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# Intellectual Property

The newsletter of the ISBA's Section on Intellectual Property Law

## Precedented Insufficient Memory: COVID-19 and Earlier Plagues

By *Daniel Kegan*

Computer memory insufficient for a user's attempted task may cause a crash. The first Macintosh, launched 24 January 1984, had 128k random access memory (RAM). Apollo 11, via the Apollo Lunar Module Eagle, delivered Neil Armstrong 20 July 1969 to the surface of the moon. Its computer brain, the Apollo Guidance Computer, had 2048 words of memory, RAM. That's 2k, one percent of the original Mac. Today, an entry level MacBook Air retails for \$999 with 256 GB RAM (256,000 MB, or 256,000,000 KB).

George Santayana (1863 Madrid Spain-1952 Rome Italy) reflected on The Phases of Human Progress in his *The Life of Reason* (1905-1906). Santayana observed "Those who cannot remember the past are condemned to repeat it."

George Orwell wrote *Nineteen Eighty-Four* in 1947, not so much future fiction but based on the perversions of language and truth he experienced during the Spanish Civil War. (Steinhoff, William, *George Orwell and the Origins of 1984*, University of Michigan Press, 1975). "What doublethink aims at is to ensure orthodoxy under any conditions. Newspeak is the principal intellectual means by which doublethink is transformed into a conditioned reflex" (Id, at 166).

January 2020 saw the launch of a novel coronavirus, its resultant **COVID-19** disease, a world-wide pandemic, and ubiquitous pronouncements of an "unprecedented" event. Unprecedented only if one's personal and availed institutional memory stops near the Vietnam War, World War I, Jeffrey Amherst, or Columbus sailing to "America," and if one ignores plague literature.

Technically, the **official name** for the virus, announced 11Feb2020 by the World Health Organization, is severe acute respiratory syndrome coronavirus 2, abbreviated SARS-CoV-2) and its resultant disease COVID-19). Viruses are named based on their genetic structure to facilitate the development of diagnostic tests, vaccines and medicines. Virologists

and the wider scientific community do this work, so viruses are named by the International Committee on Taxonomy of Viruses (ICTV). Diseases are named to enable discussion on disease prevention, spread, transmissibility, severity and treatment. Human disease preparedness and response is WHO's role, so diseases are officially named by WHO in the International Classification of Diseases (ICD). For general communication to the public, WHO often refers to the virus as COVID-19 (WHO, Naming the coronavirus disease).

During the Italian Renaissance Italian physicians thought a celestial "influence" caused what we now call "influenza."

**Albert Camus' *The Plague (La Peste*** in his original French), published 1947, novelistically describes a plague sweeping the French Algerian city of Oran. <en.wikipedia.org/wiki/The\_Plague>. The novel is believed to be based on the cholera epidemic that killed many in Oran in 1849 following French colonization, although the novel is set in the 1940s. The US Centers for Disease Control and Prevention (CDC) report described Oran as decimated by plague in 1556 and 1678.

Several quotations from Camus' *The Plague* are remembered by some:

- "I have no idea what's awaiting me, or what will happen when this all ends. For the moment I know this: there are sick people and they need curing."
- "The truth is that everyone is bored, and devotes himself to cultivating habits."
- "What's true of all the evils in the world is true of plague as well. It helps men to rise above themselves."
- "But what does it mean, the plague? It's life, that's all."
- "All I maintain is that on this earth there are pestilences and there are victims, and it's up to us, so far as possible, not to join forces with the pestilences."
- "Stupidity has a knack of getting its way; as we should see if we were not always so much wrapped up in ourselves."
- "It may seem a ridiculous idea, but the only way to fight the plague is with decency."
- "The evil in the world comes almost always from ignorance, and goodwill can cause as much damage as ill-will if it is not enlightened. People are more often good than bad, though in fact that is not the question. But they are more or less ignorant and this is what one calls vice or virtue, the most appalling vice being the ignorance that thinks it knows everything and which consequently authorizes itself to kill. The murderer's soul is blind, and there is no true goodness or fine love without the greatest possible degree of clear-sightedness."

"To write the book, Camus immersed himself in the history of plagues. He read about the Black Death that killed an estimated 50 million people in Europe in the 14th century, the Italian plague of 1630 that killed 280,000 across Lombardy and Veneto, the great plague of London of 1665 as well as plagues that ravaged cities on China's eastern seaboard during the 18th and 19th centuries. ... He was drawn to his theme because he believed that the actual historical incidents we call plagues are merely concentrations of a universal precondition, dramatic instances of a perpetual rule: that all human beings are vulnerable to being randomly exterminated at any time, by a virus, an accident or the actions of our fellow man. The people of Oran can't accept this. Even when a quarter of the city is dying, they keep imagining reasons it won't happen to them. They are modern people with phones, airplanes and newspapers. They are surely not going to die like the wretches of 17th-century London or 18th-century Canton." (Alain de Botton).

**Genuine plagues** have formed the central elements of books from Giovanni Boccaccio's c. 1353 *The Decameron*

onwards. Boccaccio tells the tales of ten people of Florence who escape from the Black Death in their city. The book inspired Geoffrey Chaucer's 14th-century *Canterbury Tales*, which similarly tells the stories of people on pilgrimage in a time of plague. Ingmar Bergman's 1957 film *The Seventh Seal* (Swedish: *Det sjunde inseglet*) is set in Denmark during the Black Death, and features a game of chess with Death personified as a monk-like figure. <en.wikipedia.org/wiki/Disease\_in\_fiction>.

**Plagues in Fiction.** Diseases, especially if infectious, have long been popular themes and plot devices in fiction. Daniel Defoe's pioneering 1722 *A Journal of the Plague Year* is a fictional diary of a man's life during the plague year of 1665 in England. Mary Shelley's 1826 *The Last Man* created the genre of "post-apocalyptic pandemic thriller" with her story of a plague that is spreading across Europe towards her protagonists in Britain. Edgar Allan Poe's 1842 "The Masque of the Red Death" is a gothic tale of a plague, perhaps symbolizing the hubris of the wealthy, and their nemesis. More recently, Michael Crichton's 1969 *The Andromeda Strain* is a science fiction thriller about a world-threatening microbe that a military satellite brings down to Earth and wipes out a town in Arizona. White-coated scientists do their best to contain the outbreak. (Id.)

**Recent Non-Fiction.** Less than a century ago (1918-1920), the world suffered the Spanish Influenza pandemic. "Only influenza," it killed more than 50 million people worldwide, perhaps 100 million, in a year. Overcrowded military camps and wide-ranging troop deployments allowed the highly contagious flu to spread quickly; transport ships became "floating caskets." Yet the US government refused to shift priorities away from the war and, in effect, ignore the crisis. Shortages of health care workers hurt both military and civilians, inept public health officials worsened the death toll. <en.wikipedia.org/wiki/John\_M.\_Barry>.

**Disaster Communities.** Some time ago following a severe drought and famine in his homeland Canaan, Jacob and his descendants emigrated to Egypt (Genesis 43). Local disasters have long prompted emigrants, and less impacted communities helping afflicted communities and refugees (cf. Good Samaritan, Luke 10). First Responders throughout the USA came to New Orleans to help with Hurricane Katrina (23-31 August 2005), New Orleans flooding, and recovery. Communities beyond Katrina's impact absorbed many refugees, especially upstate Louisiana and Houston. The National Weather Service was lauded for providing accurate forecasts well in advance. However, other state, local, and federal officials were criticized for their responses. Post storm investigations concluded that the US Army Corps of Engineers, which had designed and built the region's levees decades earlier, was responsible for the failure of the flood-control systems. <en.wikipedia.org/wiki/Hurricane\_Katrina>.

**Rebeca Solnit**, in *A Paradise Built in Hell: The Extraordinary Communities That Arise in Disaster*, recounts the SS Mont-Blanc explosion in Halifax, Nova Scotia, Canada (6Dec 2017); earthquakes in San Francisco (1906), Mexico City, and Managua Nicaragua; London during the Blitz (1940-41); New York on 9/11; and New Orleans from Katrina. Solnit's research shows the altruism that often spontaneously develops among the ordinary, former, residents, sometimes impeded by some elites and authorities, fearing the masses and, consciously or not, preserving festering inequalities.

**Rhymes.** "History doesn't repeat itself but it often rhymes." (Attributed to Mark Twain, not authenticated). Why did the world shut down for Covid-19 but not Ebola, SARS, or Swine Flu, asked and answered Kaleigh Rogers (14Apr2020). SARS and MERS were deadly but not easily spread; Swine flu was easily spread but not as deadly; Ebola was very severe but hard to contract. One of the difficulties of Covid-19 is the Silent Spreading of the virus (Huang, 13Apr2020).

**Orwell.** George Orwell long championed "language as an instrument for expressing and not for concealing or preventing thought." In the near aftermath of World War II he recognized "the present political chaos is connected with the decay of language.... If you simplify your English, you are freed from the worst follies of orthodoxy.... Political language...is designed to make lies sound truthful and murder respectable, and to give the appearance of solidity to

pure wind.” (Orwell, 1946; 1968 at 139.

**Dr. Anthony Fauci**, Director of the National Institute of Allergy and Infectious Diseases since 1984, has been dreading a pandemic like Covid-19 for years. Before the first Covid-19 symptom, Anna Rothschild interviewed Dr Fauci about vaccines and the anti-vaccination movement. In passing, asked “What’s the thing that keeps you up at night?” Dr Fauci replied:

the emergence of a new virus that the body doesn’t have any background experience with, that is very transmissible, highly mortality. Now what I’ve essentially done is paint the picture of a pandemic influenza. Now it doesn’t have to be influenza. It could be something like SARS. SARS was really quite scary. Thankfully, it kind of burned itself out by good public health measures. But the thing that worries most of us in the field of public health is a respiratory illness that can spread even before someone is so sick that you want to keep them in bed. And that’s really the difference.

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*This article focuses on the coronavirus virus and its Covid-19 disease. The economic and political consequences are a different, albeit related issue, and depend on the actions and inactions of diverse government entities and residents.*

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