# The Structural Bomb 1AC

### Lay 1AC

**“Disease, sickness, and old age touch every family. Tragedy doesn't ask who you voted for. Health care is a basic human right.” It is because I agree the words by senator Elizabeth Warren, that I affirm today’s resolution: Resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.**

#### I value morality, as mandated by the word “ought” in the resolution which implies a moral obligation.

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#### We need to look at the people who are being harmed right now within our society in order to create progress or change within our world. Think judge, if there is someone who needs help because they are not able to get access to insulin because of patent laws, is it morally ethical to say that we should not help him? No, we must help him.

### Contention 1 is COVID-19

#### We need to expand vaccination on a global level right now---highly contagious mutations facilitate continued spread.

Kumar 7-12 Rajeesh Kumar, Rajeesh Kumar is Associate Fellow at Manohar Parrikar Institute for Defence Studies and Analyses, New Delhi., 7-12-2021, "WTO TRIPS Waiver and COVID-19 Vaccine Equity," Manohar Paprikar Institute for Defence Studies and Analyses, <https://idsa.in/issuebrief/wto-trips-waiver-covid-vaccine-rkumar-120721>, EH and brett

Two significant factors rekindled the debate on TRIPS waiver for essential medical products—first, vaccine inequity, and second, the insufficiency of existing waiver provisions in fighting the COVID-19 pandemic. COVID-19 is an exceptional circumstance, and equitable global access to the vaccine is necessary to bring the pandemic under control. However, the world is witnessing quite the reverse, i.e., vaccine nationalism. Vaccine nationalism is “my nation first” approach to securing and stockpiling vaccines before making them available in other countries. A TRIPS waiver would be instrumental in addressing the growing inequality in the production, distribution, and pricing of the COVID-19 vaccines.

Vaccine Inequity

According to Duke Global Health Innovation Center, which monitors COVID-19 vaccine purchases, rich nations representing just 14 per cent of the world population have bought up to 53 per cent of the most promising vaccines so far. As of 4 July 2021, the high-income countries (HICs) purchased more than half (6.16 billion) vaccine doses sold globally. At the same time, the low-income countries (LICs) received only 0.3 per cent of the vaccines produced. The low and middle-income countries (LMICs), which account for 81 per cent of the global adult population, purchased 33 per cent, and COVAX (COVID-19 Vaccines Global Access) has received 13 per cent.10 Many HICs bought enough doses to vaccinate their populations several times over. For instance, Canada procured 10.45 doses per person, while the UK, EU and the US procured 8.18, 6.89, and 4.60 doses per inhabitant, respectively.11

Source:“Tracking COVID-19 Vaccine Purchases Across the Globe”, Duke Global Health Innovation Center, Updated 9 July 2021.

Consequently, there is a significant disparity between HICs and LICs in vaccine administration as well. As of 8 July 2021, 3.32 billion vaccine doses had been administered globally.12 Nonetheless, only one per cent of people in LICs have been given at least one dose. While in HICs almost one in four people have received the vaccine, in LICs, it is one in more than 500. The World Health Organization (WHO) notes that about 90 per cent of African countries will miss the September target to vaccinate at least 10 per cent of their populations as a third wave looms on the continent.13 South Africa, the most affected African country, for instance, has vaccinated less than two per cent of its population of about 59 million. This is in contrast with the US where almost 47.5 per cent of the population of more than 330 million has been fully vaccinated. In Sub-Saharan Africa, vaccine rollout remains the slowest in the world. According to the International Monetary Fund (IMF), at current rates, by the end of 2021, a massive global inequity will continue to exist, with Africa still experiencing meagre vaccination rates while other parts of the world move much closer to complete vaccination.14

This vaccine inequity is not only morally indefensible but also clinically counter-productive. If this situation prevails, LICs could be waiting until 2025 for vaccinating half of their people. Allowing most of the world’s population to go unvaccinated will also spawn new virus mutations, more contagious viruses leading to a steep rise in COVID-19 cases. Such a scenario could cause twice as many deaths as against distributing them globally, on a priority basis. Preventing this humanitarian catastrophe requires removing all barriers to the production and distribution of vaccines. TRIPS is one such barrier that prevents vaccine production in LMICs and hence its equitable distribution.

#### Because of this, current vaccines are being deemed as ineffective.

Dransfield 21 Sarah Dransfield, 3-30-2021, “Two-thirds of epidemiologists warn mutations could render current COVID vaccines ineffective in a year or less”, https://www.oxfam.org/en/press-releases/two-thirds-epidemiologists-warn-mutations-could-render-current-covid-vaccines, accessed 7/23/2021 EH and brett

Epidemiologists from some of the world’s leading academic institutions delivered a stark warning today of the risk the world is taking by failing to ensure all countries have sufficient vaccines to protect people from COVID-19.

In a survey of 77 epidemiologists from 28 countries, carried out by The People’s Vaccine Alliance, two-thirds thought that we had a year or less before the virus mutates to the extent that the majority of first-generation vaccines are rendered ineffective and new or modified vaccines are required. Of those surveyed, almost a third gave a timeframe of nine months or less. Fewer than one in eight said they believed that mutations would never render the current vaccines ineffective.

The overwhelming majority - 88 per cent - said that persistent low vaccine coverage in many countries would make it more likely for vaccine resistant mutations to appear.

The People’s Vaccine Alliance, a coalition of over 50 organisations including African Alliance, Oxfam, Public Citizen and UNAIDS warned that at the current rate it was likely that only 10 per cent of people in the majority of poor countries will be vaccinated in the next year.

Nearly three-quarters of those surveyed - who included epidemiologists, virologists and infectious disease specialists from institutions including Johns Hopkins, Yale, Imperial College, London School of Hygiene and Tropical Medicine, Cambridge University, the University of Edinburgh and The University of Cape Town - said that open sharing of technology and intellectual property could increase global vaccine coverage. The People's Vaccine Alliance is calling for the lifting of pharmaceutical monopolies and the sharing of technology to urgently boost vaccine supply.

Devi Sridhar, Professor of Global Public Health at the University of Edinburgh, said: “The more the virus circulates, the more likely it is that mutations and variants will emerge, which could make our current vaccines ineffective. At the same time, poor countries are being left behind without vaccines and basic medical supplies like oxygen.

“As we've learned, viruses don't care about borders. We have to vaccinate as many people as possible, everywhere in the world, as quickly as possible. Why wait and watch instead of getting ahead of this?”

While he didn’t specify a timeframe, Gregg Gonsalves, Associate Professor of Epidemiology at Yale University, echoed the urgency to vaccinate globally. Gonsalves said: “With millions of people around the world infected with this virus, new mutations arise every day. Sometimes they find a niche that makes them more fit than their predecessors. These lucky variants could transmit more efficiently and potentially evade immune responses to previous strains. Unless we vaccinate the world, we leave the playing field open to more and more mutations, which could churn out variants that could evade our current vaccines and require booster shots to deal with them.

“We all have a self-interest in ensuring that everyone around the world, no matter where they live have access to COVID-19 vaccines. The virus doesn’t respect borders and new variants somewhere on the planet mean none of us are safe.”

#### Reducing intellectual property protections is essential to expand manufacturing and global exports. A litany of countries possess capacity but lack know-how -- the plan is key.

Kumar 7-12 Rajeesh Kumar, Rajeesh Kumar is Associate Fellow at Manohar Parrikar Institute for Defence Studies and Analyses, New Delhi., 7-12-2021, "WTO TRIPS Waiver and COVID-19 Vaccine Equity," Manohar Paprikar Institute for Defence Studies and Analyses, <https://idsa.in/issuebrief/wto-trips-waiver-covid-vaccine-rkumar-120721>, brett

Another argument against the proposed TRIPS waiver is that a waiver would not increase the manufacturing of COVID-19 vaccines. Indeed, one of the significant factors contributing to vaccine inequity is the lack of manufacturing capacity in the global south. Further, a TRIPS waiver will not automatically translate into improved manufacturing capacity. However, a waiver would be the first but essential step to increase manufacturing capacity worldwide. For instance, to export COVID-19 vaccine-related products, countries need to ensure that there are no IP restrictions at both ends – exporting and importing. The market for vaccine materials includes consumables, single-use reactors bags, filters, culture media, and vaccine ingredients. Export blockages on raw materials, equipment and finished products harm the overall output of the vaccine supply chain. If there is no TRIPS restriction, more governments and companies will invest in repurposing their facilities.

Similarly, the arguments such as that no other manufacturers can carry out the complex manufacturing process of COVID-19 vaccines and generic manufacturing as that would jeopardise quality, have also been proven wrong in the past. For instance, in the early 1990s, when Indian company Shantha Biotechnics approached a Western firm for a technology transfer of Hepatitis B vaccine, the firm responded that “India cannot afford such high technology vaccines… And even if you can afford to buy the technology, your scientists cannot understand recombinant technology in the least.”25 Later, Shantha Biotechnics developed its own vaccine at $1 per dose, and the UNICEF (United Nations Children’s Emergency Fund) mass inoculation programme uses this vaccine against Hepatitis B. In 2009, Shantha sold over 120 million doses of vaccines globally.

India also produces high-quality generic drugs for HIV/AIDS and cancer treatment and markets them across the globe. Now, a couple of Indian companies are in the last stage of producing mRNA (Messenger RNA) vaccines.26 Similarly, Bangladesh and Indonesia claimed that they could manufacture millions of COVID-19 vaccine doses a year if pharmaceutical companies share the know-how.27 Recently, Vietnam also said that the country could satisfy COVID-19 vaccine production requirements once it obtains vaccine patents.28 Countries like the United Arab Emirates (UAE), Turkey, Cuba, Brazil, Argentina and South Korea have the capacity to produce high-quality vaccines but lack technologies and know-how. However, Africa, Egypt, Morocco, Senegal, South Africa and Tunisia have limited manufacturing capacities, which could also produce COVID-19 vaccines after repurposing.

Moreover, COVID-19 vaccine IPR runs across the entire value chain – vaccine development, production, use, etc. A mere patent waiver may not be enough to address the issues related to its production and distribution. What is more important here is to share the technical know-how and information such as trade secrets. Therefore, the existing TRIPS flexibilities, such as compulsory and voluntary licensing, are insufficient to address this crisis. Further, compulsory licensing and the domestic legal procedures it requires is cumbersome and not expedient in a public health crisis like the COVID-19 pandemic.

#### Black and brown communities are disproportionally affected by our current system of IP law as many struggles to cover the cost of life-saving medication

Bp-Weeks 20 [​​​​​​​Maurice Bp-Weeks, Maurice is the Co-Executive Director of ACRE. He works with community organizations and labor unions on campaigns to create equitable communities by dismantling systems of wealth extraction that target Black and Brown communities. Maurice has many years of community organizing experience on issues such as housing, revenue and budgets, policing and incarceration, corporate accountability and education justice. He is an alum of the Alliance of Californians for Community Empowerment and the Center for Popular Democracy. Maurice currently serves on the board of Black Organizing for Leadership and Dignity, National Institute for Money in Politics, Investors Advocates for Social Justice, National Black Workers Center, 482 Forward and the Rucks Society, 8-21-2020, "Racial Health Disparities Are Fueled by Big Pharma's Patent Monopolies [Op-Ed]," No Publication, accessed 8-17-2021, https://www.colorlines.com/articles/racial-health-disparities-are-fueled-big-pharmas-patent-monopolies-op-ed] //kn  
Time after time, Black and Brown people pay the price—either with our lives or through pain and suffering—because of systemic racial discrimination and the continued extraction of dollars from us. Nothing illustrates this truth more than COVID-19, which has been killing Black, Latinx and Indigenous people disproportionately because of lack of access to healthcare, safe housing and overrepresentation in what is now recognized as “essential work.” As researchers race to find potential cures for COVID-19, it’s already becoming clear that yet again, only certain people will have access to them. Before it even hits the market, Gilead Science set a heinous price for proposed COVID-19 treatment Remdesivir—over $3,000 per patient. This is just one example of the myriad of life-saving medication which Black and Brown people are denied via pricing. A new report, “[Poi$on](https://acrecampaigns.org/research_post/poison/),” shows that Black folks have twice the rate of hypertension, and twice the mortality rate for diabetes compared to white people. Additionally, Latinx people also have twice the rate of diabetes and are more likely to experience preventable diabetes-related kidney failure and vision loss. On top of this already glaring health disparity, the report finds that Black and Latinx people are more likely to ration medication due to cost, which causes a slew of other issues including heart disease, strokes, and kidney disease. Often, diabetic patients who ration medication have to undergo amputations that are completely preventable with reliable access to affordable medication, leading to what ProPublica has deemed an “[epidemic of amputations](https://features.propublica.org/diabetes-amputations/black-american-amputation-epidemic/)” in Black communities. The high cost of medication is not a coincidence. It’s the result of pharmaceutical companies having total control over their pricing. Of course, in the capitalist hellscape we live in, they always choose to put profits over people without oversight from our government. “Poi$on” also finds that there are some clearly identifiable bad actors here. Eli Lilly hiked the price of its insulin, Humalog, 30 times in just 20 years, including a 585 percent increase between 2001 and 2005. After buying the patent rights to two blood pressure drugs, Nitropress and Isuprel, Valeant Pharmaceutical immediately raised their prices by 212 percent and 525 percent, respectively. A Valeant spokesperson referred to its duty to “maximize the value” for shareholders as justification for this egregious and arbitrary leap in price. If it seems bananas that they’re able to do this, it is. The reason why? These pharmaceutical corporations have the authority to monopolize patents, and then do everything they can to abuse them. With no oversight on drug pricing, greedy pharma executives can gouge prices on a whim, willfully killing countless Black and Brown people in the name of profit. On top of abusing an already corrupt patent system, pharmaceutical companies assemble tangled webs of intellectual property protection that stifle truly innovative medical research, while keeping already hyper-inflated drug prices high. It hasn’t always been this way. Patent monopolies giving pharmaceutical companies control over pricing weren’t introduced until the 1960s, when right-wingers worked to empower corporations and wealthy investors by weakening public-sector regulations and consumer protections. These days, **the excuse for the high price**s of drugs is attributed to innovation or keeping the market competitive. But **the truth is that government-funded research has always been the backbon**e of medical breakthroughs—pharmaceutical companies profit by buying the patents and monopolizing public knowledge. Luckily, there are some clear solutions. First, and most urgently, our elected officials must ensure medications and vaccines for COVID-19 are offered free of charge. Second, the Department of Health and Human Services must designate systemic racism as a public health emergency, and issue reparations for past harms from the pharmaceutical industry. Third, the federal government must impose compulsory licensing to prevent further abuse of patents by big pharmaceutical companies that lead to monopoly and price gouging. And finally, we must push for measurable steps toward strengthening the public’s ownership of medicine. While everyone deserves access to free, comprehensive healthcare, including medication, the reality is that Black and Latinx communities are being torn apart by the pharmaceutical industry’s insistence on the greedy exploitation of our communities. Congress must step in with bold action plans. Our lives, quite literally, depend on it.

#### COVID escalates every hotspot – there are myriads of violence that is happening because of COVID and can even link into extinction.

RECNA et al. 21, Research Center for Nuclear Weapons Abolition, Nagasaki University (RECNA), Asia Pacific Leadership Network (APLN), and the Nautilus Institute. Journal for Peace and Nuclear Disarmament Volume 4, 2021. “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report” <https://www.tandfonline.com/doi/full/10.1080/25751654.2021.1890867> brett

The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come.

The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5

Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order.

In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply.

The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the existential risks posed by retaining these capabilities – are all up for redefinition.

A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions a

gainst a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies.

In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon.

To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with cascading effects on the risk of nuclear war.

#### But, we can stop this. We can enforce the TRIPS waiver and protections that can modify relevant domestic law to ensure patent protections are reduced

Jones et al. 21, Mike Jones, J.D., cum laude, Brooklyn Law School, 2014. Sean McConnell, University of Pittsburgh School of Law, J.D., 2002. Lauren Giambalvo, University of Georgia School of Law, J.D., magna cum laude, Order of the Coif, 2019; Georgia Law Review. Emily Harmon, Villanova University Charles Widger School of Law, J.D., 2020. Ipwatchdog, August 9, 2021. “What is a ‘Patent Waiver’ Anyway? Zooming Out on the TRIPS COVID IP Waiver Debate” <https://www.ipwatchdog.com/2021/08/09/patent-waiver-anyway-zooming-trips-covid-ipwaiver-debate/id=136381/> brett

Scientists, engineers, and everyday people have developed solutions for testing, preventing, and treating the COVID-19 disease. Ordinarily, we wouldn’t think twice about granting patents on these inventions. But, today, when COVID-19 is spreading all over the world and killing millions of people, some world leaders are questioning whether we should be granting the exclusionary rights of patent protection on inventions that help respond to the pandemic. Included in that group is the Biden-Harris Administration, which, in May, announced their support of an “IP waiver” on COVID 19 vaccines.

Patent Waiver

The “patent waiver” is a proposal to waive certain provisions of the Trade-Related Aspects of Intellectual Property (TRIPS) Agreement for three years. The TRIPS Agreement requires certain member countries (“Members”), including the United States, to have certain minimum intellectual property protections. While this proposal is often referred to as a “patent waiver,” the proposal would also waive sections associated with copyright, industrial designs, and undisclosed information.

The proposal seeks to waive Part II, Section 5 Patents of the TRIPS Agreement and the associated enforcement sections only with respect to “health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the prevention, treatment or containment of COVID-19” for a period of three years. Article 27 of Section 5 requires that certain Members issue patents to inventions that “are new, involve an inventive step and are capable of industrial application.” However, Members have the option to refuse to grant patents to certain categories of inventions, including, “diagnostic, therapeutic and surgical methods for the treatment of humans or animals.” Article 28 explains that an owner of a patent can prevent others from “making, using, offering for sale, selling, or importing” (“infringing”) the patented inventions. Finally, Part III of the TRIPS Agreement explains the potential consequences of infringing a patent. Among other things, the infringer can be liable for money damages and the judicial authority of the Member may order injunctions.

Therefore, as the TRIPS Agreement currently stands, each Member must have patent laws that give patents to inventions that meet certain requirements, and each must provide avenues for patent holders to enforce its patent rights. As applied to the current situation, Members are required to grant patents to qualifying inventions related to “the prevention, containment and treatment of COVID-19” (with exceptions for pharmaceuticals if the Member does not allow pharmaceutical patents). Infringers could be liable for money damages and the judicial authority of the Member may order injunctions.

If provisions in Part II, Section 5 and the associated enforcement sections are waived, Members would no longer be required to issue patents or provide avenues for patent holders to enforce patent rights. The proposal does not, however, require Members to waive their own domestic patent rights. In other words, the proposal to waive certain provisions of the TRIPS Agreement, the “patent waiver,” does not directly waive any patent protections. Rather, the patent waiver grants to Members permission to waive their own domestic patent protections.

Patent laws are geographically limited; they only protect an invention in the country that issued the patent. For example, one cannot make, use, offer to sell, sell, or import an invention protected only by a U.S. patent in the U.S; however, one may do those things in another country where corresponding patent protection does not exist. Therefore, in order to waive patent protections worldwide, each Member subject the TRIPS Agreement’s requirement to have certain minimum intellectual property protection would have to waive its own domestic patent protections.

The United States patent laws are codified in Title 35 to the U.S. Code. It provides that inventors may obtain patents for their new and useful inventions and infringers are liable for making, using, offering to sell, selling, or importing into the U.S. patented inventions without the patent holders consent. Because the power to enact patent laws lies with Congress, Congress would likely have to waive these laws. If Congress chooses not to waive the U.S.’s patent laws, patent holders will continue to be able to enforce their U.S. patent rights in the U.S.

#### For these reasons, I strongly affirm.