### T

**Interp: The affirmative must defend all member nations of the WTO ought to reduce IPPs, for clarification – that every member of the WTO should reduce ALL intellectual property protections –**

#### Violation -- the aff is about trade secrets "pertain[ing] to revealing misconduct, wrongdoing, or illegal activity, or to protecting the general public interest." (lines from their ev) These are all things aren't inherent to medicines -- the aff is about people reporting companies for being unethical

#### WTO member nations are the following countries NOT THE EU

**WTO no date – see the list in the doc** https://www.wto.org/english/thewto\_e/whatis\_e/tif\_e/org6\_e.htm#collapseI

\*\*NOTE: This list is taken from the WTO’s website linked above

Members Afghanistan Albania Angola Antigua and Barbuda Argentina Armenia Australia Austria Bahrain, Kingdom of Bangladesh Barbados Belgium Belize Benin Bolivia, Plurinational State of Botswana Brazil Brunei Darussalam Bulgaria Burkina Faso Burundi Cabo Verde Cambodia Cameroon Canada Central African Republic Chad Chile China Colombia Congo Costa Rica Côte d’Ivoire Croatia Cuba Cyprus Czech Republic Democratic Republic of the Congo Denmark Djibouti Dominica Dominican Republic Ecuador Egypt El Salvador Estonia Eswatini European Union (formerly EC) Fiji Finland France Gabon Gambia Georgia Germany Ghana Greece Grenada Guatemala Guinea Guinea-Bissau Guyana Haiti Honduras Hong Kong, China Hungary Iceland India Indonesia Ireland Israel Italy Jamaica Japan Jordan Kazakhstan Kenya Korea, Republic of Kuwait, the State of Kyrgyz Republic Lao People’s Democratic Republic Latvia Lesotho Liberia Liechtenstein Lithuania Luxembourg Macao, China Madagascar Malawi Malaysia Maldives Mali Malta Mauritania Mauritius Mexico Moldova, Republic of Mongolia Montenegro Morocco Mozambique Myanmar Namibia Nepal Netherlands New Zealand Nicaragua Niger Nigeria North Macedonia Norway Oman Pakistan Panama Papua New Guinea Paraguay Peru Philippines Poland Portugal Qatar Romania Russian Federation Rwanda Saint Kitts and Nevis Saint Lucia Saint Vincent and the Grenadines Samoa Saudi Arabia, Kingdom of Senegal Seychelles Sierra Leone Singapore Slovak Republic Slovenia Solomon Islands South Africa Spain Sri Lanka Suriname Sweden Switzerland Chinese Taipei Tajikistan Tanzania Thailand Togo Tonga Trinidad and Tobago Tunisia Turkey Uganda Ukraine United Arab Emirates United Kingdom United States Uruguay Vanuatu Venezuela, Bolivarian Republic of Viet Nam Yemen Zambia Zimbabwe

#### The violation is obvious and the counter interp explodes limits to include marketing strategies, algorithms, and customer lists

Farkas ND Brian Farkas [ssociate attorney at Goetz Fitzpatrick LLP in New York, focusing his practice on commercial litigation, arbitration and intellectual property. Brian earned his B.A. from Vassar College and J.D. from Cardozo School of Law ] “Trade Secret Basics FAQ” No Date <https://www.nolo.com/legal-encyclopedia/trade-secret-basics-faq.html#1743223> SM

What is a trade secret?

Trade secrets are a form of intellectual property. According to the law of most U.S. states, a trade secret may consist of any formula, pattern, physical device, idea, process or compilation of information that both:

1. provides the owner of the information with a competitive advantage in the marketplace, and
2. is treated in a way that can reasonably be expected to prevent the public or competitors from learning about it, absent improper acquisition or theft.

Some examples of potential trade secrets include:

the formula for an energy drink

survey methods used by professional political pollsters

recipes for cookies

a new invention for which a patent application has not yet been filed

marketing strategies

manufacturing techniques, and

computer algorithms.

Unlike other forms of intellectual property, such as patents, copyrights, and trademarks, which generally require registration in order to be fully effective, trade secrets are essentially a "do-it-yourself" form of protection.

You do not register with the government to secure your trade secret; you most simply keep the information under wraps. Trade secret protection lasts for as long as the secret is kept confidential without any statutory limitations period. However, once a trade secret is made available to the public, trade secret protection ends.

What types of information can trade secrets protect?

Copyright, patents, and trademarks are fairly well-known forms of intellectual property protection. But trade secrets are another extremely useful form of protection that often protects valuable technical or confidential information. Here's a sampling of what trade secrets can protect:

Ideas that offer a business a competitive advantage, thereby enabling a company or individual to get a "head start" on the competition. This might include, for example, an idea for a new type of product or marketing approach.

Competitors' knowledge that a product or service is under development and its functional or technical attributes including, for example, the workings of a new software program.

Valuable business information such as marketing plans, cost and price information, and customer lists.

So-called "negative know-how," meaning information learned during the course of research and development on what not to do or what does not work optimally. Often, this information is almost as valuable as the products or techniques that do work.

Virtually any other information that has some value and is not generally known by competitors. This might include, for example, a list of customers ranked by the profitability of their business.

**Vote neg:**

1. **Prep skew: big schools like hwl and harker have massive prep squads that allow for in depth research on the topic and 1ar strats, means that on this broad of a topic they can find any possible combonation of IPPs + countries or medicines, puts smaller schools and independents at a disadvantage because they don’t have access to immense prep files**

#### Limits: specifying any permutation of countries PLUS a type of IPP creates infinite aff advocacies and worlds – ie that mexico + switzerland ought to reduce copyrights etc. means its impossible to negate the specific advocacy and offense of the aff

#### Limits outweighs: even if it’s a question if in round abuse the midterms DA or any non EU country specific link evidence wont link into the aff, means its impossible for the 1n to come up with a strat and the 2n to execute it – any possible fairness concerns are the cause of the 1ac because the 1n is reactive

#### Fairness & edu

**TVA solves - they could just read the aff as an advantage. Terminal defense against the aff and Das to the TVA are offense for us – means its debatable**

**Drop the debater: key to deter abuse – the aff advocacy is the debater**

**CI: reasonability causes a rase to the bottom and its impossible to be reasonably topical**

**No RVIS: You shouldn’t win for following the rules and RVIS would lead to a chilling effect preventing a check on legitimate abuse.**

## K

#### Empire has shifted from the administration of death to the production of life – the affs restructuring of global medical intervention is the new logic of biopolitical governance – no longer is imperialism a question of borders and military power, but rather the protection of bodies.

Ahuja ‘16

[Neel, English @ UNC Chapel Hill. 2016. “Bioinsecurities”] pat

One element common to this biopolitics of empire is an anxiety about the dependence of the human body on forces that appear inhuman, even inhumane: medical technologies to extend, optimize, or end life; markets and institutions that unequally distribute resources for sustaining life; environmental processes that support, deprive, or injure bodies. Such concerns were, of course, entirely common to twentieth-century modernist fears of alienation from nature, as well as to liberal, socialist, and fascist states that each proclaimed to defend the life of the people in the major imperial wars. Yet due to the ongoing expansion of government into life through technological, economic, and environmental interventions, a growing number of crises that advertise dreaded risks to life as we know it—climate change, nuclear toxicity, disease pandemics, biological weapons, and financial speculation, to name a few—have recently pressed critical studies of empire to think politics and agency at queer scales of relation, from the grand vantage of planetary geology and climate, through the lively migrations of commodities and animals, all the way down to the microbial, molecular, and quantum worlds of matter in which advanced sciences produce new technologies and knowledge. In an era in which excessive hope is invested in the idea that empire’s so-called free markets will inevitably deliver resources for improving life, discussions of risk and security increasingly provoke concern about how bodies are either threatened or safeguarded in links to other species, to ecology, and to technology. Public fears and hopes are thus invested in questions about how bodies interface beyond the skin of the organism. The living body is not only an ecology reproduced by constituent species (think of the life-sustaining work of gut bacteria or the ingested flesh of animals or plants). It is also an assemblage crosscut by technological, economic, and environmental forces (medical technologies, insurance markets, agricultural systems, toxic pollution) that render the body vulnerable as they reproduce its conditions of possibility.

Yet there remains a sense of tension concerning how social theorists frame the vulnerability of human life between biopolitics and these emerging posthumanist ideas. While biopolitical analysis foregrounds the contested figure of the human, emphasizing that the human body is an effect of power crafted through the social reproduction of nationality, race, sex, and/or class factors conjoined in inhuman fields of power, emerging posthumanist and newmaterialist fields including animal studies, environmental humanities, and object-oriented ontology more often emphasize the agency of the nonhuman and the surprising liveliness of physical matter. As such, despite the avowed critique of the human, they may take for granted the apparent universality of the human lifeworld from which they flee, foreclosing attention to the processes that anthropomorphize the human in order to characterize the human’s sovereign domination of the nonhuman. This move allows some posthumanist critics to project upon an outside, the nonhuman (in the form of environment, animal, machine, or other object), the possibility of resistance to anthropocentrism. Such thinking might be seen as a ruse of transcendence—an assumption that turning attention from the human to the nonhuman could bypass Marxist, feminist, critical race, and postcolonial critiques of imperial systems that proliferate inequality under the guise of universal human freedom.

Despite this liberal, idealist trend among posthumanists (which is more pronounced in the humanities than it is in the social sciences), studies of empire increasingly confront the fact that the apparent exteriority of the subject (the worlds of body, physical matter, and interspecies exchange) has more often formed the center of the politics of empire rather than its excluded outside. It is thus my hope that the collision of biopolitical and posthumanist thought may be salvaged in a practical if unexpected crossing: a more robust accounting of the ways in which politics, including the liberal and neoliberal politics of empire, is embedded in living bodies and planetary environments, which are themselves constituted as objects of knowledge and intervention for imperial science. Such an understanding goes beyond an assertion that life is controlled by human government, which would embrace the strong postEnlightenment division between government and life, human and nonhuman. I instead hope to explore the queer hypothesis that the adaptability, risk, and differentiation central to life increasingly constitute the very matter of politics. This book is about how disease outbreaks, medical technologies, and the relations between humans, animals, bacteria, and viruses galvanized racialized fears and hopes that determined the geopolitical form of US empire during the long twentieth century, following the continent-wide establishment of Euro-American settler networks. Before explaining that argument, however, this brief preface explores how—in addition to established methods of postcolonial study that define empire through histories of conquest, settlement, and the exploitation of labor and resources—the inequalities and violences of imperialism can productively be understood from the vantage of species, the field of life itself.

Research on colonial environmental history and disease control is long established in postcolonial studies, even as today there is growing attention to Global South environmental activism, advanced biotechnologies, and human-animal and human-plant interactions as significant concerns in the planetary routes of European and US empire. Yet my sense of an interspecies politics is still relatively unfamiliar from even the vantage of these studies. Extant studies have long highlighted questions of representation, agency, influence, and domination, explaining the unequal distribution of the privileges accorded for being anthropomorphized, for being made human through colonial ideological and social processes. While maintaining focus on such racialized inequalities fracturing the figure of the human in the worldwide routes of European and US imperialisms, it is the aim of this book to articulate an additional sense of the political as a lively zone of embodied connection and friction. “Interspecies relations form the often unmarked basis upon which scholarly inquiry organizes its objects, political interventions such as ‘human rights’ stake their claims, and capitalist endeavors maneuver resources and marshal profit.” A critique of the interspecies zone of the political—which at its broadest would expand beyond the human-animal and human-microbial relations discussed in this book to include the diversity of living species, matter, energies, and environmental systems that produce everyday life out of biosocial crossings—helps us understand the persistence of empire in a postcolonial age precisely because it conjoins power to forces that retreat into the seemingly natural and ahistorical domains of body and matter. From this vantage, empire appears not only as a process of territorial and economic accumulation across international divisions of labor and sovereignty, but also as a reproductive process managing bodies in unequal planetary conjunctions of life and death. Tracing this second phenomenon requires analysis of biosocial forms of exchange among microbes, plants, animals, and humans, as well as models of power and representation recognizing that bodies are not empty containers of human political subjects, but are lively, transitional assemblages of political matter.

There are risks in attempting to theorize a political process like empire via the material shape it takes in life and matter, anticipated in long-standing liberal and Marxist distinctions between human and natural history. Must such a move necessarily turn away from issues of interest, hegemony, violence, representation, and inequality that often define organized decolonial struggles? I would argue that this need not be so, and that vitalizing colonial discourse studies through an accounting of empire’s living textures may actually give a more grounded account of imperial power as well as the strategies of representation that have persistently masked its material articulations. To this end, I explore empire as a project in the government of species. Broadly, this idea refers to how interspecies relations and the public hopes and fears they generate shape the living form and affective lineaments of settler societies, in the process determining the possibilities and foreclosures of political life. In practice, the government of species has historically optimized and expanded some life forms (human or otherwise) due to biocapital investments in national, racial, class, and sex factors. Operating through interspecies assemblages known as bodies, such investments selectively modify and reproduce life forms and forms of life, extracting “the human” out of the planetary field of interspecies relation. Once securitized, this form is constantly under pressure from the unpredictable and inhuman risks of life in a world of ecological, economic, and political complexity. These forces in turn contribute to the ways publics experience and interpret their futures as more or less livable.

An account of the government of species thus explains that empire can be understood as a project in the management of affective relations—embodied forms of communication and sensation that may occur independently of or in tandem with sentient forms of thought and discourse. These affective relations cross the divisions of life and death, human and animal, media and bodies, and immune and environmental systems. In the process of forming the human out of cacophonous biosocial relations, empire often persists—even after the formal conclusion of colonial occupation or settlement—in part because it invests public hope in the management of bodily vulnerability and orients reproductive futures against horizons of impending risk, a phenomenon I call dread life. In such processes by which bodily vulnerability is transmuted into political urgency, techniques proliferate for managing the relations of populations and the living structures of species (human, animal, viral). As such, empire involves the control of life through accumulation of territory and capital, which may be securitized by activating life’s relational potential. Lauren Berlant describes a “lateral agency” that moves across bodies and populations rather than in the top-down fashion of sovereign power; it may, then, be possible to understand empire’s force of securitization not only through conventional dramas of domination and resistance, but rather through embodied processes of coasting, differentiating, adapting, withering, transition, and movement. These are processes that subtly determine how bodies take form, and to what extent they are able to reproduce themselves in space-time relation. They also more radically stretch the body beyond the organic lifetime and into evolutionary, environmental, and informational domains where life/death distinctions blur.

However, the intimate connection between the governmental imperatives to make live and to make die, which Jasbir Puar names “the bio-necro collaboration,” has long been obscured in social and political theories. It thus remains commonplace for biopolitical analyses to view power as either repressive or productive in essence. In his classic work on the topic, French philosopher and social theorist Michel Foucault argued that by the eighteenth century, a political form had emerged in Europe targeting the human as biological species as the central object of power. Power was no longer simply about the repressive force of the state and its controlling interests wielding the right to kill. Power was increasingly vested in the productive reshaping of the biological life of human organisms by institutions such as clinics, prisons, and asylums and their related forms of scientific knowledge; power meant letting live, albeit in constrained form. Foucault recognized the embedding of biopower across species, calling for a social history that incorporated “the evolution of relations between humanity, the bacillary or viral field, and the interventions of hygiene, medicine, and the different therapeutic techniques.” In the notes to his late lectures, he even speculated that neoliberalism involved a governmentality that can “act on the environment and systematically modify its variables.”

Foucault’s description of the rise of biopower is the inspiration for a number of studies in sociology and anthropology that assess new biopolitical shifts involving advanced biomedical technologies. Given that these biopolitical studies focus largely on the United States, western Europe, China, and India— states that have built biotechnology sectors as engines of unequal neoliberal growth—it is perhaps not surprising that a concomitant line of critique has emerged acknowledging vast and growing world sectors of biological and economic precarity. Building on a number of key postcolonial/feminist studies of the 1990s exploring Foucault’s theory beyond European borders, these necropolitical critiques announce that politics today often emerges as the specter of death. The world’s poor, as well as a growing “precariat” carved from shrinking national bourgeoisies, appear less often as the objects of technological uplift than as the human surplus of the political order of things, populations at risk for displacement, dispossession, captivity, and premature death. The precaritization of sweated labor, the subjection of agrarian populations to the twin scourges of neoliberal structural adjustment and environmental devastation, the proliferation of deterritorialized war and ethnic cleansing, and the growth of predatory industries and rents to recycle capital from surplus populations all reveal that those humans targeted for biopolitical optimization constitute a shrinking population who reproduce through the cannibalistic appropriation of life elsewhere. But necropower is not simply about the distribution of death; it is also about the accumulation of social or economic capital through death and precarity. For example, when suicide passes on social force through the deathly body, or when life insurance capitalizes death, death itself thus gives form to life.

#### Threats of economic collapse shuts down deliberation in favor of immediate response, creating a violent state of exception.

Hanan ‘10

Ph.D, Prof of Communication @ Temple (Joshua Stanley, “Managing the Meltdown Rhetorically: Economic Imaginaries and the Emergency Economic Stabilization Act of 2008”, dissertation The University of Texas at Austin)

By framing the proposed legislation in this particular light, Bush offers us a first example of how the neoliberal state of exception is manifested rhetorically in the sphere of policy. By describing the crisis as “extraordinary times” in need of “decisive action,” he is able to side step his administration’s problematic relationship to Wall Street and the present crisis. Since the economy is not operating normally but is instead in a state of disarray and chaos, the downturn must be addressed without normal argumentative debate. In his desire to postpone deliberation by emphasizing the exceptional nature of the crisis, Bush taps into a more general narrative that emerged during the creation and passage of EESA, namely ethical pragmatism. Like moral critique, ethical pragmatism deploys the state of exception enthymematically as a way of justifying EESA legislation. Unlike moral critique, however, ethical pragmatism links the exception to a completely different set of values. By bringing attention to temporary nature of the present situation, ethical pragmatism argues that deliberation and critique are the enemies. Since the Bush Administration is “working with Congress to address the root cause behind much of the instability in our markets,” this narrative contends the worst thing citizens can do right now is challenge the administration.304 The primary difference between these two rhetorical accounts can thus be located in the way they deploy the state of exception as an enthymeme to explain EESA and the government’s reaction to the present crisis. Whereas the moral critique implies that a state of exception has become a permanent practice under Bush, the latter tries to frame the state of exception as temporary action. Hence, insofar as the narrative of ethical pragmatism attempts to exempt itself from the problem by emphasizing authentic deliberation at a future point in time, it relies on a different model of the state of exception that is more justifiable. Turning now to our second policy artifact—that of Secretary Paulson—we see an additional rendering of ethical pragmatism. Delivered on September 23rd 2008 to the Senate Banking Committee, Paulson’s widely publicized address is particularly useful in illustrating how a temporary understanding of state of exception can be used as an enthymeme to circumvent moral critique.305By emphasizing the “urgent response” that the crisis demands, the former Goldman Sach’s CEO centers his argument on how EESA provides “market stability,” Organizing his narrative around a series of binaries, Paulson’s ethical pragmatism is predicated on the opposition between a healthy and sick economy. By arguing that “illiquid mortgage-related assets … are choking off the flow of credit which is so vitally important to our economy,” for example, Paulson renders the financial system a living entity that has been invaded by foreign agents.306 Through a viral process of multiplication, he illustrates how “[t]hese bad loans have created a chain reaction” that now threatens “the very health of our economy.”307In the same way that a virus can weaken a person’s entire immune system, Paulson wants his audience to see the economy as having been infected by a rapidly proliferating disease—one that must be eradicated quickly by experts, and without debate. By explaining the financial crisis through such metaphors, Paulson is able to argue that his legislation is aimed at excising these "troubled assets from the system.”308The measure is “designed for immediate implementation and [to] be sufficiently large to have maximum impact and restore market confidence.”309 Thus, by addressing the “underlying problem”—troubled assets that are dragging down the entire economy—he has devised an expert program to stabilize the financial system. This plan, while putting taxpayers on the line, will cost American families “far less than the alternative—a continuing series of financial institution failures and frozen credit markets unable to fund everyday needs and economic expansion.”310 It is at the end of Paulson’s speech, however, that we realize the primary goal of his narrative: the desire to frame EESA as a temporary state of exception. In spirit of the “bipartisan consensus for an urgent legislative solution,”311 Paulson argues that there is no time to deliberate and contest the parameters of this bill. Since this “troubled asset purchase program on its own is the single most effective thing we can do to … stimulate our economy,” we must trust Paulson’s authority as Treasury Secretary and pass the bill immediately.312 While it is true that “[w]hen we get through this difficult period…our next task must be to address the problems in our financial system through a reform program that fixes our outdated financial regulatory structure,” Paulson contends that “we must get through this period first.”313 Through his appeals to urgency and expedient action, Paulson’s narrative enthymematically invokes a seemingly temporary state of exception. Since the economy is sick and its pathogen is multiplying rapidly, debate and deliberation about whether EESA is the right form of interventionism must be postponed to a later point in time. While “[w]e must [eventually] have that critical debate” now is not the time to question the crisis of neoliberalism.314 As part of Bush’s executive branch we must trust Paulson when he says he has the “best interest of all Americans” in mind and not risk making the situation even worse. Despite residing in a different sphere of policy than Bush and Paulson, the third rhetor—Fed Chair Ben Bernanke—demonstrates how the narrative of ethical pragmatism can emerge in governmental avenues outside the Executive Branch. Delivered to multiple Congressional committees on September 24 and 25, 2008, Bernanke’s testimony represents perhaps the most explicit attempt to grapple with the contradiction between the Federal government's neoliberal history and its looming Keynesian intervention.315“Despite the efforts of the Federal Reserve, the …global financial markets remain under extraordinary stress," declares Bernanke, rationalizing why, in the case of the present downturn, the neoliberal privileging of monetary policy over fiscal policy will no longer suffice.316 Viewing capitalism through a rhetorical lens similar to that of Paulson, Bernanke describes how "stresses in financial markets have been high and have recently intensified significantly."317 As "rising mortgage delinquencies" spiral out of control and intersect other financial venues "the implications for the broader economy could be quite adverse."318 Bernanke thus declares that "[a]ction by the Congress is urgently required to stabilize the situation."319 If action is not taken immediately to avert the economy’s growing crisis, the situation may become even bleaker. Like Bush and Paulson, central to Bernanke's attitude toward EESA is the need for immediate action. While he acknowledges "the shortcomings and weaknesses of our financial markets and regulatory system" now is not the time to debate the policies underscoring the bill.320 The "development of a comprehensive proposal for reform would require careful and extensive analysis that would be difficult to compress into a short legislative timeframe now available."321 Bernanke thus believes that it "is essential to deal with the crisis at hand" and focus later on building a "stronger, more resilient, and better regulated financial system."322 While Bernanke believes the urgency of the situation is enough of a justification for passing EESA, he does have a response for those who may be critical of the bill’s interventionist tendencies: “Government assistance should be given with the greatest of reluctance,” adding that in the present case such attempts have already been exhausted.323Since the Federal Reserve already “attempted to identify private-sector approaches” but none were forthcoming, the government has no other choice but to bail out the financial sector. By rationalizing EESA as the only possible option, then, Bernanke's narrative of ethical pragmatism is meant to close off the possibility of dissent. For those that feel interventionism is a disgrace to free market capitalism, Bernanke has made it clear that "private-sector arrangements" were taken into account. On the other hand, for who those critique the government for "bailing out Wall Street," Bernanke's appeals imply that debate and deliberation will come at a later point in time. Thus through his stifling of opposition from all sides, Bernanke’s narrative of ethical pragmatism invokes the state of exception as the temporary justification for the government’s economic actions. The Exceptionality of Ethical Pragmatism Bush, Paulson and Bernanke all provide accounts that, while told in slightly different ways, use the strategy of ethical pragmatism to try to suspend critique and discussion. Whether emphasizing “extraordinary times,” “urgency,” or “lack of options,” Bush, Paulson, and Bernanke all invoke the state of exception as the enthymematic justification for their actions. The “exceptional” frame underscoring this series of arguments, then, offers an additional way to grasp why the dissenting narrative—moral critique—may have had so little impact on EESA’s legislation. By rendering of EESA as an emergency measure to save the economy, ethical pragmatism was able to defer debate. Moreover, since ethical pragmatism emerged from the very same sphere in which EESA was introduced—that of policy—it was able to supersede dissident narratives about the bill at an institutional level. Since the former, not the latter, narrative defined the parameters of the policy debate; ethical pragmatism had both a material and discursive advantage. Moral critique’s failure can thus be observed simultaneously in two different rhetorical/institutional contexts. In respect to its own rhetorical argument, moral critique’s use of the state of exception as an explanation for EESA’s passage negated its own critique by affirming that this technique of power does indeed exist. At the same time, through the narrative frame of ethical pragmatism, moral critique was deferred from the realm of policy. Since the “exceptionality” of the situation demanded a suspension of deliberation, it became justified to pass the bill without proper economic argument. We are thus left to conclude that the state of exception has both a discursive and extra-discursive reality since the institutional forms and discourses coincide with one another.

#### The aff’s investment in public health as a response to the threat of disease sanctions a more sinister form of biopolitical racism whereby “unhealthy” populations are subject to ethnic cleansing and state-sanctioned violence.

Elbe ‘5

[Stefan, international relations at the University of Sussex. 2005. “AIDS, Security, Biopolitics,” <https://journals.sagepub.com/doi/10.1177/0047117805058532>] pat

Why does it matter that the securitization of HIV/AIDS is biopolitical? It matters because, their humanitarian appeals to ‘life’ and ‘health’ notwithstanding, biopolitical strategies have historically been Janus-faced. They have led to the construction of hospitals and the design of universal healthcare systems, but they have also led to the justification of eugenics and mass death. Some of those advancing the securitization of HIV/AIDS clearly do so in the hope that this will have important humanitarian benefits for persons living with HIV/AIDS around the world by bolstering international AIDS initiatives. Peter W. Singer argues that presenting HIV/AIDS as a security threat ‘strengthens the call for serious action against the menace of AIDS. It is not just a matter of altruism, but simple cold self-interest.’ Many policymakers agree, including the executive director of UNAIDS, who has similarly argued that framing HIV/AIDS as a security issue is not merely an academic exercise but ‘defines how we respond to the epidemic, how much is allocated to combating it, and what sectors of government are involved in the response’. Foucault’s historical analyses, however, point to the need for a greater degree of caution regarding these normative aspirations because biopolitical strategies have in the past also engendered serious dangers that continue to accompany recent efforts to think of security in terms of the health of populations.

One of these dangers is that the biopolitical imperative of optimizing the health of populations effectively constitutes disease – and by extension the diseased – as a social and political problem that needs to be addressed, but without specifying exactly how this problem should be dealt with. Unfortunately the creation of universal healthcare programmes to treat the ill is just as compatible with a biopolitical logic as is the purging of populations of the diseased by more sinister means, such as killing them or letting them gradually die. As counter-intuitive and ironic as it may seem, a biopolitical society based on the enhancement of ‘life’ and ‘health’ can still sanction and justify instances of mass death. The European era of biopower, after all, coincided with 20th-century political projects demanding the deaths of millions. Foucault later came to understand this bizarre confluence only on the basis of a new racism that biopolitical orders can give rise to. ‘Racism’, he contended from a biopolitical perspective, ‘is primarily a way of introducing a break into the domain of life that is under power’s control: the break between what must live and what must die.’ The reason biopolitical orders can still sanction mass death is because they can generate a powerful new form of racism that pits the ‘healthy’ members of the population against the ‘unhealthy’ who are deemed to sap the strength and vitality of the population as a whole. The underlying principle of this new biopolitical racism is thus not the primacy of cultural difference, as with many more traditional forms of racism, but rather the more subtle idea ‘that the death of others makes one biologically stronger insofar as one is a member of a race or a population’. The insistence on maximizing the health of populations can thus be dangerous for those who are deemed to be unhealthy.

The Nazi movement demonstrated the extreme ends to which this darker side of biopolitics can be taken when it carved up the European continent using the dubious criterion of ‘blood’ for deciding which populations could be usefully ‘Germanized’ and thus spared, and which ones would have to perish. It remains one of the most disconcerting testaments to the dangers of thinking security in biological terms, or on the basis of health and sickness. In Nazi Germany, moreover, this new biological racism was also projected internally to Jews who were no longer persecuted solely because of their Judaism, but also because their quasi-biologically defined ‘Jewishness’ was deemed to be undermining the purity and strength of the Aryan race. Enhancing the strength and vitality of the latter, by this logic, required the elimination of the former. In some ways this biopolitical racism is even more pernicious than a culturally defined one because, as Hannah Arendt once pointed out in her memorable phrase, whereas in the past ‘Jews had been able to escape from Judaism into conversion; from Jewishness there was no escape’. A biopolitical society aimed at promoting ‘life’ and ‘health’ still has to make decisions about whose life is worth preserving and whose life will be allowed to perish, and the function of racism in a biopolitical age is to make this very distinction not necessarily according to the principle of cultural difference, but according to the maxim of whose survival will maximize the strength and wellbeing of the population, and whose will undermine it.

By way of extension, the concomitant danger with the securitization of HIV/AIDS as a biopolitical strategy is that while it clearly dramatizes the need to address the problem of disease at the global level, it does so without specifying exactly how this is to be achieved. The securitization of HIV/AIDS may increase attention and resources for charitable and humanitarian global AIDS initiatives, and may lead to more universal access to treatment, but these, alas, are not the only outcomes that would be consistent with a security approach to the pandemic. Indeed, there are at least three more disconcerting ways in which the securitization of HIV/AIDS could – at least hypothetically – follow the path of earlier biopolitical strategies and give rise to a new biopolitical racism between the ‘healthy’ (HIV-negative) and the ‘unhealthy’ (HIV-positive) segments of a population.

#### This culminates in a form of dread life which organizes and deploys disaster biopolitics to justify constant interventionism, health apartheid, and antagonistic subject formation that turns and outweighs the aff.

Debrix ‘18  
(François Debrix, Professor and director of ASPECT, College of Liberal Arts and Human Sciences, Virginia Tech. “End piece: Dealing with disastrous life” in Biopolitical Disaster. Ed. Jennifer L. Lawrence and Sarah Marie Wiebe. 2018 Routledge forthcoming. cVs) rc/pat

Disastrous biopolitics makes possible dread life. I borrow the term “dread life” from Neel Ahuja’s recent study of the racialized dimensions of the governance and management of anxiety, particularly with regards to the fear of infectious diseases (Ahuja 2016). Dread life is a life that has grown accustomed to and has placed its trust in governance discourses that promise that life can be cared for or preserved through a series of social, political, economic, cultural, or technological interventions at the level of collective and individual bodies. Dread life is a life that has become reliant on discourses and representations of crises, looming dangers, impending catastrophes, and ongoing disasters (whether they are visible or not). As Ahuja puts it, dread life emerges as a result of discourses and representations “that (1) posit the environment as an unruly site of perpetual risk, and (2) shore up an imperial optimism in the force of the state that tends to far outstrip its actual ability to control [the crisis]” (Ahuja 2016: 9). Discourses that produce dread life abound because they keep the crisis or the disaster alive, productive, and always active. Through these discourses, the presence of dread life is a constant reminder of the fact that humanity remains under the spell cast by a bad or evil star, that, as fate has it, disasters will always be around. But, just as crucially, dread life also enables the production of an array of configurations, objects, and objectives, and subjectivities that help to make disastrous biopolitics into a set of tangible, material, and generable operations on a day-to-day basis. Thus, dread life breaks down into a series of subsets of disastrous life and living conditions. Depending on how, where, or when the crisis or disaster is mobilized (as many of this volume’s chapters have detailed), dread life can morph into resilient life, or into triaged life, or perhaps into deracinated life, or possibly into toxic life, or sometimes into emergency life, or maybe into a life suspended between disease and death. Any instance whereby dread life is placed in front of “an unruly site of perpetual risk” (as Ahuja puts it) is potentially productive of one of these (and other) subsets of disastrous life/living. Moreover, for any subset of dread life one finds a corresponding modality of governance/governmentality best suited (or so we are told) to manage the crisis or the disaster and, as such, most apt at keeping alive as dread. Thus, for example, resilient life calls for, justifies, and makes effective operations, technologies, and strategies of resilience. Secure life instantiates and authorizes security practices, policies, and politics. Toxic life requires responses in the form of environmentally conscious purifying or cleansing remedies that typically mobilize various layers of scientific expertise. Triaged life often calls for and normalizes clinical and administrative gazes that can sort bodies in order to repurpose them for upcoming disaster challenges (wars, future diseases, weather emergencies, etc.) Dread life is also productive of a range of subjects and subjectivities in charge of determining which types of interventions at the level of populations and bodies are more likely to cope with the disaster of deciding how the governing strategy that has been adopted (resilience, sustainable development, security, etc.) is to be deployed. This is precisely the point where what Ahuja calls “the optimism in the force of the state” (2016:9) is maximized. The state or, better yet, all sorts of agents/agencies in charge of the governance of dread life both depend on and become a function of the production of multiple instances of dread life so that they can serve as the ultimate guarantors of the safety, security, resilience, or sustainability of life itself (even if, more often than not, such a maintenance of dread life implies the culling of other bodies whose lives are not even worthy of being subjected to dread). Thus, as most of this volume’s chapters have revealed, one cannot think life under conditions of disaster without accounting for a series of governing or managing agents/agencies (the state, in some cases, but also various neoliberal assemblages such as corporations, environmental organizations, militaries and other security and enforcement agents, laws, policies and policy statements, extractive technologies, regimes of health, communities of experts, scientific pronouncements, etc.) that come together to make sure that dread life will be maintained as dread life and that disasters will be kept as productive discursive modalities for more dread life (and disasters) to come. This is not necessarily to say that these agents or agencies of governance of dread life are the instigators of dread life or of disastrous biopolitics. Rather, it is to say that these agents/agencies of biopolitical governance are active assemblages that are produced by discourses of disaster maintenance and by the need created in these discourses for life to remain tethered to disaster. Yet, these active assemblages of productive governance of dread life through disaster management display an actancy (through their active/creative performances) that enables discourses of disastrous biopolitics to be reproduced, re-imagined, or redeployed.

#### The alternative is autoaesthetics – liberal biopolitics is a form of resilient living that subverts human potential into endless dangers to be secured – voting negative reintroduces death to the question of life – ask yourself, what would it mean to have a death well lived?

Evans and Reid ‘14

[Brad Evans, International Relations at the University of Bristol, and Julian Reid, International Relations at University of London. 2014. “Resilient Life”] pat – DM me for the PDF

Even through a brief social detour on fire, however, we can see how the continual framing of life in terms of its biological vulnerability has a more contested history. Indeed, even though the compulsion to view life biologically developed to be one of the defining features of modernity, throughout this period there was nevertheless some belief that the subject was able to secure itself from the problems of the world. This was backed up by the proliferation of various myths about belonging that were central to the creation of political communities. Liberalism, in contrast, operates as if it is ‘limitless’. Its reach, growth and development demand more, and more, and more. However, instead of relating this to a new-found metaphysical awakening that allows us to think that there is more to life than its biological endowment, contemporary liberal biopolitics turns infinite potentiality into a source of limitless endangerment such that all there is to think about is the sheer necessity and survivability of things. In this sense, it is more proper to describe liberal biopolitics as limitless. For rather than taking the open horizon as a space for the infinitely possible, everything is internalized such that it is haunted by whatever remains irreducible to its current sensibility. This inevitably brings us to the vexed question of a death well lived.

We don’t need grand theorizing to make the point that mediations on death have a profound impact upon the way we live. Anybody who has known a person with a terminal illness and becomes anxiously consumed with the prospect of dying will appreciate how the thought and presence of death effectively stops them living. They cannot live because the very uncertainties (physical and intellectual) presented by the mere thought of death are a burden that proves too difficult to carry. Hence, working in an opposite direction to Heidegger’s much debated claim that the ‘absolute impossibility’ of thinking about death constitutes the very possibility of being, the possibility of its occurrence is sufficient to instill what in fact is less a fear of death but more a fear of living. But we cannot simply stop there. As we have suggested, what makes the art of living so dangerously fascinating today is that it requires us to live through the source of our endangerment. Trauma and anxiety as such become our weapons, as vulnerability is amplified and played back to us with increasing frequency to their point of normalization. The political significance of this should not be underestimated.

Our argument is that the political debasement of the subject through strategies of resilience more than puts the very question of death into question by removing it from our critical gaze. In doing so, it represents nothing short of a profound assault on our ability to think metaphysically. This in turn represents a direct attack upon our abilities to transform the world beyond the catastrophic condition in which we are now immersed. After all, how can we even conceive of different worlds if we cannot come to terms with the death and extinction of this one? Resilience as such is what we may term a ‘lethal ecology of reasoning’, for in taking hold and seeking to intervene in all the elements upon which life is said to depend, it puts the living on a permanent life support system that is hard, soft and virtually wired into the most insecure of social fabrics to the evacuation of all possible alternative outcomes. To open, then, a much debated but still yet to be resolved conflict in the history of political and philosophical thought, we maintain that if the biopoliticization of life represents the triumph of techne over poiesis, and if this very biopoliticization today thrives on the technical production of vulnerable subjects which learn to accept that fate, there is a need to resurrect with confidence the idea that what remains irreducible to life can be the starting point for thinking about a more poetic alternative art for living. As Peter Sloterdijk writes on the all too gradual demise of metaphysics:

Ever since the end of the eighteenth century, this has become a twilight zone where it was also possible to see the growth of nihilism, and it was precisely because there that art began to assume an enormous importance, and precisely because art makes it clear that it has a non-nihilistic way of coming to terms with the fact that we ourselves are responsible for the creation of what we think of as the essential. Art defends the truth of life against flat empiricism and deadly positivism, which are no longer capable of an awareness of anything more than the facts and which are therefore incapable of culling the energy to create new inter-relationships of vital or living forces.

Life as a Work of Art

So where does this leave us in our attempts to move beyond the resilient subject? How may we revitalize the very meaning of the political out of the torment of its catastrophic condition? What is further required so that post-biopolitical forms of living may be entertained? How, in other words, may we resurrect with affirmative vigour Nietzsche’s delightful and no less poignant provocation that life itself may become a work of art? We are yet to truly grasp the magnificence of Nietzsche’s work as it may play out in the field of politics. While the stylistic artistry of his particular interventions largely remained tied to the literary field, as witnessed most notably in the figure of Zarathustra, he nevertheless demanded with affirmative vigour rejoicing in the fullness of an experience that embraces the poetic and the aesthetic. Not only does this stake a claim to the creative power of transformation, it also gives over to life the political possibility that its aesthetical qualities may have both an affirmative and resistive potential to challenge dogmatic images of thought. Never has this calling seemed more pressing.

What is at stake here is not simply the ‘aesthetics of existence’ wherein life conforms to some glorious representational standard of beautification. Such constructed imaginaries always grey the magnificent colours of the earth. What is demanded is the formulation of alternative modes of existence that are not afraid to have reasons to believe in this world. As Deleuze succinctly put it, ‘In every modernity and every novelty, you find conformity and creativity; an insipid conformity, but also “a little new music”; something in conformity with the time, but also something untimely – separating the one from the other is the task of those who know how to love, the real destroyers and creators of our day’. Deleuze invariably provides a purposeful nod here to the Nietzchean idea of a poetic subject:

that he himself is really the poet who keeps creating this life... as a poet, he certainly has vis contemplative and the ability to look back upon his work, but at the same time also and above all vis creative, which the active human being lacks... We who think and feel at the same time are those who really continually fashion something that had not been there before: the whole eternally growing world of valuations, colours, accents, perspectives, scales, affirmations, and negations’.

What Nietzsche acknowledges in this passage is that ‘aestheticizing of life entails its artful, stylish disappropriation, a free fall into metaphor and un-self-ness. Autoaesthetics, the artful and chimerical fabrication of the (un)self, means development of strategies of self-mastery, power over one’s art and production, a convergence with self at the locus of the creation (and interpretation) of art’. This was not lost on Foucault, who was also of the opinion that ‘from the idea that the self is not given to us, I think that there is only one practical consequence: we have to create ourselves as a work of art... We should not have to refer the creative activity of somebody to the kind of relation he has to himself, but should relate the kind of relation one has to oneself to a creative activity’.

We may argue that conceiving of life as a work of art stands in direct contrast to the nihilism, indifference and alienation of the catastrophic subject. It resurrects Nietzsche’s claim about the death of God in a way that seeks to find new forms of meaning to life that are necessarily revelatory in nature. And it challenges head on the positivist conceit that a meaningful life can only be progressively reasoned on account of its biopolitical existence. This demands an account of the subject that is more than a historical unfolding of survivability. As Simon Critchley puts it, by drawing upon one of his arch provocateurs, Oscar Wilde, ‘When I think of religion at all, I feel as if I would like to found an order for those who cannot believe: the Confraternity of the Faithless, one might call it, where on an altar, on which no taper burned, a priest, in whose heart peace had no dwelling, might celebrate with unblessed bread and a chalice of empty wine. Everything to be true must become a religion. And agnosticism should have its ritual no less than faith’. This acceptance that there is something to existence that is less explicable to the prevailing logics of secularity, as Todd May explains, requires a more nuanced understanding of philosophical enquiry that moves away from ‘thinking metaphysics’ and all its ways of stupefying and rendering incapable the subject, towards questioning how we might live differently:

We don’t want to reduce it simply to a morally good life, as though a meaningful life were simply an unalienated moral life. Meaningful lives are not so limited and are sometimes more vexed. So we must ask what lends objective worthiness to a life outside the moral realm. Here is where the narrative character of a life comes into play... There are narrative values expressed by human lives that are not reducible to moral values. Nor are they reducible to happiness; they are not simply matters of subjective feeling. Narrative values are not felt, they are lived. And they constitute their own arena of value, one that has not been generally recognized by philosophers who reflect on life’s meaningfulness.

There are a number of qualifications that need to be made here. We cannot be content to see artistic production as something which fosters a negative response to the realities of the world. Creativity must precede any account of the dialectic. Nor must we confuse the art of living with the conforming arts that merely perform a well-rehearsed dance. Life as a work of art is necessarily affirmative in a sense that it appeals to the yet to be revealed. It has no taste for the simulacrum. Neither is it content to accept the need to live dangerously such that we are forced to live with déjà vu all over again. The self is to be actively produced as a non-stable subject that does not seek to emulate some normative standard, but instead forcefully challenges the vulnerable ground which it is said to occupy. So believing in the irreducibility of existence? Certainly. Hostile to all reactive and enslaving forces? Undeniably. Unapologetic in willing the event of its ongoing emergent existence? Steadfast. Openly committed to the affirmative potential of the autonomous subject? Categorically. A believer in a more affective notion of history that is forever in the making? Unreservedly. A student of the eschatological? Earnestly. Appreciative of the transformative political power of fabulation? Truly. A lover of the poetic over the mathematical? Wholeheartedly. Welcoming our coming into the world? Without reservation. It would be wrong, however, to argue here simply in favour of life as if its very nature exhibited something of the poetic. As we have insisted, never before have we witnessed so many mediations on the value of life. Life, it is now said, constitutes the very meaningfulness of existence as broadly conceived. Without any engagement with the problem of life, there is nothing but a retreat into the abstract deceit of sovereign entrapments. This is now the default setting for global liberal governance on a planetary scale. Whilst critical philosophers once argued that life holds the capacity and the will to resist that which it finds intolerable to its existence, no longer can we have such confidence in the subject as framed in terms of its living qualities alone. Life continually desires that which it should find oppressive. It wilfully gives over to processes of desubjectivization on the promise of better futures to come. Life also shamefully compromises with power to the subjugation of both the self and others. It happily allows itself to be the principal referent object for political strategies which, promising freedom, render life with a difference thoroughly dangerous. Indeed, when power takes life to be its principal object, it often returns with claims to vulnerability that contemporary forms of power find easy to accommodate and turn to their own advantage. Neoliberalism, after all, thrives in situations that are insecure by design. What is at stake here is not simply some mediation on life such that the meaningfulness of life may be thought anew. However tempting this may appear to us, we need to focus more clearly on the affirmative and poetic qualities of existence that are by their very nature ‘irreducible to life’ against those strategies which take life in order to render it deducible – hence deductable as a living entity that demands continuous intervention on account of its endless imperfections. Needless to say, this art of living that finds political value in those poetic expressions that remain irreducible to life as such stands in marked contrast to the conformist arts which seek to resemble the world. Much of contemporary art, it is fair to say, is what money makes of it. Indeed, if Andy Warhol epitomized what Walter Benjamin aptly termed the work of art in the age of mechanical reproduction, no artist resembles the resilient logic of the times better than Damien Hirst. Beyond his penchant for self-valuation and shameless taking of ideas for self-gratification and self-glorification, Hirst’s work has a well-documented affinity with the medical and the taxidermical. His series of figures in formaldehyde, in particular, can be seen to represent the catastrophic topography of the times. Suspended in perfect animation, while suffocated beneath the weight of a liquid modern embrace, the various animalistic subjects of Hirst’s choosing are devoid of any political agency. Spectacularly simplistic in their mundane and catatonic gaze, their manufactured commitment to a death without the chance of credible decay tells less a tale of philosophical enquiry than the story of a finitude that refuses to accept the notion that finality may be transformative. They are literally ‘set’ in a perpetually fixed catastrophic plot. Nothing original is produced here. Life is merely taken as something to be exhibited without agential content or capacity for transformation. All the while it is condemned to a suspended sentence that is imagined to last for infinity. Hirst’s work thus resembles a Kantian dream and Nietzschean nightmare in the very same move. For here the object is completely immobile such that we become aware of our shared vulnerabilities without asking what we may do differently to challenge them, let alone move beyond the tragedy of their artificial supports.

## Case

### Solvency

#### Your solvency author’s proposal was *already* legislated in 2019 and will be implemented by December—the full directive encompasses the aff

* Solved Uniformity- authors call it the “golden standard” of whistleblower law implementation for being extremely clear as it relates to Trade Secrets Directive
* Solved Whistleblowing- does the plan and more—compensation for damages, no liability, legal support, flips burden of proof to plaintiff. Plan only flips the burden of proof.

**Van Waeyenberge and Davies 2021** (Arnaud Van Waeyenberge, Associate Professor of Law at HEC Paris where he teaches EU Law, Global Law and Legal Reasoning. Prior to joining the HEC faculty, he was an attorney-at-law at the Brussels Bar (Clifford Chance LLP) and a legal clerk at the Court of Justice of the European Union (General Court). He is currently the Chairman of the "Law and Tax Department". Holds a Master Degree in Law (UCL) in Legal Philosophy (European Academy of Legal Theory) in European Law (College of Europe) and a PhD in Law. and Zachariah Davies, a trainee with Judge Anthony Collins, 8th Chamber of the General Court. He previously was a Trainee at Ashurst in Brussels. He holds an LLM in EU Law from the Free University of Brussels. "The Whistleblower Protection Directive (2019/1937): A Satisfactory but Incomplete System." *European Journal of Risk Regulation* 12, no. 1 (2021): 236-244. footnote 41 inserted in brackets [])DR 21

On 23 October 2019, against the backdrop of numerous scandals involving whistleblowers, the EU enacted a directive protecting whistleblowers across the EU.8 The Whistleblower Protection Directive (the “Directive“) aims to establish common minimum standards of whistleblower protection in an effort to pull together the “fragmented” policies applied in different Member States and across different EU policy areas.9 The Directive sets ambitious legislative targets for EU Member States, who will have until 17 December 2021 to implement its provisions into national law.10

The following sections will focus on the text of the Directive itself, providing contextual elements, details and a brief critical analysis on its scope, its reporting procedures and the protective tools it introduces. The final section will then explore some of the practical considerations raised by the Directive regarding its relationship with national legislation and pre-existing EU legal instruments.

II. THE BROAD SCOPE OF APPLICATION OF THE WHISTLEBLOWER DIRECTIVE The main objective of the Directive is to ensure **improve**d application of EU law by providing adequate **protection for whistleblowers**. Worker protection is therefore not the primary objective. The scope of the Directive is in fact much broader, as discussed below, and increased protection is essentially a desirable means of improving the effectiveness of EU law.

The Directive was drafted following extensive evaluation, including numerous consultations,11 an external study assessing its repercussions as well as its quantitative and qualitative benefits, in addition to an impact analysis. These studies found that not only will this legislative project bringing about economic, societal and environmental benefits, but it will also have a wider positive effect on the fundamental rights of European citizens.12 In quantitative terms, the Commission estimates that revenue loss stemming from fraud and corruption affecting the EU budget is estimated at between €179 and €256 billion per year.13 The Directive was designed to help reduce that leakage.

Having established the context, this section will provide a brief overview of the main features of the scope of application of the Directive: its ratione materiae and ratione personae.

1. Ratione materiae In accordance with the principle of the attribution of competences, and according to Article 2 of the Directive, only “breaches of Union law” are covered by the Directive, specifically **breaches that fall within the** scope of the legislative acts set out in the Directive: pubic procurement; financial services, products and markets; the prevention of money laundering and terrorist financing; product safety; transport safety; environmental protection; radiation and nuclear safety; food and nutritional safety; animal health and welfare; public health; consumer protection; the protection of privacy and personal data; and the security of networks and information systems.14 Equally covered are breaches affecting the financial interests of the Union and those relating to internal market violations.15 In addition, **the extensive list of matters** encompassed by the Directive is non-exhaustive insofar as it provides for the **possibility for Member** **States to “extend protection** under national law as regards areas or acts not covered (by the list supra)”. 16

The notion of a breach is also defined broadly to include both acts and omissions that are either: (1) unlawful and fall within the areas listed in the previous paragraph; or (2) merely “defeat the object or the purpose” of the rules applicable to those areas.17

2. Ratione personae According to Article 4 of the Directive, protection is granted (only) to natural persons who have obtained information in a professional context, either in the private or public sector. Moreover, information obtained in the context of an employment-based relationship that has either ceased/concluded or has yet to begin, as well as during the recruitment process or in pre-contractual negotiations, is equally covered.18 The scope of the protection is therefore vast, covering workers, former employees or candidates; officials; the self-employed; volunteers; paid or unpaid trainees; shareholders; members of company managerial bodies, including non-executive members; and contractors, subcontractors and suppliers. The Directive goes further than most existing national legislation by extending the protective measures, if necessary, to natural persons connected to the reporting person. As such, Article 4(4) allows “facilitators” and third parties who are connected with the reporting person and who could suffer retaliation in a work-related context, such as colleagues or relatives, to benefit from protection.19

Legal entities can also indirectly benefit from the protections offered by the Directive if the reporting person owns, works for or is otherwise professionally connected with that legal person.20 The reasons explaining why protections were not extended to legal entities in their own right are unclear, as are the potential justifications for this approach. As a consequence, a non-governmental organisation (NGO) that is active in environmental protection and that discovers violations of EU environmental law would therefore not benefit from the protection offered by the Directive.

III. REPORTING PROCEDURES21 The protection granted by the Directive is subject to two cumulative conditions.22 On the one hand, the reporting person must demonstrate a reasonable belief that the information provided was not only true at the time of the reporting, but that it also fell within the scope of the Directive. On the other hand, the person must comply with the reporting procedures provided in the Directive. Additionally, it appears that anonymous reporting is only partially protected under Article 6(2). It is up to the Member States to decide whether private or public entities and competent authorities are required to accept and follow up on anonymous reports. However, as stated in Recital 34 of the Directive, “[P]ersons who anonymously reported or who made anonymous public disclosures falling within the scope of this Directive and meet its conditions should enjoy protection under this Directive if they are subsequently identified and suffer retaliation”.

The design of the reporting procedure was one of the main sticking points in the negotiations between the Council and Parliament. The former, supported by countries including France, Germany and Italy, wanted to adopt a strict three-tiered reporting procedure; first, to the organisation’s internal channels; then to designated authorities; and finally – should all else fail – to the public generally. The Parliament, supported by the MEP Virginie Rozière – the Directive’s rapporteur – advocated for a more flexible approach, allowing whistleblowers to make reports through any of these three channels from the outset.23

An intermediate position, in line with that of Transparency International France,24 was ultimately adopted. The text of the Directive opts for a reporting procedure that allows the whistleblower to make reports either through internal channels or to external agencies in the first instance. Accordingly, the Directive imposes obligations on all public and private legal entities to establish internal channels for employee reporting.25 Member States are also required to establish external reporting channels and to follow up on reports.26 Public disclosures are generally only permitted if a first report, whether internal or through an external agency, failed to elicit an appropriate response within three months.27 However, direct public disclosure is permitted in case of imminent and evident danger to the public interest, where there is a risk of retaliation or a low likelihood of effective handling of the report through the internal or external agency reporting **procedure**.28

IV. TOOLS OF PROTECTION At the heart of the Directive’s mechanism are a series of tools to **protect the whistleblower** and punish those who do not respect these protections.

1. Protective measures The toolbox offered by the new Directive includes the prohibition of retaliation, a system of compensation for damages, legal support and confidentiality.

Among the protections granted to whistleblowers, the adopted text prohibits any form of retaliation, including threats and attempts at retaliation, whether **direct** or **indirect**. A long and non-exhaustive list of examples is presented in Article 19.29 On reading this list, the European legislators’ intention to provide a definition of a “whistleblower” that covers all of its professional dimensions – in such a way as to protect them from all direct and indirect discrimination – is clearly evident. The European legislators have also reversed the burden of proof in retaliation proceedings, as the employer must now prove that the action taken against the whistleblower was not the consequence of their whistleblowing activities.30

In complement to the prohibition against retaliation, the Directive obliges Member States to protect reporting persons against reprisals. Whistleblowers are protected from civil and criminal liability so long as they had reasonable grounds to believe that their disclosure was

#### The only AC card after 2019 says that directive solves public health

1AC Dreyfus and Galizzi 20 — (Suelette Dreyfus, PhD, Researcher at the University of Melbourne, and Bruno Galizzi, part of the Blueprint for Free Speech Spain, “Protect whistleblowers, protect everyone's health”, 5-19-20, Blueprint for Free Speech, Available Online at <https://www.blueprintforfreespeech.net/en/news/protect-whistleblowers-protect-everyones-health>, accessed 9-8-21, HKR-AM)

In a bitter irony, Spain is one of the countries hardest hit by the coronavirus and, at the same time, one of the few countries in the European Union that does not have a national law to protect whistleblowers.

Now is the time to change that. The transposition of the European Directive 2019/1937 is an opportunity to incorporate legal provisions at the national level, and promote a cultural change to provide citizens with mechanisms for active participation in the protection of the public interest.

Last February, when the world was yet another, Blueprint for Free Speech, together with the National Commission of Markets and Competition, organized a public event bringing together spokespersons and representatives of political parties precisely to discuss this matter. That event was the first time that a wide and diverse party table (Ciudadanos, Esquerra Republicana, Partido Popular, Unidas Podemos, Vox) sat publicly in Madrid to discuss protection of whistleblowers.

Different positions were heard, some of them distant from what was established by the aforementioned European Directive, but all recognized the complete need to protect alerters in an integral way. Civil society was once again ahead of the interests of legislators proposing various alternatives that were waiting to be debated, one of them currently on the Table of Congress.

In this period of de-escalation and transition to the "new normal" one cannot look the other way. The iron and urgent commitment must be doubled to protect the whistleblowers, who have demonstrated to promote a more just and democratic operation of the institutions, in defense of our fundamental and human rights.

### disease

#### No extinction from diseases

Farquhar et al. 17 – \*director of the Global Priorities Project, M.A in Physics and Philosophy from the University of Oxford, \*\*Global Priorities Project, \*\*\*Research Associate in the FHI at the University of Oxford, Lecturer in Mathematics at St. Hugh’s College, \*\*\*\*PhD in philosophy, Researcher at the Centre for Effective Altruism, \*\*\*\*\*Academic Project Manager, Centre for the Study of Existential Risk, \*\*\*\*\*\*Director of Research at FHI [Sebastian Farquhar\*, John Halstead\*\*, Owen Cotton-Barratt\*\*\*, Stefan Schubert\*\*\*\*, Haydn Belfield\*\*\*\*\*, Andrew Snyder-Beattie\*\*\*\*\*\*, 2017, Global Priorities Project 2017, “Existential Risk Diplomacy and Governance”, <https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf>] AMarb

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

### DeDev!

#### Collapse of industrial society is inevitable---forcing a transition is key to avoid a total collapse that ends civilization

Nafeez M. Ahmed 17, Executive Director of the Institute for Policy Research and Development, *Failing States, Collapsing Systems: BioPhysical Triggers of Political Violence*, 2017, pp. 11-13

Today, human civilization under late capitalism maintains its increasing distance from thermodynamic equilibrium via the throughput of vast quantities of increasingly depleted fossil fuel reserves, along with other finite and increasingly scarce resources such as metal ores, radionucleotides, rare earth elements, phosphate fertilizer, arable land, and fresh water (Nekola et al. 2013). One indicator of the system’s growing complexity today is the measure of material throughput, or economic growth—Gross Domestic Product (GDP). Under capitalist social-property relations, GDP must continuously increase through the maximization of private sector profits, simply for businesses to survive in the competitive marketplace and for the economy to maintain its ability to meet the consumption requirements of a growing population. However, as the complexity of human civilization has advanced, the continual growth in material throughput is correlated with an escalating rate of depletion of energy and raw materials, as well as an acceleration in the dissipation of energy through intensifying greenhouse gas emissions. Robust scientific assessments now demonstrate that the continuation of those biophysical processes of environmental degradation in a business-as-usual scenario will, before the end of the twenty-first century, fundamentally undermine the biophysical basis of human civilization in its current mode of material organization and structural complexity. Further, the uncontrolled energy releases generated by these biophysical processes are manifested in climate change, extreme weather events, and natural disasters (Earth System Disruption); and drives geopolitical competition, social unrest, and violent conflict

#### Try or die means the transition’s worth it – our evidence does the impact calculus

Alexander 15—Lecturer and research fellow at the University of Melbourne, co-director of the Simplicity Institute, and a PhD [Samuel, *Sufficiency Economy: Enough for Everyone, Forever*, italics in original]

While Tainter’s theory of social complexity has much to commend it, in this chapter I wish to examine and ultimately challenge Tainter’s conclusion that voluntary simplification is not a viable path to sustainability. In fact, I will argue that it is by far our best bet, even if the odds do not provide grounds for much optimism. Part of the disagreement here turns on differing notions of ‘sustainability’. Whereas Tainter seems to use sustainability to mean *sustaining the existing civilisation*, I use sustainability to mean *changing the form of civilisation* through voluntary simplification, insofar as that is required for humanity to operate within the carrying capacity of the planet (Vale and Vale, 2013). Given that Tainter (1988) seems to accept, as we will see, that his own conception of sustainability will eventually lead to collapse, I feel he is wrong to be so dismissive of voluntary simplification as a strategy for potentially avoiding collapse. It is, I argue, our only alternative