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#### The WTO has been seen as ineffective but has the opportunity to bounce back with strong international buy in

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The World Trade Organization is in the news mostly for the wrong reasons nowadays. Many people regard it as an ineffective policeman of an outdated rulebook that is unsuited for the challenges of the twenty-first-century global economy. And WTO members generally agree that the organization urgently needs reforming in order to remain relevant. Recent months have brought further challenges. The WTO’s appellate body, which adjudicates trade disputes among member countries, effectively [ceased functioning](https://www.project-syndicate.org/commentary/world-trade-organization-revive-appellate-body-by-shang-jin-wei-and-xinding-yu-2019-12) last December amid disagreements regarding the appointment of new judges to the panel. And in May 2020, Director-General Roberto Azevêdo [announced](https://www.nytimes.com/2020/05/14/business/wto-chief-roberto-azevedo.html) that he would step down at the end of August, a year before his current term was due to end. Whoever Azevêdo’s successor is will face a major challenge. Since its establishment in 1995, the WTO has failed to conclude a single trade-negotiation round of global trade talks, thus missing an opportunity to deliver mutual benefits for its members. The Doha Development Round, which began in November 2001, was supposed to be concluded by January 2005. Fifteen years later, WTO members are still debating whether the Doha process should continue. Some think it has been overtaken by events, while others want to pursue further negotiations. The WTO has so far delivered disappointingly few other notable agreements as well, apart from the [Trade Facilitation Agreement](https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm), which entered into force in February 2017, and the 2015 [decision](https://www.wto.org/english/thewto_e/minist_e/mc10_e/briefing_notes_e/brief_agriculture_e.htm) to eliminate all forms of agricultural export subsidies. Meanwhile, some of its members have worked together on a raft of much broader regional trade deals that cover pressing issues such as the digital economy, investment, competition, the environment, and climate change. The Doha Development Round, which was intended to modernize the WTO’s rulebook, covers very few of these topics. And even some of the organization’s existing rules can easily be circumvented, thereby upsetting the balance of rights and obligations among members. During the current COVID-19 crisis, for example, some countries have imposed questionable export controls on medical supplies and food products in order to mitigate shortages. But despite these challenges, the WTO has not been a “failure.” Rather, it has built upon the successes of its predecessor, the General Agreement on Tariffs and Trade, which entered into force in 1948. The rules-based multilateral trading system that began with GATT has contributed immensely to global economic growth over the last seven decades, by reducing average tariffs and steadily eliminating non-tariff barriers. As a result, living standards have improved in most countries. Moreover, rules-based global trade has helped to underpin peace and security, because trading partners are more likely to resolve differences through negotiations than through armed conflict. Nonetheless, WTO members today recognize the need to reboot the organization for the 21st century. Developed countries believe that they have shouldered the burden of trade liberalization for far too long, and that developing countries should shoulder more obligations if they are in a position to do so. Least-developed and low-income developing countries, meanwhile, say that WTO rules are hampering their efforts to grow and modernize their economies. Over the last two decades, international trade has become a bogeyman for critics who blame it for the economic woes some countries face. But trade is not a zero-sum game: Rights and obligations can be balanced, as the evolution of global and regional trading rules since 1948 has shown. The question facing the WTO and its members now, therefore, is how to make progress and reach mutually beneficial agreements. All members should participate in this endeavor, because that is the only way the organization can regain its credibility and carry out its rule-making function. New negotiations must therefore take account of members’ varying levels of economic development, and aim—as ever—to reach fair and equitable agreements. Other crucial priorities for the WTO include enhanced transparency, in the form of timely notifications of countries’ trade measures, and an effective dispute-settlement system that commands the confidence of all members. A moribund WTO does not serve any country’s interest. An effective, rules-based international trade system is a public good, and failure to revive it will undermine governments’ efforts to pull the global economy out of the recession caused by the COVID-19 pandemic. The WTO has an irreplaceable role to play in transforming countries’ economic prospects and the lives of people around the world. Although the current crisis has brought the organization’s deteriorating health into sharp focus, its further decline is not inevitable. In a world economy already imperiled by COVID-19, we must now apply the antidote—members’ political will, determination, and flexibility—needed to revive it.

#### Intellectual property rights cannot be discriminated on the basis of field, or place of invention

WTO <https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm>, Article 27.1, Section 5 on patents, World trade Organization, WTO, Part II — Standards concerning the availability, scope and use of Intellectual Property Rights

Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. [(5)](https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm#fnt-5) Subject to paragraph 4 of Article 65, paragraph 8 of Article 70 and paragraph 3 of this Article, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.

#### The WTO’s appellate body no longer exists to mediate disputes, without immediate buy in by states, and no mechanism to make disobedient states obey, the system collapses

Horton, 08/3, Lessons from Trump’s assault on the World Trade Organization, https://www.chathamhouse.org/2021/08/lessons-trumps-assault-world-trade-organization, Chatham House – International Affairs Think Tank, Communications Manager; Project Lead, Common Futures Conversations

The WTO is unique amongst international institutions because it has a powerful enforcement mechanism – the dispute settlement system. However, the fundamental vulnerability is that if powerful states like the US and others won’t participate in the system and be bound by its rules, they quickly risk becoming irrelevant. And that’s the situation we’re in right now with the appellate body crisis, where, without a functioning mechanism to ensure that WTO rules are enforced, the entire system of global trade rules risk collapsing. Ironically, the United States has been the leader of the liberal trading order for the past 70 years, but since Trump, it has become its leading saboteur.

#### A major country operating outside WTO consensus wrecks global trade norms

Bacchus 20 [James Bacchus, member of the Herbert A. Stiefel Center for Trade Policy Studies, the Distinguished University Professor of Global Affairs and director of the Center for Global Economic and Environmental Opportunity at the University of Central Florida, 12-16-2020, "An Unnecessary Proposal: A WTO Waiver of Intellectual Property Rights for COVID-19 Vaccines," Cato Institute, [https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines]/Kankee](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines%5d/Kankee)

In a sign of their increasing frustration with global efforts to ensure that all people everywhere will have access to COVID-19 vaccines, several developing countries have asked other members of the World Trade Organization (WTO) to join them in a sweeping waiver of the intellectual property (IP) rights relating to those vaccines. Their waiver request raises anew the recurring debate within the WTO over the right balance between the protection of IP rights and access in poorer countries to urgently needed medicines. But the last thing the WTO needs is another debate over perceived trade obstacles to public health. Unless WTO members reach a consensus, the multilateral trading system may be further complicated by a delay like that in resolving the two‐​decades‐​old dispute between developed and developing countries over the compulsory licensing and generic distribution of HIV/AIDS drugs. A new and contentious “North‐​South” political struggle definitely would not be in the interest of the developed countries, the developing countries, the pharmaceutical companies, or the WTO. Certainly it would not be in the interest of the victims and potential victims of COVID-19. Background In early October 2020, India and South Africa asked the members of the WTO to waive protections in WTO rules for patents, copyrights, industrial designs, and undisclosed information (trade secrets) in relation to the “prevention, containment or treatment of COVID-19 … until widespread vaccination is in place globally, and the majority of the world’s population has developed immunity.”1 India and South Africa want to give all WTO members freedom to refuse to grant or enforce patents and other IP rights relating to COVID-19 vaccines, drugs, diagnostics, and other technologies for the duration of the pandemic. In requesting the waiver, India and South Africa have argued that “an effective response to the COVID-19 pandemic requires rapid access to affordable medical products including diagnostic kits, medical masks, other personal protective equipment and ventilators, as well as vaccines and medicines for the prevention and treatment of patients in dire need.” They have said that “as new diagnostics, therapeutics and vaccines for COVID-19 are developed, there are significant concerns, how these will be made available promptly, in sufficient quantities and at affordable prices to meet global demand.”2 Later in October, the members of the WTO failed to muster the required consensus to move forward with the proposed waiver. The European Union, the United States, the United Kingdom, and other developed countries opposed the waiver request.3 One WTO delegate, from the United Kingdom, described it as “an extreme measure to address an unproven problem.”4 A spokesperson for the European Union explained, “There is no evidence that intellectual property rights are a genuine barrier for accessibility of COVID‐​19‐​related medicines and technologies.”5 In the absence of a consensus, WTO members have decided to postpone further discussion of the proposed waiver until early 2021. Balancing IP Rights and Access to Medicines Not New to WTO This waiver controversy comes nearly two decades after the end of the long battle in the multilateral trading system over access to HIV/AIDS drugs. At the height of the HIV/AIDS crisis at the turn of the century, numerous countries, including especially those from sub‐​Saharan Africa, could not afford the high‐​priced HIV/AIDS drugs patented by pharmaceutical companies in developed countries. Having spent billions of dollars on developing the drugs, the patent holders resisted lowering their prices. The credibility of the companies, the countries that supported them, and the WTO itself were all damaged by an extended controversy over whether patent rights should take precedence over providing affordable medicines for people afflicted by a lethal disease. Article 8 of the WTO Agreement on the Trade‐​Related Aspects of Intellectual Property Rights (the TRIPS Agreement) provides that WTO members “may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health … provided that such measures are consistent with the provisions of this Agreement.” In similar vein, Article 7 of the TRIPS Agreement provides that the “protection and enforcement of intellectual property rights” shall be “in a manner conducive to social and economic welfare.”6 It can be maintained that these two WTO IP rules are significantly capacious to include any reasonable health measures that a WTO member may take during a health emergency, such as a pandemic. Yet there was doubt among the members during the HIV/AIDS crisis about the precise reach of these provisions. As Jennifer Hillman of the Council on Foreign Relations observed, ordinarily the “inherent tension between the protection of intellectual property and the need to make and distribute affordable medicines” is “resolved through licensing, which allows a patent holder to permit others to make or trade the protected product—usually at a price and with some supervision from the patent holder to ensure control.”7 But, in public health emergencies, it may be impossible to obtain a license. In such cases, “compulsory licenses” can be issued to local manufacturers, authorizing them to make patented products or use patented processes even though they do not have the permission of the patent holders.8

#### WTO cred solves wars that go nuclear.

Hamann 09 [Georgia; 2009; J.D. Candidate, Vanderbilt University Law School; “Replacing Slingshots with Swords: Implications of the Antigua-Gambling 22.6 Panel Report for Developing Countries and the World Trading System,” VANDERBILT JOURNAL OF TRANSNATIONAL LAW, http://www.jogoremoto.pt/docs/extra/duqJ53.pdf] Justin

Both Antigua and the U.S. claimed the resolution of the arbitration as a victory.99 In reality, the decision reached a midpoint between the respective countries’ positions, establishing a victory for the evolution of the international trading system itself. Voluntary compliance with WTO rules and procedures is of the utmost importance to the international trading system.100 Given the increasingly globalized market, the coming years will see an increase in the importance of the WTO as a cohesive force and arbiter of disputes that likely will become more frequent and injurious.101 The work of the WTO cannot be overstated in a nuclear-armed world, as the body continues to promote respect and even amity among nations with opposing philosophical goals or modes of governance.102 Demagogues in the Unites States may decry the rise of China as a geopolitical threat,103 and extremists in Russia may play dangerous games of brinksmanship with other great powers, but trade keeps politicians’ fingers off “the button.”104 The WTO offers an astounding rate of compliance for an organization with no standing army and no real power to enforce its decisions, suggesting that governments recognize the value of maintaining the international construct of the WTO.105 In order to promote voluntary compliance, the WTO must maintain a high level of credibility.106 Nations must perceive the WTO as the most reasonable option for dispute resolution or fear that the WTO wields enough influence to enforce sanctions.107 The arbitrators charged with performing the substantive work of the WTO by negotiating, compromising, and issuing judgments are keenly aware of the responsibility they have to uphold the organization’s credibility.108

#### Nuclear war causes extinction – mass starvation and ice age.

**Starr 15** (Steven Starr 15. “Nuclear War: An Unrecognized Mass Extinction Event Waiting To Happen.” Ratical. March 2015. <https://ratical.org/radiation/NuclearExtinction/StevenStarr022815.html>) TG

A war fought with 21st century strategic nuclear weapons would be more than just a great catastrophe in human history. If we allow it to happen, such a war would be a mass extinction event that [ends human history](https://ratical.org/radiation/NuclearExtinction/StarrNuclearWinterOct09.pdf). There is a profound difference between extinction and “an unprecedented disaster,” or even “the end of civilization,” because even after such an immense catastrophe, human life would go on. But extinction, by definition, is an event of utter finality, and a nuclear war that could cause human extinction should really be considered as the ultimate criminal act. It certainly would be the crime to end all crimes. The world’s leading climatologists now tell us that nuclear war threatens our continued existence as a species. Their studies predict that a large nuclear war, especially one fought with strategic nuclear weapons, would create a post-war environment in which for many years it would be too cold and dark to even grow food. Their findings make it clear that not only humans, but most large animals and many other forms of complex life would likely vanish forever in a nuclear darkness of our own making. The environmental consequences of nuclear war would attack the ecological support systems of life at every level. Radioactive fallout produced not only by nuclear bombs, but also by the destruction of nuclear power plants and their spent fuel pools, would poison the biosphere. Millions of tons of smoke would act to [destroy Earth’s protective ozone layer](https://www2.ucar.edu/atmosnews/just-published/3995/nuclear-war-and-ultraviolet-radiation) and block most sunlight from reaching Earth’s surface, creating Ice Age weather conditions that would last for decades. Yet the political and military leaders who control nuclear weapons strictly avoid any direct public discussion of the consequences of nuclear war. They do so by arguing that nuclear weapons are not intended to be used, but only to deter. Remarkably, the leaders of the Nuclear Weapon States have chosen to ignore the authoritative, long-standing scientific research done by the climatologists, research that predicts virtually any nuclear war, fought with even a fraction of the operational and deployed nuclear arsenals, will leave the Earth essentially uninhabitable.

#### Extinction outweighs under the aff

#### [1] Intent foresight means that we know that indigenous people are going to die which devalues their life and justifies infinite violence against them

#### [2] Reversibility – ontologically destroys the subject and prevents further subject formation

#### [3] They can’t have land if they’re dead

#### [4] Moral uncertainty.

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

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

#### [5] Resolvability – body count is the most objective way to calculate impacts because comparing suffering is unethical anything else means judge intervention

#### [6] Magntiude – you only have a theory of power only cares about post colonial countries but extinction kills everyone

## 2

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#### CP text: The member nations of the world trade organization should right the wrongs of colonialism through the embodiment of 21 Savage.

#### The arrest of 21 Savage is something greater than an ICE investigation. It is an operation by corporatist capitalism to silence immigrants who historically speak up against it, like issues of environmentalism. The way that capitalism structures a system of corporatism proactively excludes immigrants who have their lives destroyed

**Ahmad 20** [Ahmad, Nadia, Climate Cages: Connecting Migration, the Carceral State, Extinction Rebellion, and the Coronavirus through Cicero and 21 Savage (July 21, 2020). Loyola Law Review, New Orleans, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=3657096> or [http://dx.doi.org/10.2139/ssrn.3657096 //](http://dx.doi.org/10.2139/ssrn.3657096%20//) LEX JB]

* 21 Savage’s name: Shéyaa Bin Abraham-Joseph

It remains unclear the precise reason that triggered the ICE detention of **Shéyaa.** Likely **his growing popularity, broader public platform, message of intersectional justice, and** the coincidence of **increased incidents of immigration detentions all worked together as a multiplicity of factors**. Nevertheless, **the high-profile arrest was deeply political**, having the potential to moderate the tone and **messaging of the rapper** and other entertainers. **The effect was a silencing because of the threat of deportation. Migration, climate change, and environmental justice are inextricably linked. We can no longer draw neat borders around environmentalism of white spaces**.15 More so, **environmentalism and climate change adaptation efforts can no longer be the exclusive domain of protecting white spaces**. Because of **rising income equality in poor nations, conflict, and political upheaval, migrants are seeking out new places for safety**. From **natural disasters** such as **hurricanes, wildfires, tornadoes, and earthquakes to the horrors of famine, disease**, and religious violence, **people are moving**. We are a planet of populations on the move. The Brookings Institute reported that **in 2017, nearly 68.5 million people were forcibly displaced.**16 Approximately one-third of these (22.5 million to **24 million people**) individuals **were forcibly moved by “sudden onset” weather events**, including flooding, forest fires after droughts, and intensified storms.17 **Climate change is causing a “slow onset”** of events, including “**desertification, sea-level rise, ocean acidification, air pollution, rain pattern shifts and loss of biodiversity**.”18 Journalism professor and author Suketu Mehta puts forward “**that immigrants ‘have become a credit to this country’—the United States” through job growth, decreased crime rates, enhanced cultural innovation,** and as a counterweight to aging populations through their “youth, fertility, and ability to support retirees.”19 Mehta argues that **immigration “corrects the wrongs of colonialism and corporate neocolonialism**.”20 **The arrest and detention of 21 Savage offers a lens into the carceral state and environmentalism, which can also highlight the constraints of environmental law and the pressures on environmental advocates**. Mehta draws from the work of environmental law professor Michael Gerrard, who puts forth that “the United States and other **nations disproportionately responsible for carbon emissions should accept climate change refugees as a form of compensation to them and a form of justice**.”21 The rash of immigration detentions, deportations, and self-deportations highlights parallel environmental struggles. While the struggles may diverge, the systems at play operate in hegemonic unison. If immigration was previously the province of political asylum cases and highly-educated professionals seeking work visas, **climate change has expanded and intensified those struggles**. The information technology engineer from Chennai wanting a better life for family in America is not only seeking out economic opportunity, but a way out of India’s rising communalism and failed efforts to stem rising waters of the Indian Ocean as well as the lack of potable water. Last summer, the water reservoirs in India’s sixth largest city ran dry.22 **The arrest of 21 Savage** in Atlanta,23 a later blackout at a New York federal prison,24 **and arrests of** meatpacking **workers in Mississippi** are isolated events, but taken together, they **are part of a wider** net of **mass incarceration to silence environmental, labor, and human rights**, as well as examples of **denying access to protection from environmental impacts**.25 Climate change will **increase** extreme **weather conditions**, increasing vulnerabilities for those already at the margins— from prison populations to those attempting to cross the borders. **These** incidents were a way to **preserve an economic system known as corporatism through racist immigration and incarceration policies, which later manifested in disparate responses to environmental pollution concerns from the Flint water crisis to protests of the Dakota Access Pipeline**. In Flint, Michigan, residents are paying fines for not paying bills for polluted water. In North Dakota, protesters were arrested for their direct action to stop the construction of the Dakota Access Pipeline. In other words, caging is a strategy—both legal, financial, and political—used against the critics of this corporatist system, which capitalizes upon and targets marginalized communities and vulnerable populations. Corporatism is “a system of interest and/or attitude representation, a particular modal or idealtypical institutional arrangement for linking the associationally organized interests of civil society with the decisional structures of the state.”26 Meanwhile, **the impacts of corporatism are also environmental in that these impacts work to silence environmental efforts and to demonstrate adverse impacts of climate change on frontline communities**. That is, vulnerable communities, located in “sacrifice zones,” have less of a right to be here—in the United States or on the planet— and, therefore, require less of a need for a clean environment, including clean air, clean water, and energy access.

#### Sheyaa’s lyricism can redefine subjectivities and break down borders, enhancing cultural range and changing political narratives – controls the internal link to movement building. Answers their prefiat offense and has my own.

**Morgan Bennett 11** [Marcyliena Morgan and Dionne Bennett “Hip-Hop & the Global Imprint of a Black Cultural Form” Daedalus , Spring 2011, Vol. 140, No. 2, Race, Inequality & Culture, volume 2 (Spring 2011), pp. 176-196 The MIT Press on behalf of American Academy of Arts & Sciences [https://www.jstor.org/stable/23047460 //](https://www.jstor.org/stable/23047460%20//) LEX JB]

**While** mainstream **American discourses** have marginalized, maligned, and **trivialized hip-hop music and culture, multicultural youth in America and around the world have come together to turn hip-hop into one of the most dynamic arts and culture movements in recent history. It is disturbingly ironic that the nation that produced hip-hop culture has the least respect for it**; meanwhile, the United Nations and individual countries are crossing the bridge that the **global hip-hop nation has been building for decades. Nations are using hip-hop to see, hear, understand, serve, and, ultimately, be transformed for the better by their brilliant and powerful young people.** Hip-hop's aesthetic culture - which began with the four core elements of **rapping, deejaying, breaking, and graffiti art** - now **encompasses** all those elements along with **an ever-growing and diversifying range of artistic, cultural, intellectual, political, and social practices, products, and performances**. These developments include, but are not limited to, **studio, live, and digital music production; writing and rhythmic performance of spoken words alone and to beats**; street, club, and studio dance innovations ; fashion and style expressions; visual arts, including graffiti innovations; theater and performance arts; international club cultures' engagement with diverse music, dance, and style expressions ; and digital, public, and academic knowledge-production and distribution practices. The artistic achievements of hip-hop represent, by themselves, a remarkable contribution to world culture. However, the **hip-hop nation has not just made art; it has made art with the vision and message of changing worlds - locally, nationally, and globally. The hip-hop nation has done more than heed Public Enemy's famous call to "Fight the Power." It has created and become the power. U.S. and global hip hop heads have put into practice and expanded on psychiatrist Frantz Fanon's theory: namely, that an individual or group that "has a language consequently possesses the world expressed and implied by that language Mastery of language affords remarkable power."62 Citizens of the global hip-hop nation have not merely mastered a language, they have formed a new one. They have used that new language to redefine, name, and create their many worlds and worldviews. Through their unprecedented global movement of art and culture, the citizens of the hip-hop nation have used their unique and collective aesthetic voices** both to "possess" and transform the world, a process that has not merely afforded them power, but has also enabled them to produce new forms of power, beauty, and knowledge.

## 3

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#### The subject emerges through alienation by attempting to explain one’s desires through language, which always has a communicability gap from the real world. This leads to a constant and impossible desire to fufill the lost object which justifies infinite violence. Thus the role of the ballot is to Traverse the Fantasy which means exposing drives.

**McGowan 13,** McGowan, Todd. *Enjoying What We Don't Have: The Political Project of Psychoanalysis*. University of Nebraska Press, 2013. *JSTOR*, [www.jstor.org/stable/j.ctt1ddr7nv. Accessed 19 Sept. 2020](http://www.jstor.org/stable/j.ctt1ddr7nv.%20Accessed%2019%20Sept.%202020). AT

The subject as such emerges through the experience of loss. It is the loss of a part of the subject — an initial act of sacrifice — that creates both subject and object, the object emerging through this act as what the subject has lost of itself. The subject takes an interest in the object world because it forms this world around its lost object. As Jacques Lacan notes, “Never, in our concrete experience of analytic theory, do we do without the notion of the lack of the object as central. It is not a negative, but the very spring for the relation of the subject to the world.”5 Th e loss of the object generates a world around this loss to which the subject can relate. Obviously, no one literally creates objects through an initial act of sacrifi ce of an actual body part. This would be too much to ask. But the psychical act of sacrifice allows for a distinction to develop where none existed before and simultaneously directs the subject’s desire toward the object world. In his breakthrough essay “Negation,” Freud describes this process as follows: “The antithesis between subjective and objective does not exist from the fi rst. It only comes into being from the fact that thinking possesses the capacity to bring before the mind once more something that has once been perceived, by reproducing it as a presentation without the external object having still to be there. Th e fi rst and immediate aim, therefore, of reality-testing is, not to fi nd an object in real perception which corresponds to the one presented, but to refi nd such an object, to convince oneself that it is still there.”6 Th ough Freud doesn’t use terms from linguistics, it is clear that he is making reference to the subject’s alienation in language and that he sees this alienation as the key to the emergence of both the subject and the object. When the subject submits to the imperatives of language, it enters into an indirect relation with the object world. Th e speaking being does not relate to books, pencils, and paper but to “books,” “pencils,” and “paper.” The signifier intervenes between the subject and the object that the subject perceives. The subject’s alienation into language deprives it of immediate contact with the object world. And yet, in the above passage from “Negation,” Freud conceives of the subject’s entrance into language — its “capacity to bring before the mind once more something that has once been perceived, by reproducing it as a presentation without the external object having still to be there” — as the event that produces the very distinction between subject and object. This means that the indirectness or mediation introduced by language deprives the subject of a direct relation to the object world that it never had. Prior to its immersion in the mediation of language, the subject had no object at all — not a privileged relation to objects but a complete absence of relationality as such due to its autoeroticism. In this sense, the subject’s willingness to accede to its alienation in language is the first creative act, a sacrifice that produces the objects that the subject cannot directly access. Language is important not for its own sake but because it is the site of our founding sacrifi ce. We know that the subject has performed this act of sacrifi ce when we witness the subject functioning as a being of language, but the sacrifi ce is not an act that the subject takes up on its own. Others always impose the entry into language on the subject. Th eir exhortations and incentives to speak prompt the emergence of the speaking subject. But the subject’s openness to alienation in language, its willingness to sacrifi ce a part of itself in order to become a speaking subject, suggests a lack in being itself prior to the entry into language. Th at is, the act through which the subject cedes the privileged object and becomes a subject coincides with language but is irreducible to it. The subject engages in the act of sacrifice because it does not fi nd its initial autoeroticism perfectly satisfying — the unity of the autoerotic being is not perfect — and this lack of complete satisfaction produces the opening through which language and society grab onto the subject through its alienating process. If the initial autoerotic state of the human animal were perfectly satisfying, no one would begin to speak, and subjectivity would never form. Speaking as such testifi es to an initial wound in our animal being and in being itself. But subjectivity emerges only out of a self-wounding. Even though others encourage the infant to abandon its autoerotic state through a multitude of inducements, the initial loss that constitutes subjectivity is always and necessarily self-inflicted. Subjectivity has a fundamentally masochistic form, and it continually repeats the masochistic act that founds it. The act of sacrifice opens the door to the promise of a satisfaction that autoerotic isolation forecloses, which is why the incipient subject abandons the autoerotic state and accedes to the call of sociality. But the term “sacrifi ce” is misleading insofar as it suggests that the subject has given up a wholeness (with itself or with its parent) that exists prior to being lost. In the act of sacrifice, the incipient subject gives up something that it doesn’t have. The initial loss that founds subjectivity is not at all substantial; it is the ceding of nothing. Through this defining gesture, the subject sacrifices its lost object into being. But if the subject cedes nothing, this initial act of sacrifice seems profoundly unnecessary. Why can’t the subject emerge without it? Why is the experience of loss necessary for the subject to constitute itself qua subject? The answer lies in the difference between need and desire. While the needs of the human animal are not dependent on the experience of loss, the subject’s desires are. It is the initial act of sacrifice that gives birth to desire: the subject sacrifi ces nothing in order to create a lost object around which it can organize its desire. As Richard Boothby puts it in his unequaled explanation of the psychoanalytic conception of the emergence of desire, “The destruction and loss of the object . . . opens up a symbolic dimension in which what was lost might be recovered in a new form.”7 He adds: “Sacrifice serves to constitute the very matrix of desire. The essential function of sacrifice is less do ut des, I give so that you might give, than do ut desidero: I give in order that I might desire.”8 Th e subject’s desire is oriented around this lost object, but the object is nothing as a positive entity and only exists insofar as it is lost. This is why one can never attain the lost object or the object that causes one to desire.9 Th e coming-into-being of this object originates the subject of desire, but, having no substance, the object can never become an empirical object of desire. We may see an object of desire as embodying the lost object, but whenever we obtain this object, we discover its emptiness. Th e lost object is constitutively rather than empirically lost. Eating Nothing In this light, we can see the anorexic as the model for all desiring subjectivity. Most cultural critics justifiably see anorexia as the product of oppressive definitions of femininity that abound in contemporary society and force women to starve themselves in order to fit the ideals of feminine beauty. According to Naomi Wolf ’s classic popular account in Th e Beauty Myth, the ideal of thinness became a way of controlling women — disciplining their bodies — aft er the idea of natural female inferiority began to evanesce.10 Th e anorexic embodies female victimization: she has internalized a patriarchal ideal and does violence to her own body in order to live up to this ideal. But the problem with this analysis is that the anorexic doesn’t just try to embody the ideal of feminine beauty.11 She goes too far in her pursuit of thinness and comes to inhabit a body far from the ideal. Even when everyone tells her that she no longer looks good, that she is too thin, the anorexic continues to lose weight. It is for this reason that many feminists have seen her as a subversive fi gure. As Elizabeth Grosz puts it, “Neither a ‘disorder’ of the ego nor, as popular opinion has it, a ‘dieting disease’ gone out of control, anorexia can, like the phantom limb, be a kind of mourning for a pre-Oedipal (i.e., pre-castrated) body and a corporeal connection to the mother that women in patriarchy are required to abandon. Anorexia is a form of protest at the social meaning of the female body.”12 Grosz accounts for the excessiveness of anorexia by aligning it with feminist resistance to patriarchy rather than obsequious submission to it. But she aligns the anorexic with wholeness and the maternal bond rather than with the lost object. In this sense, she misses the true radicality of the anorexic, a radicality that stems from the power of the anorexic’s desire. Th e anorexic doesn’t simply refuse to eat but eats nothing, the nothing that is the lost object. While all positive forms of food fail to address the subject’s lack, nothing does speak to the subject’s desire and allows that desire to sustain itself. Th e anorexic starves not because she can’t fi nd, in the mode of Kafk a’s hunger artist, any food that would satisfy her but because she has found a satisfying food, a food that nourishes the desiring subject rather than the living being. Th e logic of anorexia lays bare the hidden workings of desire that operate within every subject. Subjects believe that they pursue various objects of desire (a new car, a new house, a new romantic partner, and so on) and that these objects have an intrinsic attraction, but the real engine for their desire resides in the nothing that the subject has given up and that every object tries and fails to represent. Objects of desire are desirable only insofar as they attempt to represent the impossible lost object, which is what the anorexic reveals. Still, the anorexic is exceptional; most nonanorexic subjects imagine that their lost object can be found in something rather than nothing. Despite its resonances with the structure of desire, anorexia cannot be dissociated from the imposition of the ideal of thinness as a mode of controlling female subjectivity. Th ough this ideal distorts the anorexic’s relationship to her own body, it also renders the nature of desire itself apparent. Th e impossible ideal of perfect thinness allows the anorexic subject to avow, albeit unconsciously, the structural impossibility of desire itself. Unlike male subjects (or other female subjects who manage to distance themselves from the ideal), the anorexic cannot avoid confronting the impossibility of her object. Th e oppressive ideal of perfect thinness allows the anorexic to bear witness with her body to the truth of desire.13 Understanding the impossible nature of the lost object — what the anorexic makes clear — allows us to rethink the nature of the political act. Rather than being the successful achievement of some object, the accomplishment of some social good, the political act involves insisting on one’s desire in the face of its impossibility, which is precisely what occurs in the death drive. Th e key to a politics of the death drive is grasping, in the fashion of the anorexic, the nothingness of the object and thereby fi nding satisfaction in the drive itself. But the subject’s relationship to its object inherently creates an illusion that makes this possibility almost impossible. Th ough the lost object that initiates subjectivity has no substance, its status for the subject belies its nothingness. For the subject, the originary lost object is the object that seems to hold the key to the subject’s very ability to enjoy. Subjects invest the lost object with the idea of their own completion: the loss of the object retroactively causes a prior state of completion to arise — a state of completion that never actually existed — and the object itself bears the promise of inaugurating a return to this imaginary prior state.14 In short, it promises to fi ll in the subject’s lack and answer its desire. As a result of this investment on the part of the subject, the initial lost object becomes the engine for all the subject’s subsequent desiring. Without the initial act of sacrifi ce, the would-be subject neither desires nor enjoys but instead suff ocates in a world of self-presence, a self-presence in which one has no freedom whatsoever. Th rough the loss of the privileged object, one frees oneself from the complete domination of (parental or social) authority by creating a lack that no authority can fi ll. Ceding the object is thus the founding act of subjectivity and the fi rst free act. Every subsequent eff ort by authority to give the subject what it lacks will come up short — or, more correctly, will go too far, because only nothing can fi ll the gap within the subject. For this reason, dissatisfaction and disappointment are correlative with freedom: when we experience the authority’s failure to give us what we want, at that moment we also experience our distance from the authority and our radical freedom as subjects.

#### Their deployment of debate is an agential fantasy – the affirmative is an investment into subjectivity as a teleological entity dependent on external recognition to satisfy its goals, which is addicting and causes passivity

Lundberg 12 Dr. Christian Lundberg, 2012, “Lacan in Public: Psychoanalysis and the Science of Rhetoric,” The University of Alabama Press, Dr. Lundberg is an associate professor and co-director of the University Program in Cultural Studies at UNC, he has a B.A. from the University of Redlands, a Master of Divinity from Emory University, and a Ph.D. in Communication Studies from Northwestern University, sjbe

“Ego,” then,names the economy of compensatory subjectivization driven by the repetition and refusal of demands. The nascent subject presents wants and needs in the form of the demand, but the role of the demand is not the simple fulfillment of these wants and needs. The demand and its refusal are the fulcrum on which the identity and insularity of the subject are produced: an unformed amalgam of needs and articulated demands is transformed into a subject that negotiates the vicissitudes of life with others. Put in the meta- phor of developmental psychology, an infant lodges the instinctual demands of the id on others but these demands cannot be, and for the sake of develop- ment, must not be fulfilled. Thus, pop psychology observations that the in- cessant demands of children for impermissible objects (“may i have a fourth helping of dessert”) or meanings that culminate in ungroundable authori- tative pronouncements (the game of asking never ending “whys”) are less about satisfaction of a request than the identity-producing effects of the pa- rental “no.” in “The Question of Lay Analysis,” freud argues that “if . . . demands meet with no satisfaction, intolerable conditions arise . . . [and] . . . the ego begins to function. . . . [T]he driving force that sets the vehicle in mo- tion is derived from the id, the ego . . . undertakes the steering. . . . The task of the ego [is] . . . to mediate between the claims of the id and the objections of the external world.”31 Later, in Group Psychology and the Analysis of the Ego, and Civilization and Its Discontents, freud relocates the site of the ego’s genesis beyond the parent/child relationship and in the broader social relationships that animate it. Life with others inevitably produces blockages in the indi- vidual’s attempts to fulfill certain desires, since some demands for the fulfill- ment of desires must be frustrated. This blockage produces feelings of guilt, which in turn are sublimated as a general social morality. The frustration of demand is both productive in that it authorizes social moral codes and, by ex- tension, civilization writ large, although it does so at the cost of imposing a contested relationship between desire and social mores.32 Confronted by student calls to join the movement of 1968 Lacan famously quipped: “as hysterics you demand a new master: you will get it!” under- standing the meaning of his response requires a treatment of Lacan’s theory of the demand and its relationship to hysteria as an enabling and constraining political subject position. Lacan’s theory of the demand picks up at freud’s movement outward from the paradigmatic relationships between the parent/ child and individual/civilization toward a more general account of the sub- ject, sociality, and signification. The infrastructure supporting this theoreti- cal movement transposes freud’s comparatively natural and genetic account of development to a set of metaphors for dealing with the subject’s entry into signification. As already noted, the Lacanian aphorism that “the signifier represents a subject for another signifier inverts the conventional wisdom that a pre-given subject uses language as an instrument to communicate its subjective inten- tions.”33 The paradoxical implication of this reversal is that the subject is si- multaneously produced and disfigured by its unavoidable insertion into the space of the Symbolic. An Es assumes an identity as a subject as a way of ac- commodating to the Symbolic’s demands and as a node for producing de- mands on its others or of being recognized as a subject.34 As i have already argued, the demand demonstrates that the enjoyment of one’s own subjec- tivity is useless surplus produced in the gap between the Es (or it) and the ideal i. As a result, there is excess jouissance that remains even after its reduc- tion to hegemony. This remainder may even be logically prior to hegemony, in that it is a useless but ritually repeated retroactive act of naming the self that produces the subject and therefore conditions possibility for investment in an identitarian configuration. The site of this excess, where the subject negotiates the terms of a non- relationship with the Symbolic, is also the primary site differentiating need, demand, and desire. need approximates the position of the freudian id, in that it is a precursor to demand. Demand is the filtering of the need through signification, but as Sheridan notes, “there is no adequation between need and demand.”35 The same type of split that inheres in the freudian demand inheres in the Lacanian demand, although in Lacan’s case it is crucial to no- tice that the split does not derive from the empirical impossibility of ful- filling demands as much as it stems from the impossibility of articulating needs to or receiving a satisfactory response from the other. Thus, the speci- ficity of the demand becomes less relevant than the structural fact that de- mand presupposes the ability of the addressee to fulfill the demand.This im- possibility points to the paradoxical nature of demand: the demand is less a way of addressing need to the other than a call for love and recognition by it. “in this way,” writes Lacan, “demand annuls the particularity of everything that can be granted by transmuting it into a proof of love, and the very sat- isfactions that it obtains for need are reduced to the level of being no more than the crushing of the demand for love.”36 The other cannot, by definition, ever give this gift: the starting presupposition of the mirror stage is the con- stitutive impossibility of comfortably inhabiting the Symbolic. The struc- tural impossibility of fulfilling demands resonates with the freudian de- mand in that the frustration of demand produces the articulation of desire. Thus, Lacan argues that “desire is neither the appetite for satisfaction, nor the demand for love, but the difference that results from the subtraction of the first from the second.”37 This sentiment animates the crucial Lacanian claim for the impossibility of the other giving a gift that it does not have, namely the gift of love: “all demand implies . . . a request for love. . . . Desire begins to take shape in the margin in which demand becomes separated from need: this margin being that which is opened up by demand, the appeal of which can be unconditional only in regards to the other . . . having no universal satisfaction. . . . it is this whim that introduces the phantom of omnipotence, not of the subject, but of the other in which his demand is installed.”38 This framing of demand reverses the classically liberal presupposition regarding demand and agency. Contemporary and classical liberal democratic theories presume that the demand is a way of exerting agency and, further, that the more firmly the demand is lodged, the greater the production of an agential effect. The Lacanian framing of the demand sees the relationship as exactly the opposite: the more firmly one lodges a demand, the more desperately one clings to the legitimate ability of an institution to fulfill it. Hypothetically, demands ought reach a kind of breaking point where the inability of an in- stitution or order to proffer a response should produce a reevaluation of the economy of demand and desire. in analytic terms, this is the moment of sub- traction, where the manifest content of the demand is stripped away and the desire that underwrites it is laid bare. The result of this “subtraction” is that the subject is in a position to relate to its desire, not as a set of deferrals, avoid- ances, or transposition but rather as an owned political disposition. As Lacan frames it, demanding subjects are either learning to reassert the centrality of their demand or coming to terms with the impotence of the other as a satisfier of demands: “But it is in the dialectic of the demand for love and the test of desire that development is ordered. . . . [T]his test of the desire of the other is decisive not in the sense that the subject learns by it whether or not he has a phallus, but in the sense that he learns that the mother does not have it.”39 The point of this disposition is to bring the subject to a point where they might “recognize and name” their own desire and, as a re- sult, become a political subject in the sense of being able to truly argue for something without being dependent on the other as a support for or orga- nizing principle for political identity. Thus, desire has both a general status and a specific status for each subject. it is not just the mirror that produces the subject and its investments but the desire and sets of proxy objects that cover over this original gap. As Easthope puts it: “Lacan is sure that everyone’s de- sire is somehow different and their own—lack is nevertheless my lack. How can this be if each of us is just lost in language . . . passing through demand into desire, something from the Real, from the individual’s being before lan- guage, is retained as a trace enough to determine that i desire here and there, not anywhere and everywhere. Lacan terms this objet petit a . . . petit a is dif- ferent for everyone; and it can never be in substitutes for it in which i try to refind it.”40 Though individuated, this naming is not about discovering a latently held but hidden interiority, rather it is about naming a practice of thinking the uniqueness of individual subjects as a product of discourses that produce them. Thus, this is an account of political subjectivization that is not solely oriented toward or determined by the locus of the demand but that is also determined by the contingent sets of coping strategies that orient a sub- ject toward others and a political order and serve as the condition of possi- bility for demands.As Lacan argues,this is the point where a subject becomes a kind of new presence or a new political possibility:“That the subject should come to recognize and to name his desire; that is the efficacious action of analysis. But it isn’t a question of recognizing something which would be en- tirely given. . . . in naming it, the subject creates, brings forth, a new presence in the world.”41 Alternatively, subjects can stay fixated on the demand, but in doing so they forfeit their desire, or as fink argues, “an analysis . . . that . . . does not go far enough in constituting the subject as desire leaves him or her stranded at the level of demand . . . unable to truly desire.”42 A politics defined by and exhausted in demands is by definition a hysterical politics. The hysteric is defined by incessant demands on the other at the ex- pense of ever articulating a desire that is theirs. in the Ethics of Psychoanaly- sis, Lacan argues that the hysteric’s demand that the other produce an object is the support of an aversion toward one’s desire: “the behavior of the hys- teric, for example, has as its aim to recreate a state centered on the object, in- sofar as this object . . . is . . . the support of an aversion.”43 This economy of aversion explains the ambivalent relationship between hysterics and their de- mands. on one hand, the hysteric asserts their agency, even authority, over the other.yet, what appears as unfettered agency from the perspective of a discourse of authority is also simultaneously a surrender of desire by enjoy- ing the act of figuring the other as the one with the exclusive capability to satisfy the demand. Thus, “as hysterics you demand a new master: you will get it!” At the register of manifest content, demands are claims for action and seemingly powerful, but at the level of the rhetorical form of the demand or in the reg- ister of enjoyment, demand is a kind of surrender. As a relation of address the hysterical demand is more a demand for recognition and love from an os- tensibly repressive order than a claim for change. The limitation of the stu- dents’ call on Lacan does not lie in the end they sought but in the fact that the hysterical address never quite breaks free from its framing of the master. The fundamental problem of democracy is not articulating resistance over and against hegemony but rather the practices of enjoyment that sustain an addiction to mastery and a deferral of desire. Hysteria is a politically effective subject position in some ways, but it is politically constraining from the perspective of organized political dissent. if not a unidirectional practice of resistance, hysteria is at best a politics of interruption. imagine a world where the state was the perfect and complete embodiment of a hegemonic order, without interruption or remainder, and the discursive system was hermetically closed. Politics would be an impos- sibility: with no site for contest or reappropriation, politics would simply be the automatic extension of structure. Hysteria is a site of interruption, in that hysteria represents a challenge to our hypothetical system, refusing straight- forward incorporation by its symbolic logic. But, stepping outside this hy- pothetical non-polity, on balance, hysteria is politically constraining because the form of the demand, as a way of organizing the field of political enjoy- ment, requires that the system continue to act in certain ways to sustain its logic. Though on the surface it is an act of symbolic dissent, hysteria rep- resents an affirmation of a hegemonic order and is therefore a particularly fraught form of political subjectivization.

#### That destroys politics, ethics, and the value to life

Ruti ‘14 (mari, English, Toronto, Psychoanalysis, Culture & Society (2014) 19, 297–314) SJBE, recut from Harvard BoSu

On the other hand, Lacan – again like Marcuse – recognizes that the symbolic order is repressive beyond the demands of subject formation, that it includes forms of violence that exceed the ubiquitous violence of the signifier. Indeed, even the violence of the signifier is not equally distributed, so that some of us are much more vulnerable to its injurious effects than others (consider, for instance, hate speech). Lacan does not necessarily talk about the unequal distribution of resources in the manner Marcuse does, but there is no doubt that his analysis of symbolic law as the Law of the Father elucidates a historically specific, deeply heteropatriarchal and hierarchical organization of social life. In point of fact, one reason I have taken a detour through Marcuse is to illustrate the obvious ways in which Lacan’s portraiture of the symbolic mirrors that of Marcuse’s explicitly historical account: what Marcuse calls “the performance principle,” Lacan calls the “service of goods.” Both thinkers identify the underpinnings of a social order dominated by the ideal of productivity – an ideal that is, moreover, placed in direct opposition to the pleasure principle. Both emphasize that the dominant morality of this symbolic – what Lacan calls “the morality of the master” – measures the merit of lives based on largely pragmatic criteria. And both acknowledge that the model citizen of this symbolic is a subject who shows up at work reliably every morning, performs its duties with a degree of diligence, does not let its desires get the better of its productivity, and seeks satisfaction (“enjoys”) in moderate, socially sanctioned ways. “Part of the world has resolutely turned in the directions of the service of goods,” Lacan writes, “thereby rejecting everything that has to do with the relationship of man to desire” (318). This, he adds, “is what is known as the postrevolutionary perspective” (318). In other words, the service of goods reflects the mindset of the levelheaded utilitarian subject who has deemed revolutionary change to be unrealistic. Lacan is here referring to the kind of depoliticization that is arguably the hallmark of Western subjectivity under capitalism. Lacan’s point is by no means, as critics such as Butler have suggested, that a different kind of symbolic is intrinsically impossible but rather that the configuration of subjectivity that Western modernity has produced – a subjectivity that has been subjected to a particular form of surplus-repression (the performance principle, the service of goods) – makes it virtually impossible for us to entertain the idea that the symbolic could be organized differently, that it could be centered around a different version of the reality principle. As Marcuse remarks, one reason the performance principle is so powerful is that it has managed to convince us that all alternatives to it are either utopian or otherwise unpalatable. Yet, for Marcuse, the fact that this principle has been so successful also points to the possibility of transcending it. As he states, “The very progress of civilization under the performance principle has attained a level of productivity at which the social demands upon instinctual energy to be spent in alienated labor could be considerably reduced. Consequently, the continued repressive organization of the instincts seems to be necessitated less by the ‘struggle for existence’ than by the interest in prolonging this struggle – by the interest in domination” (pp. 129–130). This is to say that there is really nothing besides social power that keeps us invested in the notion that our welfare demands relentless toil. The performance principle has outlived its usefulness in the sense that our collective productivity these days surpasses what is necessary for the provision of food, clothing, housing, and other basic amenities. The fact that these amenities have not yet reached all corners of the world, or even all corners of our own society (the homeless, innercity dwellers, etc.), is a function of domination (the unequal distribution of resources) rather than of any deficiencies of productivity. As a result, in Marcuse’s view, all we would need to do to bring about a more “non-repressive civilization” (p. 134) would be to refuse the parameters of the current symbolic; even something as simple as reducing the length of the working day would immediately realign our priorities, perhaps even impacting the very organization of our psychic lives. Our standard of living might drop somewhat, but we might also learn to assess the value of our lives according to other, less performance-oriented, measurements. Psychoanalysis, particularly Lacanian analysis, does not have a normative goal; it does not seek to tell us how we should desire but merely to explore the idiosyncratic contours of our desire. But this does not change the fact that Lacan, at least as a theorist, was exasperated by people’s inability to make their way out of the maze of the master’s morality, including its performance principle; he was frustrated by individuals who were so out of touch with the truth of their desire that they were willing to sacrifice this desire for the sake of social conformity and that they were, furthermore, willing to do so to the point of self-betrayal. As he explains, “What I call ‘giving ground relative to one’s desire’ is always accompanied in the destiny of the subject by some betrayal – you will observe it in every case and should note its importance. Either the subject betrays his own way, betrays himself, and the result is significant for him, or, more simply, he tolerates the fact that someone with whom he has more or less vowed to do something betrays his hope and doesn’t do for him what their pact entailed” (p. 321). Such a betrayal invariably results in the reassertion of the status quo, sending the subject back to the service of goods, what Lacan in this context calls “the common path” (p. 321). And given that desire, for Lacan, is “the metonymy of our being” (p. 321), betraying it in this way leads to the kind of psychic death that extinguishes the subject’s sense of agency. To use Lacan’s wording, “Doing things in the name of the good, and even more in the name of the good of the other, is something that is far from protecting us not only from guilt but also from all kinds of inner catastrophes” (p. 319). It is precisely such inner catastrophes that Lacanian clinical practice was designed to counter, though it may be Julia Kristeva – rather than Lacan himself – who has most clearly developed this interpretation of analytic work. Kristeva depicts psychoanalysis as a means of restoring the subject’s psychic aliveness, as an explicit revolt against the numbing impact of what she calls “the society of the spectacle” (2002, p. 4). This society of the spectacle – of technology, image, and speed – shares many parallels with Adorno’s “culture industry”: a flattened surface of the life world, a constriction of psychic space, a death of critical thought, the worship of efficiency over intellectual curiosity, and the incapacity to revolt. Against this backdrop, psychoanalysis – along with art, writing, and some forms of religious experience – offers, for Kristeva, a gateway to revolt, a way of resurrecting “the life of the mind” (a phrase Kristeva borrows from Hannah Arendt) through ongoing questioning, interrogation, and psychic recreation. “Freud founded psychoanalysis as an invitation to anamnesis in the goal of a rebirth, that is, a psychical restructuring,” Kristeva writes: “Through a narrative of free association and in the regenerative revolt against the old law (familial taboos, superego, ideals, oedipal or narcissistic limits, etc.) comes the singular autonomy of each, as well as a renewed link with the other” (2002, p. 8). In the context of my overall argument in this essay, it is worth stressing that it is “the desire of the subject” that, in Kristeva’s view, reserves a place “for initiative, autonomy” (2002, p. 11). This is in part because the “Freudian journey into the night of desire was followed by attention to the capacity to think: never one without the other” (2010, p. 41). In other words, the exploration of desire, in psychoanalysis, is akin to the critical (or at least curious) movement of thought – the very movement that Arendt also saw as vital to the life of the mind. This is why psychoanalysis has, Kristeva asserts, “the (unique?) privilege today of accompanying the emergence of new capacities of thinking/representing/thinking, beyond the frequent and increasingly noticeable disasters of psychosomatic space – capacities that are so many new bodies and new lives” (2010, pp. 41–42). Kristeva therefore draws the same link between desire and autonomy (in this instance, the capacity for critical thought) as Lacan does. Furthermore, to translate Kristeva’s point into Marcuse’s terminology, one might say that psychoanalysis, at least the kind of analysis that refuses to uphold social adaptation as a therapeutic goal, presents the possibility of sidestepping, or at the very least diminishing, the effects of surplus-repression. This, in turn, creates space for the truth of the subject’s desire in the Lacanian sense. This does not mean that repression as such is defeated. Quite the contrary, as we will see shortly, the truth of the subject’s desire is inextricable from the primary (constitutive) repression that accompanies subject formation. But as I have already suggested, the lifting of surplus-repression renders the imprint of primary repression more clearly discernable, for when surplus-repression is removed, what remains are the always highly singular outlines of primary repression. And if Lacan – like Marcuse – sought to remove surplus-repression, it was because he understood that it was on the level of primary repression (fundamental fantasies) that one could find the most basic building blocks of the subject’s psychic destiny; primary repression was the layer of psychic life that expressed something essential about the distinctive ways in which the pleasure principle, in the subject’s life, had become bound up with the repetition compulsion. This is why Lacan states, “If analysis has a meaning, desire is nothing other than that which supports an unconscious theme, the very articulation of that which roots us in a particular destiny, and that destiny demands insistently that the debt be paid, and desire keeps coming back, keeps returning, and situates us once again in a given track, the track of something that is specifically our business” (p. 319).According to Lacan, analysis aims to enable us to understand something about the eccentric specificity (or truth) of our most fundamental desire as well as about the track of destiny that this desire carves out for us (and that is therefore “specifically our business”). If it is indeed the case, as I have conceded, that most of us tend to be alienated from our desire, Lacanian analysis strives to undo this alienation by familiarizing us with the truth of this desire. This process entails, among other things, recognizing that the destiny we owe to this desire can never be definitively overcome, that the debt of desire can never be fully redeemed (for how are we to compensate the signifier for having brought us into being as subjects of desire?). Our destiny – which might initially coincide quite seamlessly with our repetition compulsion – consists of recurring efforts to pay off this debt, which is why it keeps ushering us to the same track of desire, the same nexus of psychic conundrums, our unconscious hope being that if we wear out the track of our desire by incessant reiteration, one day we might be able to absolve ourselves of our debt. But since we cannot, the only thing to be done is to “own” our destiny even as we might seek to mitigate its more painful dimensions. That is, the only way to arrive at the kind of psychic rebirth Kristeva is talking about is to take full responsibility for our (unconsciously generated) destiny. In the ethical act, our impulse is to embrace this destiny wholesale regardless of consequences (this is one way to understand what it means to plunge into the jouissance of the real). In analysis, the exploration of our destiny is more gradual, more self-reflexive. But in both cases, the point is not to obliterate our foundational destiny (or fundamental fantasies) but merely to elaborate it in more satisfying directions, away from the incapacitating effects of the repetition compulsion and toward the rewards of subjective autonomy. And, if we are to achieve this goal, nothing is more important than staying faithful to the truth of desire that, on the most elementary level, determines our destiny.

#### Vote negative to embrace the lack, this means accepting the anxiety from the encounter with the other and exposing drives, its Uncondo not a floating Pik

**McGowan 2,** McGowan, Todd. Enjoying What We Don't Have: The Political Project of Psychoanalysis. University of Nebraska Press, 2013. JSTOR, [www.jstor.org/stable/j.ctt1ddr7nv. Accessed 19 Sept. 2020](http://www.jstor.org/stable/j.ctt1ddr7nv.%20Accessed%2019%20Sept.%202020). AT

The alternative — the ethical path that psychoanalysis identifies — demands an embrace of the anxiety that stems from the encounter with the enjoying other. If there is a certain ethical dimension to anxiety, it lies in the relationship that exists between anxiety and enjoyment. Contra Heidegger, the ethics of anxiety does not stem from anxiety’s relation to absence but from its relation to presence — to the overwhelming presence of the other’s enjoyment. In some sense, the encounter with absence or nothing is easier than the encounter with presence. Even though it traumatizes us, absence allows us to constitute ourselves as desiring subjects. Rather than producing anxiety, absence leads the subject out of anxiety into desire. Confronted with the lost object as a structuring absence, the subject is able to embark on the pursuit of the enjoyment embodied by this object, and this pursuit provides the subject with a clear sense of direction and even meaning. This is precisely what the subject lacks when it does not encounter a lack in the symbolic structure. When the subject encounters enjoyment at the point where it should encounter the absence of enjoyment, anxiety overwhelms the subject. In this situation, the subject cannot constitute itself along the path of desire. It lacks the lack — the absence — that would provide the space through which desire could develop. Consequently, this subject confronts the enjoying other and experiences anxiety. Unlike the subject of desire — or the subject of Heideggerean anxiety — the subject who suffers this sort of anxiety actually experiences the other in its real dimension. The real other is the other caught up in its obscene enjoyment, caught up in this enjoyment in a way that intrudes on the subject. There is no safe distance from this enjoyment, and one cannot simply avoid it. There is nowhere in the contemporary world to hide from it. As a result, the contemporary subject is necessarily a subject haunted by anxiety triggered by the omnipresent enjoyment of the other. And yet, this enjoyment offers us an ethical possibility. As Slavoj Žižek puts it, “It is this excessive and intrusive jouissance that we should learn to tolerate.”27 When we tolerate the other’s “excessive and intrusive jouissance” and when we endure the anxiety that it produces, we acknowledge and sustain the other in its real dimension. Tolerance is the ethical watchword of our epoch. However, the problem with contemporary tolerance is its insistence on tolerating the other only insofar as the other cedes its enjoyment and accepts the prevailing symbolic structure. That is to say, we readily tolerate the other in its symbolic dimension, the other that plays by the rules of our game. This type of tolerance allows the subject to feel good about itself and to sustain its symbolic identity. The problem is that, at the same time, it destroys what is in the other more than the other — the particular way that the other enjoys. It is only the encounter with the other in its real dimension — the encounter that produces anxiety in the subject — that sustains that which defi nes the other as such. Authentic tolerance tolerates the real other, not simply the other as mediated through a symbolic structure. In this sense, it involves the experience of anxiety on the part of the subject. This is a difficult position to sustain, as it involves enduring the “whole opaque weight of alien enjoyment on your chest.”28 The obscene enjoyment of the other bombards the authentically tolerant subject, but this subject does not retreat from the anxiety that this enjoyment produces. Whose Enjoyment? If the embrace of the anxiety that accompanies the other’s proximate enjoyment represents the ethical position today, this does not necessarily provide us with an incentive for occupying it. Who wants to be ethical when it involves enduring anxiety rather than finding a way — a drug, a new authority, or something — to alleviate it? What good does it do to sustain oneself in anxiety? In fact, anxiety does the subject no good at all, which is why it offers the subject the possibility of enjoyment. When the subject encounters the other’s enjoyment, this is the form that its own enjoyment takes as well. To endure the anxiety caused by the other’s enjoyment is to experience one’s own simultaneously. As Lacan points out, when it comes to the enjoyment of the other and my own enjoyment, “nothing indicates they are distinct.”29 Thus, not only is anxiety an ethical position, it is also the key to embracing the experience of enjoyment. To reject the experience of anxiety is to flee one’s own enjoyment. The notion that the other’s enjoyment is also our own enjoyment seems at first glance difficult to accept. Few people enjoy themselves when they hear someone else screaming profanities in the workplace or when they see a couple passionately kissing in public, to take just two examples. In these instances, we tend to recoil at the inappropriateness of the activity rather than enjoy it, and this reaction seems completely justifi ed. Th e public display of enjoyment violates the social pact with its intrusiveness; it doesn’t let us alone but assaults our senses. It violates the implicit agreement of the public sphere constituted as an enjoyment-free zone. And yet, recoiling from the other’s enjoyment deprives us of our own. How we comport ourselves in relation to the other’s enjoyment indicates our relationship to our own. What bothers us about the other — the disturbance that the other’s enjoyment creates in our existence — is our own mode of enjoying. If we did not derive enjoyment from the other’s enjoyment, witnessing it would not bother us psychically. We would simply be indifferent to it and focused on our own concerns. Of course, we might ask an off ending car radio listener to turn the radio down so that we wouldn’t have to hear the unwanted music, but we would not experience the mere exhibition of alien enjoyment through the playing of that music as an aff ront. Th e very fact that the other’s enjoyment captures our attention demonstrates our intimate — or extimate — relation to it.30 Th is relation becomes even clearer when we consider the epistemological status of the enjoying other. Because the real or enjoying other is irreducible to any observable identity, we have no way of knowing whether or not the other really is enjoying. A stream of profanity may be the result of someone hurting a toe. Th e person playing the car radio too loud while sitt ing at the traffi c light may have simply forgott en to turn down the radio aft er driving on the highway. Or the person may have diffi culty hearing. Th e couple’s amorous behavior in public may refl ect an absence of enjoyment in their relationship that they are trying to hide from both themselves and the public. Considering the enjoyment of the other, we never know whether it is there or not. If we experience it, we do so through the lens of our own fantasy. We fantasize that the person blasting the radio is caught up in the enjoyment of the music to the exclusion of everything else; we fantasize that the public kisses of the couple suggest an enjoyment that has no concern for the outside world. Without the fantasy frame, the enjoying other would never appear within our experience. Th e role of the fantasy frame for accessing the enjoying other becomes apparent within Fascist ideology. Fascism posits an internal enemy — the fi gure of the Jew or some analogue — that enjoys illicitly at the expense of the social body as a whole. By att empting to eliminate the enjoying other, Fascism hopes to create a pure social body bereft of any stain of enjoyment. Th is purity would allow for the ultimate enjoyment, but it would be completely licit. Th is hope for a future society free of any stain is not where Fascism’s true enjoyment lies, however. Fascists experience their own enjoyment through the enjoying other that they persecute. Th e enjoyment that the fi gure of the Jew embodies is the Fascists’ own enjoyment, though they cannot avow it as their own. More than any other social form, Fascism is founded on the disavowal of enjoyment — the att empt to enjoy while keeping enjoyment at arm’s length.31 But this eff ort is not confi ned to Fascism; it predominates everywhere, because no subjects anywhere can simply feel comfortable with their own mode of enjoying. The very structure of enjoyment is such that we cannot experience it directly: when we experience enjoyment, we don’t have it; it has us. We experience our own enjoyment as an assault coming from the outside that dominates our conscious intentions. This is why we must fantasize our own enjoyment through the enjoying other. Compelled by our enjoyment, we can’t do otherwise; we act against our self-interest and against our own good. Enjoyment overwhelms the subject, even though the subject’s mode of enjoying marks what is most singular about the subject. Even though the encounter with the enjoying other apprehends the real other through the apparatus of fantasy, this encounter is nonetheless genuine and has an ethical status. Unlike the experience of the nonexistent symbolic identity, which closes down the space in which the real other might appear, the fantasized encounter with the enjoying other leaves this space open. By allowing itself to be disturbed by the other on the level of fantasy, the subject acknowledges the singularity of the real other — its mode of enjoying — without confi ning this singularity to a prescribed identity. The implications of privileging the encounter with the disturbing enjoyment of the real other over the assimilable symbolic identity are themselves disturbing. Th e tolerant att itude that never allows itself to be jarred by the enjoying other becomes, according to this way of seeing things, further from really encountering the real other than the att itude of hate and mistrust. The liberal subject who welcomes illegal immigrants as fellow citizens completely shuts down the space for the other in the real. Th e immigrant as fellow citizen is not the real other. The xenophobic conservative, on the other hand, constructs a fantasy that envisions the illegal immigrant awash in a linguistic and cultural enjoyment that excludes natives. This fantasy, paradoxically, permits an encounter with the real other that liberal tolerance forecloses. Of course, xenophobes retreat from this encounter and from their own enjoyment, but they do have an experience of it that liberals do not. The tolerant liberal is open to the other but eliminates the otherness, while the xenophobic conservative is closed to the other but allows for the otherness. The ethical position thus involves sustaining the liberal’s tolerance within the conservative’s encounter with the real other.

## Case

### TL

#### [1] New 2NR arguments because none of the implications are clear and they aren’t complete arguments – err on the side of more debating

#### [2] IP is in line with indigenous demands – turns case

**WIPO no date** WIPO, xx-xx-xxxx, "Traditional Knowledge and Intellectual Property – Background Brief," No Publication, <https://www.wipo.int/pressroom/en/briefs/tk_ip.html?fbclid=IwAR2iLd8fJ4lNl_fhhwQBHvCdoFEfB44H5GHIWBBb0xGPVBt1fRJT-uzUXDU> SJ//DA

The current international system for protecting intellectual property was fashioned during the age of industrialization in the West and developed subsequently in line with the perceived needs of technologically advanced societies. However**, in recent years, indigenous peoples, local communities, and governments, mainly in developing countries, have demanded equivalent protection for traditional knowledge systems. In 2000, WIPO members established an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), and in 2009 they agreed to develop an international legal instrument (or instruments) that would give traditional knowledge, genetic resources and traditional cultural expressions (folklore) effective protection. Such an instrument could range from a recommendation to WIPO members to a formal treaty that would bind countries choosing to ratify it.** Traditional knowledge is not so-called because of its antiquity. It is a living body of knowledge that is developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity. As such, it is not easily protected by the current intellectual property system, which typically grants protection for a limited period to inventions and original works by named individuals or companies. Its living nature also means that “traditional” knowledge is not easy to define. **Recognizing traditional forms of creativity and innovation as protectable intellectual property would be an historic shift in international law, enabling indigenous and local communities as well as governments to have a say over the use of their traditional knowledge by others.** This would make it possible, for example, to protect traditional remedies and indigenous art and music against misappropriation, and enable communities to control and benefit collectively from their commercial exploitation. Although the negotiations underway in WIPO have been initiated and propelled mainly by developing countries, the discussions are not neatly divided along “North-South” lines. Communities and governments do not necessarily share the same views, and some developed country governments, especially those with indigenous populations, are also active. Two types of intellectual property protection are being sought: **Defensive protection aims to stop people outside the community from acquiring intellectual property rights over traditional knowledge. India, for example, has compiled a searchable database of traditional medicine that can be used as evidence of prior art by patent examiners when assessing patent applications. This followed a well-known case in which the US Patent and Trademark Office granted a patent (later revoked) for the use of turmeric to treat wounds, a property well known to traditional communities in India and documented in ancient Sanskrit texts. Defensive strategies might also be used to protect sacred cultural manifestations, such as sacred symbols or words from being registered as trademarks.** Positive protection is the granting of rights that empower communities to promote their traditional knowledge, control its uses and benefit from its commercial exploitation. Some uses of traditional knowledge can be protected through the existing intellectual property system, and a number of countries have also developed specific legislation. However, any specific protection afforded under national law may not hold for other countries, one reason why many indigenous and local communities as well as governments are pressing for an international legal instrument. WIPO’s work on traditional knowledge addresses three distinct yet related areas: traditional knowledge in the strict sense (technical know-how, practices, skills, and innovations related to, say, biodiversity, agriculture or health); traditional cultural expressions/expressions of folklore (cultural manifestations such as music, art, designs, symbols and performances); and genetic resources (genetic material of actual or potential value found in plants, animals and micro-organisms). Although for many communities traditional knowledge, genetic resources and traditional cultural expressions form part of a single integrated heritage, from an intellectual property standpoint they raise different issues and may require different sets of solutions. In all three areas, in addition to work on an international legal instrument, WIPO is responding to requests from communities and governments for practical assistance and technical advice to enable communities to make more effective use of existing intellectual property systems and participate more effectively in the IGC’s negotiations. WIPO’s work includes assistance to develop and strengthen national and regional systems for the protection of traditional knowledge (policies, laws, information systems and practical tools) and the Creative Heritage Project which provides hands-on training for managing intellectual property rights and interests when documenting cultural heritage. Traditional knowledge When community members innovate within the traditional knowledge framework, they may use the patent system to protect their innovations. However, traditional knowledge as such - knowledge that has ancient roots and is often informal and oral - is not protected by conventional intellectual property systems. This has prompted some countries to develop their own sui generis (specific, special) systems for protecting traditional knowledge. There are also many initiatives underway to document traditional knowledge. In most cases the motive is to preserve or disseminate it, or to use it, for example, in environmental management, rather than for the purpose of legal protection. There are nevertheless concerns that if documentation makes traditional knowledge more widely available to the general public, especially if it can be accessed on the Internet, this could lead to misappropriation and use in ways that were not anticipated or intended by traditional knowledge holders. At the same time, documentation can help protect traditional knowledge, for example, by providing a confidential or secret record of traditional knowledge reserved for the relevant community only. **Some formal documentation and registries of traditional knowledge support sui generis protection systems, while traditional knowledge databases - such as India’s database on traditional medicine - play a role in defensive protection within the existing IP system. These examples demonstrate the importance of ensuring that documentation of traditional knowledge is linked to an intellectual property strategy and does not take place in a policy or legal vacuum.** In the WIPO talks, many argue that use of traditional knowledge ought to be subject to free, prior and informed consent, especially for sacred and secret materials. However, others fear that granting exclusive control over traditional cultures could stifle innovation, diminish the public domain and be difficult to implement in practice. Genetic resources Genetic resources themselves are not intellectual property (they are not creations of the human mind) and thus cannot be directly protected as intellectual property. However, inventions based on or developed using genetic resources (associated with traditional knowledge or not) may be patentable or protected by plant breeders’ rights. In considering intellectual property aspects of use of genetic resources, WIPO’s work complements the international legal and policy framework defined by the Convention on Biological Diversity (CBD), and its Nagoya Protocol, and the International Treaty on Genetic Resources for Food and Agriculture of the United Nations Food and Agriculture Organization. Issues under discussion at WIPO include: Defensive protection of genetic resources: This strand of the work aims at preventing patents being granted over genetic resources (and associated traditional knowledge) which do not fulfil the existing requirements of novelty and inventiveness. In this context, to help patent examiners find relevant prior art, proposals have been made that genetic resources and traditional knowledge databases could help patent examiners avoid erroneous patents and WIPO has improved its own search tools and patent classification systems. The other, more controversial, strand concerns the possible disqualification of patent applications that do not comply with CBD obligations on prior informed consent, mutually agreed terms, fair and equitable benefit-sharing, and disclosure of origin. “Biopiracy” is a term sometimes used loosely to describe biodiversity-related patents that do not meet patentability criteria or that do not comply with the CBD’s obligations – but this term has no precise or agreed meaning. Disclosure requirements: A number of countries have enacted domestic legislation putting into effect the CBD obligations that access to a country’s genetic resources should depend on securing that country’s prior informed consent and agreeing to fair and equitable benefit sharing. WIPO members are considering whether, and to what extent, the intellectual property system should be used to support and implement these obligations. Many, but not all, WIPO members want to make it mandatory for patent applications to show the source or origin of genetic resources, as well as evidence of prior informed consent and a benefit sharing agreement. Parallel discussions are also taking place in the World Trade Organization’s Council on Trade Related Aspects of Intellectual Property (TRIPS). WIPO also deals with the intellectual property aspects of mutually agreed terms for fair and equitable benefit-sharing. It has developed, and regularly updates, an online database of relevant contractual practices, and has prepared draft guidelines on intellectual property clauses in access and benefit-sharing agreements. Traditional cultural expressions Traditional cultural expressions (folklore) are seen as integral to the cultural and social identities of indigenous and local communities, embodying know-how and skills, and transmitting core values and beliefs. Protecting folklore contributes to economic development, encourages cultural diversity and helps preserve cultural heritage. Traditional cultural expressions can sometimes be protected by existing systems, such as copyright and related rights, geographical indications, appellations of origin, trademarks and certification marks. For example, contemporary adaptations of folklore are copyrightable, while performances of traditional songs and music may come under the WIPO Performances and Phonograms Treaty. Trademarks can be used to identify authentic indigenous arts, as the Maori Arts Board in New Zealand, Te Waka Toi, has done. Some countries also have special legislation for the protection of folklore. Panama has established a registration system for traditional cultural expressions, while the Pacific Regional Framework for the Protection of Traditional Knowledge and Expressions of Culture gives “traditional owners” the right to authorize or prevent use of protected folklore and receive a share of the benefits from any commercial exploitation. Developing an international legal instrument Because the existing international intellectual property system does not fully protect traditional knowledge and traditional cultural expressions, many communities and governments have called for an international legal instrument providing sui generis protection. **An international legal instrument would define what is meant by traditional knowledge and traditional cultural expressions, who the rights holders would be, how competing claims by communities would be resolved, and what rights and exceptions ought to apply. Working out the details is complex and there are divergent views on the best ways forward, including whether intellectual property-type rights are appropriate for protecting traditional forms of innovation and creativity. To take just one example, communities may wish to control all uses of their traditional cultural expressions, including works inspired by them, even if they are not direct copies. Copyright law, on the other hand, permits building on the work of others, provided there is sufficient originality. The text of the legal instrument will have to define where the line is to be drawn between legitimate borrowing and unauthorized appropriation.** On genetic resources, countries agree that intellectual property protection and the conservation of biodiversity should be mutually supportive, but differ on how this should be achieved and whether any changes to current intellectual property rules are necessary. **Representatives of indigenous and local communities are assisted by the WIPO Voluntary Fund to attend the WIPO talks, and their active participation will continue to be crucial for a successful outcome**. WIPO members have agreed to expedite their work so as to decide in late 2012 whether to convene a diplomatic conference for final adoption of one or more international instruments.

#### [3] The affirmative greenlights themselves as the moral savior but hides a history of imperialism – the 1ACs reform is empty and coopted by capitalist imperialist logic which justifies colonialism and reinforces racial difference.

Twailr 21 [Third World Approaches to International Law Review; “On Intellectual Property Rights, Access to Medicines and Vaccine Imperialism,” Twail Review; 3/23/21; <https://twailr.com/on-intellectual-property-rights-access-to-medicines-and-vaccine-imperialism/>] Justin

Supporters and opponents of a TRIPS waiver for the COVID-19 vaccines (February 2021) Despite calls to make COVID-19 vaccines and related technologies a global public good, western pharmaceutical companies have declined to loosen or temporarily suspend IP protections and transfer technology to generic manufacturers. Such transfer would enable the scale-up of production and supply of lifesaving COVID-19 medical tools across the world. Furthermore, these countries are also blocking the TRIPS waiver proposal put forward by South Africa and India at the WTO despite being supported by 57 mostly developing countries. The waiver proposal seeks to temporarily postpone certain provisions of the TRIPS Agreement for treating, containing and preventing the coronavirus, but only until widespread vaccination and immunity are achieved. This means that countries will not be required to provide any form of IP protection on all COVID-19 related therapeutics, diagnostics and other technologies for the duration of the pandemic. It is important to reiterate the waiver proposal is time-limited and is different from TRIPS flexibilities, which are safeguards within the Agreement to mitigate the negative impact of patents such as high price of patented medicines. These safeguards include compulsory licenses and parallel importation. However, because of the onerous process of initiating these flexibilities as well as the threat of possible trade penalties by the US through the United States Trade Representative (USTR) “Special 301” Report targeting countries even in the absence of illegality, many developing countries are reluctant to invoke TRIPS flexibilities for public health purposes. For example, in the past, countries such as Colombia, India, Thailand and recently Malaysia have all featured in the Special 301 Report for using compulsory licenses to increase access to cancer medications. It is these challenges that the TRIPS waiver seeks to alleviate and, if approved, would also provide countries the space, without fear of retaliation from developed countries, to collaborate with competent developers in the R&D, manufacturing, scaling-up, and supply of COVID-19 tools. However, because this waiver is being opposed by a group of developed countries, we are grappling with the problem of artificially-created vaccine scarcity. The effect of this scarcity will further prolong and deepen the financial impact of this pandemic currently estimated to cost USD 9.2 trillion, half of which will be borne by advanced economies. Thus, in opposing the TRIPS waiver with the hopes of reaping huge financial rewards, developed countries are worsening pandemic woes in the long term. Perhaps it is time to reorient our sight and call the ongoing practices of buying up global supply of vaccine what it truly is – vaccine imperialism. Another kind of scarcity caused by vaccine nationalism has also reduced equitable access. Vaccine nationalism is a phenomenon where rich countries buy up global supply of vaccines through advance purchase agreements (APA) with pharmaceutical companies for their own populations at the expense of other countries. But perhaps it is time to reorient our sight and call the ongoing practices of buying up global supply of vaccine what it truly is – vaccine imperialism. If we take seriously the argument put forward by Antony Anghie on the colonial origins of international law, particularly how these origins create a set of structures that continually repeat themselves at various stages, we will begin to see COVID-19 vaccine accumulation not only as political, but also as imperial continuities manifesting in the present. Take, for instance, the report released by the Duke Global Health Innovation Center that shows that high-income countries have already purchased nearly 3.8 billion COVID-19 vaccine doses. Specifically, the United States has secured 400 million doses of the Pfizer-BioNTech and Moderna vaccines, and has APAs for more than 1 billion doses from four other companies yet to secure US regulatory approval. The European Union has similarly negotiated nearly 2.3 billion doses under contract and is negotiating for about 300 million more. With these purchases, these countries will be able to vaccinate their populations twice over, while many developing states, especially in Africa, are left behind. In hoarding vaccines whilst protecting the IP interests of their pharmaceutical multinational corporations, the afterlife of imperialism is playing out in this pandemic. Moreover, these bilateral deals are hampering initiatives such as the COVID-19 Vaccine Global Access Facility (COVAX) – a pooled procurement mechanism for COVID-19 vaccine – aimed at equitable and science-led global vaccine distribution. By engaging in bilateral deals, wealthy countries impede the possibility of effective mass-inoculation campaigns. While the usefulness of the COVAX initiative cannot be denied, it is not enough. It will cover only the most vulnerable 20 per cent of a country’s population, it is severely underfunded and there are lingering questions regarding the contractual obligations of pharmaceutical companies involved in the initiative. For instance, it is not clear whether the COVAX contract includes IP-related clauses such as sharing of technological know-how. Still, even with all its faults, without a global ramping-up of production, distribution and vaccination campaigns via COVAX, the world will not be able to combat the COVID-19 pandemic and its growing variants. Health inequity and inequalities in vaccine access are not unfortunate outcomes of the global IP regime; they are part of its central architecture. The system is functioning exactly as it is set up to do. These events – the corporate capture of the global pharmaceutical IP regime, state complicity and vaccine imperialism – are not new. Recall Article 7 of TRIPS, which states that the objective of the Agreement is the ‘protection and enforcement of intellectual property rights [to] contribute to the promotion of technological innovation and to the transfer and dissemination of technology’. In similar vein, Article 66(2) of TRIPS further calls on developed countries to ‘provide incentives to enterprises and institutions within their territories to promote and encourage technology transfer to least-developed country’. While the language of ‘transfer of technology’ might seem beneficial or benign, in actuality it is not. As I discussed in my book, and as Carmen Gonzalez has also shown, when development objectives are incorporated into international legal instruments and institutions, they become embedded in structures that may constrain their transformative potential and reproduce North-South power imbalances. This is because these development objectives are circumscribed by capitalist imperialist structures, adapted to justify colonial practices and mobilized through racial differences. These structures are the essence of international law and its institutions even in the twenty-first century. They continue to animate broader socio-economic engagement with the global economy even in the present as well as in the legal and regulatory codes that support them. Thus, it is not surprising that even in current global health crisis, calls for this same transfer of technology in the form of a TRIPS waiver to scale up global vaccine production is being thwarted by the hegemony of developed states inevitably influenced by their respective pharmaceutical companies. The ‘emancipatory potential’ of TRIPS cannot be achieved if it was not created to be emancipatory in the first place. It also makes obvious the ways international IP law is not only unsuited to promote structural reform to enable the self-sufficiency and self-determination of the countries in the global south, but also produces asymmetries that perpetuate inequalities. Concluding Remarks What this pandemic makes clear is that the development discourse often touted by developed nations to help countries in the Global South ‘catch up’ is empty when the essential medicines needed to stay alive are deliberately denied and weaponised. Like the free-market reforms designed to produce ‘development’, IP deployed to incentivise innovation is yet another tool in the service of private profits. As this pandemic has shown, the reality of contemporary capitalism – including the IP regime that underpins it – is competition among corporate giants driven by profit and not by human need. The needs of the poor weigh much less than the profits of big business and their home states. However, it is not all doom and gloom. Countries such as India, China and Russia have stepped up in the distribution of vaccines or what many call ‘vaccine diplomacy.’ Further, Cuba’s vaccine candidate Soberana 02, which is currently in final clinical trial stages and does not require extra refrigeration, promises to be a suitable option for many countries in the global South with infrastructural and logistical challenges. Importantly, Cuba’s history of medical diplomacy in other global South countries raises hope that the country will be willing to share the know-how with other manufactures in various non-western countries, which could help address artificial supply problems and control over distribution. In sum, this pandemic provides an opportune moment to overhaul this dysfunctional global IP system. We need not wait for the next crisis to learn the lessons from this crisis.

### LBL

on dunford 17 - lack hijacks because people are only racist bc they thing they can create value in fulfilling the lsot object

on curbishley - we meet we can also break down hierarchies - doesnt justify the rotb

on reddy - it concedes capitalist imperlism is bad which links you into the case turn and j bc its survival doesnt mean its a reason the judge should vote for you, maybe a reasont o err aff but not vote aff

on 3 point -it says tricks are bad but not a reason indigenous scholarship is more resolvable

on 4 point - we meet, we can transofmr society

on 5 - no unique nb to debate you can do it in school b) we learn about colonialism in apush which nonuniques offense

on 6 - this is a reason discussion is good whcih your interp decks, but also that doesnt warrant offensive reasonf or your framing

on 7 - fallacy of origin bc your rotb isnt all epimstemology and we evaluyate the lack

on 8 - this is a reason discussion is good b) u might get perms for other ks but not this bc you warrant better evlauation but the k is literally about your existence in debate

also it turns the aff into a shifting advocacy which kills stable neg ground

on 9 - doesnt say anything about extinction b)says colonialisty s bad and can't be stopped which guts your solvency

on the offense

off 1 - the aff doesnt solve - you reduce ip for medicine but this says ip in general is bad which means theres other industries that exist

patents protect indigenous creators and anything else prevents their ability to pursue autonomy whcih turns case

off 2 - doesnt say anything about patents being reductionist, just that science is which means no link

3 - monocultures don't lead to extinction a) theres no warrant and intervening factors solve like government handouts

no relation ship to the plan whcih means it isnt effected

4 - this doesnt say anything about the plan - its inherency about protecting land not about patents