rule obliterated them—and that’s why they cannot be placed in any formal genealogy that can be recognized as such, for Wilderson. Here again we are brought to terms with the extra-ordinary: these three registers of natal alienation, general dishonor, and gratuitous violence explicate the ways in which blackness necessarily exceeds the normal components of forced labor that are horrific but still imply relationality. Blackness emerges from, or recedes into, an ever-present general economy of reproductive material for consumption by white civil society, instead of having the quality of a legible human story with recognizable relations and heritage that confer a sense of origin.

Through these articulations of social death and slavery, we can also see how there is a difference between black social death and the amorphous ‘terrorist’ explored by Butler in Precarious Life. Butler is thorough in her explication of how the designation of people of Middle Eastern descent as ‘dangerous’ (Butler 2004, 76) set them in a precarious position within relation to the law. With the help of classic neo-cons Donald Rumsfeld, Dick Cheney, and John Yoo, this identity was imposed by indefinitely (to this day) suspending standard judicial procedures which entail the horrifying acts of torture and total disregard of civilian life that facilitate the economic control and exploitation of the Middle East. The rendering of Middle Easterners outside of the juridical norms of the United States— that is, as always already criminal and never escaping the status of enemy combatant even after capture and detention—seemingly locates them totally outside of the political and, in a manner, analogous to social death (Butler 2004, 76–79). The tragedy of America and the West’s policy toward the Iraq, Afghanistan, and the Middle Eastern post 9/11 are contemptible; nevertheless, they do not occupy the same condition of black social death.Footnote6 A threat to the American nation is ontologically distinct from a threat to the white political order.

To understand this distinction, we cannot only look at the practices of the state or the devastating reality of the current condition of people terrorized by the state. The question and narrative of national security is set in a different key than “the Negro question” and the security of whiteness. The existence and maintenance of Guantanamo Bay does not address or contest ontological and paradigmatic concerns which Wilderson identifies in the first above quoted passage through the idea of a ‘meta-moment of plentitude’ and in the second one as an ‘event’. The crucial difference is that there is a time and/or place imagined for the ‘terrorist’ in Guantanamo or the immigrant or the European American to return to that indicates a cultural, historical, and positional integrity of humanity, that is, a meta-moment of plenitude, that had been violated in their narrative of subjection as human, an identity that had been upset and that, furthermore, may be returned to and where ‘equilibrium’ can be found again. Such a place or time does not exist for the extra-ordinary condition of black people who exist as “a fatal way of being alive” (Marriott 2000, 15).

The economic exploitation and deathly violence against Middle Easterners belong to a narrative arc where a transgression took place, that is, 9/11 or denial of natural resources and land access, that precipitated their stature as ‘dangerous’. In this narrative arc there is a place that still exists, even if physically under siege now, and time that did and, in the future, may exist from where their heritage may be retrieved and/or flourish. An equilibrium can be returned to after the dehumanizing practices of post- or even pre-9/11 destruction and occupation. Such an equilibrium for the positionality of ‘the Slave’ is not conceivable. In “Gramsci’s Black Marx: Whither the Slave in Civil Society” Wilderson uses the work of J. M. Coetzee to describe an anthropological and historical schema used by Europeans to map the integrity of humanness or proper political subjectivity. In this schema, black data is missing from either the anthropological or the historical axis, which if existent would secure this stature of humanness at the discursive level, but since it is absent, this leads to a crisis or a scandal of being uninterpretable. Other groupings may rely on anthropological categories such as clothing and work or historical categories such as entitlements, sovereignty, or immigration (Wilderson III 2003, 234–237). Black people in America, and across the diaspora, are interpreted as missing signifiers in this discourse and thus are illegible within the human narrative. It is in this sense that black vulnerability is not simply pathogenic by the standards described above and sharable with Middle Easterners, rather their vulnerability is illegible, abject—that is, they have no honor or relationality—and normalizing; thus it is extra-ordinary. The constellations of human agency are not diverted or deferred and there’s not simply a ‘sense of powerlessness’ that may be corrected or reoriented. The Slave does and must occupy a structural position without any imaginable recursion to political agency in order for the human identity to live on in strength or peril. Adjacent to the sun of Bataille’s general economic cosmology, blackness emerges from the black hole of white supremacy, which is imperceptible and ultimately unknowable, but nevertheless fuels the cosmological order of the human universe.Footnote7

Now it may also be prudent to emphasize how Wilderson makes a strategic departure from Patterson to identify a crucial distinction in terms of slavery. While Patterson innovatively recognizes that slavery is not reducible to forced labor—the labor you may find also as an indentured servant or even as a contractor in sports—but is structural, he also understands the position of slavery as social death to be applicable to anyone who may, for instance, become a prisoner of war—for example, the prisoners of Guantanamo Bay—even though the slave as prisoner of war may return physically and/or psychically to a prior plentitude, that is, a legible cultural home. For Wilderson, non-blacks may indeed experience slavery, but it is not a constitutive event for their identity or for their narrative. They have the advantage of the capacity to conjure a reason for the violence perpetrated against them that led to their oppression, servitude, or even slavery as the reaction to a performative transgression of normative expectations, even if this transgression is outside of their own cognitive and practical cultural formation.Footnote8 The conditions of black social death prohibit such a coherent formation in as much as it remains in its structural antagonism with the human or white civil society as incoherent, illegible, abject and thus always under the thumb of white civil society by prohibiting any sort of imaginative coherence or semblance of freedom.Footnote9

These examples illustrate the underlying extra-ordinary affective investment by white civil society in its libidinal economy and they can save one from being led too far astray by relying upon another red herring: the tragically true but ultimately misleading accumulation of facts and stats of black abject life. Inasmuch as the facts and corresponding events of black life are discursively approximated—for example, police violence, prison statistics, homelessness rates, the wage gap, and the performative gestures of blacks in responses, for example, public mourning and protest—they do not necessarily get to the excessive affective economy and, therefore, Wilderson maintains that the problem is beyond the expression of language or as he professes in another essay, and just as poignantly, “taxonomy can itemize atrocities but cannot bear witness to suffering.” The ‘grammar of suffering’ that organizes black social death remains opaque at a discursive level, that is, the semiotics of the human, but it subtends the positionality of the black slave, or the ‘position of the unthought.’ Many people may want to compare the quantitative overlap of black tragic facts with those of the poor, and indeed there is overlap, but the coincidence of these facts and atrocities does not get to the fundamental level of black vulnerability that exceeds restrictive articulations. The lists of atrocities, while undeniable and horrific, rely on numbers and data that confuse this violence for a violation of the human that does not extend to black people and thus they divert attention from the affective comfort and security that antiblackness calls forth in a way that literally vitalizes white civil society even if it cannot be spoken of coherently and exceeds rationality.

The transatlantic slave trade, the Maafa, the Berlin Conference, the State of the Unions, had and continue work in the transformation of ‘Africans into blacks’ over against the human and as such forbid narratives of return to a political ‘home’—even the memory of a home—that has not been transmogrified by the shadow of blackness.Footnote10 Under these conditions, how can black vulnerability be legible in any political terms? With no humanity to return to, black people are extra-ordinarily vulnerable and open to violation from a general economy; they have no sanctuary literal or imagined, just a black hole. Experiencing a ‘sense of powerlessness’ or lack of autonomy makes sense only in terms of degradation, not in terms of complete illegibility and abjection. It is literal open season, and not simply for death, but in as much as blackness plays a constitutive role, black people’s vulnerability also becomes the non-discursive backdrop for which white civil society can write their own story and, therefore, complete annihilation would be undesirable. Whether it be a trip to the Heart of Darkness or the Caribbean and New Orleans, c.f. Faulkner’s Absalom, Absalom!, or to the largest protests in American history, blackness is the framework for white civil society’s coming of age; forever illegible because it comes from the illogical general economy of vulnerability found in the excessive resources of the libidinal economy.11

#### We straight turn Hudson.

Kelley, 15—Gary B. Nash Professor of American History at UCLA (Robin D.G., “Beyond Black Lives Matter,” Kalfou, Vol. 2, Iss. 2, (Fall 2015): 330-337, dml)

This implicit appeal to acknowledge us-to recognize our humanity, our dignity, and our right to live-is understandable in a world where the statesanctioned killing and caging of Black bodies is routine. But as George Lipsitz observed, such appeals are embedded in a humanist logic that emphasizes "interiority" and feeling, thereby elevating "the cultivation of sympathy over the creation of social justice."7 That is to say, our feelings of empathy in any representation of suffering are designed to be understood and individually felt rather than transformed into collective praxis. This is partly why concepts like reparations are so antithetical to modern liberalism. Given the trauma produced by an endless video loop of Black people dying at the hands of police officers who are almost never indicted, let alone prosecuted and convicted, collective healing and the cultivation of sympathy are to be expected. On one hand, this makes the movement's counterslogan, "All Lives Matter," all the more offensive and painful. "All Lives Matter" is heard and felt as a belittling or decentering of anti-Black racism. It trades on postracial myths of equivalency in suffering. On the other hand, sometimes we react to "All Lives Matter" with such hostility that it stands in as an unambiguous expression of anti-Black racism. Can we salvage these words? Don't we want to build a world in which every life is valuable, cherished, and sustained? Are we not seeking a world that recognizes multiple sites of dispossession and recognizes that state violence inside US borders is inseparable from US militarism around the world? The fact that we are compelled to a defensive position is a consequence of focusing on proving our value rather than critiquing the system that devalues all of us and destroys the world in the process.

The veracity of our humanity was never the issue-then or now. The problem lies with Western civilization's very construction of the human. As Sylvia Wynter, Cedric Robinson, Aimé Césaire and others have been saying for decades, the "Negro" was an invention, a fiction-like that of the Indian, the Oriental, the "Mexican," etc. Or in Frantz Fanon's oft-quoted line from The Wretched of the Earth: "It is the colonist who fabricated and continues to fabricate the colonized subject."8 Indeed, the entire structure of global white supremacy depends on such inventions, like the fictions of the Arab as non- or anti-Western and the "Immigrant" as essentially Latino/a, or the notion that indigenous people (in North America at least) are all dead. This is why we have such a hard time acknowledging that most so-called immigrants from Mexico and Central America are, in fact, indigenous.

The very foundations of Western civilization were built on such fabrications and enacted through violence. Once they crumble, so goes Western civilization's conceit as well as the massive philosophical smokescreen that enables (racial) capitalism-the greatest, most destructive, most violent crime wave in history-to masquerade as the engine of progress, a pure expression of freedom and liberty, the only path to human emancipation. The modern world that invented the Negro, the Oriental, the Indian, and the Savage as a means of inventing European Man was built on the theft of humans, theft of land and water, indiscriminate murder, violation of customary rights, moral economy, enclosure of the commons, destruction of the planet-outright lawlessness, justified by supposed rationality or what Weber might call instrumental rationality. To leave it at Black Lives Matter unintentionally conceals the crime. After all, these were the very processes that birthed the liberal humanism to which BLM activists seem to appeal.

In his book Forgeries of Memory and Meaning, Cedric Robinson further elaborates on the systems of racial maintenance and myth making, the "racial regimes" responsible for the inventions of the Negro (the Indian, the Oriental) and their relation to capital. What exactly are racial regimes? In Robinson's words, they "are constructed social systems in which race is proposed as a justification for the relations of power." The power is real and formidable but surprisingly unstable. For Robinson, "the covering conceit of a racial regime is a makeshift patchwork masquerading as memory and the immutable. Nevertheless, racial regimes do possess history, that is, discernible origins and mechanisms of assembly. But racial regimes are unrelentingly hostile to their exhibition."9 In other words, to say that anti-Blackness is foundational to Western civilization is not to say that it is fixed or permanent. On the contrary, it is incredibly fragile and must be constantly remade; it is epiphenomenal to the production of Blackness-which is an essential component of modern racial regimes, but not its totality. In the last century alone, racial regimes have been remade, reconfigured, destabilized, and consolidated many times, employing new technologies to circulate old racial fabulations and new fictions in the process of capitalist expansion.

Proving one's humanity will not uproot racial regimes, for the very evidence of our humanity is their raison d'etre. Our exploitation is evidence of our value, but it requires enormous intellectual, juridical, and psychic resources to conceal our humanity. Slavery was not just social death, but was based on a cost-benefit analysis that assumed the disposability of Black lives. The system of extracting surplus emerged within a logic of racial hierarchy and racial subjugation that dragged Africans, Asians, and Europeans proletarianized by enclosure to the lands of the Americas, Oceania, parts of South Asia and Africa, and the Eastern Mediterranean-where indigenous people were dispossessed, enslaved, or exploited by other means. Enclosure is yet another example of theft and violence masking as "law, order, security": backed by the rule of law, the state employs violence to discipline, to reclassify, to criminalize, and to destroy sovereignty and create disorder. Enclosure is part of this process of war-a war on the commons, which ultimately turns some of the expropriated people into a proletariat (including European industrial, maritime, and landless rural labor, as well as prostitutes and beggars), turns a portion into settlers, and sends a portion to the workhouse. Some are merely casualties whose flesh mingles with the earth and whose bodies-sometimes hanging from a tree or broken on the wheel-serve to terrorize those who resist the new discipline.10

While the value of Black labor may have ebbed and flowed with the changing character of the global economy, there has never been a moment in US history when our humanity mattered, when Black people could enjoy full privileges and protections of citizenship. But the same can be said of most of the planet-at least until the mid-twentieth century, although I would venture to say this is still the case. What Black resistance calls into question is the inhumanity of the system, the inhumanity of those who subjugate in the name of civilization; it insists that the survival of humanity (and this is not the humanity defined by the Enlightenment) depends on the complete destruction of racial capitalism, patriarchy, and regimes of normativity.

As I wrote in the aftermath of the George Zimmerman verdict, unless we come to terms with this history, we will continue to believe that the system just needs to be tweaked, or the right-wing fringe defeated, or our humanity acknowledged.11 We will miss the routine character of state violence; its origins in the very formation of colonialism, slavery, and capitalism; and the ways in which routine violence has become a central component of US policies, including drone warfare and targeted killing. We cannot change the situation simply by finding the right legal strategy, the best policies, or recognition.

#### 1AC Marjanovic proves this because it assumes market factors can be a good motivator for change but that logic ignores that prioritizing black health is never an economically good approach.

Marjanovic and Feijao, 20

(Sonja, directs RAND Europe’s portfolio of research in the field of healthcare innovation, and Carolina, analyst working in the areas of science and emerging technology at RAND Europe, “Pharmaceutical Innovation for Infectious Disease Management”, <https://www.rand.org/content/dam/rand/pubs/perspectives/PEA400/PEA407-1/RAND_PEA407-1.pdf>) AJW

We need to ensure scalable and sustainable approaches for pharmaceutical innovation in response to infectious disease threats to public health As key actors in the healthcare innovation landscape, pharmaceutical and life sciences companies have been called on to develop medicines, vaccines and diagnostics for pressing public health challenges. The COVID-19 crisis is one such challenge, but there are many others. For example, MERS, SARS, Ebola, Zika and avian and swine flu are also infectious diseases that represent public health threats. Infectious agents such as anthrax, smallpox and tularemia could present threats in a bioterrorism context.1 The general threat to public health that is posed by antimicrobial resistance is also well-recognised as an area in need of pharmaceutical innovation. Innovating in response to these challenges does not always align well with pharmaceutical industry commercial models, shareholder expectations and competition within the industry. However, the expertise, networks and infrastructure that industry has within its reach, as well as public expectations and the moral imperative, make pharmaceutical companies and the wider life sciences sector an indispensable partner in the search for solutions that save lives. This perspective argues for the need to establish more sustainable and scalable ways of incentivising pharmaceutical innovation in response to infectious disease threats to public health. It considers both past and current examples of efforts to mobilise pharmaceutical innovation in high commercial risk areas, including in the context of current efforts to respond to the COVID-19 pandemic. In global pandemic crises like COVID-19, the urgency and scale of the crisis – as well as the spotlight placed on pharmaceutical companies – mean that contributing to the search for effective medicines, vaccines or diagnostics is essential for socially responsible companies in the sector. 2 It is therefore unsurprising that we are seeing industry-wide efforts unfold at unprecedented scale and pace. Whereas there is always scope for more activity, industry is currently contributing in a variety of ways. Examples include pharmaceutical companies donating existing compounds to assess their utility in the fight against COVID19; screening existing compound libraries in-house or with partners to see if they can be repurposed; accelerating trials for potentially effective medicine or vaccine candidates; and in some cases rapidly accelerating in-house research and development to discover new treatments or vaccine agents and develop diagnostics tests.3,4 Pharmaceutical companies are collaborating with each other in some of these efforts and participating in global R&D partnerships (such as the Innovative Medicines Initiative effort to accelerate the development of potential therapies for COVID-19) and supporting national efforts to expand diagnosis and testing capacity and ensure affordable and ready access to potential solutions.3,5,6 The primary purpose of such innovation is to benefit patients and wider population health. Although there are also reputational benefits from involvement that can be realised across the industry, there are likely to be relatively few companies that are ‘commercial’ winners. Those who might gain substantial revenues will be under pressure not to be seen as profiting from the pandemic. In the United Kingdom for example, GSK has stated that it does not expect to profit from its COVID-19 related activities and that any gains will be invested in supporting research and long-term pandemic preparedness, as well as in developing products that would be affordable in the world’s poorest countries.7 Similarly, in the United States AbbVie has waived intellectual property rights for an existing combination product that is being tested for therapeutic potential against COVID-19, which would support affordability and allow for a supply of generics.8,9 Johnson & Johnson has stated that its potential vaccine – which is expected to begin trials – will be available on a not-for-profit basis during the pandemic.10 Pharma is mobilising substantial efforts to rise to the COVID-19 challenge at hand. However, we need to consider how pharmaceutical innovation for responding to emerging infectious diseases can best be enabled beyond the current crisis. Many public health threats (including those associated with other infectious diseases, bioterrorism agents and antimicrobial resistance) are urgently in need of pharmaceutical innovation, even if their impacts are not as visible to society as COVID-19 is in the immediate term. The pharmaceutical industry has responded to previous public health emergencies associated with infectious disease in recent times – for example those associated with Ebola and Zika outbreaks.11 However, it has done so to a lesser scale than for COVID-19 and with contributions from fewer companies. Similarly, levels of activity in response to the threat of antimicrobial resistance are still low.12 There are important policy questions as to whether – and how – industry could engage with such public health threats to an even greater extent under improved innovation conditions. The COVID-19 pandemic is a game-changer among global public health threats. The risk to human life (both in terms of morbidity and quality of life), the economic risks, the epidemiology of the disease and speed of escalation have led to a crisis-response by many governments around the world. This has in turn influenced the immediate industry efforts. Many other infectious disease threats may not manifest as crises in the short term and in the same way as COVID-19, but they could nevertheless escalate. They are not considered to be crises from a short term perspective because they are contained to specific regions and affect fewer people at present – or are re-emerging (e.g. Ebola) – or their impacts have not yet materialised at a scale that would qualify as an immediate crisis (e.g. growing risks of antimicrobial resistance to some infectious pathogens). However, such diseases and issues are recognised as global threats that could become crises in the future.13 The emerging threats raise important policy questions about how government and the pharmaceutical industry can work together to ensure that pharmaceutical industry innovation is incentivised sustainably and at scale. This is important to help mitigate against current and emerging threats becoming crises further down the line. At present, there are no clear and specific criteria to determine when a disease can trigger the types of healthcare-innovation-related policy actions that have been deployed in response to the COVID-19 crisis. For example, this applies to criteria for securing financial resources for innovation-related activities, reforming regulation to accelerate trials and regulatory approval processes, and securing reimbursement mechanisms that help enable industry engagement and the search for rapid solutions. The WHO guidance on what constitutes a pandemic phase does provide guidance on national policy response options, but not specifically as they relate to healthcare innovation activity.14 There are also questions as to whether such policy initiatives and incentives should only be applied in crisis situations, or also as part of proactive government and industry efforts to innovate in the areas of public health threats in order to prevent future global calamities. A crisis and ‘emergency mode’ response may be inevitable for some diseases, but more can be done to mitigate against the need for such a response – especially in cases where emerging threats and their consequences can be foreseen and are known to be a risk. We need to anticipate and act now in terms of how we plan and incentivise better for the future, and how we distinguish between different types of infectious disease threats and phases in framing incentives and regulation. Innovative financial instruments must be integral to any sustainable and scalable approach to incentivising pharmaceutical innovation for tackling emerging threats to public health from infectious diseases The pharmaceutical industry has a responsibility to both its shareholders and to society at large. Incentivising the pharmaceutical industry to innovate solely on the grounds of being a socially responsible sector is unlikely to lead to a sustainable and scalable approach for innovating in response to emerging infectious disease threats. There are also potential challenges to the types of innovation (i.e. how radical or incremental) a reliance on incentives rooted solely in a social responsibility argument can lead to. Donating existing compounds for testing is important, but it is different to at-scale, industry-wide intensive investment in R&D geared at developing highly innovative diagnostics, medicines and vaccines. Even in the case of COVID-19, there are significant differences in the scale of innovative activity that focuses on repurposing existing products and technologies – for example, through testing existing antiviral compounds for potential therapeutic value – and more radically innovative R&D efforts aimed at developing something that acts on the COVID-19 virus in fundamentally novel ways.

#### Libidinal economy is true

Chico et al 11 (A Primer on "Libidinal Economy" in Relation to Black Folks. Cosmic Hoboes: An Afropessimist Meditation (No)Space. <https://cosmichoboes.blogspot.com/2011/08/primer-on-libidinal-economy-in-relation.html>)

People who are interested in struggle need to understand the "libidinal economy." Coalition politicos like Al Sharpton like to tell us to put the unique experiences of black folks in the backseat to the interests of poor folks more generally. Such politicians expect us to submerge our interests as black people on the assumption that if poor people in general benefit from a political concession, poor black people will share equally in such benefits. Such politicos will continue to ignore the repeated evidence that a lot of nonblack people hate black people, even if doing so costs them money. If someone tells you that the problems black folks face are really just the problems that poor people face, they are telling you to ignore the libidinal economy. They are telling you that the political economy of capitalism is more important than the libidinal economy of antiblack racism. What is "libidinal economy"? In Red, White, and Black: Cinema and the Structure of U.S. Antagonisms (2010, Duke University Press), black political theorist Frank Wilderson highlights the distinction between political economy and libidinal economy (p. 9): Jared Sexton describes libidinal economy as “the economy, or distribution and arrangement, of desire and identification (their condensation and displacement), and the complex relationship between sexuality and the unconscious.” Needless to say, libidinal economy functions variously across scales and is as “objective” as political economy. Importantly, it is linked not only to forms of attraction, affection and alliance, but also to aggression, destruction, and the violence of lethal consumption. He emphasizes that it is “the whole structure of psychic and emotional life,” something more than, but inclusive of or traversed by, what Gramsci and other marxists call a “structure of feeling”; it is “a dispensation of energies, concerns, points of attention, anxieties, pleasures, appetites, revulsions, and phobias capable of both great mobility and tenacious fixation.” What does all this mean? Let's interpret this elaborate definition and get to how it thinks of "economy." When we think of economy, we usually think of something having to do with money. Wilderson uses the term political economy to refer to economy in the ways that we usually think of it: the ways people exchange materials and decide on how things are valued. Economy doesn't just mean the economy in the sense of the stock market or banks, but also any means of determining whether something is worth doing or possessing based on how much capital and labor power it yields. In struggle, we see over and over that money talks and bullshit walks. Economy has to do with what they value moves people to act. Economies are therefore very important to political action. But can there be an economy that exchanges something other than money or capital? Yes. To understand "economy" as Wilderson and Sexton use it, we have to think of economy in a more general way as things of all kinds that we can trade or save. You can accumulate not only cash or material items, but also fears and desires. Certain people accumulate more fear (the black athlete) and desire (the blonde cheerleader) than others. The term libidinal economy refers to the systems of exchange and valuation for fantasies, desires, fears, aversions, and enjoyment. Economy is about exchange and accumulation. Everyone feels fear and aggression, but where is it directed? The libidinal is about both people's desires, fantasies, and pleasures AND their phobias, fears, and violent consumptions. A libidinal economy has to do with which groups a subject is attracted to, which groups it is willing to form alliances with, and which people it is willing to provide affection to. Where can we see this libidinal economy? How can we illustrate this distinction? The libido is the collection of things like phobias and desires that are unconscious and invisible but that have a visible effect on the world, including the money economy. Some examples: We see libidinal economies at work any time there is a response by state that is out of all proportion to the material effects of any practice they are regulating. The USA incarcerates three million people, despite the fact that doing so has an adverse impact on US financial security. Hence the libidinal economy of the fear of black and brown people (who together comprise the overwhelming majority of inmates) trumps the political economy of the cost-benefit analysis of maintaining prisons. Let's take another example of the powder - versus crack-cocaine distinction, in which the same drug is punished differently at the federal level. Because the two drugs are chemically identical, there shouldn't be any distinction between how their use and sale is punished. In 2010, the law made it so that these two drugs were punished the same, although the Obama administration isn't in any hurry to make the abolition of this distinction retroactive so that the mostly black and brown people who are locked up because of it will get released. But the legal abolition of this distinction is not essential for us to look at. What is essential is why that distinction was made in the first place. Wilderson's work suggests that, for civil society, black people pose a threat that has nothing to do with the chemical content or the social and cultural effects of crack. Simply by being associated with black people, crack is seen as 100 times more threatening than is powder cocaine. The financial and social costs of locking all those black and brown people up and the financial and social costs of allowing all those white people to go free and continue to sell does not really matter to civil society. What the powder- versus crack-cocaine distinction shows is the desire to contain the threat that blackness symbolizes. This is the mark of libidinal economy. Cops, soldiers, firemen are considered sexually desirable because they become the heroes of civil society. The Oscar Grant shooting. Amadou Diallo was a victim of a extreme kind of violence because of the phobias that converged on his body. What is the exchange? Civil society has an anxiety about crime, and crime is always attached to black in urban areas. Police don't have to get a monetary award, but they get the gratitude of civil society. How does this play out in ways that don't have to do strictly with money? The desire for them may not show up in the amount of money they make. Cops get rewarded for their aggression. When the cop slammed dude into the glass at BART. Prison guards, thought of as having the toughest beat on the planet. They get rewarded for being the last line of defense against George Jackson. Oscar Grant was an accumulation of aggression and phobias. Why are the black people in Prince George's County, Maryland, segregated from white people in their same socioeconomic bracket with the same kinds of high-value real estate, and the same kinds of political-economic values? Living around white people has a value that cannot be explained in strictly monetary terms. AFDC benefited mostly white single mothers, and enjoyed a long history of support from 1936-the 1960s. It initially excluded black people. By the 1960s, when black people started getting it, attitudes changed toward it, making it seem like it was undeserved and a drain on national prosperity, and by 1984, when Ronald Reagan referred to "welfare queens in Cadillacs," it was clear that AFDC was "a black thing." In actual statistical terms, it was still used mostly by white women. But once it became associated with poor black women, it was seen as in need of drastic, radical reforms. But is this "libidinal economy" really that important? Frank Wilderson is using the distinction between a money economy and an economy of desire over and over again throughout this book. Wilderson talks about this by talking about the difference between word and deed. This is not the hypocrisy of the system. It IS the logic of the system. So Europeans tried to resolve the lack of labor power by passing laws that reduced homeless white people to the status of slaves. In the end, however, they never really enforced these laws. Wilderson quotes David Eltis, an economic historian, who says that the costs of settling the "new world" would have been significantly reduced if Europeans has simply enslaved other Europeans. But, Wilderson points out, "what Whites would have gained in economic value, they would have lost in symbolic value; and it is the [symbolic value] which structures the libidinal economy of civil society." In other words, the symbolic costs of Europeans enslaving other Europeans would have been too great. Instead, they went to Africa for their slaves, even though the financial cost of doing so was much, much greater. The radical left doesn't make this distinction. Cornel West and Tavis Smiley say they want to organize a new Poor People's Campaign, but they won't be able to explain why this is a failed project from the start. This is because they won't think about the aspects of coalition building that have nothing to do with money or the lack of money. In the late 1970s and early 1980s, the so-called "Reagan Democrats" were poor and working-class white people, many of them in unions, who voted overwhelmingly for Reagan against their own economic interest. The white left mistakenly thinks about the Reagan Democrats as people who were duped. They view them as an example of what Marx called "false consciousness" and they see it as their duty to inform the white poor and working class of why they should vote left. But there were all kinds of signs that white poor and working-class folks simply hated black people and didn't want to live anywhere that there was a large community of black people, even if those black people are of the same or higher socioeconomic status. The Reagan Democrats were excited by Reagan's antiblack rhetoric of law and order, a rhetoric that was in response against the activities of the Black Liberation Army, Weather Underground, Black Panthers, and Black Guerilla Family. Marxists think a person is in a state of false consciousness if her political or social interests go another way than her material or financial interests. If you adopt this view, then you probably think that the Reagan Democrats just need to be educated correctly about what they have in common with the black poor and working class. You have to think that their hatred of black people is somehow "false" simply because it runs counter to their financial interests. But this would be to ignore their interest in maintaining white supremacy and antiblack racism. One of the things white men would lose would be access to black bodies for sexual pleasure and amusement. These examples are not just isolated cases of false consciousness, ignorance, media manipulation, or some mystical thing called "prejudice." They are all of those things, but they are also something much, much greater that any student of struggle needs to be aware of. These examples reveal the contours of an economy of desires that is not primarily concerned with money. It's not that the political economy isn't also antiblack. In fact, both economies are antiblack.

### 2NC --- Case

#### AND You should flip traditional procedures of impact calculus and compare impacts from the perspective of the wretched of the earth. This means consciously refusing to evaluate impacts at the existential or universal level, or artificially inflating our impacts in your calculus to be equivalent to theirs.

Colebrook, 21—Edwin Erle Sparks Professor of English at Pennsylvania State University (Claire, “Can Theory End the World?,” symploke, Volume 29, Numbers 1-2, 2021, pp. 521-534, dml)

Finally, playing the game of theory sustains the world. How to end the world, and open another game, and not do so in the grand style? It amounts to this: I live and am constituted through this world of theory and yet know it is neither just nor capable of generating justice from its own resources. Too many chances have been given, and still the barbarism. Decades of theory and still, here we are in an age of accelerated mass extinctions and exacerbated micro and macro aggressions. It is all too easy for me, from within the privileged space of theory, to say it’s not worth saving; but it is perhaps a worse violence to pretend that this world must be saved. Given that being who one is requires holding on to one’s world, it would be best for theory to accept that its world is ending, and that it cannot and should not be saved. It can no longer be a question of saving the world for theory, or saving theory for the sake of the world. What is left is something like a minimal theory: other than the project of saving the world what remains is the decency of ending the world of theory well. Do “we” hang on to the world we have, keep going as long as we can, and eke out some end days? I think there are some ways in which theory has the resources for the end of the world, but only if it recognizes how much of it is bankrupt and complicit—how much it has been saving itself and its world—and how much other worlds offer.

Conclusion

The truth of the relative. Rather than think of exiting theory to find THE truth of some other world, it is possible to draw from theory to think the truth of worlds. This would not be the relativism of truth but the truth of the relative. What might it be like to look at “the world” from a point of view in which it has no value? Such a project would be counter-apocalyptic. Rather than pre-emptively mourning the world we have now, such that the very possibility of its non-being elicits a desire to save the world at all costs, one might imagine looking at “the world” from the point of view of those for whom it has no value. This is not as metaphysically audacious as it sounds; it happens all the time. There is certainly a world in which theory does not matter, in which the type of thinking and questioning one finds in theory does not matter. This end of the world is theory somehow rendering itself parochial, and perhaps approaching modes of theory in which what “we” do as theory seems oddly mythic, which of course it is. I think the path towards this county-theory or para-theory or hyper-theory is multiple: by thinking of those for whom this world does not matter—the wretched of the earth—by thinking of the capacity within this world to imagine another “we” or another “us,” and then perhaps also imagining that this world that has saved itself at all costs in order to become the world takes up a minor role in the worlds of the cosmos.

#### 3 – The ability to engage in “extinction” discourse is not only shrouded in a privilege of whiteness to imagine a demise subjects know will never come but becomes a justification to genocide minority populations and brush off the systematic issues at the root of real extinction threats.

Mitchell 17 (Audra, Senior Lecturer (Associate Professor) in International Relations at the University of York (2010-15, UK) and a postdoctoral fellow at the University of St. Andrews , “Decolonizing against extinction part II: Extinction is not a metaphor – it is literally genocide”, 9/27/2017, <https://worldlyir.wordpress.com/category/colonisation-and-settler-colonialism/>, Accessed: 7/1/18, JY) recut-azi

Extinction has become an emblem of Western, and white-dominated, fears about ‘the end of the(ir) world’. This scientific term is saturated with emotional potency, stretched and contorted to embody almost any nightmare, from climate change to asteroid strikes. In academic and public contexts alike, it is regularly interchanged with other terms and concepts – for instance, ‘species death’, global warming or ecological collapse. Diffused into sublime scales – mass extinctions measured in millions of (Gregorian calendar) years, a planet totalized by the threat of nuclear destruction – ‘extinction’ has become an empty superlative, one that that gestures to an abstract form of unthinkability. It teases Western subjects with images of generalized demise that might, if it gets bad enough, even threaten us, or the figure of ‘humanity’ that we enshrine as a universal. This figure of ‘humanity’, derived from Western European enlightenment ideals, emphasizes individual, autonomous actors who are fully integrated into the global market system; who are responsible citizens of nation-states; who conform to Western ideas of health and well-being; who partake of ‘culture’; who participate in democratic state-based politics; who refrain from physical violence; and who manage their ‘resources’ responsibly (Mitchell 2014).

Oddly, exposure to the fear of extinction contributes to the formation and bolstering of contemporary Western subjects. Contemplating the sublime destruction of ‘humanity’ offers the thrill of abjection: the perverse pleasure derived from exposure to something by which one is revolted. Claire Colebrook detects this thrill-seeking impulse in the profusion of Western blockbuster films and TV shows that imagine and envision the destruction of earth, or at least of ‘humanity’. It also throbs through a flurry of recent best-selling books – both fiction and speculative non-fiction (see Oreskes and Conway 2014; Newitz 2013; Weisman 2008). In a forthcoming intervention, Noah Theriault and I (2018) argue that these imaginaries are a form of porn that normalizes the profound violences driving extinction, while cocooning its viewers in the secure space of the voyeur. Certainly, there are many Western scientists, conservationists and policy-makers who are genuinely committed to stopping the extinction of others, perhaps out of fear for their own futures. Yet extinction is not quite real for Western, and especially white, subjects; it is a fantasy of negation that evokes thrill, melancholy, anger and existential purpose. It is a metaphor that expresses the destructive desires of these beings, and the negativity against which we define our subjectivity.

But extinction is not a metaphor: it is a very real expression of violence that systematically destroys particular beings, worlds, life forms and the relations that enable them to flourish. These are real, unique beings, worlds and relations – as well as somebody’s family, Ancestors, siblings, future generations – who are violently destroyed. Extinction can only be used unironically as a metaphor by people who have never been threatened with it, told it is their inevitable fate, or lost their relatives and Ancestors to it – and who assume that they probably never will.

This argument is directly inspired by the call to arms issued in 2012 by Eve Tuck and Wayne K. Yang and more recently by Cutcha Risling-Baldy. The first, seminal piece demonstrates how settler cultures use the violence of metaphorical abstraction to excuse themselves from the real work of decolonization: ensuring that land and power is in Indigenous hands. Risling-Baldy’s brilliant follow-up extends this logic to explain how First People like Coyote have been reduced to metaphors through settler appropriation. In both cases, engagement with Indigenous peoples and their relations masks moves to innocence: acts that make it appear as if settlers are engaging in decolonization, while in fact we are consolidating the power structures that privilege us.

In this series, want to show how Western, and white-dominated, discourses on ‘extinction’ appear to address the systematic destruction of peoples and other beings while enacting moves to innocence that mask their culpability and perpetuate structures of violence. As I argued in Part I of this series, extinction is an expression of colonial violence. As such, it needs to be addressed through direct decolonization, including the dismantling of settler colonial structures of violence, and the resurgence of Indigenous worlds. Following Tuck, Yang and Risling-Baldy’s lead, I want to show how and why the violences that drive extinction have come to be invisible within mainstream discourses. Salient amongst these is the practice of genocide against Indigenous peoples other than humans.

…it is literally genocide.

What Western science calls ‘extinction’ is not an unfortunate, unintended consequence of desirable ‘human’ activities. It is an embodiment of particular patterns of structural violence that disproportionately affect specific racialized groups. In some cases, ‘extinction’ is directly, deliberately and systematically inflicted in order to create space for aggressors, including settler states. For this reason, it has rightly been framed as an aspect or tool of colonial genocides against Indigenous human peoples. Indeed, many theorists have shown that the ‘extirpation’ of life forms (their total removal from a particular place) is an instrument for enacting genocide upon Indigenous humans (see Mazis 2008; Laduke 1999; Stannard 1994). Specifically, the removal of key sources of food, clothing and other basic materials makes survival on the land impossible for the people targeted.