Surveillance and resilience: relationships, dynamics and consequences

Charles Raab (University of Edinburgh)
Richard Jones (University of Edinburgh)
Ivan Szekely (Central European University, Budapest)

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Part 1

The theoretical background of surveillance and resilience

C. Raab

R. Jones

I. Szekely

The premises of the research

1. Surveillance: a tool in security strategies against terrorist attacks and crimes; may harm freedoms, rights, privacy and security itself, eroding public trust, ethical principles, and democratic values.
2. Surveillance requires resilient societal and individual responses, precautionary and mitigating, to protect these freedoms, rights, values, etc.
3. 'Resilience': a contested and ambiguous term in governmental, business and social discourses; not clear how it relates to 'resistance'.
4. Resilience: often assumed to have positive connotations, but critics see it as a neo-liberal governmental strategy.

The premises of the research

5. Resilience: a useful multidimensional analytical instrument that embraces, and shows the complementarity of, practices, policies, discourses, processes, spaces of construction, economics, politics, and subjectivities.
6. We develop resilience models to describe processes over time and in anticipation of, or in reaction to, adversities of different kinds and severity.
7. We explore resilience on the plane of abstract analysis and in the context of societal responses to mass surveillance; a novel application.
8. Affinities between resilience analysis and general systems/ cybernetic theory.

The premises of the research

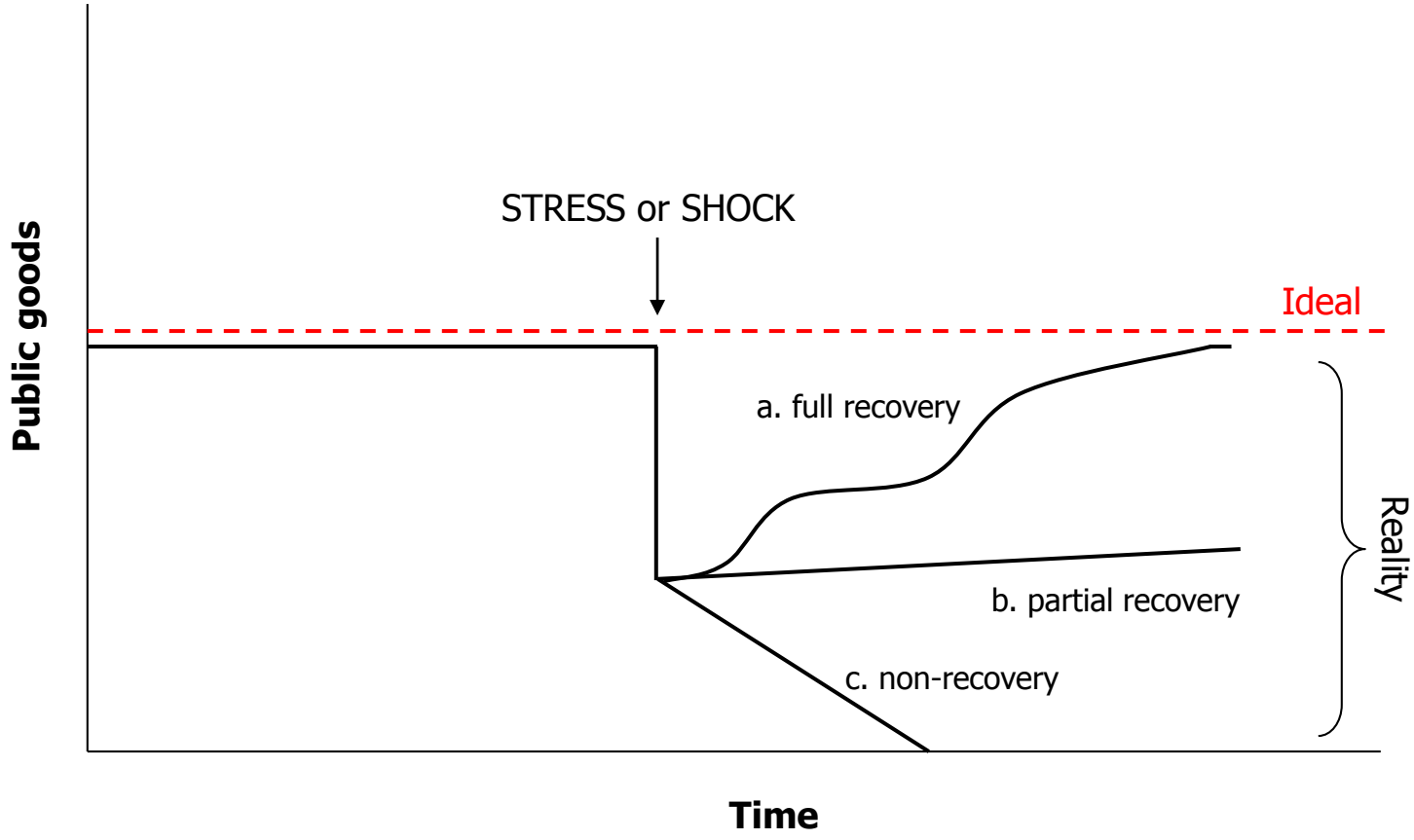
9. Surveillance: a special field for conceptual analysis and modelling of resilience, and for evaluating developments in "surveillance societies".
10. 'Resilience' used in official counter-terror strategy discourse; also an analytical term in security studies and other policy areas.
11. Novel visual presentation of alternative surveillance/resilience trajectories, based on resilience as process and not only as a label for qualities or properties of an individual, group, or society deemed 'resilient'.
12. Resilience practices can be used against surveillance itself; we explore how societies may remain democratic in the face of potentially deeply negative impacts of surveillance.

The premises of the research

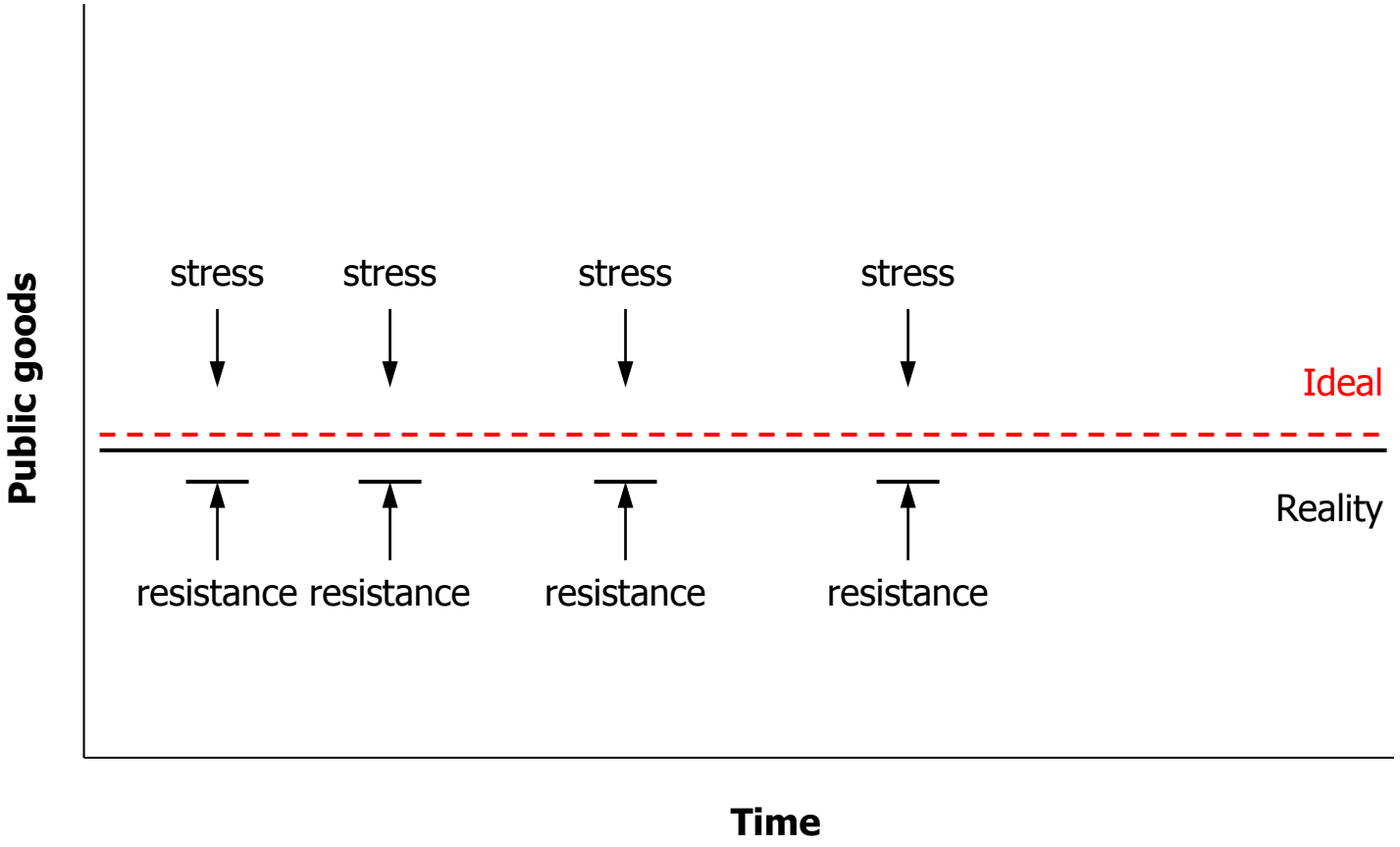
13. We advance three related arguments:

- that the concept of resilience can usefully be applied to the study of surveillance;
- that resilience cannot be assumed to happen and may in fact fail; several different outcomes are possible;
- that our diagrammatic approach offers a way of incorporating different subtypes of resilience within a unified umbrella framework, and facilitates the representation and modelling of different scenarios and outcomes.

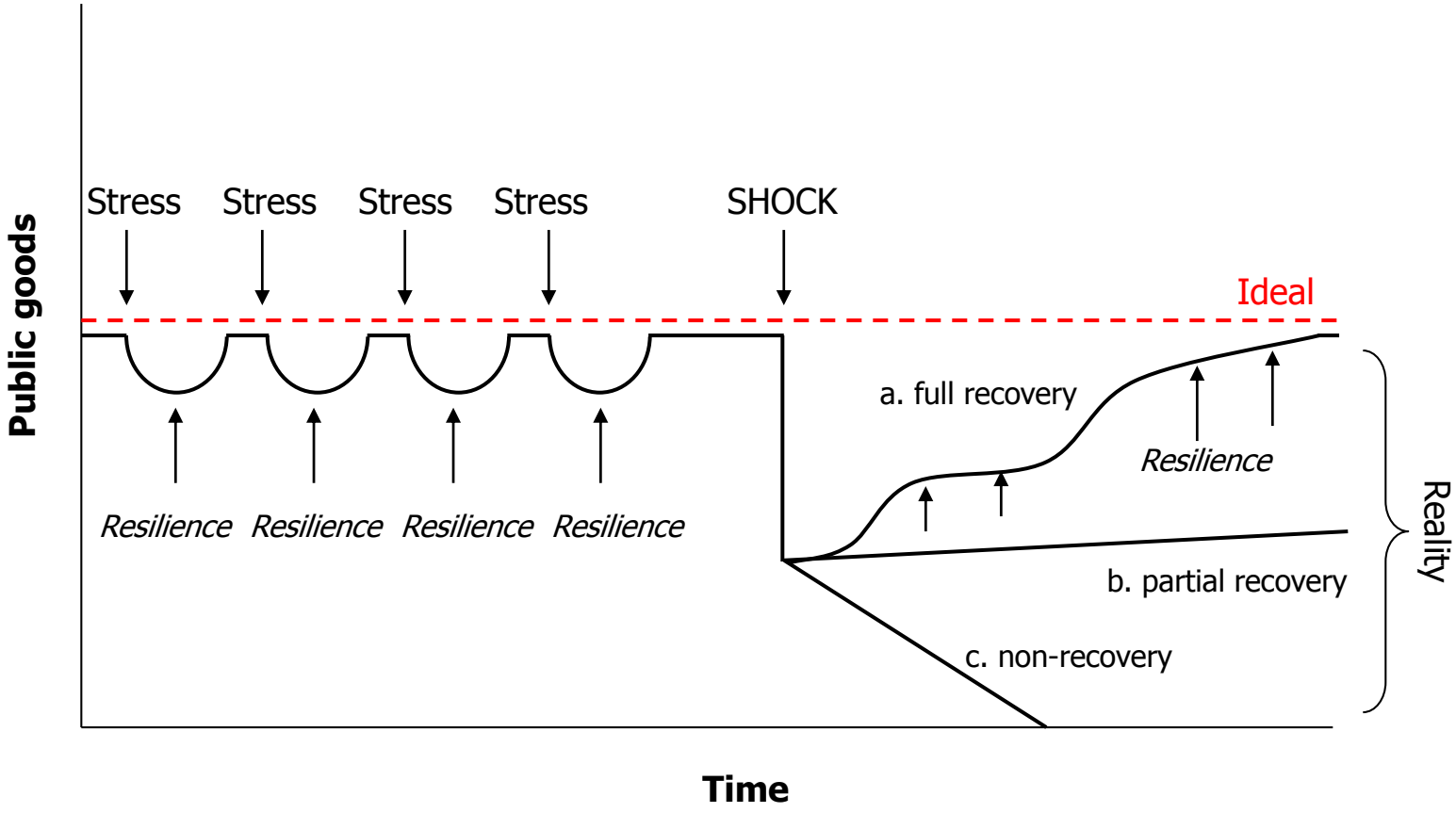
Modified resilience model



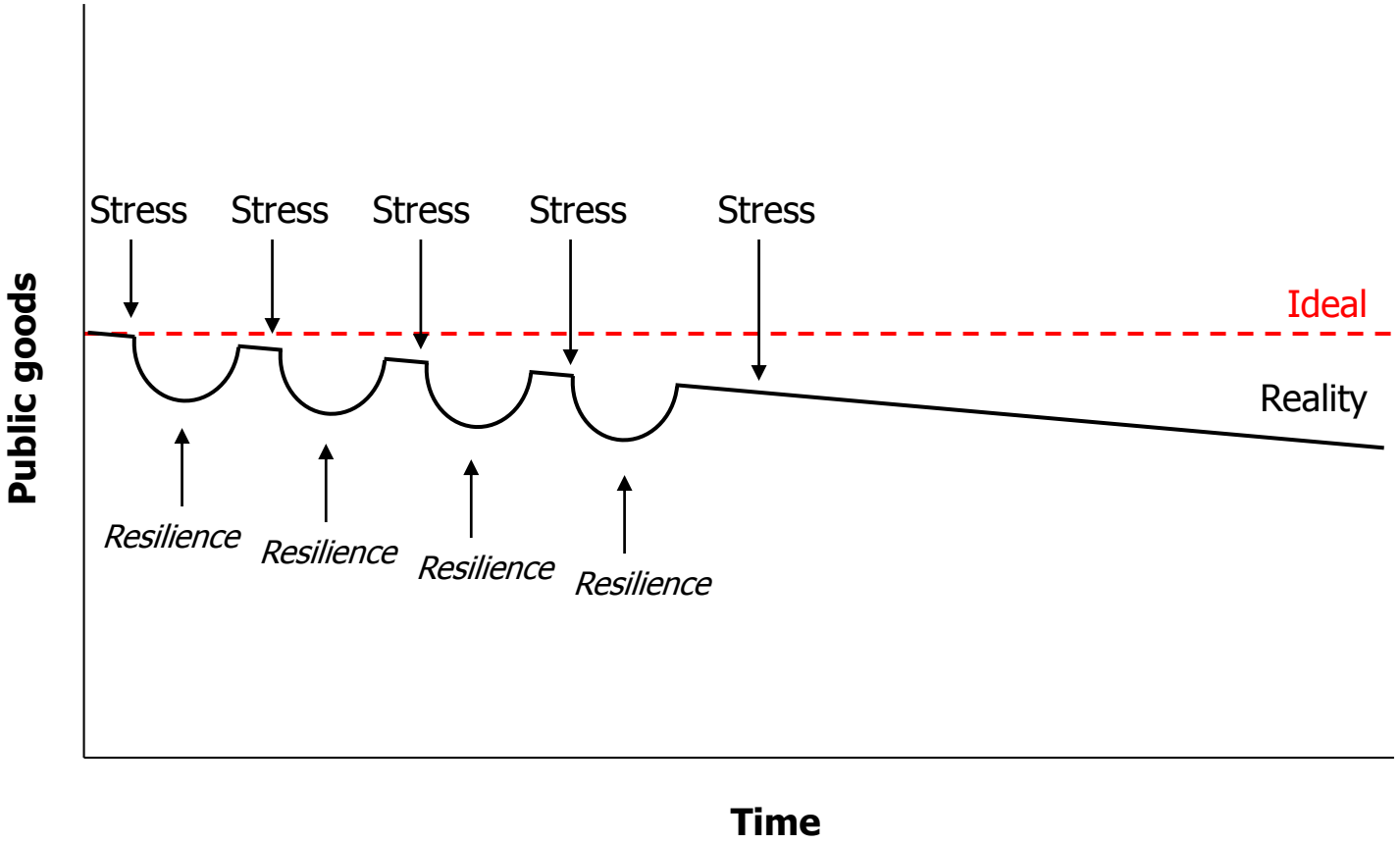
Resistance towards stresses and shocks



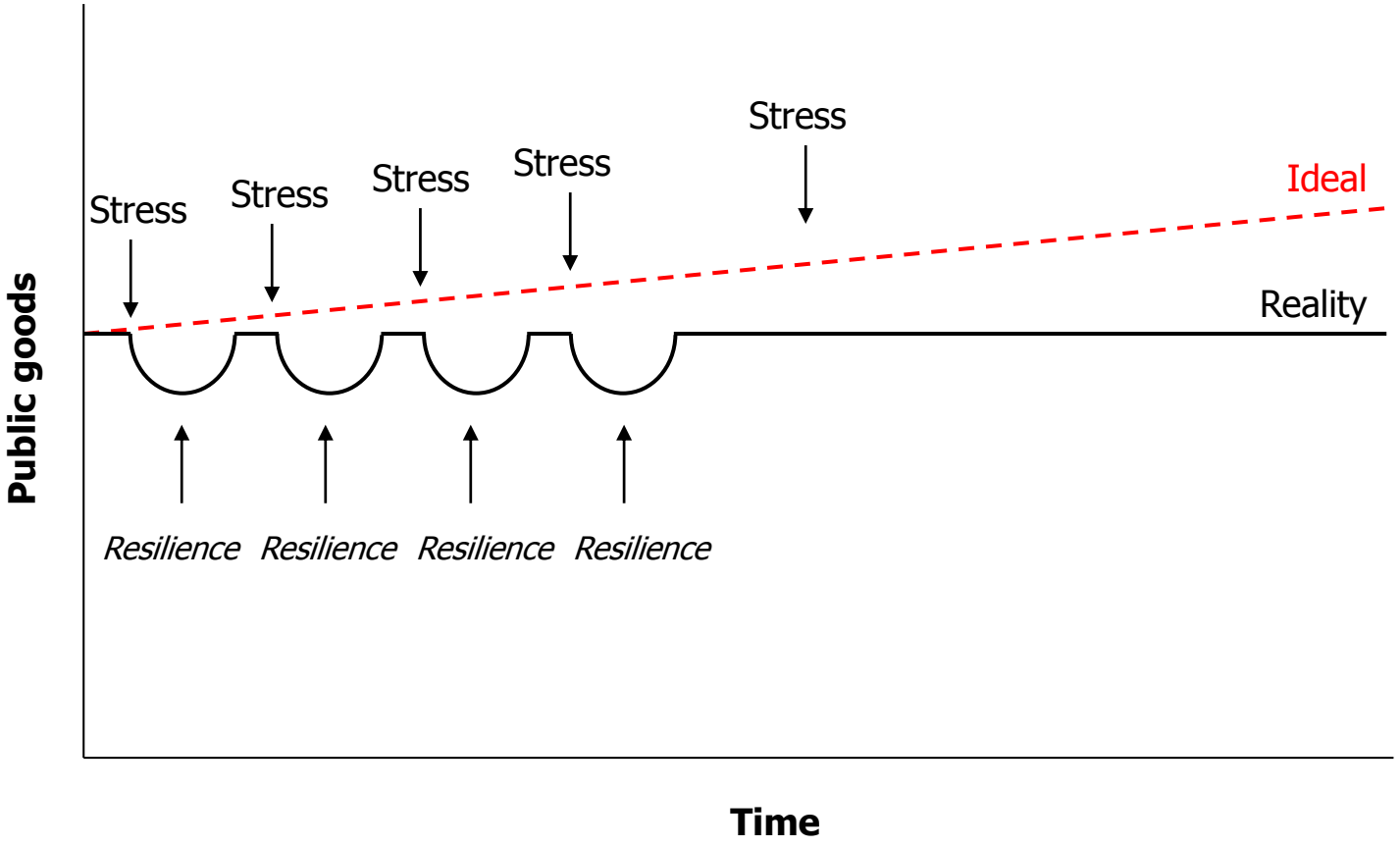
Resilience towards repeated stresses and shocks



Expanded resilience model showing creeping erosion of public goods



Expanded resilience model showing enhancement of public goods



Aspects of the concept of resilience

- Reality v. Ideal
- Property v. Strategy
- Ideological v. Objective

Aspects of the concept of resilience

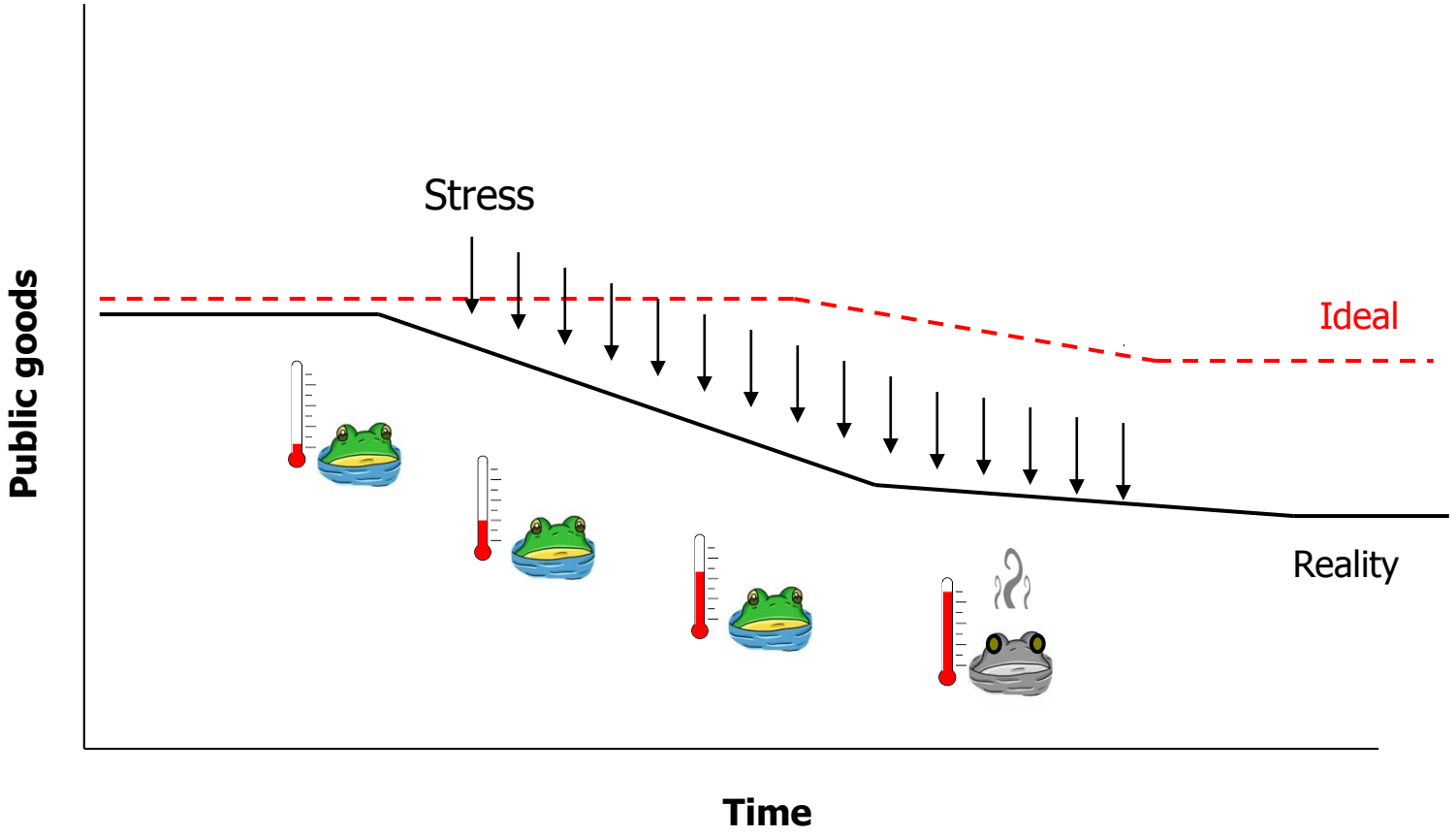
- Distinguishing between different uses of the concept
- Chandler's thesis: resilience as a real but problematic adaptation within/of neoliberalism
- Expanding the ('objective') application of the concept

The role of perception

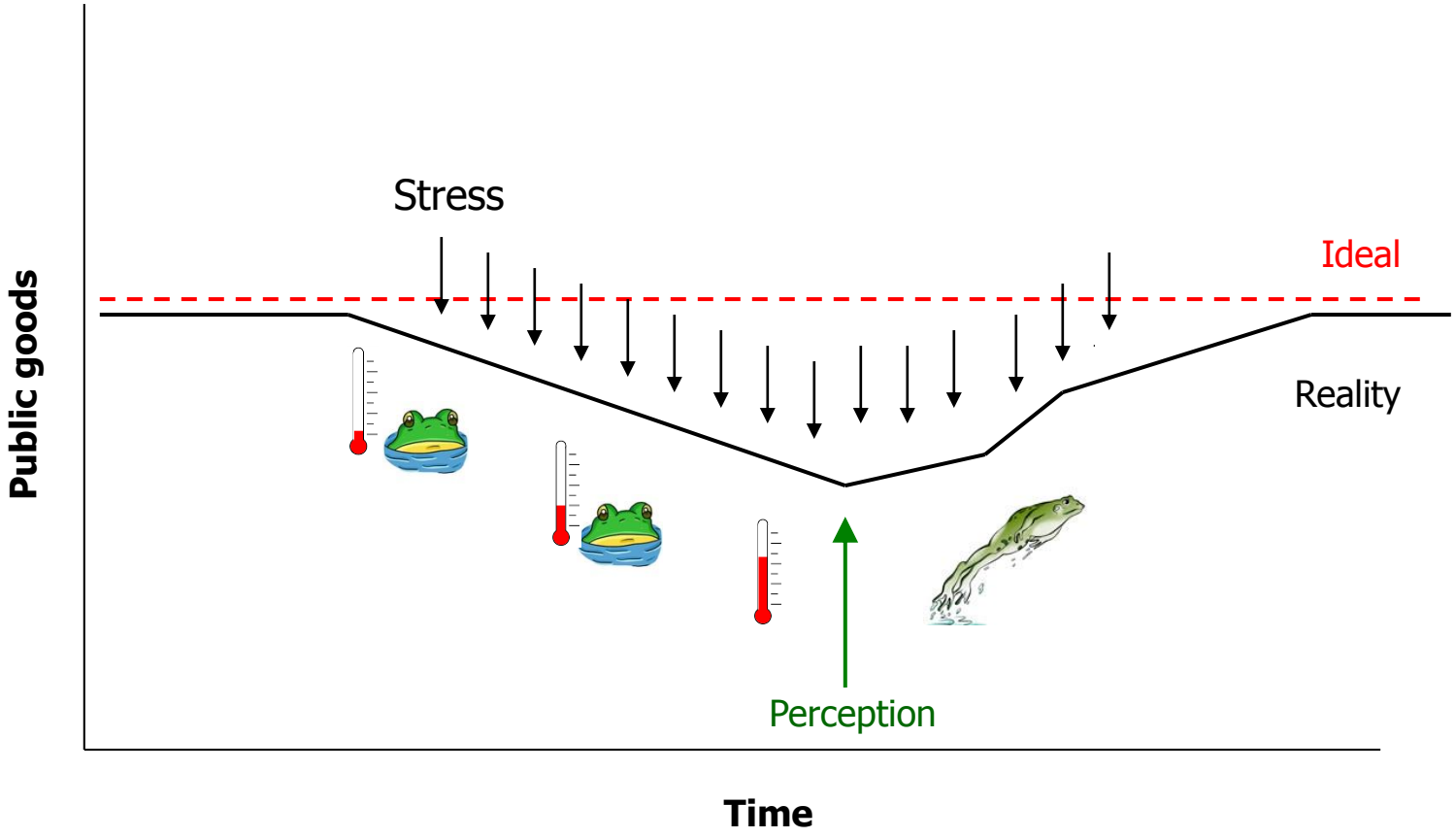
- The changing state of "normalcy"
- The boiling frog syndrome, or creeping normality (sleepwalking into a surveillance society?)
- The spread of technological developments and uses outpace people's ability to perceive and to adapt
- Triggering moments, see the Snowden revelations, or Cambridge Analytica (but how long do they last?)
- The difference between perceived and unnoticed surveillance with regard to resilience options

Note: the whole society and its constitutive groups are not homogeneous entities (different values, interests, knowledge)

The role of perception



The role of perception



The resilience of adverse systems

- Resilience is generally understood as positive, while stresses and shocks as negative impacts
- In our analysis we adopted the values of western liberal democracies as the state of normalcy
- However, resilience as an abstract notion is inherently value-neutral, therefore dictatorships may also be resilient to external stresses and shocks, that is politically undesirable,
- while civil-societal resilience and resistance to the dictatorship's surveillance strategy is politically desirable

Part 2

Examples and implications

R. Jones

I. Szekely

C. Raab

Development and examples

Developing Part 1, we can:

(a) develop theoretical model further,

(b) explore its application to specific examples, and

(c) discuss the implications.

Three cases

Three particular illustrative examples of resilience and surveillance, though possible examples are numerous:

1. Counter-terrorism
2. Migration
3. Financial transfers

- Important thing to note is that there are several instances/ dimensions to resilience in each case, synchronously playing out.

Counter-terrorism surveillance

For example, in the field of counter-terrorism, we can speak of various entities exhibiting (or failing to exhibit) resilience:

- government counter-terrorism strategy uses concept and rhetoric of resilience
- critical national infrastructure employs contingency planning, target-hardening, and 'redundancy' techniques
- government counter-terrorism policy may itself prove 'resilient' over time

Counter-terrorism surveillance

- terrorist 'cells' may resist surveillance and be resilient to disruption by government
- in cases where terrorist attacks have occurred, there has been talk of 'community resilience', and 'psychological resilience' of victims
- but we can also ask to what extent democratic societies have proved 'resilient' in the face of liberty-eroding practices introduced in the name of counter-terrorism, such as mass surveillance of internet communications

Interim conclusions

The surveillance of international migration

- Western liberal societies are fundamentally open and (potentially) multicultural
  - see also: neoliberal multiculturalism vs. multicultural nationalism (Kymlicka)
- The recent European migration crisis represents stresses and shocks on Western societies.
- Surveillance is regarded as a useful tool in developing resilience against such stresses and shocks, however, the same tools represent stresses and shocks on refugee groups and individuals.
- It is a natural demand of the host countries to collect and analyze information about the waves of refugees and the individuals who enter the territory of the country, for security and policing reasons, and to fulfil humanitarian needs.

The surveillance of international migration

The surveillance of international migration

Two types of surveillance: surveillance of *masses,* and mass surveillance of *individuals*

The main stakeholders in the individual surveillance:

- the refugees themselves;
- their relatives;
- the authorities;
- refugee camp personnel;
- policemen and military servicemen;
- civil liberties and humanitarian aid organizations;
- human traffickers;
- and the general population of the country concerned.

The interests and attitudes of the refugees are changing in line with the information they receive from various sources

The surveillance of international migration

A crucial element: individual identification, registration and tracing

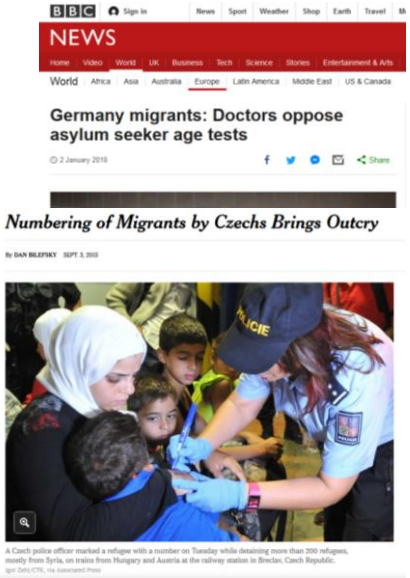
Resilience and resistance in the refugees' actions and behavior:

- false self-identification
- false reporting on the situation in their home country
- using forged documents
- destroying and discarding documents
- discarding or swapping SIM cards
- declaring themselves belonging to "safe" families,
- declaring themselves belonging to sexual or religious minorities
- declaring themselves underage
- bandaging their fingers to avoid fingerprinting

The surveillance of international migration

- Resilience in the actions of the authorities:
  - collecting and analyzing discarded SIM cards
  - attempts to "number" the refugees
  - setting up an international tracing system
  - developing methods to check the authenticity of documents
  - using other refugees to determine knowledge of events, culture, language

The surveillance of international migration



HIDDEN ARRIVALS **560,000 migrants using false documents, hiding in trucks and over-staying visas to get into Europe through back door**

Researchers estimate more than 60 per cent of asylum seekers will enter Europe through the 'back door' this year

By Nick Pisa
16th September 2016, 3:20 am | Updated: 16th September 2016, 4:28 am

The surveillance of digital financial transactions

1. Sometimes surreptitious surveillance of digital financial transactions by organisations with law-enforcement and counter-terrorism programmes for financial intelligence-gathering and communication.
2. Feeds into 'privacy v. security' trope; threats to public good of trust and confidence in banking system, and resilient role of institutions and other actors in mitigating threats to citizens' rights and rule of law.
3. Limited consensus on nature of threats and mitigation; tense and limited co-ordination; varying performance levels of; little direct public or media involvement.

Analysis across cases

Across three cases, in each:

- many organisations involved in surveillance and resilience
- many activities and responses; interdependent *relationships*
- *dynamic* processes of action/reaction over time, different actors and strategies
- *consequences* for public goods vary in importance, severity and perceived salience, shaping resilience trajectories

Further research questions

- How do surveillance and resilience work at macro (international and states), meso (society and its components), micro (individuals and groupings) levels?
- How do they work over more precise time-frames, phases of their trajectory?
- How are perceptions of threat shaped, and relate to the time dimension?
- How can variations in response by different individuals or groups, and thus their resilience, be understood in terms of cultural-theory ('grid/group') categories?

Part 3

Broadening the concept of resilience to protect privacy

I. Szekely

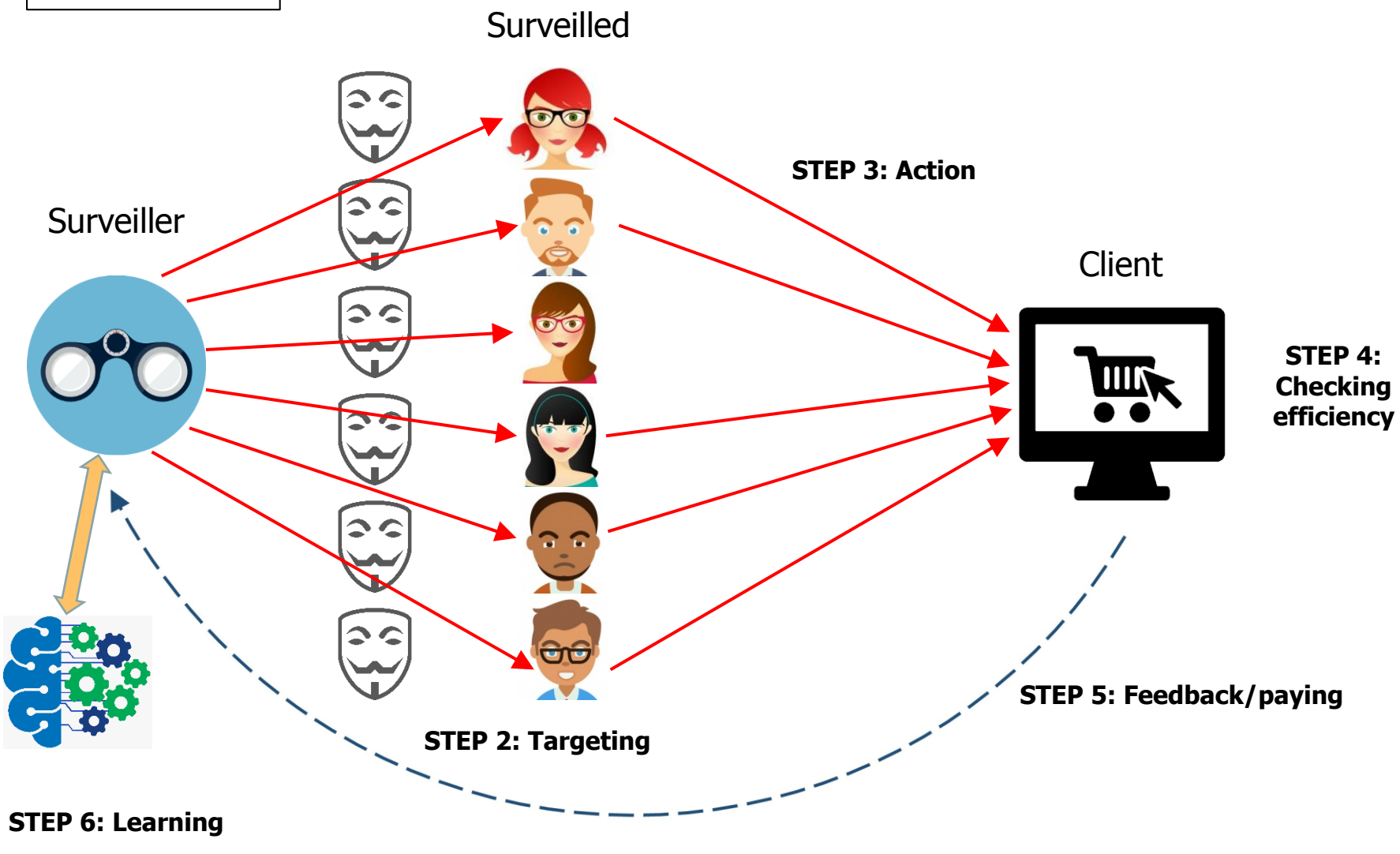
R. Jones

C. Raab

Reasons for developing new scenarios

- Privacy is a public good which can directly collide with individual and mass surveillance
- Surveillance and dataveillance capacities are concentrated in "information superpowers"
- In today's networked societies data subjects are unable and/or unwilling to prevent unnecessary or unlawful intrusions into their private matters
- Data subjects have only a limited set of technological tools (and knowledge) to mitigate the harm of dataveillance practices
- The large surveilling entities employ AI and machine learning methods in order to develop and optimize their surveilling and analytical capacities

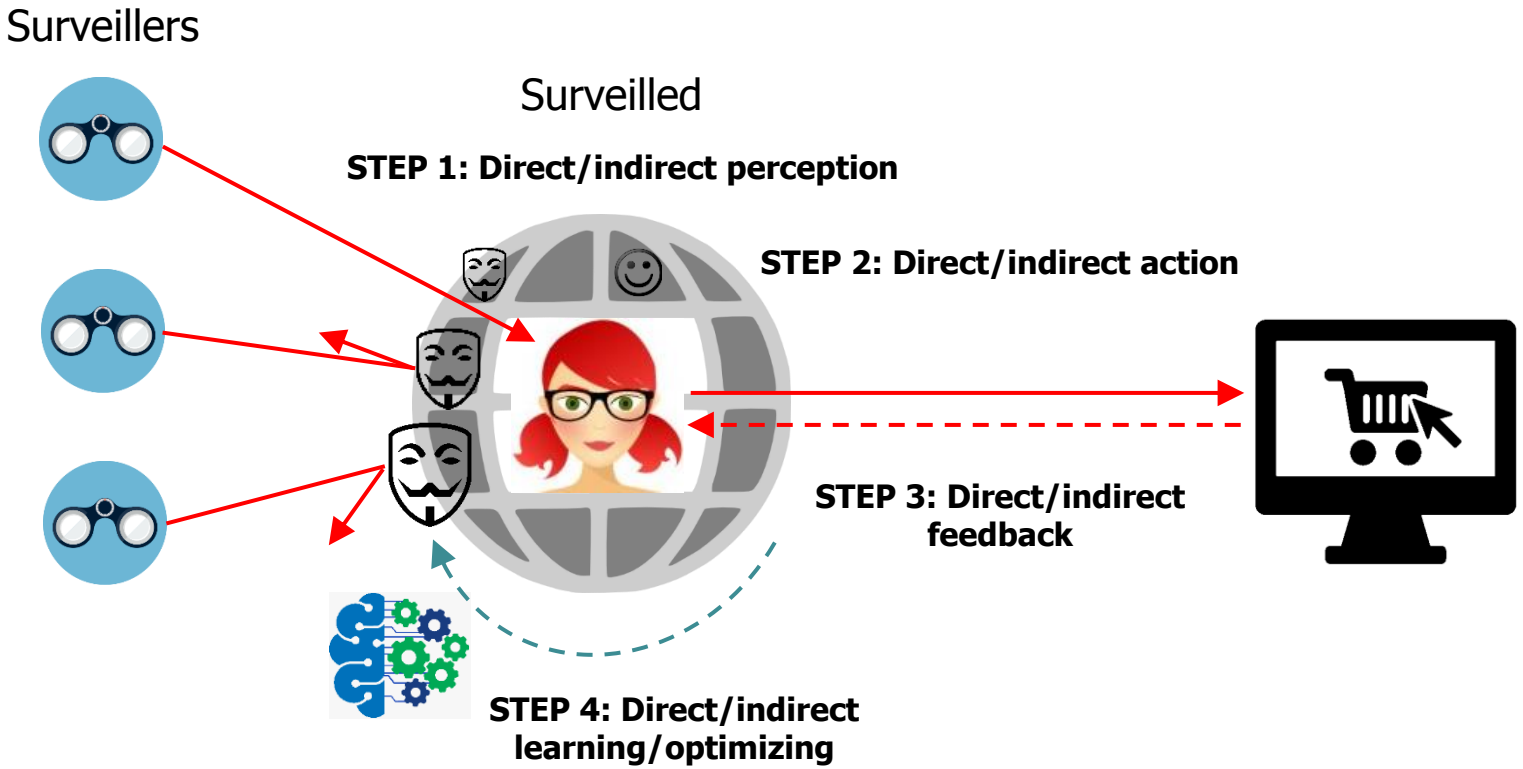
SCENARIO 1



STEP 7: Improving, optimizing

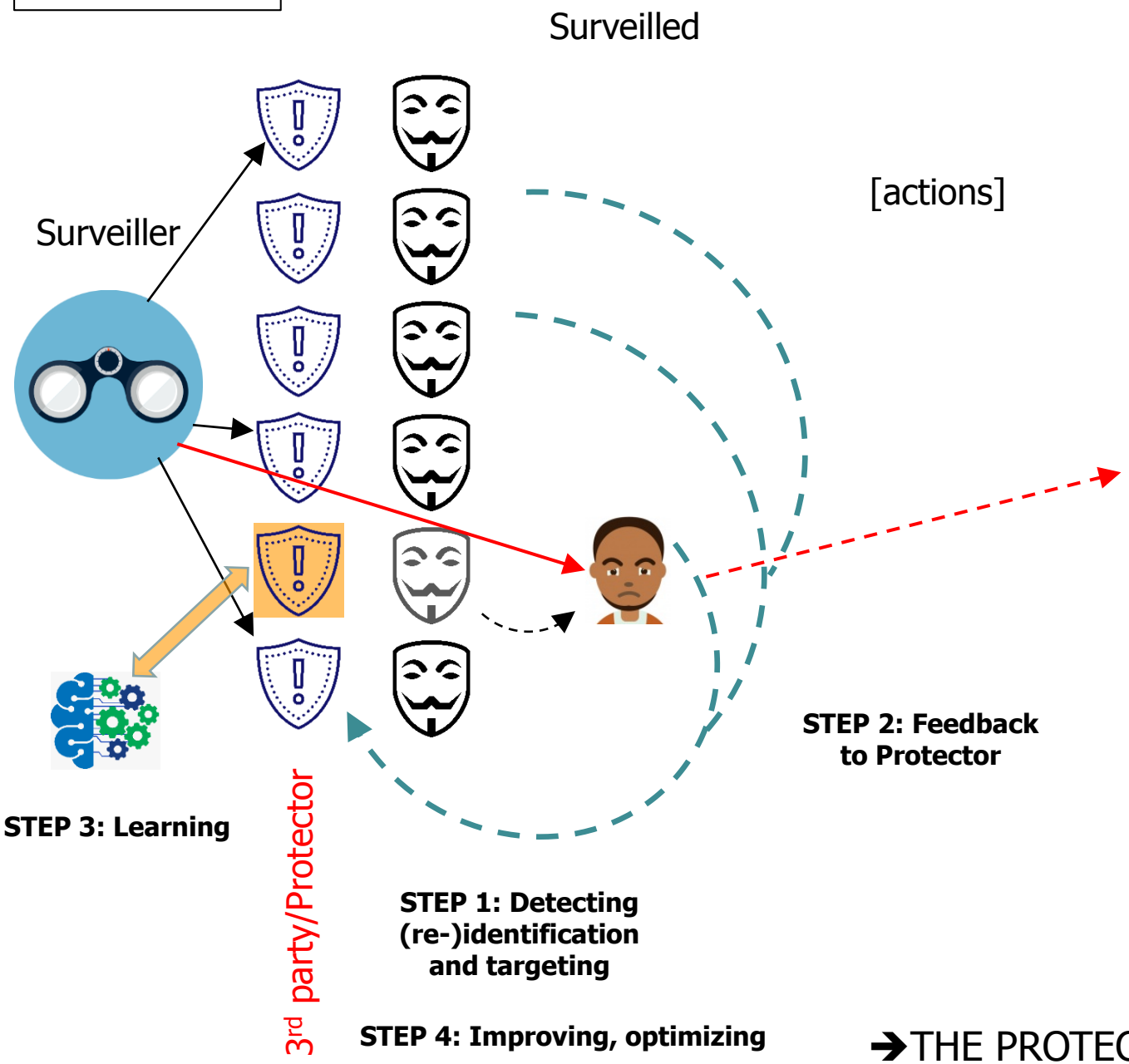
➔THE SURVEILLER GETS RESILIENT

SCENARIO 2



➔THE SURVEILLED GETS RESILIENT

SCENARIO 3



➔THE PROTECTOR GETS RESILIENT

Open questions

- Can we develop Protectors which are independent from the information superpowers?
- Can technology itself guarantee the functioning of a Protector solely in the interest of the data subject?
- Who can get under the shield of a joint Protector?
- May law enforcement agencies have back-doors or methods to bypass the Protector? If yes, who will supervise it? A trusted third party?
- How could the operation of Protectors be tested and audited?

Richard's comments on the Scenarios

- Very much welcome Ivan's interesting and perceptive new analysis
- Captures many of the dynamics characteristic of Internet giants' thirst for data, and individuals' privacy struggles today
- But also models how the 'protector' may embrace (or exhibit) resilient qualities

Richard's comments on the Scenarios

- Scenario 3 synthesis is intriguing
- From criminology, some possible linkages with existing challenges identified by crime prevention studies
- Problem of asymmetrical power
- Problem of highly motivated actor
- Problem of 'arms race' in evolutionary struggle

Broadening the surveiller's scope of resilience to protect privacy

1. For the surveiller:
    - more adherence to law and ethical codes that deal with necessity and proportionality of surveillance
    - implementation of better governance, including role of DPOs
    - implementation of (D)PIA, (D)PbD, 'responsible innovation'

Broadening the surveilled's scope of resilience to protect privacy

2. For the surveilled:

- more knowledge about surveillance developments and resilience capability *ex ante* and *ex post*
  - achieved through law, codes, regulatory agency
  - achieved through activities of NGOs and advocates
  - achieved through education, self-protection and collective action where possible
  - achieved through better access to information about surveillance, and more usable redress processes

Broadening the regulator's scope of resilience to protect privacy

3. For the regulator:

- better awareness of technological developments and ability to influence these
- greater ability to co-ordinate regulatory activity with other regulators
- more powers to sanction excessive surveillance and to prosecute

[Comments, suggestions?]