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#### Academic philosophy is foundationally and irredeemably antiblack. The 1AC’s abstraction from the manifestations of racialized violence absolves white philosophers of their contributions to America’s apathy towards black death which prevents effective mobilization against white supremacy. Vote negative to reject the Western metaphysical tradition and the perennial failure of white philosophy. Curry and Curry 18

[Tommy, PhD, Prof. of Philosophy @ TAMU, Gwenetta, PhD, Ass. Prof. of Gender and Race Studies @ Alabama], “On the Perils of Race Neutrality and Anti-Blackness: Philosophy as an Irreconcilable Obstacle to (Black) Thought,” American Journal of Economics and Sociology, Vol. 77, Nos. 3-4 (May-September 2018). DOI: 10.1111/ajes.12244] JJ

We begin with the first author’s reflections on philosophy and its recurring problem of denying the realities of race and racism, reflections that have arisen as a Black (male) philosopher whose life has been threatened for doing Black philosophy. The experience of confronting death, being fearful of being killed doing my job as a critical race theorist, and being threatened with violence for thinking about racism in America has a profound effect on concretizing what is at stake in our theories about anti-Black racism. Whereas my work on race and racism in philosophy earlier in my career was dedicated to the problems created by the mass ignorance of the discipline to the political debates and ethnological history of Black philosophers in the 19th and 20th centuries, I now find myself thinking more seriously about the way that philosophy, really theory itself—our present categories of knowledge, such as race, class, and gender, found through disciplines—actually hastens the deaths of subjugated peoples in the United States. Academic philosophy routinely abstracts away from—directs thought to not attend to the realities of death, dying, and despair created by—antiBlack racism. Black, Brown, and Indigenous populations are routinely rationalized as disposable flesh. The deaths of these groups launch philosophical discussions of social injustice and spark awareness by whites, while the deaths of white people direct policy and demand outrage. Because racialized bodies are confined to inhumane living conditions that nurture violence and despair that become attributed to the savage nature of nonwhites and evidence of their inhumanity, the deaths of these dehumanized peoples are often measured against the dangers they are thought to pose to others. The interpretation of the inferior position that racialized groups occupy in the United States is grounded in how whites often think of themselves in relation to problem populations. This relationship is often rationalized by avoidance and by the denials of whites about being causally related to the harsh conditions imposed on nonwhites in the world. Philosophy, and its glorification of the rational individual, ignores the complexity of anti-Black racism by blaming the complacency, if not outright hostility, towards Blacks on the mass ignorance of white America. To remedy this problem, Black philosophers are asked to respond by gearing their writings, lectures, and professional presence to further educate and dialogue with white philosophers in order to enable them to better understand anti-Black racism and white supremacy (Curry 2008, 2015). This therapy is often rewarded as scholarship. Philosophical positions that analyze racism as a problem of miscommunication, misunderstanding, and ignorance (philosophies predicated on the capacity of whites to change) are rewarded and praised as the cutting edge and most impactful theories about race and racism. Reducing racism to a problem of recognition and understanding allows white philosophers to remain absolved of their contribution to the apathy that white America has to the death and subjugation Black Americans endure at the hands of the white race. To some readers, speaking about races as different groups with opposite, if not antagonistic, social lives seems to run contrary to the idea that there are no real races, just people, only the human race. This is the core of race-neutral theory in academic philosophy. Race neutrality asserts that while race, class, and gender may in fact differentiate bodies, the capacity for reason—the human essence beneath it all—is what is ultimately at stake in the recognition of difference. While this mantra has been offered to whites since the integrationist strategies of the U.S. Supreme Court in the 1950s under Chief Justice Earl Warren, it has had little effect in restructuring the psychology of white individuals or remedying the institutional practices of racism that continue to exclude or punish Black Americans. How are Black scholars to speak about racism, specifically the violence and death that seem to gravitate towards Black bodies if the rules of philosophy and the fragility of white Americans insist that racism is not the cause of the disproportionate death Black Americans suffer and race is not a significant factor in Black people’s lives? This article is an attempt to debunk the seemingly neutral starting point of academic philosophy. For decades, Black philosophers have attempted to educate white philosophers and reorient the philosophical anthropologies of the discipline. Black, Brown, and Indigenous philosophers have dedicated their lives and careers to educating white philosophers and students, with little to no effect on the composition and disposition of the discipline. While it is not uncommon for philosophy departments to say they support diversity, the reality is that many, if not most, Black philosophers continue to write about the problem of racism, their experiences of marginalization, and the violence they suffer from white colleagues, disciplinary organizations, and universities. This article should be read as an attempt not to amend the Western metaphysical tradition but to reveal the obstacles that indicate its perennial failure. It is the position of the authors that many of the demands for disciplinary change are often expressed as politics, when in reality there are issues of metaphysics (the concerns of being) and philosophical anthropology (the concerns about the (non)being capable of thinking) that are unaddressed in much of the current literature. Section I of this article describes what Black philosophy has taken to be the problem of racism in academic philosophy more broadly. Since the 1970s Black philosophers have criticized, attacked, and attempted to reform the discipline with little effect. This section interrogates why that is the case. Section II argues that the failure of philosophy to change is a problem of metaphysics or the illusion that Blackness is compatible with the idea of the white human. Section III presents the social scientific evidence demonstrating the seeming permanence of anti-Black racism and the dangerous nature of colorblind ideology, which does not recognize that societal organization and racism determine the life chances of Blacks. This article ends with a suggestion of what Black philosophy would look like if its primary mandate were not to persuade whites to remedy their own racist practices, but to diagnose and build strategies against the present problems of racism in philosophy before us.

#### The 1AC’s spikes and technical obfuscation are the hoops that black scholarship has to jump through to even get on the playing field --- white psychosis responds to critique with an abstraction to the level of fair play --- this fair play is embedded with a safe fantasy zone in which whiteness has the collective power to set rules and norms

Wilderson 08 Frank B Wilderson III, Associate Professor of African American Studies and Drama at the UC, Irvine, Former Member of militarized wing of the ANC. “Incognegro: A Memoir of Exile and Apartheid” Originally published by South End Press, 2008. IB

Whereas Selma Thornton attempts an institutional analysis of the Student Senate by way of a critique of Tim Harold and his practices, Harold responds with a ready made institutional defense and, later in the article, a defense of his integrity (a personalized response to an institutional analysis). He brings the scale of abstraction back down to the level most comfortable for White people: the individual and the uncontextualized realm of fair play. It's the White person's safety zone. I'm a good person, I'm a fair person, I treat everyone equally, the rules apply to everyone. Thornton and Rodriguez's comments don't indict Harold for being a "good" person, they indict him for being White: a way of being in the world which legitimates institutional practices (practices which Thornton and Rodriguez object to) accepts, and promotes, them as timeless—without origin, consequence, interest, or allegiance—natural and inevitable. "The sign-up sheet was posted for a week, the same way we treat any workshop." The whole idea that we treat everyone equally is only slightly more odious than the discussion or how we can treat everyone equally; because the problem is neither the practice nor the debates surrounding it, but the fact that White people can come together and wield enough institutional power to constitute a "We." "We" in the Student Senate, "We" in Aptos, "We" in Santa Cruz, "We" in the English department, "We" in the boardrooms. "We" are fair and balanced is as odious as "We" are in control—they are derivations of the same expression: "We" are the police. The claim of "balance and fair play" forecloses upon, not only the modest argument that the practices of the Cabrillo Student Senate are racist and illegitimate, but it also forecloses upon the more extended, comprehensive, and antagonistic argument that Cabrillo itself is racist and illegitimate. And what do we mean by Cabrillo? The White people who constitute its fantasies of pleasure and its discourse of legitimacy. The generous "We." So, let's bust "We" wide open and start at the end: White people are guilty until proven innocent. Fuck the compositional moves of substantiation and supporting evidence: I was at a conference in West Oakland last week where a thousand Black folks substantiated it a thousand different ways. You're free to go to West Oakland, find them, talk to them, get all the proof you need. You can drive three hours to the mountains, so you sure as hell can cut the time in half and drive to the inner city. Knock on any door. Anyone who knows 20 to 30 Black folks, intimately—and if you don't know 12 then you're not living in America, you're living in White America—knows the statement to be true. White people are guilty until proven innocent. Whites are guilty of being friends with each other, of standing up for their rights, of pledging allegiance to the flag, of reproducing concepts like fairness, meritocracy, balance, standards, norms, harmony between the races. Most of all. Whites are guilty of wanting stability and reform. White people, like Mr. Harold and those in the English Division, are guilty of asking themselves the question. How can we maintain the maximum amount of order (liberals at Cabrillo use euphemisms like peace, harmony, stability), with the minimum amount of change, while presenting ourselves—if but only to ourselves—as having the best of all possible intentions. Good people. Good intentions. White people are the only species, human or otherwise, capable of transforming the dross of good intentions into the gold of grand intentions, and naming it "change." ...These passive revolutions, fire and brimstone conflicts over which institutional reform is better than the other one, provide a smoke screen—a diversionary play of interlocutions—that keep real and necessary antagonisms at bay. White people are thus able to go home each night, perhaps a little wounded, but feeling better for having made Cabrillo a better place...for everyone... Before such hubris at high places makes us all a little too giddy, let me offer a cautionary note: it's scientifically impossible to manufacture shinola out of shit. But White liberals keep on trying and end up spending a lifetime not knowing shit from shinola. Because White people love their jobs, they love their institutions, they love their country, most of all they love each other. And every Black or Brown body that doesn't love the things you love is a threat to your love for each other. A threat to your fantasy space, your terrain of shared pleasures. Passive revolutions have a way of incorporating Black and Brown bodies to either term of the debate. What choice does one have? The third (possible, but always unspoken) term of the debate, White people are guilty of structuring debates which reproduce the institution and the institution reproduces America and America is always and everywhere a bad thing this term is never on the table, because the level of abstraction is too high for White liberals. They've got too much at stake: their friends, their family, their way of life. Let's keep it all at eye level, where whites can keep an eye on everything. So the Black body is incorporated. Because to be unincorporated is to say that what White liberals find valuable I have no use for. This, of course, is anti-institutional and shows a lack of breeding, not to mention a lack of gratitude for all the noblesse oblige which has been extended to the person of color to begin with. "We will incorporate colored folks into our fold, whenever possible and at our own pace, provided they're team players, speak highly of us, pretend to care what we're thinking, are highly qualified, blah, blah, blah...but, and this is key, we won't entertain the rancor which shits on our fantasy space. We've killed too many Indians, worked too many Chinese and Chicano fingers to the bone, set in motion the incarcerated genocide of too many Black folks, and we've spent too much time at the beach, or in our gardens, or hiking in the woods, or patting each other on the literary back, or teaching Shakespeare and the Greeks, or drinking together to honor our dead at retirement parties ("Hell, Jerry White let's throw a party for Joe White and Jane White who gave Cabrillo the best White years of their silly White lives, that we might all continue to do the same White thing." "Sounds good to me, Jack White. Say, you're a genius! Did you think of this party idea all on your own?" "No, Jerry White, we've been doing it for years, makes us feel important. Without these parties we might actually be confronted by our political impotence, our collective spinelessness, our insatiable appetite for gossip and administrative minutia, our fear of a Black Nation, our lack of will." "Whew! Jack White, we sound pathetic. We'd better throw that party pronto!" "White you are, Jerry." "Jack White, you old fart, you, you're still a genius, heh, heh, heh.") too much time White-bonding in an effort to forget how hard we killed and to forget how many bones we walk across each day just to get from our bedrooms to Cabrillo...too, too much for one of you coloreds to come in here and be so ungrateful as to tell us the very terms of our precious debates are specious."

#### Communication at its root involves a “community” which presumes an equitable relationship between the speaker and listener—blackness lacks the capacity to communicate itself because civil society obfuscates the processes of hearing, understanding, and responding to black voices. The issues of antiblackness will be bracketed out as always as per the 1AC.

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The shadow’s name is Anna Brown. She has also been named “the homeless lady,” as well as “the crackhead” or “drug sick” individual by the officers that arrested her. She went to the hospital after spraining her ankle, was arrested because she refused to leave due to continued pain and was found dead on the prison floor because her sprain produced blood clots that lodged into her lungs. Due to medical malpractice and the police officers’ violence, Anna passed away alone on the floor of a prison cell. Yet, that last sentence was entirely too nice, for in truth Anna Brown was murdered. The hesitation to describe this as a “murder” is because that implies an event, a narrative, a “when,” “where,” and “who” (as in “who done it?”). Yet this was not an event with an acting subject; she was instead murdered by subjectivity itself: a series of incidents centered on her body, each reverberating off each other into an orchestra of death. Each proceeding was an echo of the one preceding it: waves of suffering reflecting off each action through time. Her death was caused by the incoherence of her voice, her calls for care, her screams of agony. Put another way, she was murdered by civil society’s inability-–and lack of desire-–to hear her being. Discourse on race normally focuses on the material and the visual, but the video of Anna Brown’s death points us less to the images and more to the centrality of aurality to black suffering. The first part of the video is without audio, but this does not mean sound is absent per se. That the video lacks audio in the beginning says more than perhaps the soundtrack itself could, for it makes explicit the inaudibility of black suffering. We know that Anna Brown had expressed her lasting pain, in spite of the doctor’s opinion that she was fine. The hospital then ordered her to leave and she protested, saying that she was still in pain. She was forcibly wheeled to the hallway and eventually arrested by the police. Her vocal protests, critiques of inadequate service and expression of her persistent pain, fell on deaf ears. She spoke the knowledge of her body, but her voice was muted and over-dubbed by the knowledge of the professionals. How can the black know about itself? How can the shadow speak back? The violence that produces the subject (in this case, the doctor) robs Anna Brown of vocality, not so much literally as ontologically. Insofar as an object (a commodity, a slave) can speak, it cannot be said that it can communicate. At the etymological root of “communicate” is the logic of the commons or community: informing to participate in the world, sharing one’s utterance(s) to join the community. Communication, not even to imply anything as serious as the ethics of dialogue, requires an equal ontological status amongst the communicators. That several titles of the video online have called her the “homeless woman” evidences one singular truth (the desire to insult her notwithstanding): Anna Brown, as the descendent of slaves, has no home while the doctors are in their own dominion. In a public lecture titled “People-of-Color-Blindness,” Jared Sexton describes an experience at a jazz club where the microphones go off, but the band continues to play. Even though the sociality between the band and the audience has been shut down, the band still plays on. Sexton uses this example to dramatize how even though the black is socially dead, that does not signify that black life is non-existent. Instead, our social death signifies that black life is sealed off from the world and happens elsewhere: “underground or in outer space.” In this way Anna speaks, but the microphone that would project her subjectivity to the world has been turned off. Her suffering has been rendered unreal while her voice is heard as incoherent and dangerous. If Anna Brown’s suffering is inaudible, the second half of the video speaks to how her voice and pain are criminalized. When the police arrive, they surround Anna and then drag her out of the wheelchair, handcuff her, and leave her on the hospital floor. She is given two different charges: her protests for better service are charged as “trespassing” and her inability to walk due to her injury is charged as “resisting arrest.” When she is in the police car, the camera in the vehicle has a microphone. When they arrive at the prison, Anna continues to tell them she can’t walk and that she needs to be in a hospital. The police officers ignore her statements and instead oscillate between asking her “are you going to get out” and threatening her; “you have two seconds to [swing your legs out]…” Each implies that she can move her legs and she is choosing not to. As Saidiya Hartman writes in Scenes of Subjection, “the slave was recognized as a reasoning subject who possessed intent and rationality solely in the context of criminal liability.” Her suffering remains inaudible, but her voice can only be heard by the police as challenging the law, resisting arrest, disrespecting their authority; her voice can only be heard as a legitimizing force for their violence. As they drag her out of the car, she screams out in pain before the door is shut and her voice becomes muffled. They carried Anna Brown to the cell and laid her body on the ground as if she were already a corpse; they even refused her the dignity of lying on the bed. As they stepped around her body and closed the cell door, the only sign she was still alive were her wordless screams. Her screams pierce through my speakers, haunting my mind but they seem to have no effect on the prison workers. She was clearly not the first screaming body they had carried into a cell, for they did not even take time to stop their chatter. There is no passion, intimacy, or perverse enjoyment, just a multicultural group of men doing their job. Anna’s death is not the “primal scene” that the beating of Aunt Hester (Frederick Douglass’s Aunt) was. These two black women’s screams are connected by the paradigm of anti-blackness, yet their screams terrify for different reasons. The beating of Aunt Hester is a spectacular example of the “blood-stained gate” of the slave’s subjection. While the circulation of the Anna Brown video has given me pause, her death is more an example of the “mundane and quotidian” terror that Hartman focuses on in her text. Brown’s death was a (non)event, concealed from the world by the walls of the prison cell. Without this video, only those on the inside would have heard her screams. Anna Brown didn’t simply pass away, she was killed, but who did it? Douglass’s Aunt Hester was beaten by Captain Anthony, a man who wanted her and was jealous of her relationship to another slave. Anna Brown was murdered by a disparate set of (non)events where her body shuttled between a hospital and a prison, doctors and nurses, police officers and prison officials. There is no one person who killed her; instead, a structure of violence murdered her. No intimacy, just cold efficiency. Her scream was less of a sorrow song than the sharp pitch of nu-bluez: an impossible scream to be heard from the depths of incarceration and incapacity. Anna Brown’s death was neither an event nor a spectacle. An event signifies presence, but Anna’s death is an ethereal absence, a spirit’s wail fading away like one’s warm breath on a cold day. If the beating of Aunt Hester demands that one meditate on the spectacle of black suffering, Anna Brown’s screams call for us to think of the aurality of agony, the acoustics of suffering. What are the aural mechanisms that made it impossible for civil society to hear Anna Brown’s pain? What are the technologies that remix the tonalities of black people into criminalized speech? These thoughts on the acoustics of suffering are not to displace the visual for the aural, but instead to theorize how they form and invigorate each other. Put another way, anti-blackness is a structure where (black) skin speaks for itself and the body it encompasses, even when the black’s subjecthood is muted. In the darkness of space, one cannot hear you scream. Focusing on acoustics can offer a different sharpening of the cutting edge, a modality that allows us to tune into the unimaginable frequency of black thought. If it is impossible to hear the black (aurality) and for the black to speak on its own terms (orality), then to be heard in this world, we would have to break the laws of physics–ontologically speaking. This is another way of saying that the acoustics of suffering forces us to think of the impossibilities of harmony and, perhaps, the terrifying beauty of cacophony. In this way, the enlightenment of the ignorant shadows would not be the key to the future, but instead the reverberation of our revolutionary racket that clangs through civil society. From the black hole of our subjectivity and into the screeching noise of this parasitic world, we scream that our lives, black life, matters until the final, paradigmatic quiet comes.

#### The role of debate and the alternative is to surrender to blackness

Brady and Murillo 14[Nicholas and John, “Black Imperative: A Forum on Solidarity in the Age of Coalition,” January 26, 2014, http://outofnowhereblog.wordpress.com/2014/01/26/black-imperative-a-forum-on-solidarity-in-the-age-of-coalition/, John Murillo III is a PhD student in the English department at Brown University, and a graduate of the University of California, Irvine, with bachelor’s degrees in Cognitive Science and English. His research interests are broad, and include extensive engagements with and within: Black Studies–particularly Afro-Pessimism–Narrative Theory; Theoretical Physics; Astrophysics; Cosmology; and Neuroscience. Nicholas Brady is an activist-scholar from Baltimore, Maryland. He was also a recent graduate of Johns Hopkins with a bachelor’s degree in Philosophy and currently a doctoral student at the University of California-Irvine Culture and Theory program.]

“Surrender to blackness.” A grammatical imperative. Grammatical because syntactically it marks a command to or demand of a generalized addressee: “(Everyone) surrender to blackness.” Grammatical because the black flesh scarred and tattooed by these illegible hieroglyphics enunciates at the level of symbolic and ontological world orders: “Surrender to blackness” is a command at the level of the foundations of thought and being themselves; grammatical. Imperative because if there is any hope for a revolutionary praxis along any lines—race, class, gender, sexuality, (dis)ability—it must centralize, which is to say look in the face of, which is to say begin to the work of real love for, the blackness [preposition] which “an authentic upheaval might be born.” #BlackPowerYellowPeril failed to recognize this imperative as legible, let alone heed and meet its command/demand. Created by Suey Park (@suey\_park), the hashtag sought to draw from and build upon the accomplishments of Black womyn activists on twitter and tumblr who have long mobilized to generate productive and revolutionary interjections into the world’s violently antiblack discourses (see, for example, #solidarityisforwhitewomen, and #blackmaleprivilege) through extended, communal commentary, usually in direct opposition to the censoring strictures of any kind of respectability politics. Discussions about and within the hashtag can be found here, here, here, here(though this is very hasty, a bit shortsighted, and still not doing much more than glancing at, as opposed to engaging blackness), and here. But broadly, the intentions of the hashtag are founded upon a belief in the possibility of solidarity/coalition politics between Blacks and Asians, seeking to challenge persistent “tensions” between the communities for the sake of a common struggle against ‘white supremacy.’ For those nonblack participants, the drive toward solidarity represents a purely innocent and unquestioned, unquestionable, desire. All critiques of Asian antiblackness are rendered as derailing the move toward solidarity, for they are to bring up the obvious – clearly we are all human, we make mistakes, but to continuously bring up the “mistakes” and never “move on” is to foreclose the possibility of solidarity. And what a wonderful thing the blacks of the conversation were foreclosing – this solidarity thing. What a wonderful thing others were offering to us and we simply would not take. And yet, the unthought question remains: have you truly earned the right to act in solidarity, to form solidarity, to even believe in solidarity? And what is this solidarity thing we all hold near and dear to our hearts? Have we ever experienced it or do we simply have images we have transformed into memories of a solidarity that never existed? I know Black people and Asian people have worked together in the past, but have we ever formed a solid whole? And who is to blame for the fact that we have never had solidarity? The hashtag implies that both “sides” play an equal part in the failure to form solidarity. In the face of this, confessing our sins to each other forms the moment where we can form emotional bonds: “see, you were as racist as I, and how unfortunate it is that we let old whitey come between us. Never again will whitey make us part.” This is the logic behind much of the Asian confessing – white supremacy duped us into being antiblack racists – and also fed into the backlash aimed at blacks – “stop playing oppression olympics, that’s what whitey wants.” It must be foregrounded here that antiblackness cannot be simplified as “anti-black racism” and it is a singularity with no equivalent force – “anti-Asian” racism is not the flipside of antiblackness nor is orientalism or islamophobia. Antiblackness predates white supremacy by at least 300 years (and much more than that depending on how we trace our history) and we can understand antiblackness as the general tethering of the very concept of life to the ontological and unspeakable, unthinkable force of black death. That statement is a place to begin to define antiblackness, it is not the end for this force weaves itself in infinite variety throughout all corners of the globe, forming globe into world. This is not simply about the little racist microaggressions that people listed in their tweets, this is about a global force that the world – not simply whites – bond over and form their lives inside of and through. What #BlackPowerYellowPeril revealed, however, is that the underside of coalition politics remains a violent and virulent antiblackness. As blacks— John Murillo III (@writedarkmatter), New Black School (@newblackschool), Nicholas Brady (@nubluez\_nick), and others—raised questions and comments in the spirit of that singular imperative—“Surrender to blackness”—antiblackness emerged in the violence of the response levied against it; one need only visit the hashtag to bear witness. From outright refusals to engage the antiblackness central to the histories and politics of nonblack communities of color, to denials of the foundational, global, and singular nature of antiblackness, and to the repeated calls to police and remove this disruptive blackness and its imperative from the conversation, antiblackness exploded onto the scene. All of this in the name of “coalition.” This is because “coalition” politics and possibilities are fetishized, not loved. The fetish denies the necessary recognition of antiblackness at coalition’s heart, and that antiblackness left unattended renders the imperative illegible. It is a fetishization, then, of antiblackness. The fetish object at the heart of the coalition has always been black flesh – a fetishization where pleasure and terror meet to create the bonds of solidarity people so desire. Here, we open a forum on how the hashtag embodies this fetish, the distinction between fetish and love that must be made in excess of the hashtag and ones like it, and the absolute imperativeness of the imperative. Instead of fetishizing the object, you must surrender to blackness.

## 2

#### Bipartisan antitrust bills passing now but continued PC needed to pacify republicans.

Perlman 9/3 [Matthew; 9/3/21; “*Interest Groups Back Big Tech Antitrust Bills In House,*” LAW360, <https://www.law360.com/competition/articles/1418789/interest-groups-back-big-tech-antitrust-bills-in-house>] Justin

Law360 (September 3, 2021, 7:25 PM EDT) -- A contingent of public interest groups are urging leaders of the U.S. House of Representatives to advance a package of legislation aimed at reining in Big Tech companies through updates and changes to antitrust law, though free market advocates have been jeering many of the bills. A total of 58 public interest and consumer advocacy groups signed on to a letter Thursday asking House leaders to swiftly pass the package of six antitrust bills that the Judiciary Committee approved in late June after a marathon markup session. The proposals include legislation prohibiting large platform companies from acquiring competitive threats, preferencing their own services and using their control of multiple business lines to disadvantage competitors in other ways. The proposals would also impose interoperability and data portability requirements on large tech platforms, increase merger filing fees and boost enforcement by state attorneys general. Charlotte Slaiman, competition policy director for Public Knowledge, which signed on to the letter, said in a statement Thursday that the package charts a path toward putting "people back in control of the digital economy." "The broad range of groups supporting this package shows just how widespread the problem of Big Tech dominance is, and that these bills deserve a full vote in the House imminently," Slaiman said. The letter contends that America has a monopoly problem that is resulting in lower wages, reduced innovation and increased inequality, while also undermining the free press and perpetuating "racial, gender and class dominance." "Big Tech monopolies are at the center of many of these problems," the letter said. "Reining in these companies is an essential first step to reverse the damage of concentrated corporate power throughout our economy." The proposals followed a 16-month investigation by the House antitrust subcommittee into Amazon, Apple, Facebook and Google that resulted in a sprawling report from Democratic members calling for a range of reform measures to rein in the dominance of the companies. While consumer advocacy groups have largely supported the measures, the tech companies themselves and other interest groups have been highly critical, including a coalition of more than 25 right-leaning groups that sent a letter to Congress ahead of the markup hearing. The letter called the bills a "Trojan horse package" aimed at cynically using conservative anger over Big Tech, particularly at perceived censorship by social media platforms, to seek bipartisan support for "European-style over-regulation." For its part, Facebook has called the proposals a "poison pill for America's tech industry at a time our economy can least afford it" and said the bills underestimate the fierce competition the U.S. companies face from abroad. Apple and Google also raised concerns about the impact the bills would have on innovation, as well as on privacy and security. And Amazon has warned about the potential consequences of the proposals for both small businesses that sell on its platform and the consumers who use it to shop. Ending Platform Monopolies Act Thursday's letter said that the Ending Platform Monopolies Act would address "the most problematic aspects of the Big Tech companies" by allowing enforcers to break-up or separate pieces of the businesses when they create conflicts of interest that give the platforms an advantage over potential competitors and business users. A fact sheet from Public Knowledge accompanying the letter said that the bill is an important tool to help the antitrust agencies "protect consumers from mammoth platforms and to ensure compliance with other parts of the package." But during the markup hearing, ranking Republican committee member Rep. Jim Jordan of Ohio blasted the bill as a regulatory overreach, calling it "quite literally central planning" and arguing that it has significant ambiguities, which is bad for business. The Competitive Enterprise Institute argued in a June statement that the bill "kills the goose that lays the golden egg," and would actually result in small businesses being unable to access the large platforms, which in turn would focus on their own offerings instead. The Chamber of Progress has warned that the proposal could bar Amazon from offering its Prime services and its Amazon Basics private label products, since they would compete against other sellers on the platform. Other groups have also warned it could also force tech companies to divest popular apps, including Google's Maps and YouTube, Facebook's WhatsApp and Instagram and Apple's iMessage and FaceTime. American Innovation and Choice Online Act The American Innovation and Choice Online Act is aimed at barring the platform companies from preferencing their own products and services over those of rival businesses and from excluding or discriminating against rivals. Thursday's letter said this proposal would "promote innovation and competition" by preventing the platforms from protecting their monopolies. The right-leaning think tank American Enterprise Institute and others have argued that the bill could prevent Apple from pre-installing certain apps on its mobile phones, since that would advantage it over competing app developers. It could also prevent Google from integrating maps or customer reviews into search results, among other things. "At a minimum, the act would significantly disrupt these platforms' business models in ways that undermine consumer value," Daniel Lyons, a senior fellow for the group wrote in a blog post in June. Platform Competition and Opportunity Act The Platform Competition and Opportunity Act is aimed at preventing platform companies from acquiring potential or nascent competitors and its supporters argued in Thursday's letter that it would prevent the tech giants from enhancing or maintaining their market power. The bill would presumably have blocked Facebook's purchases of WhatsApp, Instagram and other services it has acquired, as well as a slew of deals by Google over the past two decades. Detractors have contended that this bill would limit investments in startups because it restricts their ability to be acquired by the larger technology firms, which they say is a key way for founders to benefit from their success. An American Enterprise Institute blog post from June argues that "opportunities for acquisition have been important drivers of innovation in tech" and also said the bill would prevent the tech companies from entering new areas of business to compete with each other. ACCESS Act The Augmenting Compatibility and Competition by Enabling Service Switching, or ACCESS Act, imposes requirements for the tech companies to make user data portable and able to be used by competing services. The bill's supporters argued in Thursday's letter that this prevents the tech giants from locking users into their services, since users can take their data with them and use it on other networks. Privacy and security implications have been flagged as potential problems for the proposal, with the Competitive Enterprise Institute saying in a statement in June that it's an "anti-privacy bill" that forces companies to turn over private user information to others. The group also said the bill would try to micromanage "complex, dynamic, and highly competitive markets" that are beyond understanding for most politicians and regulators. The American Enterprise Institute has also contended that the requirements would actually make rivals even more dependent on the incumbent platforms. Filing fees and state enforcement Of the antitrust bills approved by the House Judiciary Committee, the ones with the most bipartisan support appear to be the Merger Filing Fee Modernization Act and the State Antitrust Enforcement Venue Act, though it took a day of debate before the committee passed them. A Senate version of the filing fee bill passed that chamber in June as part of the U.S. Innovation and Competition Act. It would raise the fees merging parties pay when reporting large transactions, while lowering fees for smaller deals, in order to raise more resources for the antitrust agencies. Information Technology & Innovation Foundation argued in an August blog post that the legislation does not give Congress enough oversight over how the agencies will use the funds that it raises and called for the bill to include provisions requiring the money be used to hire more staff dedicated to antitrust enforcement. The Competitive Enterprise Institute also raised concerns about congressional oversight and contended that the bill would increase the cost of doing business at a time when the economy is sputtering. "U.S. consumers need innovative services and affordable products, not higher prices passed onto them by businesses avoiding new, unnecessary regulatory compliance costs," the group said in a June blog post. The state enforcement bill would prevent antitrust cases brought by state attorneys general from being transferred to a different venue by the Judicial Panel on Multidistrict Litigation, similar to protections afforded to federal enforcers. The bill is intended to prevent companies targeted by state-led enforcement actions from trying to move the cases to more favorable venues, and it also has an analog in the Senate. Information Technology & Innovation Foundation acknowledged in their August post that having cases included in multidistrict litigation can handicap state enforcers, but contended the changes should only apply to criminal matters and that the current version is wrong to block transfers of civil cases too. Thursday's letter from supporters of the bills said the proposals were carefully crafted to address the abusive practices of Big Tech, informed by the House antitrust subcommitee's sprawling investigation and "historic" 450-page report. "We believe that these bills will bring urgently needed change and accountability to these companies and an industry that most Americans agree is already doing great harm to our democracy," the letter said.

#### Aff requires negotiations that saps PC.

Pooley 21 [James; Former deputy director general of the United Nations’ World Intellectual Property Organization and a member of the Center for Intellectual Property Understanding; “Drawn-Out Negotiations Over Covid IP Will Blow Back on Biden,” Barron’s; 5/26/21; <https://www.barrons.com/articles/drawn-out-negotiations-over-covid-ip-will-blow-back-on-biden-51621973675>] Justin

The Biden administration recently announced its support for a proposal before the World Trade Organization that would suspend the intellectual property protections on Covid-19 vaccines as guaranteed by the landmark TRIPS Agreement, a global trade pact that took effect in 1995.

The decision has sparked furious debate, with supporters arguing that the decision will speed the vaccine rollout in developing countries. The reality, however, is that even if enacted, the IP waiver will have zero short-term impact—but could inflict serious, long-term harm on global economic growth. The myopic nature of the Biden administration’s announcement cannot be overstated.

Even if WTO officials decide to waive IP protections at their June meeting, it’ll simply kickstart months of legal negotiations over precisely which drug formulas and technical know-how are undeserving of IP protections. And it’s unthinkable that the Biden administration, or Congress for that matter, would actually force American companies to hand over their most cutting-edge—and closely guarded—secrets.

As a result, the inevitable foot-dragging will cause enormous resentment in developing countries. And that’s the real threat of the waiver—precisely because it won’t accomplish either of its short-term goals of improving vaccine access and facilitating tech transfers from rich countries to developing ones. It’ll strengthen calls for more extreme, anti-IP measures down the road.

Experts overwhelmingly agree that waiving IP protections alone won’t increase vaccine production. That’s because making a shot is far more complicated than just following a recipe, and two of the most effective vaccines are based on cutting-edge discoveries using messenger RNA.

As Moderna Chief Executive Stephane Bancel said on a recent earnings call, “This is a new technology. You cannot go hire people who know how to make the mRNA. Those people don’t exist. And then even if all those things were available, whoever wants to do mRNA vaccines will have to, you know, buy the machine, invent the manufacturing process, invent creation processes and ethical processes, and then they will have to go run a clinical trial, get the data, get the product approved and scale manufacturing. This doesn’t happen in six or 12 or 18 months.”

Anthony Fauci, the president’s chief medical adviser, has echoed that sentiment and emphasized the need for immediate solutions. “Going back and forth, consuming time and lawyers in a legal argument about waivers—that is not the endgame,” he said. “People are dying around the world and we have to get vaccines into their arms in the fastest and most efficient way possible.”

Those claiming the waiver poses an immediate, rather than long-term, threat to IP rights also misunderstand what the waiver will—and won’t—do.

The waiver petition itself is more akin to a statement of principle than an actual legal document. In fact, it’s only a few pages long.

As the Office of the United States Trade Representative has said, “Text-based negotiations at the WTO will take time given the consensus-based nature of the institution and the complexity of the issues involved.” The WTO director-general predicts negotiations will last until early December.

That’s a lot of wasted time and effort. The U.S. Trade Representative would be far better off spending the next six months breaking down real trade barriers and helping export our surplus vaccine doses and vaccine ingredients to countries in need.

#### Antitrust is key to the DIB – brink is now.

Sitaraman 20 [Ganesh; Vanderbilt University Law School; “The National Security Case for Breaking Up Big Tech,” Knight First Amendment Institute at Columbia; 3/12/20; <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3537870>] brett // Re-Cut Justin

Concentration in the tech sector also threatens the defense industrial base due to higher costs, lower quality, less innovation, and even corruption and fraud.71 Each of these dynamics has already been a problem for America’s over-consolidated defense industrial base. As technology becomes more and more central to defense and national security, it is likely that these same dynamics will replicate themselves with big tech companies. This will become a national security threat, both directly, in terms of the quality and speed of procurement, and indirectly, by reducing innovation and functionally redirecting defense budgets from research spending to higher monopoly profits.72 Conventional economic theory suggests that monopolists have the ability to increase prices and reduce quality because consumers are captive.73 When it comes to defense spending, the Government Accountability Office commented in 2019 that “competition is the cornerstone of a sound acquisition process and a critical tool for achieving the best return on investment for taxpayers.”74 At the same time, the GAO observed that “portfolio-wide cost growth has occurred in an environment where awards are often made without full and open competition.”75 Indeed, it found that 67 percent of 183 major weapons systems contracts had no competition and almost half of contracts went to a handful of firms. Of course, consolidation also means that the Defense Department is in a symbiotic relationship with these big contractors. Some startup executives wanting to sell to the government thus see the Pentagon as “a bad customer, one that is heavily skewed in favor of larger, traditional players,” and they don’t feel like they can break into the sector.76 Standard stories about political economy and capture also suggest that these firms will have outsized power over government.77 As Frank Kendall, the former head of acquisitions at the Pentagon, has said, “With size comes power, and the department’s experience with large defense contractors is that they are not hesitant to use this power for corporate advantage.”78 In the defense context, that means monopolists retain power (and profits), even if they overcharge taxpayers and risk the safety of military personnel in the field. In an important article in The American Conservative on concentration in the defense sector, researchers Matt Stoller and Lucas Kunce argue that contractors with de facto monopoly at the heart of their business models threaten national security. They write that one such contractor, TransDigm, buys up companies that supply the government with rare but essential airline parts and then hike up the prices, effectively holding the government “hostage.”79 They also point to L3, a defense contractor that had ambitions to be a “Home Depot” for the Pentagon, as its former CEO put it. L3’s de facto monopoly over certain products, according to Stoller and Kunce, means that it continues to receive lucrative government contracts, even after admitting in 2015 that it knowingly supplied defective weapons sights to U.S. forces.80 Consolidation also threatens U.S. defense capacity. The decline of competition, according to a 2019 Pentagon report, leaves the military vulnerable to “sole source suppliers, capacity shortfalls, a lack of competition, a lack of workforce skills, and unstable demand.”81 With a limited number of producers, there is less talent and knowhow available in the country if there is a need to build capacity rapidly.82 In 2018, the Defense Department released a report on vulnerable items in the military supply chain, including numerous items in which only one or two domestic companies (and, in some cases, zero domestic companies) produced the essential goods.83 How did the United States lose so much of its industrial base? The combination of consolidation and global integration is part of the story. As Stoller and Kunce argue, companies consolidated in the 1980s and 1990s while shifting emphasis from production and R&D to Wall Street-demanded profits. Globalization then allowed them to shift production overseas at a lower cost. The result was to gut America’s domestic industrial base—and, in many cases, to shift it to China, which engaged in a decades-long strategic plan to develop its own industrial base. The result, in the words of the 2018 Defense Department report, is that “China is the single or sole supplier for a number of specialty chemicals used in munitions and missiles.” In other areas too, the risks of losing access to critical resources are real. Describing the problem of limited carbon fiber sources, the same Pentagon report notes, “[a] sudden and catastrophic loss of supply would disrupt DoD missile, satellite, space launch, and other defense manufacturing programs. In many cases, there are no substitutes readily available.”84 As technology becomes more integral to the future of national security, it is hard to see how big tech will not simply go the way of the big defense contractors. Corporate mottos not to “be evil” are long gone,85 and big tech companies spend millions on conventional Washington, D.C., lobbying efforts.86 Over time, as contracts move to tech behemoths, there will no longer be competitive alternatives, and the Pentagon will likely be locked into relationships with big tech companies—just as they currently are with big defense contractors.87 Some commentators suggest that robust antitrust policies are a problem because only a small number of tech companies can contract for defense projects.88 But there is another way to look at it: The goal should be to encourage competition in the tech sector so that there are multiple contractors available. As former secretary of homeland security Michael Chertoff has said, defending the antitrust case against Qualcomm, “a single-source national champion creates an unacceptable risk to American security—artificially concentrating vulnerability in a single point. ... We need competition and multiple providers, not a potentially vulnerable technological monoculture.”89 The consequence of consolidation in tech is that taxpayers will likely see higher bills even as innovation slows due to reduced competition. Worse still, every taxpayer dollar that goes to monopoly profits—whether in the form of higher prices or fraud and corruption—is a dollar that is not going toward innovation for the future. A concentrated defense sector means not only less innovation due to the lack of competition in the sector; it means that funding that could have been available for innovation instead gets redirected via monopoly profits to the pockets of big tech executives and shareholders.

#### That solves extinction through great power war.

Marks 19 [Michael; Former Senior Policy Advisor to the Under Secretary for Security Assistance, Science and Technology at the U.S. Department of State; "Strengthen US Industry To Counter National Security Challenges," American Military News; 10/10/19; <https://americanmilitarynews.com/2019/10/strengthen-us-industry-to-counter-national-security-challenges/>] Justin

While U.S. defense budgets have recently been on the rise, it is likely that we will see a spending decline in the coming years as competition for non-defense federal budget dollars increases and deficits grow. The United States, therefore, must take action to ensure that we maintain our technological edge against our adversaries by empowering the private sector to provide cost-effective innovation for America’s defense. Since the end of the Second World War the U.S. has relied on qualitative superiority over its potential adversaries, especially those like the Soviet Union/Russia and China, who enjoyed comparative quantitative advantages. These qualitative advantages were vital to maintaining global stability and helped enable our nation to become the preeminent global economy, but they have been eroded over the last few decades. In 1960, the U.S. share of global research and development (R&D) spending stood at 69%. U.S. defense-related R&D alone accounted for 36% of total global expenditures. Soon thereafter other nations recognized the need to increase their R&D expenditures and build their own defense industrial bases to compete with the United States. From 2000-2016, China’s share of global R&D rose from 4.9% to 25.1% while the U.S. share of global R&D dropped to 28%. U.S. defense-related R&D meanwhile now makes up a mere 4% of global R&D spending. There can be no doubt that Russia and China are determined to challenge America’s qualitative advantage. From the rebirth of Russian military power under Vladimir Putin to the ever-growing Chinese military prowess across the board, their efforts show no sign of slowing down. Russia has been and continues to undergo a major modernization of its armed forces. For example, they are in the midst of a ten-year program to build hundreds of new nuclear missiles and have set a goal of modernizing 70% of the Russian Ground Force’s equipment by 2020. One of the most frightening examples of Russia’s resurgence is its development of a hypersonic missile that could be ready for combat as early as 2020. Worryingly, the US is currently unable to defend against this type of missile. To accompany these developments came the emergence in 2017 of Russia as the world’s second-largest arms producer, ready and able to support nations hostile to US interests. China, on the other hand, used to be a country that only manufactured cheap products and knockoffs, but that is no longer true. Technology development and innovation figure prominently in all of China’s national planning goals, with plans to make the country the global leader in science and innovation and the preeminent technological and manufacturing power by 2049, the 100th anniversary of the Chinese communist revolution. This, of course, has huge implications for China’s military capability. The country now has the second-largest national defense budget behind the U.S. and wants to be Asia’s preeminent military power. Beijing is developing next-generation fighter jets, ICBMs and shorter-range ballistic missiles, as well as advanced naval vessels. The People’s Liberation Army has reached a critical point of confidence and now feel they can match competitors like the United States in combat. This has implications for the security of Taiwan, Japan, other US allies in the region as well as to America itself. To make matters worse, there are a growing number of experts that see China developing asymmetric technologies, combined with conventional and nuclear systems that could create an existential threat to the U.S. pacific based assets. It is in the wake of these growing threats to our national security American industry will likely be expected to shoulder an even larger responsibility concerning investment in defense-related R&D. One of the ways we can empower companies to make these additional investments and lead next-generation defense innovation is to allow commonsense mergers between important defense and aerospace companies. Horizontal consolidation eliminates the redundancy of enormous fixed costs, leading to savings passed down to customers. Mergers can also create economies of scale and existing synergies that help the combined company realize access to larger numbers of engineers and innovators, while keeping costs low and improving the timeline for taking a product from concept to development. FA recent example of how this can work is the proposed Raytheon and United Technologies merger. The two parties project that the new combined company will employ more than 60,000 engineers, hold over 38,000 patents and invest approximately $8 billion per year in research and development. This will allow the development of new, critical technologies more quickly and efficiently than either company could on its own. Such private sector investments in innovation will be critical in the face of the growing challenges to American military dominance. America’s R&D advantage, crucial to maintaining military superiority, is increasingly at risk. As China and Russia continue to challenge America’s military dominance and pressures on the defense budget continue to mount, the federal government will likely turn more and more to contractors and commercial companies to develop next-generation defense capabilities. Strengthening U.S. industry, therefore, will be critical to countering our national security challenges.

## 3

#### Death is the worst evil

Paterson 03 – Department of Philosophy, Providence College, Rhode Island. (Craig, “A Life Not Worth Living?”, Studies in Christian Ethics, <http://sce.sagepub.com>)

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81 In conclusion, concerning wille d human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### Extinction is a distinct phenomenon that requires prior consideration

**Burke et al 16** Associate Professor of International and Political Studies @ UNSW, Australia, 2016 (Anthony, Stefanie Fishel is Assistant Professor, Department of Gender and Race Studies at the University of Alabama, Audra Mitchell is CIGI Chair in Global Governance and Ethics at the Balsillie School of International Affairs, Simon Dalby is CIGI Chair in the Political Economy of Climate Change at the Balsillie School of International Affairs, and, Daniel J. Levine is Assistant Professor of Political Science at the University of Alabama, “Planet Politics: Manifesto from the End of IR,” Millennium: Journal of International Studies 1–25)

8. Global ethics must respond to mass extinction. In late 2014, the Worldwide Fund for Nature reported a startling statistic: according to their global study, 52% of species had gone extinct between 1970 and 2010.60 This is not news: for three decades, conservation biologists have been warning of a ‘sixth mass extinction’, which, by definition, could eliminate more than three quarters of currently existing life forms in just a few centuries.61 In other words, it could threaten the practical possibility of the survival of earthly life. Mass extinction is not simply extinction (or death) writ large: **it is a qualitatively different phenomena that demands its own ethical categories.** It cannot be grasped by aggregating species extinctions, let alone the deaths of individual organisms. Not only does it erase diverse, irreplaceable life forms, their **unique histories** and **open-ended possibilities**, but it **threatens the ontological conditions of Earthly life**.

IR is one of few disciplines that is explicitly devoted to the pursuit of survival, yet it has almost nothing to say in the face of a possible mass extinction event.62 It utterly lacks the conceptual and ethical frameworks necessary to foster diverse, meaningful responses to this phenomenon. As mentioned above, Cold-War era concepts such as ‘nuclear winter’ and ‘omnicide’ gesture towards harms massive in their scale and moral horror. However, they are asymptotic: they imagine nightmares of a severely denuded planet, yet they do not contemplate the **comprehensive negation** that a mass extinction event entails. In contemporary IR discourses, where it appears at all, extinction is treated as a problem of scientific management and biopolitical control aimed at securing existing human lifestyles.63 Once again, this approach fails to recognise the reality of extinction, which is a **matter of being and nonbeing**, not one of life and death processes.

Confronting the enormity of a possible mass extinction event requires a total overhaul of human perceptions of what is at stake in the disruption of the conditions of Earthly life. The question of what is ‘lost’ in extinction has, since the inception of the concept of ‘conservation’, been addressed in terms of financial cost and economic liabilities.64 Beyond reducing life to forms to capital, currencies and financial instruments, the dominant neoliberal political economy of conservation imposes a homogenising, Western secular worldview on a planetary phenomenon. Yet the **enormity, complexity, and scale** of mass extinction is so huge that humans need to **draw on every possible resource in order to find ways of responding**. This means that they need to mobilise multiple worldviews and lifeways – including those emerging from indigenous and marginalised cosmologies. Above all, it is crucial and urgent to realise that extinction is a **matter of global ethics**. It is not simply an issue of management or security, or even of particular visions of the good life. Instead, it is about staking a claim as to the goodness of life itself. If it does not fit within the existing parameters of global ethics, then it is these boundaries that need to change.

9. An Earth-worldly politics. Humans are worldly – that is, we are fundamentally worldforming and embedded in multiple worlds that traverse the Earth. However, the Earth is not ‘our’ world, as the grand theories of IR, and some accounts of the Anthropocene have it – an object and possession to be appropriated, circumnavigated, instrumentalised and englobed.65 Rather, it is a complex of worlds that we share, co-constitute, create, destroy and inhabit with countless other life forms and beings.

The formation of the Anthropocene reflects a particular type of worlding, one in which the Earth is treated as raw material for the creation of a world tailored to human needs. Heidegger famously framed ‘earth’ and ‘world’ as two countervailing, conflicting forces that constrain and shape one another. We contend that existing political, economic and social conditions have pushed human worlding so far to one extreme that it has become almost entirely detached from the conditions of the Earth. Planet Politics calls, instead, for a mode of worlding that is responsive to, and grounded in, the Earth. One of these ways of being Earth-worldly is to embrace the condition of being entangled. We can interpret this term in the way that Heidegger66 did, as the condition of being mired in everyday human concerns, worries, and anxiety, to prolong existence. But, in contrast, we can and should reframe it as authors like Karen Barad67 and Donna Haraway68 have done. To them and many others, ‘entanglement’ is a radical, indeed fundamental condition of being-with, or, as Jean-Luc Nancy puts it, ‘being singular plural’.69 This means that no being is truly autonomous or separate, whether at the scale of international politics or of quantum physics. World itself is singular plural: what humans tend to refer to as ‘the’ world is actually a multiplicity of worlds at various scales that intersect, overlap, conflict, emerge as they surge across the Earth. World emerges from the poetics of existence, the collision of energy and matter, the tumult of agencies, the fusion and diffusion of bonds.

Worlds erupt from, and consist in, the intersection of **diverse forms of being** – material and intangible, organic and inorganic, ‘living’ and ‘nonliving’. Because of the tumultuousness of the Earth with which they are entangled, ‘**worlds’ are not static, rigid or permanent. They are permeable and fluid**. They can be **created**, **modified** – and, of course, destroyed. Concepts of violence, harm and (in)security that focus only on humans ignore at their peril the destruction and severance of worlds,70 **which undermines the conditions of plurality that enables life on Earth to thrive.**

#### Moral uncertainty means preventing extinction should be our highest priority.

Bostrom 12 [(Nick Bostrom, Faculty of Philosophy & Oxford Martin School University of Oxford) “Existential Risk Prevention as Global Priority.” Global Policy, 2012] TDI

These reflections on **moral uncertainty suggest** an alternative, complementary way of looking at existential risk; they also suggest a new way of thinking about the ideal of sustainability. Let me elaborate.¶ **Our present understanding of axiology might** well **be confused. We may not** nowknow — at least not in concrete detail — what outcomes would count as a big win for humanity; we might not even yet **be able to imagine the best ends** of our journey. **If we are** indeedprofoundly **uncertain** about our ultimate aims,then we should recognize that **there is a great** option **value in preserving** — and ideally improving — **our ability to recognize value and** to **steer the future accordingly. Ensuring** that **there will be a future** version of **humanity** with great powers and a propensity to use them wisely **is** plausibly **the best way** available to us **to increase the probability that the future will contain** a lot of **value.** To do this, we must prevent any existential catastrophe.

## 4??

#### CP: The member nations of the World Trade Organization should allow exclusivity to be extended indefinitely for antimicrobial drugs per Salmieri. The member nations of the World Trade Organization should reduce intellectual property protections for all other medicines by implementing a one-and-done approach for patent protection.

Salmieri 18 “INTELLECTUAL PROPERTY AND THE FREEDOM NEEDED TO SOLVE THE CRISIS OF RESISTANT INFECTIONS” 2018 Gregory Salmieri [Ph.D., Philosophy, 2008, University of Pittsburgh; B.A. 2001, The College of New Jersey. Fellow, The Anthem Foundation for Objectivist Scholarship; Lecturer, Philosophy Department, Rutgers University] <http://georgemasonlawreview.org/wp-content/uploads/2019/04/26-1_7-Salmieri.pdf> SM

This Article suggests another sort of solution, which might be described as a way of incentivizing, by means of a single policy change, both the development of new antimicrobials and the responsible stewardship of these drugs. In its simplest form, the solution is to make the patent terms on these drugs extremely long. The solution has been proposed in this form by Professor John Horowitz and Brian Moehring32 as well as Professor Eric Kades,33 and it is occasionally mentioned in the existing literature.34 However, the case for this broad sort of solution has not been adequately articulated or appreciated. The next part develops the case for a solution of this sort and proposes an alternative version of the solution that is better tailored to the problem and better situated within a theory of IP. Finally, Part III addresses some concerns faced by any solution of this sort.

II. THE RIGHT TO THE VALUE CREATED BY RESPONSIBLE STEWARDSHIP

Consider how the two-fold problem of growing resistance to our current antimicrobial drugs and the dearth of new antimicrobials under development looks once the specifics are omitted. Forget for a moment that the subject is drugs and microbes—or even inventions as opposed to other sorts of property—and just focus on the structure of the predicament.35 There is a resource of immense value that is being used myopically in a way that destroys existing stocks of the resource, and little is being done to find or develop new stocks of it.

This is a pattern one expects to see with unowned resources, but not with owned ones. It is the classic “tragedy of the commons.” When a patch of grazing land is owned in common by everyone—which is just to say it is unowned—everyone has an incentive to make what use of it he can, leading to its overuse and destroying its value. By contrast, an owner can use land judiciously in ways that preserve its value or even to invest in improving the land. This is possible because the owner has exclusive control of the land in the present and therefore can control its uses, and because the owner expects to reap the benefit of the land’s future value. If deeds to land expired after twenty years, with the land reverting to the commons, land owners would have no financial incentives to preserve or enhance the land’s value past the twenty-year window. In this scenario, they could not afford to forgo shortterm gains that came at the expense of the land’s later value. Nor could they afford to invest in long-term improvement projects, such as clearing new land for grazing. This is the predicament with antimicrobial drugs. The profligate use of such drugs in the present destroys their value in a future in which they are unowned.

This suggests the simple solution of extending the patent terms for antimicrobial drugs. So long as the drug remains under patent, the patent holder has both an interest in preserving its usefulness and the ability to control its use so as to preserve its value. How long should the patent term be extended? The five years of extra market exclusivity offered by the GAIN Act is calculated with a view to incentivizing companies to invest in developing new drugs. The aim of the present proposal is different. It is to enable the creators of drugs to profitably exercise their rights over the drugs in a manner that preserves the drugs’ effectiveness over time—ideally into the indefinite future. This requires extending the term of exclusivity not just a few years or decades, but as far into the future as there is reason to hope that the drugs’ effectiveness can be maintained.

There are various ways in which this suggestion could be further developed; perhaps the most promising is simply to allow patents on antimicrobial drugs to be renewed indefinitely, so long as the drugs’ continued effectiveness can be demonstrated. (How exactly continued effectiveness should be demonstrated is a matter of detail, but likely by showing resistance to be below a certain threshold—perhaps 20 percent—in clinical isolates of interest.36) This would allow for a potentially infinite patent term. “Perpetual patents” have occasionally been proposed, 37 but the lack of a fixed term may do violence to the notion of a patent, so it may be better to conceive of this as a proposal for a new type of IP right that combines features of patents and trademarks. Conceptualizing the relevant right in this way highlights its basis. Like a patent, the right would pertain to an invention and would confer market exclusivity; like a trademark, however, it would be renewable in perpetuity on the grounds that the continued value of the property depends on the owner taking continuous action to maintain it. In the case of the right under consideration, the relevant actions would be those of stewarding the drug in such a manner as to prolong its continued effectiveness in the face of resistance.

This new sort of property right could, in principle, be applied to drugs that are already off patent or otherwise ineligible for patent protection. The Chatham House Working Group proposes granting “delinkage rewards” to “firms registering a new antibiotic without patent protection (such as new uses for old drugs),”38 and it may be that the sort of IP protection proposed here would be applicable in such cases as well. If so, the right would be justified by the discovery of the new use for the drug and by the fact that intelligent management of this use is required for it to retain its value. A more difficult case is granting such rights to already known antibiotics that have gone off patent and are now available as generics. Removing these drugs from the commons would make it possible for an owner to profit by stewarding them responsibly. The difficulty here is determining who would own them. Professor Kades considers the possibility of granting a new patent to the original patent holder, but suggests “auctioning the patent rights [to such drugs] to the highest bidder.”39 Both are plausible solutions. Another option, in light of the issue of cross-resistance (which will be discussed in Part III) would be to apportion the IP rights to the relevant drugs among the owners of other drugs with similar mechanisms of action.

Instituting the sort of property right described here (whether or not it is extended to drugs that are currently unpatentable and/or in the public domain) would create an environment in which pharmaceutical companies and other private entities can compete to develop new policies and business models that maximize the total value derived from antimicrobial drugs over time. An important advantage of this proposal is that it does not require policymakers (or authors of law review articles) to know in advance which specific practices would have this auspicious effect. However, some obvious possibilities suggest themselves.

Pharmaceutical companies could sell new antimicrobials at a price high enough to make it prohibitive to use them as anything other than treatments of last resort. In addition to extending the drugs’ useful lives, the high prices would compensate for the lower initial volume of sales, and the drugs could eventually be repriced for wider use as second- and then first-line treatments. This repricing would have to be paced both to the growth of the resistant bacterial population and to the development of new antimicrobial drugs to take their predecessors’ place as treatments of last resort. One can imagine many variations of this strategy with different price points and development cycles.

Pharmaceutical companies could also extend the effective lifespan of their antimicrobials through contractual arrangements with healthcare providers, which restrict the latter’s use of the drugs to certain protocols or best practices. Imagine the new business practices whereby pharmaceutical companies might profit from drugs that are never or hardly ever used. Licensing plans like the one proposed by Commissioner Gottlieb might be employed in innovative ways.40 For example, healthcare providers or insurance companies might pay a monthly fee for the right to use these drugs should it ever become necessary to do so. Or the various parties might negotiate a system whereby a pharmaceutical company (or an entity that has licensed drugs from multiple companies) charges a fixed price for treatment in accordance with a proprietary antimicrobial protocol that makes use of several of their drugs, specifying which drugs can used under which conditions.

The suggestions in the last paragraph all amount to ways in which revenues from the creation of a new drug might be “delinked” from sales volume. In principle, this delinkage could occur simply through market forces, without any additional policy interventions, but since governments and multinational organizations account for most of the spending in the healthcare sector in much of the world, their adopting policies favoring delinkage would likely stimulate the development of these sorts of business models under an IP regime of the sort suggested. Indeed, such delinkage–promoting policies would likely fare better under the proposed IP regime than under the current IP system because, as The Chatham House Working Group observes, “patent expiry” creates some difficulties for such policies.

Obligations for responsible use can be carefully crafted and functional when monopoly rights are in place, but are likely to fail once generic antibiotics are introduced upon the termination of the period of exclusivity. Generic manufacturers ordinarily rely on volume-based rewards, and low prices and large volume of sales without appropriate measures to conserve the antibiotics may be an important driver of indiscriminate use and resistance. A sustainable system will require controls on market entry after termination of the patent, and regulation of the way the generic products are marketed and prescribed.41

It bears emphasizing at this point that the best stewardship policies for antimicrobial drugs remain to be discovered. The Chatham House Working Group report (quoted several times above) represents the cutting edge of research on this issue, and it offers precious few details about the new “delinked” business model it says “needs to be developed.” Successful business models are rarely if ever specified from on high by public policy makers. Securing a long-range IP right to antimicrobial drugs would create the conditions in which the healthcare industry as a whole could invest the resources required to discover the practices, protocols, and business models that maximize the value of these substances. In addition, the ability to capture this value as profit would create an incentive to develop new drugs as needed.

IP rights, and patents in particular, are sometimes understood as bargains between creators and society. The proposal under consideration grants a lot more to the developers of any new antimicrobial drugs than they are granted under current law, but it asks a lot of these developers in return—for it requires them to become good stewards of their drugs by discovering and implementing the means necessary to preserve the drugs’ value over time, so that the maximum potential benefit from them is realized.42 This is work that needs to be done by someone, and the sort of IP regime proposed here would enable those people and firms most qualified to do this work to profit by doing it.

This leads to a deeper point. Although IP rights are often understood as special privileges granted by government and justified on utilitarian grounds, the dominant strand in early American jurisprudence, taking its inspiration from John Locke, regards all property rights as securing to a creator the fruits of his productive work.43 Among the reasons why patents and copyrights are finite in duration, whereas rights to chattels or land can be passed on from generation to generation indefinitely, is that chattels and land generally need to be maintained in order to retain their economic value over time, whereas this is not true of the economic value of an artwork or a method.44 But the case under consideration reveals that the continued economic value of certain methods does depend on an ongoing process of intelligent management by which one uses the method sparingly. It is this very fact that (according to the argument of this Part) justifies extending the IP right to the drug indefinitely. This raises the question of whether there are structurally similar cases in other fields, where the continued commercial value of a potential invention depends on its judicious use. If so, it may be that there are other values being destroyed (or never created) because of tragedies of the commons that could be rectified by policies analogous to the one suggested here.

#### Even if the aff incentivizes innovation they cannot incentivize innovation in anti-microbial research – the problem right now is lack of profit incentives for innovation and responsible stewardship.

Salmieri 18 “INTELLECTUAL PROPERTY AND THE FREEDOM NEEDED TO SOLVE THE CRISIS OF RESISTANT INFECTIONS” 2018 Gregory Salmieri [Ph.D., Philosophy, 2008, University of Pittsburgh; B.A. 2001, The College of New Jersey. Fellow, The Anthem Foundation for Objectivist Scholarship; Lecturer, Philosophy Department, Rutgers University] <http://georgemasonlawreview.org/wp-content/uploads/2019/04/26-1_7-Salmieri.pdf> SM

According to a 2013 report by the Center for Disease Control (“CDC”), two million people in the United States annually contract infections that are “resistant to one or more of the antibiotics designed to treat those infections”; the result is at least 23,000 deaths and (direct and indirect) economic losses that have been estimated at $55 billion (in 2008 dollars).2 The United Kingdom’s Antimicrobial Resistance Review estimates that, worldwide, there will be as many as ten million deaths annually from such infections by 2050.3 A 2017 report by the World Bank Group anticipates the financial toll:

In the optimistic case of low AMR [antimicrobial resistance] impacts, the simulations found that, by 2050, annual global gross domestic product (GDP) would likely fall by 1.1 percent, relative to a base-case scenario with no AMR effects; the GDP shortfall would exceed $1 trillion annually after 2030. In the high AMR-impact scenario, the world will lose 3.8 percent of its annual GDP by 2050, with an annual shortfall of $3.4 trillion by 2030.4

There are two related aspects to this crisis: (1) bacterial populations are evolving resistance to the antimicrobial drugs currently in use, and (2) there are few new drugs in the developmental pipeline that promise to be effective against these bacteria.5 It is widely understood that both aspects are caused or exacerbated by the economic incentives faced by the pharmaceutical industry and the healthcare industry more broadly.6

The eventual obsolescence of any conventional antimicrobial drug is inherent in its use, but it is hastened when the drug is liberally prescribed.7 Such liberal prescription is driven by incentives for both physicians and pharmaceutical companies. Patients’ expectations for prompt treatment sometimes lead doctors to prescribe broad-spectrum antibiotics in cases where it would be more prudent to await testing and prescribe a more targeted antimicrobial—or to prescribe antibiotics for viral infections where they are ineffective. 8 Pharmaceutical companies have an incentive to sell as much volume as possible in the period between the drug’s Food and Drug Administration (“FDA”) approval and the end of its twenty-year patent term.

The problem of liberal prescription of antibiotics has been much discussed in medical and policy circles. 9 It is widely agreed that an important part of the solution is antimicrobial stewardship, which the Infectious Diseases Society of America defines as follows:

Antimicrobial stewardship refers to coordinated interventions designed to improve and measure the appropriate use of antimicrobials by promoting the selection of the optimal antimicrobial drug regimen, dose, duration of therapy, and route of administration. The major objectives of antimicrobial stewardship are to achieve optimal clinical outcomes related to antimicrobial use, to minimize toxicity and other adverse events, to reduce the costs of health care for infections, and to limit the selection for antimicrobial resistant strains.10

The most dramatic outcome thus far of the policy discussion, in the United States at least, is that the Centers for Medicare and Medicaid Services updated its “Conditions of Participation.”11 These updated “Conditions of Participation” (issued as a result of an executive order by President Obama in 2014) require all hospitals participating in Medicare and Medicaid to establish and maintain “antibiotic stewardship programs.”12 These conditions are already in effect for acute care hospitals and are expected to go into effect generally by the end of 2018.13

An additional incentive for too liberal use of antibiotics comes from outside of the healthcare industry. These drugs are useful as a growth promoter for livestock, and it has been shown that this use can lead to the growth of resistant bacteria, which can then infect human beings. 14 Such use of most antibiotics is now banned in the European Union member states, Mexico, New Zealand, and South Korea.15 In the United States and Canada, regulatory agencies have issued guidelines against this use of antibiotics that are deemed medically important.16

The second aspect of the crisis is the dearth of new antimicrobial drugs in development. A 2017 World Health Organization report projects that approximately ten new antibiotics and biologicals will be approved in the next ten years but warns that “these new treatments will add little to the already existing arsenal” because most of them will be “modifications of existing antibiotic classes,” which are “only short term solutions as they usually cannot overcome multiple existing resistance mechanisms and do not control the growing number of pan-resistant pathogens.”17

Few new antimicrobial drugs are in development because there is a low return on the investment needed to discover such drugs and shepherd them through the approval process. This is the reason why Aventis, Bristol-Myers, Squibb, Eli Lilly, Glaxo SmithKline, Proctor and Gamble, Roche, and Wyeth all “greatly curtailed, wholly eliminated or spun off their antibacterial research” between 1999 and 2003.18 The already low return on investment will dwindle as stewardship guidelines are adopted and the drugs are prescribed more judiciously.19

The Chatham House Working Group on New Antibiotic Business Models summarizes the situation thusly:

Today, few large pharmaceutical companies retain active antibacterial drug discovery programmes. One reason is that it is scientifically challenging to discover new antibiotics that are active against the antibiotic-resistant bacterial species of current clinical concern. Another core issue, however, is diminishing economic incentives. Increasingly, there are calls to conserve the use of truly novel antibiotics, which might limit sales severely and discourage greater investment in R&D. Meanwhile, unless they see evidence of superiority, healthcare payers are unwilling to pay prices that would directly support the cost of development, provide a competitive return on investment and reflect the value to society of maintaining a portfolio of antibiotics adequate to overcome growing resistance.

A principal reason for this is the mismatch between the current business model for drugs and combating resistance. The current business model requires high levels of antibiotic use in order to recover the costs of R&D. But mitigating the spread of resistance demands just the opposite: restrictions on the use of antibiotics. Economic incentives play a key role in the global resistance problem, leading to overuse of these precious drugs at the same time as companies are abandoning the field; and the increasing restrictions on inappropriate use of antibiotics make them relatively unprofitable compared with other disease areas.20

## Case

#### PP --

**1. Nothing can be assessed apriori – even concepts like reason require experience to understand. Their meta ethic presupposes a universal human subject that doesn’t exist – all humanity is culturally and historically contingent**

#### T

#### Schm

#### The causal order of action is irrelevant which implies that there is no intent-foresight distinction

Enoch 11 [(David, Philosophy Professor at Hebrew University) “Intending, Foreseeing, and the State,” Legal Theory, 13 (2007), 1–31 published by Cambridge University Press, 9-13-2007] TDI

B. The Moral Insignificance of the Causal Order

One way of understanding the intending-foreseeing distinction is, remember, as the distinction between two kinds of causal structure: In Transplant, the death of the one is on the causal way to the saving of the five. Not so in Trolley, where the death of the one is on a different causal route, causally after the means (diverting the trolley) that saves the five. But when thinking not so much about particular cases and our pretheoretical reactions to them but directly about the distinction based on the causal order, it is hard not to doubt the moral significance of this distinction. Why think that the causal order has such far-reaching moral implications? Upon reflection, causal order facts seem of the wrong kind to have intrinsic moral weight. Facts about the well-being of people, for instance, seem to be of the right kind to make a moral difference. Facts about people’s choices also seem reasonably good candidates to make a moral difference. And facts about some causal relations may also be of the right kind to make a moral difference—for instance, facts such as which action causes which effects on well-being. But facts about causal order—what is causally on the way to what—look simply (intrinsically) morally weightless.11

To see this more clearly, think about a moral agent deliberating about a possible future action of hers—whether or not to act in a certain way. We give this agent some relevant information to help her make the morally right decision, and she can ask for more information if she thinks she needs it. If she then asks for further information regarding the effects of the relevant action (or inaction) on the well-being of some person, her question seems appropriate. If she asks for further information regarding, say, the distribution of hair on the head of one of the affected persons, her question is not appropriate (at least absent some story explaining why it is that the distribution of hair on that person’s head is morally relevant). Thinking about this agent gives us a kind of a test—I will call it “the appropriate-question test”—for the (intrinsic) moral relevance of a given consideration. And it is a test that focuses on the perspective that is morally most important—the first-person perspective of the deliberating agent.12 Let us apply this test, then, in order to check whether causal order is morally significant. Think, then, of our agent, deliberating whether to press the button in front of her. We give her information about the states of affairs that will obtain if she does—and if she does not—press it. We tell her, for instance, that if she presses the button, certain good effects and also certain bad effects will follow (and that they will not follow if she does not press the button), and we describe these effects in detail. She then proceeds to ask whether the bad effect is on the causal way to the good effect. Is her question appropriate? Is it more like the question about further effects on people’s well-being or more like the question about the distribution of hairs on someone’s head? To my ears, her question sounds weird, surprising, indicative of rather disturbing facts about her moral character.13 Given a full description of the relevant consequences, and without some further (for instance, instrumental) story explaining how the exact causal structure is morally significant, the causal order seems (to me) simply morally irrelevant. If you agree with me that the question about the causal order is inappropriate, you have strong reason to suspect that causal order in general, and in particular the distinction between means and side effects, is simply (intrinsically) morally irrelevant.14

Let me emphasize here—in case you are not yet convinced—that what is at issue is not any old way in which the causal structure may be normatively relevant. What is at issue—and what the appropriate-question test is supposed to help us with finding out—is whether the causal structure is Q4 intrinsically morally relevant, whether, in other ways, it is morally relevant regardless of its relations to other factors. So it will be no reply to the line of thought in the previous paragraphs to show that, say, causal-structure facts are correlated with other facts, themselves normatively significant, and can thus serve as reasonably good proxies for them. The question is, rather, whether—holding all other things equal—the causal structure itself makes a moral difference. And here the answer that seems to me overwhelmingly plausible is that it does not.

It may be objected that the appropriate-question test, as many other intuition pumps, is too sensitive to the way the case is described, or in this case to the way the relevant question is formulated. Thus, if the question is put in the terms I have been using—“Will the bad effects be on the causal way to the good effects?”—perhaps the question sounds inappropriate. But if the question is put differently—say, “Will I be using the harmed person merely as a means?”—the question sounds perfectly appropriate. Does this show that the appropriate-question test is misguided (because too easily manipulable), or indeed that I have been applying it tendentiously?15 It will come as no surprise that I think the answer is “no.” True, proponents of the moral significance of the intending-foreseeing distinction (in either of its meanings) often use such Kantian locutions (“using merely as a means”) as ways of making this claim plausible. Thus it is often said that by diverting the trolley, we will not be using someone merely as a means (in Trolley, at least, for it is not at all clear this is the case in Loop), whereas in Transplant we will be using the person whose organs we take merely as a means. Or perhaps it can be said that in Transplant we would be appropriating someone’s body against their will, which we would not be doing in Trolley.16

But such ways of describing the case—though plausible-sounding—do not help, for two reasons. First, proponents of such ways of talking have to fill in the details in a plausible way, and it is notoriously hard to say what treating someone merely as a means exactly comes to, why exactly it matters morally, and why it applies to Transplant but not to Trolley (and the analogous point applies, it seems to me, to appropriation as well).17 Such ways of talking, then, are best seen not as a solution to our problem, but rather as more elegant names for the problem itself. Second, and perhaps more relevant in the context of the appropriate-question test, such ways of talking are normatively loaded, and so formulating the relevant question in such terms illegitimately biases the appropriate-question test. In order to test for intrinsic moral significance, the question has to be put in the normatively thinnest possible terms. Only if the question—thus put—seems appropriate is the relevant factor intrinsically morally relevant.

Suppose, for instance, that we want to know whether the fact that an act will constitute a killing is intrinsically morally significant and that we plan to find out by employing the appropriate-question test. The way to formulate the question, then, is: “But will it be a killing?” Formulating the question as “But will it be a murder?” is cheating, of course, because “murder” is such a normatively loaded word that its appearance in the question corrupts the appropriate-question test. Similarly, then, the right question to put in our context is not “But will I be appropriating another person?” (for “appropriating a person” is a highly normatively loaded expression) or “But will I be using her merely as a means?” (for “using merely as a means” is—at least among moral philosophers—a highly normatively loaded expression), but rather something like “But will the harm I cause her be on the causal route to the good I cause him?” If you—like myself—are unwilling to answer this question in the positive, you must not hide behind tendentious, normatively loaded alternative descriptions of the case and should instead conclude that causal-structure facts are without intrinsic moral weight.

Of course, as with all controversies regarding whether something is intrinsically morally significant, it is hard to construct sophisticated arguments one way or another—pretty much the best that can be done is to get misunderstandings out of our way, focus as clearly as we can on the precise question in front of us, and give the most plausible answer. And people may differ about what it is, of course. But it is in this spirit that I offer the appropriate-question test—when the misunderstandings above are removed and we focus clearly on the question of intrinsic moral significance, the claim that causal structures are significant in this way seems (to me) just too much to believe.

Consider one last objection to the employment of the appropriate question test as a way of showing that causal structures are intrinsically insignificant.18 Suppose our agent, having been presented with all the information about her possible actions’ effect on people’s well-being and the like, proceeds to ask: “But wait a minute, am I in Transplant or in Trolley?” Is this question not appropriate?

It certainly sounds appropriate, but this is so, I want to suggest, simply because Trolley and Transplant are intuitively so different from each other. And of course, we knew that all along. The objections to the moral relevance of the intending-foreseeing distinction do not deny, of course, the commonsensical appeal of the distinction. Rather, they are arguments for why we may need to revise the judgments that seem to us so intuitive, because they do not seem to us defensible on reflection. Here as elsewhere, what we want from a moral theory is not just a reasonably good fit with our pretheoretical intuitive judgments. Rather, we want the theory to be good as a theory, to score reasonably high on the list of theoretical virtues. In order to do that it must, for instance, offer something by way of unity, coherence, explanatory power, and elegance, it must not be ad hoc, it must focus on factors that upon reflection seem to make a moral difference, and so on. What the discussion above shows is that a moral theory that makes use of the intending-foreseeing distinction (understood causally) fails this further test, and this even if it does fit many of our pretheoretical specific moral judgments. Just noting again that these judgments do seem intuitive carries at this stage of the debate little weight.

#### No intent-foresight distinction implies consequentialism

Enoch 11 [(David, Philosophy Professor at Hebrew University) “Intending, Foreseeing, and the State,” Legal Theory, 13 (2007), 1–31 published by Cambridge University Press, 9-13-2007] TDI

According to consequentialists, the morally right action is, roughly, the one that is expected to promote the good. All it takes, then, in order to reject consequentialism is to believe in some deontological constraints, that is, in some rules to the effect that there are some actions it is morally impermissible to perform (at least sometimes) even when performing them will maximize the good.66 And such constraints need not be put explicitly in terms of intention and foresight. So it is not immediately clear why a nonconsequentialist needs anything like the intending-foreseeing distinction, why without it consequentialism is the way to go.

In order to see that this is nevertheless so, think of an example of a deontological constraint, say a constraint against lying. Now think of the well-known type of case in which the way to minimize constraint violations is to violate that very constraint. So we are to imagine a situation in which, for some reason, if I lie now, fewer lies will be told (this one included) than if I do not lie now. If we want to justify the judgment that at least sometimes a constraint is not to be violated even in order to minimize constraint violations, then we had better distinguish morally between the relation between me and my action and the lying (right now), on the one hand, and the relation between me and my action and future lyings, on the other. Otherwise, if no such moral distinction is to be made, then by not lying now, thereby causing (or allowing) many more future lyings, I am responsible for all those future lyings and so I am acting wrongly. And, of course, in order to distinguish between the relation between me and my lying right now and me and future lyings, the intending-foreseeing distinction, or perhaps some closely related distinction, is needed.

Should we, then, say that at least sometimes we should not violate a constraint even in order to minimize constraint-violations? Well, I do not think that deontologists, as a matter of logical necessity, have to say this. Depending on the details of one’s conception of the good, it is entirely possible that there are actions we should at least sometimes not perform even when performing them will maximize the good, and that nevertheless we should also violate a constraint whenever doing so will minimize constraint violations. But—as I think all deontologists agree—such a way out, though perhaps logically sound, is morally unsound. It seems inconsistent with if not deontology itself, at least the philosophical and moral motivations underlying deontology. And if so, absent the distinction between intending and foreseeing, or some other distinction that could distinguish between my relation to my lying now and my relation to (my or others’) future lyings, consequentialism is hard to resist.67

Note that this little argument is perfectly general and can thus be applied even to deontological theories that are not explicitly formulated in terms of anything like the intending-foreseeing distinction (as can be seen from the example of a constraint against lying). As long as it is at least sometimes morally impermissible to treat someone merely as a means even when doing so will minimize the number of (similarly severe) cases of people treating others merely as means, Kant needs something like the intending-foreseeing distinction. As long as it is at least sometimes morally impermissible to treat someone in a way that violates principles that nobody could reasonably reject even when doing so will minimize the number of times in which people are so treated, Scanlon needs something like the intending-foreseeing distinction.68 And so on.

Whatever your favorite deontological theory, then, as long as you believe that there are deontological constraints that at least sometimes should not be violated even in order to minimize violations, you need something like the intending-foreseeing distinction. And so, if that distinction collapses, and if no similar distinction can be defended, it is very hard not to be a consequentialist.

#### Moral theories must explain degrees of wrongness

Hurka 19 [(Thomas, Department of Philosophy University of Toronto) “More Seriously Wrong, More Importantly Right,” Journal of the American Philosophical Association, 2019] TDI

Wrongness and Degrees

That one act is more seriously wrong than another is often intuitively compelling in itself; thus it seems self-evident that murder is morally worse than breaking a promise. But judgments about serious wrongness have further implications. If you have acted wrongly you should feel guilt, but you should feel more guilt—more intense or longer-lasting guilt—if your act was more seriously wrong, for example, if it was murder rather than breaking a promise. You are also other things equal more blameworthy for a more serious wrong, and if retributivism is true, you deserve more severe punishment for it. In general, whenever wrong acts call for negative responses, more serious wrongs call for stronger ones. The idea of serious wrongness therefore connects with several other aspects of our moral thought, and this allows further tests of it. To decide whether one act is more seriously wrong than another we can not only consult direct intuitions about the two but also ask whether you should feel more guilt about the first or whether the first makes you more blameworthy or more deserving of punishment.

These tests cannot be applied mechanically, because in each case the effect of more serious wrongness is mixed with others that are not relevant to our topic. Guilt is called for by wrong action, and on at least some views an act’s wrongness is independent of its motive (Ross : ch. ; Scanlon : ch. ). But more serious wrongs are often done from worse motives, and even if these cannot be the objects of guilt they can prompt the different emotion of shame. Shame about your motivation can then mix with guilt to make for an overall negative response to your act in which the specific role of serious wrongness is harder to see. (If motives are relevant to wrongness, they can prompt guilt as well as shame, but the two can still be hard to pull apart.) Something similar holds for blameworthiness and retribution. On many views you are more blameworthy for a wrong act or deserve more punishment for it if you acted from a worse motive, for example, if you killed from sadistic hatred rather than excessive anger at injustice. Your blameworthiness can also depend on other facts about your mental states, such as whether you were culpably ignorant or acted under duress (for views on which your degree of blameworthiness for a wrong depends both on its seriousness and on facts about your mental states see, e.g., Beardsley [: –] and Smith [: –]). In all these tests, the effect of serious wrongness on fitting responses is mixed with effects due to your state of mind. Isolating the former effect requires setting these other influences aside.

More serious wrongness may also help to characterize subjective rightness, or rightness relative to your beliefs or evidence. Many philosophers have been persuaded by an example of Frank Jackson that this cannot be done in terms of objective rightness, or rightness relative to the facts; more specifically, the subjectively right act cannot be identified as the one most likely to be objectively right. In Jackson’s example you can give a patient one of three treatments. One of the first two will completely cure him and one will kill him, but you do not know which is which; each has a . probability of doing either. The third treatment will cure his condition almost entirely and is safe. The subjectively right treatment here is clearly the third, but it is certain to be objectively wrong; one or the other of the first two is right relative to the facts (Jackson : –). But a derivation of subjective from objective rightness need not tell you to maximize your probability of acting objectively rightly or, what is the same, to minimize your probability of acting wrongly. As Peter Graham has argued, it can tell you to minimize your probability of acting seriously wrongly, or to minimize the expected objective serious wrongness of what you do. Since in Jackson’s example the act that is certain to be objectively wrong will be only slightly seriously wrong while each of the others has a . probability of being horribly so, this yields the desired result (Graham ). Serious wrongness may also be relevant in cases of moral uncertainty. Imagine that you cannot decide between two moral views and must do either act A or act B, where the first view says A is right and B wrong and the second says the reverse. Andrew Sepielli () has argued that you cannot here consider just the probabilities that the two views are true. If the first says B is only slightly seriously wrong while the second says A is massively so, you should do B even if you think the first view is somewhat more likely to be true.

These last uses of serious wrongness are more controversial. It has been argued that, despite its success with Jackson’s example, the proposed account of subjective rightness does not have the implications we want in cases involving permissions, for example, in cases of self-defense or supererogation (Lazar, forthcoming). The account at least needs supplementation to handle these cases. And the account of moral uncertainty requires comparisons of seriousness not only within a moral view, as I will be discussing, but also between moral views, which raises additional difficulties. Nonetheless, these are two further contexts where the concept of serious wrongness may play a role.

Some philosophers have denied that there can be degrees relating to wrongness. Some Stoics, for example, thought that all moral wrongs are equal. Diogenes Laertius reports that they ‘see fit to believe that [moral] mistakes are equal . . . [so] he who makes a larger [moral] mistake and he who makes a smaller one are [both] equally not acting correctly’ (: –). Some present-day philosophers may likewise deny that wrongness admits of degrees. For an act to be wrong, they may say, is for it not to be permitted, and since an act either just is permitted or just is not, it cannot be more or less wrong.

That there is a concept of wrongness that does not admit of degrees does not mean there cannot be one that does. But I have chosen to avoid this issue by speaking not of one act’s being more wrong than another –I will concede that that is not possible–but of its having the related but different property of being more seriously wrong, which I understand as follows. Because of the supervenience of moral properties, any act that is right or wrong has other properties that make it so. But if these properties admit of degrees, or if their tendencies to make acts right or wrong do, we can use this fact to define a derivative property of serious wrongness that likewise admits of degrees.

Compare the properties concerned with height. There is an initial property of tallness that admits of degrees. By making a cut on the scale of tallness we can introduce a property that does not admit of degrees, such as being over six feet tall in the sense of having some height or other above that. We can then combine these two properties to yield a third that again admits of degrees, that of being more than six feet tall in the sense in which someone who is six feet ten is a lot more than six feet tall, whereas someone who is six feet one is only a little more than that height. I think of the right- and wrong-making properties as analogous to tallness, wrongness as analogous to being at least six feet tall, and being seriously wrong as analogous to being more than six feet tall in the sense that admits of degrees. Being seriously wrong combines underlying properties that can be present to differing degrees with a supervening one that cannot to yield a third property that again can (for similar remarks see Berman and Farrell : –, –).

#### Consequentialism offers the best explanation of degrees of wrongness

Sinnott-Armstrong 09 [(Walter, Professor of Practical Ethics at Duke. Go Blue Devils!) “How strong is this obligation? An argument for consequentialism from concomitant variation” Oxford University Press Analysis Vol. 69 No. 3, July 2009] TDI

This conclusion extends as well to the existence of such moral obligations. There are two main options: we can say either (i) consequences determine both the existence and the strength of the moral obligation not to break the promise or (ii) what determines the existence of the moral obligation is simply that the agent made the promise in the past, whereas what determines the strength of the moral obligation is, instead, the consequences of breaking (or keeping) the promise. Option (i) is clearly simpler and more coherent. Why would one factor determine whether any moral obligation at all exists, while a completely separate factor (in the future rather than the past) deter- mines how strong that moral obligation is? That would be like postulating that the force of a golf club hitting a golf ball is what causes the ball to move but a different factor determines how fast or far the ball moves. Of course, dense air or a tree might explain why the ball did not go as fast or far as otherwise expected. However, in the absence of any such additional force, it would be implausible to postulate separate causes for the existence and degree of the ball's motion. Analogously, we should reject the moral theory that one factor determines the existence of a moral obligation and a separate factor determines its strength. There might be conflicting moral reasons of all sorts (analogous to the dense air and tree), but they do not explain the existence or the strength of the original moral obligation itself. Thus, the better alternative is the consequentialist theory that one factor - the harm caused by violating the obligation - explains both the existence and the strength of the moral obligation not to break promises.