# Open source

#### [1] Interpretation: Debaters must disclose all constructive positions first 3 last 3 in cites with links to articles and card tags as well as open source with highlights on the 2021-2022 NDCA LD Wiki

#### Violation –

#### 1] Debate resource inequities—you’ll say people will steal cards, but that’s good—it’s the only way to truly level the playing field for students such as novices in under-privileged programs who can’t bypass paywalled articles.

Louden 10 – Allan D. Louden, professor of Communication at Wake Forest (“Navigating Opportunity: Policy Debate in the 21st Century” Wake Forest National Debate Conference. IDEA, 2010)// Lex VM

Groups interested in engaging in competitive National Debate Tournament (NDT)-Cross Examination Debate Association (CEDA)-style policy debate are entering an exciting time in the debate community where **digital resources are making research and networking increasingly accessible**. Those developing programs should be encouraged to choose their own topics and resolutions, but they should also make use of the massive resources available by focusing on the official NDT-CEDA resolution. **New initiatives in the field of open-source debate make evidence sharing, such as the Open Caselist, a powerful tool for new programs to engage and compete against established teams**. It is no coincidence that **the winners of the NDT tend to be the schools with the largest coaching staffs, but the increased distribution and free sharing of evidence and resources have made smaller debate programs increasingly capable of competing against larger institutions**. We are now seeing the beginnings of **increased resource sharing**, with multiple initiatives focusing on regional evidence sharing for groups of developing debate programs. This **is one example of dramatic changes occurring in the community that are capable of opening the doors for new participation in debate**. Regardless of outside influence, such as an organized campaign by preexisting debate organizations to increase resource distribution, students are independently capable of establishing the foundations for a larger competitive program. The following suggestions are a nonlinear set of options available to students who wish to establish a struc-tured and coached debate program, and eventually developing the capability to maintain multiple professional teaching positions, such as those discussed earlier in the chapter.

#### 2] Evidence ethics – disclosure is the only way to verify pre-round that cards aren’t miscut or highlighted or bracketed unethically. That’s a voter – maintaining ethical evidence practices is key to being good academics and we should be able to verify you didn’t cheat

#### 3] Depth of clash – it allows debaters to have nuanced researched objections to their opponents evidence before the round at a much faster rate, which leads to higher quality evidence comparison – outweighs cause thinking on your feet is NUQ but the best quality responses come from full access to a case.

#### Paradigm issues

#### Fairness is a voter since a) you concede its authority when you follow things like speech times and b) it is a gateway issue to correctly evaluating substance, which also means no cross-apps. Education is a voter b/c it’s the only reason why debate actually happens

#### DTD – a) DTA makes no sense on disclosure b) I had to spend time reading theory to check c) The round has already been skewed

#### Competing Interps – a) Reasonability is arbitrary since idk your BS meter b) Reasonability collapses by debating the brightline

#### No RVI – a) It’s illogical to vote for you for being fair b) to prevent the deterrence of legitimate theory c) It incentivizes you to bait theory and win off a scripted CI

# Vaccine 1AC

## 1AC --- Vaccine --- Version 1

### 1AC – Plan

#### Plan – The member nations of the World Trade Organization ought to reduce intellectual property protections for COVID-19 medicines.

#### Rich countries are blocking a WTO patent-waiver proposal necessary to boost global production of COVID vaccines.

Meredith 21. [(Sam Meredith is a Correspondent at CNBC in London, covering international politics, energy and business news) “Rich countries are refusing to waive the rights on Covid vaccines as global cases hit record levels,” CNBC, April 22, 2021. <https://www.cnbc.com/2021/04/22/covid-rich-countries-are-refusing-to-waive-ip-rights-on-vaccines.html>] TDI

LONDON — The U.S., Canada and U.K. are among some of the high-income countries actively **blocking a patent-waiver proposal** designed to **boost the global production of Covid-19 vaccines.** It comes as coronavirus cases worldwide surge to their highest level so far and the World Health Organization has repeatedly admonished a “**shocking imbalance” in the distribution of vaccines amid the pandemic.** Members of the World Trade Organization will meet virtually in Geneva, Switzerland on Thursday to hold informal talks on whether to temporarily waive intellectual property and patent rights on Covid vaccines and treatments. The landmark proposal, which was jointly submitted by India and South Africa in October, has been backed by more than 100 mostly developing countries. It aims to facilitate the manufacture of treatments locally and boost the global vaccination campaign. Six months on, the proposal continues to be **stonewalled by a small number of governments** — including the U.S., EU, U.K., Switzerland, Japan, Norway, Canada, Australia and Brazil. “In this Covid-19 pandemic, we are once again **faced with issues of scarcity**, which can be addressed through diversification of manufacturing and supply capacity and ensuring the **temporary waiver of relevant intellectual property**,” Dr. Maria Guevara, international medical secretary at Medecins Sans Frontieres, said in a statement on Wednesday. “It is about saving lives at the end, not protecting systems.” The **urgency and importance of waiving certain intellectual property rights amid the pandemic have been underscored** by the WHO, health experts, civil society groups, trade unions, former world leaders, international medical charities, Nobel laureates and human rights organizations. Why does it matter? The waiver, if adopted at the General Council, the WTO’s highest-level decision-making body, could **help countries around the world overcome legal barriers** preventing them from producing their own Covid vaccines and treatments. Advocates of the proposal have conceded the waiver is not a “silver bullet,” but argue that **removing barriers** toward the development, production and approval of vaccines is **vital in the fight to prevent, treat and contain the coronavirus.**

#### The pandemic is raging through developing economies and inflicting loss on a horrific scale and prolongs economic hardships – timeframe is fast.

Lindsey 21. [(Brink Lindsey) “Why intellectual property and pandemics don’t mix,” Brookings Institution, June 3, 2021. <https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/>] TDI

\*\*cut part about economic hardships

Although focusing on these immediate constraints is vital, we cannot confine our attention to the short term. First of all, the **COVID-19 pandemic is far from over**. Although Americans can now see the light at the end of the tunnel thanks to the rapid rollout of vaccines, most of the world isn’t so lucky. The virus is **currently raging in India and throughout South America, overwhelming health care systems and inflicting suffering and loss on a horrific scale**. And consider the fact that Australia, which has been successful in suppressing the virus, recently announced it was sticking to plans to keep its borders closed until mid-2022. Criticisms of the TRIPS waiver that focus only on the next few months are **therefore short-sighted**: this pandemic could well **drag on long enough for elimination of patent restrictions to enable new vaccine producers to make a positive difference.**

#### Critics of the IP waiver are wrong- it’s the most effective way to combat covid inequality, alternatives fail

Erfani et al, 21

(Parsa Erfani, Fogarty global health scholar1 2, Agnes Binagwaho, vice chancellor2, Mohamed Juldeh Jalloh, vice president3, Muhammad Yunus, chair4, Paul Farmer, professor57, Vanessa Kerry, associate professor810 Harvard Medical School, Boston, USA 2University of Global Health Equity, Rwanda 3Sierra Leone 4Yunus Centre, Bangladesh 5Global Health and Social Medicine, Harvard Medical School, Boston, USA 6Division of Global Health Equity, Brigham and Women’s Hospital, USA 7Partners In Health, USA 8Seed Global Health, USA 9Program in Global Public Policy and Social Change, Harvard Medical School, Boston, USA 10Division of Pulmonary and Critical Care Medicine, Massachusetts General Hospital, USA Intellectual property waiver for covid-19 vaccines will advance global health equity BMJ 2021; 374 doi: https://doi.org/10.1136/bmj.n1837 (Published 03 August 2021) Cite this as: BMJ 2021;374:n1837 https://www.bmj.com/content/374/bmj.n1837.full) The barrier to adequate vaccine supply today is not lack of vaccine options, nor even theoretical production capacity; the problem is the intellectual property (IP) protection governing production and access to vaccines—and ultimately, the political and moral will to waive these protections in a time of global crisis. Without such liberty, there will not be enough vaccine fast enough to prevent the spread of variants, the avoidable deaths, and the continued choking of low and middle income countries (LMICs) through poor health. Beyond donor based models of global vaccine equity As covid-19 became a pandemic, global efforts emerged to help ensure vaccines would be delivered across the globe to the highest risk populations. One of the first was Covax, a risk sharing mechanism in which countries, tiered by means, contribute to collectively source and equitably distribute vaccines globally. The effort, however laudable in intent, has been undercut by vaccine scarcity and underfunding. Covax aims to vaccinate 20% of the population in 92 low and middle income countries by the end of 2021. At the end of April, however, it had shipped only one fifth of its projected estimates and lacked critical resources for distribution.3 LMICs are wary about participating in well worn dynamics of global health aid. Instead, they are mobilising to overcome the fundamental paucity of available vaccines by challenging established global IP rules. At issue is the 1995 Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which established minimum protection standards for IP—including patents, industrial designs, trade secrets, and copyright—that all 164 members of the World Trade Organization (WTO) must respect.5 Subsequent rulings (such as the Doha declaration) have strived to clarify safeguards on patents, including compulsory licensing, which allows governments to license patents to a third party without consent (table 1).6 Today, these rules provide strong IP protection for vaccine technologies and affect the quantity and location of vaccine production and availability. Table 1 Licensing of intellectual property View popupView inline In October 2020, South Africa and India submitted a proposal to the WTO to temporarily waive certain provisions of the TRIPS agreement for covid-19 health products and technologies. The waiver would prevent companies that hold the IP for covid-19 vaccines from blocking vaccine production elsewhere on the grounds of IP and allow countries to produce covid-19 medical goods locally and import or export them expeditiously (table 1). Although the proposed IP waiver is supported by over 100 countries, WTO has not reached a consensus on the proposal because of opposition and filibustering by several high income countries, including the UK, Germany, and Japan.7 Waiver opponents argue that the limited capacity of LMICs to produce complex covid-19 vaccines safely is the true barrier to global production, not IP. They suggest that the TRIPS waiver would penalise drug companies, stifle biomedical innovation, and deter future investments in research and development—in sum, that it would reduce returns on investment and dismantle an IP system that provided the goods needed to end the pandemic. Others are concerned that an IP waiver would fuel supply chain bottlenecks for raw materials and undermine ongoing production. Moreover, policy makers argue that a waiver is unnecessary as company driven voluntary licensing—in which companies decide when and how to license their technologies—and existing TRIPS flexibilities (such as country determined compulsory licensing) should suffice in establishing production in LMICs (table 1). They suggest that waiving IP for covid-19 vaccines would provide no meaningful progress, but the data do not support this. What effect would a waiver have? Contrary to detractors’ concerns about the possible effect of a temporary TRIPS waiver, global health analyses suggest that it will be vital to equitable and effective action against covid-19. LMIC’s manufacturing capabilities have been underestimated, even though several LMICs have the scientific and manufacturing capacity to produce complex covid-19 vaccines. India, Egypt, and Thailand are already manufacturing viral vector or mRNA-based covid-19 vaccines,8910 and vaccine production lines could be established within months in some other LMICs,11 offering substantial benefit in a pandemic that will last years.11 Companies in India and China have already developed complex pneumococcal and hepatitis B recombinant vaccines, challenging existing vaccine monopolies.12 The World Health Organization launched an mRNA technology transfer hub in April 2021 to provide the logistical, training, and know-how support needed for manufacturers in LMICs to repurpose or expand existing manufacturing capacity to produce covid-19 vaccines and to help navigate accessing IP rights for the technology.13 Twenty five respondents from LMICs expressed interest, and South Africa was selected as the first hub, with plans to start producing the vaccine through the Biovac Institute in the coming months.14 Removing IP barriers through the waiver will facilitate these efforts, more rapidly enable future hubs, engage a greater number of manufacturers, and ultimately yield more doses faster. Moreover, as the waiver facilitates vaccine production, demand for raw materials and active ingredients will increase. Coupled with pre-emptive planning to anticipate and expand raw material production, the waiver—which encompasses the IP of all covid-19 vaccine-related technology— can offer a path to overcome bottlenecks and expand production of necessary vaccine materials. Current licensing mechanisms inadequate Voluntary licences have not and will not keep pace with public health demand. Since companies determine the terms of voluntary licences, they are often granted to LMICs that can afford them, leaving out poorer regions.10 For example, in South Asia, AstraZeneca has voluntarily licensed its vaccine to the Serum Institute of India, even though the region has multiple capable vaccine manufacturers.9 Many covid-19 vaccine developers have not taken steps towards licensing their technologies, simply because there is limited financial incentive to do so.11 To date, none have shared IP protected vaccine information with the WHO Covid-19 Technology Access Pool (C-TAP) established last year.15 Relying on the moral compass of companies that answer to shareholders to voluntarily license their technologies will have limited effect on vaccine equity. Their market is driven by profit margins, not public health. Compulsory licensing by LMICs will also be insufficient in rapidly expanding vaccine production, as each patent licence must be negotiated separately by each country and for each product based on its own merit. From 1995 to 2016, 108 compulsory licences were attempted and only 53 were approved.6 The case-by-case approach is slow and not suitable for a global crisis that requires swift action. In addition, TRIPS requires compulsory licences to be used predominantly for domestic supply, limiting exports of the licensed goods to nearby low income countries without production capacity.5 Although a “special” compulsory licence system was agreed in the Doha declaration to allow for expeditious exportation and importation (formalised as the article 31bis amendment to TRIPS in 2017), the provision is limited by cumbersome logistical procedures and has been rarely used.16 Governments may also be hesitant to pursue compulsory licences as high income countries have previously bullied them for doing so. Since India first used compulsory licensing for sorafenib tosylate in 2012 (reducing the cancer drug’s price by 97%), the US has consistently pressured the country not to use further compulsory licences.17 During this pandemic, Gilead sued the Russian government for issuing a compulsory licence for remdesivir.18 Furthermore, while compulsory licences are primarily for patents, covid-19 vaccines often have other types of IP, including trade secrets, that are integral for production.19 The emergency TRIPS waiver removes all IP as a barrier to starting production (not just patents) and negates the prolonged time, inconsistency, frequent failure, and political pressure that accompany voluntary licensing and compulsory licensing efforts. It also provides an expeditious path for new suppliers to import and export vaccines to countries in need without bureaucratic limitations. Finally, there is no compelling evidence that the proposed TRIPS waiver would dismantle the IP system and its innovation incentives. The waiver is restricted to covid-19 related goods and is time limited, helping to protect future innovation. It would, however, reduce profit margins on current covid-19 vaccines. With substantial earnings in the first quarter of 2021, many drug companies have already recouped their research and development costs for covid-19 vaccines.20 However, they have not been the sole investors in vaccine development, and they should not be the only ones to profit. Most vaccines received a substantial portion of their direct funding from governments and not-for-profit organisations—and for some, such as Moderna and Novavax, nearly all.21 Decades of publicly funded research have laid the groundwork for current innovations in the background technologies used for vaccines.22 Given that companies were granted upfront risk protection for covid-19 vaccine research and development, a waiver that advances global public health but reduces vaccine profits in a global crisis is reasonable. Knowledge transfer An IP waiver for covid-19 vaccines is integral to boosting vaccine supply, breaking vaccine monopolies, and making vaccines more affordable in LMICs. It is, however, only a first, but necessary, step. Originator companies must transfer vaccine technology and share know-how with C-TAP, transfer hubs, or individual manufacturers to help suppliers begin production.23 In addition, governments must leverage domestic law, private sector incentives, and contract terms with pharmaceutical companies to compel companies to cooperate with such transfers.24 If necessary, governments can require technology transfers in exchange for continuing enterprise in a country or avoiding penalties. Politicians and leaders are at a critical juncture: they will either take the necessary steps to make vaccine technology available to scale production, stimulate global collaboration, and create a path to equity or they will protect a hierarchical system based on an economic bottom line. The former will not only build a vaccination trajectory that puts equal value on the lives of the rich and the poor, but will also help stem the pandemic’s relentless momentum and quell the emergence of variants. We are in the middle of one of the largest vaccination efforts in human history. We cannot rely on companies to thread the needle of corporate social and moral responsibility with shareholder and stock value returns nor expect impacted governments to endure lengthy bureaucratic licensing processes in this time of crisis. It will be a legacy of apathy and unnecessary death. As the human impact of the proposed IP waiver becomes clear, consensus behind it is growing. Countries that previously opposed the waiver—such as the US and Brazil—now support written text based negotiations.7 Opposing countries must stop blocking the waiver, engage in transparent text negotiations, and commit to reaching consensus swiftly. The longer states stall, the more people die needlessly. Covid-19 has repeatedly shown that people without access to resources such as strong health systems, health workers, medicines, and vaccines will preferentially fall ill and die. For too long, this cycle has been “other people’s” problem. It is not. It is our problem.

### 1AC – WTO Credibility

#### Advantage 1 is WTO Credibility.

#### The new head of the WTO is on track to push for reform and an increased role but is hindered now due to lack of vaccine agreement.

Baschuk 4-27. [(Bryce Baschuk is a Bloomberg Reporter) ["WTO Chief Pursues a ‘Hectic’ Agenda to Fix World Trade’s Referee," Bloomberg, April 27, 2021. https://www.bloomberg.com/news/articles/2021-04-27/wto-chief-pursues-a-hectic-agenda-to-fix-world-trade-s-referee](file:///Users/adenbarton/Downloads/%22WTO%20Chief%20Pursues%20a%20‘Hectic’%20Agenda%20to%20Fix%20World%20Trade’s%20Referee,%22%20Bloomberg,%20April%2027,%202021.%20https:/www.bloomberg.com/news/articles/2021-04-27/wto-chief-pursues-a-hectic-agenda-to-fix-world-trade-s-referee)] TDI

The head of the World Trade Organization **raised an alarm about the credibility of the multilateral trading system**, urging leaders to act fast to bolster the global economy with steps like fairer vaccine distribution and cooperate to resolve longer-term problems like overfishing. During her first two months, WTO Director-General Ngozi Okonjo-Iweala has met with trade ministers around the globe to communicate a message that **the WTO is important, it needs to be reformed and it needs to deliver results.** So far, she says the reception from world leaders has been positive, but quickly translating that goodwill into substantive outcomes during a global pandemic is just as daunting as she anticipated. “The word I would use to describe it is absolutely hectic,” Okonjo-Iweala said in a phone interview on Tuesday when asked about her first few months in the job. “The challenges we thought were there are there and getting an agreement is not as easy because of longstanding ways of negotiating business positions.” Read More: Arcane WTO Pact Moves to Center of Vaccine Debate: Supply Lines Countries need to move past the notion that one country’s gain in international commerce is another’s loss, she said. “We need to break out of the zero-sum deadlock,” Okonjo-Iweala said. “We need to remind the countries and members that the WTO is here to deliver for people. **We can’t take 20 years to negotiate something**.” Okonjo-Iweala said **her top priority is to use trade to alleviate the pandemic** and said her recent meeting with trade ministers and vaccine manufacturers provided a positive step in the right direction. ‘More Pragmatism’ “That meeting yielded quite a lot,” she said. “I see more pragmatism on both sides.” An important component of the WTO’s trade and health agenda is a proposal from India and South Africa that seeks to temporarily waive enforcement of the WTO’s rules governing intellectual property for vaccines and other essential medical products. Read More: U.S. Trade Chief Meets Pfizer, AstraZeneca About Vaccine Supply As of this week there are fresh signals that the Biden administration, which currently opposes a waiver to the WTO agreement on Trade-Related Aspects of Intellectual Property Rights, wants vaccine manufacturers like Pfizer Inc. and AstraZeneca Plc to help ramp up U.S. pandemic assistance to the rest of the world. “There is movement,” Okonjo-Iweala said. “Are we there yet? No, but there is a little bit of change in the air among members. I think hopefully we will be able to come to some sort of a framework for the WTO ministers to bless.” “We don’t have time,” she added. “People are dying.” Okonjo-Iweala said this month’s vaccine meeting also revealed areas where the developing world can increase its capacity to produce more doses rather than waiting for rich countries to send them their excess supplies. She said various emerging markets such as India, Pakistan, Bangladesh, Senegal, Indonesia and Egypt already have some capacity to begin producing vaccines for people living in developing economies.

#### Patent waiver is necessary to revitalize WTO’s credibility as an international dispute mechanism – creates momentum for further reform.

Meyer 6-18-21. [(David Meyer is the Editor of CEO Daily and a senior writer on Fortune’s European team. Author of the digital rights primer, Control Shift: How Technology Affects You and Your Rights. “The WTO’s survival hinges on the COVID-19 vaccine patent debate, waiver advocates warn,” Fortune, June 18, 2021. <https://fortune.com/2021/06/18/wto-covid-vaccines-patents-waiver-south-africa-trips/>] TDI

The World Trade Organization knows all about crises. Former U.S. President Donald Trump threw a wrench into its core function of resolving trade disputes—a blocker that President Joe Biden has not yet removed—and there is widespread dissatisfaction over the fairness of the global trade rulebook. The 164-country organization, under the fresh leadership of Nigeria's Ngozi Okonjo-Iweala, has a lot to fix. However, **one crisis is more pressing than** the **others**: the battle over COVID-19 vaccines, and whether the protection of their patents and other intellectual property should be temporarily lifted to boost production and end the pandemic sooner rather than later. According to some of those pushing for the waiver—which was originally proposed last year by India and South Africa—**the WTO's future rests on what happens next.** "The credibility of the WTO will depend on its ability to find a meaningful outcome on this issue that truly ramps-up and diversifies production," says Xolelwa Mlumbi-Peter, South Africa's ambassador to the WTO. "Final nail in the coffin" The Geneva-based WTO isn't an organization with power, as such—it's a framework within which countries make big decisions about trade, generally by consensus. It's supposed to be the forum where disputes get settled, because all its members have signed up to the same rules. And one of its most important rulebooks is the Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS, which sprang to life alongside the WTO in 1995. The WTO's founding agreement allows for rules to be waived in exceptional circumstances, and indeed this has happened before: its members agreed in 2003 to waive TRIPS obligations that were blocking the importation of cheap, generic drugs into developing countries that lack manufacturing capacity. (That waiver was effectively made permanent in 2017.) Consensus is the key here. Although the failure to reach consensus on a waiver could be overcome with a 75% supermajority vote by the WTO's membership, this would be an unprecedented and seismic event. In the case of the COVID-19 vaccine IP waiver, it would mean standing up to the European Union, and Germany in particular, as well as countries such as Canada and the U.K.—the U.S. recently flipped from opposing the idea of a waiver to supporting it, as did France. **It's a dispute between countries, but the result will be on the WTO as a whole**, say waiver advocates. "If, in the face of one of humanity's greatest challenges in a century, the WTO functionally becomes an obstacle as in contrast to part of the solution, **I think it could be the final nail in the coffin"** **for the organization**, says Lori Wallach, the founder of Public Citizen's Global Trade Watch, a U.S. campaigning group that focuses on the WTO and trade agreements. "If the TRIPS waiver is successful, and people see the WTO as being part of the solution—saving lives and livelihoods—**it could create goodwill and momentum to address what are still daunting structural problems."** Those problems are legion. Reform needs Top of the list is the WTO's Appellate Body, which hears appeals in members' trade disputes. It's a pivotal part of the international trade system, but Trump—incensed at decisions taken against the U.S. —blocked appointments to its seven-strong panel as judges retired. The body became completely paralyzed at the end of 2019, when two judges' terms ended and the panel no longer had the three-judge quorum it needs to rule on appeals. Anyone who hoped the advent of the Biden administration would change matters was disappointed earlier this year when the U.S. rejected a European proposal to fill the vacancies. "The United States continues to have systemic concerns with the appellate body," it said. "As members know, the United States has raised and explained its systemic concerns for more than 16 years and across multiple U.S. administrations." At her confirmation hearing in February, current U.S. Trade Representative Katherine Tai reiterated those concerns—she said the appellate body had "overstepped its authority and erred in interpreting WTO agreements in a number of cases, to the detriment of the United States and other WTO members," and accused it of dragging its heels in settling disputes. "Reforms are needed to ensure that the underlying causes of such problems do not resurface," Tai said. "While the U.S. [has] been engaging [with the WTO] it hasn't indicated it would move quickly on allowing appointments to the Appellate Body," says Bryan Mercurio, an economic-law professor at the Chinese University of Hong Kong, who opposes the vaccine waiver. "This is not a good sign. In terms of WTO governance, it's a much more important step than supporting negotiations on an [intellectual property] waiver." It's not just the U.S. that wants to see reform at the WTO. In a major policy document published in February, the EU said negotiations had failed to modernize the organization's rules, the dispute-resolution system was broken, the monitoring of countries' trade policies was ineffective, and—crucially—"the trade relationship between the U.S. and China, two of the three largest WTO members, is currently largely managed outside WTO disciplines." China is one of the key problems here. It became a WTO member in 2001 but, although this entailed significant liberalization of the Chinese economy, it did not become a full market economy. As the European Commission put it in February: "The level at which China has opened its markets does not correspond to its weight in the global economy, and the state continues to exert a decisive influence on China's economic environment with consequent competitive distortions that cannot be sufficiently addressed by current WTO rules." "China is operating from what it sees as a position of strength, so it will not be bullied into agreeing to changes which it sees as not in its interests," says Mercurio. China is at loggerheads with the U.S., the EU and others over numerous trade-related issues. Its rivals don't like its policy of demanding that Chinese citizens' data is stored on Chinese soil, nor do they approve of how foreign investors often have to partner with Chinese firms to access the country's market, in a way that leads to the transfer of technological knowhow. They also oppose China's industrial subsidies. Mercurio thinks China may agree to reforms on some of these issues, particularly regarding subsidies, but "only if it is offered something in return." All these problems won't go away if the WTO manages to come up with a TRIPS waiver for COVID-19 vaccines and medical supplies, Wallach concedes. "**But**," she adds, "**the will and the good faith to tackle these challenges is increased enormously if the WTO has the experience of being part of the solution, not just an obstacle."** Wallach points to a statement released earlier this month by Asia Pacific Economic Cooperation (APEC) trade ministers, which called for urgent discussions on the waiver. "The WTO must demonstrate that global trade rules can help address the human catastrophe of the COVID-19 pandemic and facilitate the recovery," the statement read in its section about WTO reform. Okonjo-Iweala's role The WTO's new director general, whose route to the top was unblocked in early 2021 with the demise of the Trump administration, is certainly keen to fix the problems that contributed to the early departure of her predecessor, Brazil's Robert Azevedo. "We must act now to get all our ambassadors to the table to negotiate a text" on the issue of an IP waiver for COVID vaccines, Ngozi Okonjo-Iweala, director general of the World Trade Organization, has said. Dursun Aydemir—Anadolu/Bloomberg/Getty Images Earlier this week, when the U.S. and EU agreed a five-year ceasefire in a long-running dispute over Boeing and Airbus aircraft subsidies, Okonjo-Iweala tweeted: "With political will, we can solve even the most intractable problems." However, Mercurio is skeptical about her stewardship having much of an effect on the WTO's reform process. "Upon taking [over she] stated it was time for delegations to speak to each other and not simply past each other, but at the recent General Counsel meeting delegations simply read prepared statements in what some have described as the worst meeting ever," he says. "On the other hand, Ngozi is very much someone who will actively seek solutions to problems, and in this way different to her predecessor. If the role of mediator is welcomed, she could have an impact not in starting discussions but in getting deals over the finish line."

#### No alt causes – how the WTO acts now with Covid will shape its role in the international economy for decades to come.

Evenett and Baldwin 20**.** [(Simon J. Evenett is Professor of International Trade and Economic Development at the University of St. Gallen, Switzerland, and Co-Director of the CEPR Programme in International Trade and Regional Economics. Richard E. Baldwin is a professor of international economics at the Graduate Institute of International and Development Studies in Geneva. “Revitalising multilateral trade cooperation: Why? Why Now? And How?” November 10, 2020. <https://voxeu.org/content/revitalising-multilateralism-pragmatic-ideas-new-wto-director-general>] TDI

Purposeful, pragmatic steps towards noble goals Archbishop Desmond Tutu, that tireless campaigner against Apartheid, once remarked that “there is only one way to eat an elephant: one bite at a time”. **After a decade of drift and backsliding**, the task of revitalising multilateral trade cooperation may seem daunting. It may seem even more so after the disruption of the COVID-19 pandemic and the attendant slump in world trade. **Yet, in the same emergency lies the seeds of revival** – **especially, if trade diplomats can demonstrate the relevance of the WTO to national governments fighting this pandemic** – **ideally through an accord that eases the cross-border shipment of needed medical goods and medicines**. Step by pragmatic step, the **WTO can regain its centrality in the world trading system**. **Ultimately, the pandemic affords the opportunity to reframe discussions on multilateral trade cooperation away from the stalemate, frustration of recent years between governments**, and the Uruguay Round mindset that ran into diminishing returns years ago. Rather, discussions between governments need to draw lessons from the second global economic shock in 15 years so as to rebuild a system of global trade arrangements capable of better tackling systemic crises and, more importantly, better able to contribute to the growing number of first-order challenges facing societies in the 21st century. Doing so will require revisiting the very purpose of the WTO.

#### Post Covid WTO legitimacy and credibility necessary to prevent a downward spiral of protectionism.

Solís 20 [(Mireya Solís is director of the Center for East Asia Policy Studies, Philip Knight Chair in Japan Studies, and a senior fellow in the Foreign Policy program at Brookings. “The post COVID-19 world: Economic nationalism triumphant?” July 10, 2020. <https://www.brookings.edu/blog/order-from-chaos/2020/07/10/the-post-covid-19-world-economic-nationalism-triumphant/>] TDI

The damage caused by the worst global health crisis in a century is vast. The new coronavirus has traveled far and fast, infecting more than 8.7 million people and killing more than 460,000. One after another, economies have gone into lockdown to slow down the spread of the disease. The combined supply and demand shocks have ravaged the world economy with the most severe downturn since the Great Depression; **anticipated drops to international trade and investment flows of 30% and 40%,** respectively; and unemployment spikes in many countries. The pandemic has cost lives and livelihoods and has erased the chances of returning to the status quo ante, but it has also brought little clarity regarding what kind of international order it will usher in. Is the future one of deglobalization, decoupling, and reshoring of economic activity? **The pandemic hit an already wounded multilateral trading system**. The chances that the World Trade Organization (WTO) can deliver a multilateral round of trade negotiations to slash tariffs across the board and update the trade and investment rulebook are nil. But the WTO has also lost its central role as arbiter of trade disputes among its members. In December 2019, the Appellate Body ceased to function due to the U.S. block of new appointments, citing judicial overreach. **At a time of rising protectionism, the erosion of a rules-based mechanism to adjudicate disputes bodes ill.** **Longstanding challenges to the WTO have been exacerbated by an abdication of leadership from the great powers to ensure its survival**. China has been the godchild of globalization, leveraging its accession to the WTO to become workshop for the world and a huge domestic market coveted by foreign firms. But China lost its appetite for economic reform, reinvesting on a state capitalism model that imposes heavy costs on other nations. Unchecked subsidies and privileges awarded to its state-owned enterprises, insufficient protection of intellectual property, foreign investment restrictions, forced technology transfers, and cyber protectionism all make the Chinese government’s self-proclamation as champion of global free trade ring hollow. The Trump administration judges the WTO incapable of tackling the China challenge, but instead of creating coalitions of like-minded countries to bring about effective multilateral trade governance, it appears determined to further harm ~~cripple~~ the international organization. It has offered no blueprint to fix the dispute settlement mechanism, has abused the national security exemption to raise tariffs against allies, and is gearing up for its most fundamental assault to date on the WTO: a tariff reset through which the U.S. may unilaterally abandon its commitments on bound tariffs and apply larger duties to force other countries to open their markets. **Trade spats as other countries retaliate in kind is a more likely result.** Tariff wars and the battle for technology supremacy have come to define U.S.-China great power competition. After a grueling trade conflict, the United States and China reached a limited trade agreement in January 2020. The deal marked a pause in the tariff war and addressed some non-tariff barriers on foreign direct investment and intellectual property; but it left intact the core of Chinese industrial policy (public subsidies and state-owned enterprises) and retained U.S. duties on $360 billion worth of Chinese products. China’s massive purchase commitments ($200 billion) were quickly rendered unattainable by the severe economic downturn in China due to COVID-19. In fighting for the new economic order, setting standards on cutting-edge technologies will be at the forefront. China is using all the levers of industrial policy to gain technological primacy in areas like AI and quantum computing. Telecom and the battle over 5G offer a preview of quarrels to come. Deeply concerned with the cybersecurity risks that Chinese telecom giants like Huawei pose, the U.S. government placed the company on its Entity List, banning American exports without a license. It has since tightened the restrictions by barring foreign companies from supplying Huawei with products manufactured with American equipment and technology. National security concerns are increasingly encroaching on existing webs of economic interdependence. Wary of China’s acquisition of critical technology, countries like the United States, Australia, and Japan have tightened their screening of foreign direct investment. The pandemic has only exacerbated concerns that weakened companies in strategic sectors are at risk of foreign takeover. COVID-19’s impact on the international trading system is twofold. It has reinforced existing trends such as the deceleration and now drop in the volume of international trade, the rise of economic security as governments expand their toolkit to restrict trade and investment flows, and it has laid bare the fallout in U.S.-China relations. But the pandemic also brought new challenges that exposed the extent to which trade cooperation is in short supply. Export protectionism has risen in prominence with national restrictions on shipments of essential medical supplies and personal protective equipment. The WTO allows for such curbs for public health purposes – provided the measures are temporary and transparent. Few countries, however, have bothered to comply with their notification commitments. **The blow comes at a time when the WTO is adrift** with the decision of Director General Roberto Azevedo to step down early, opening the search for new leadership in a climate of divisiveness. Graph detailing the number of countries that imposed export restrictions on various categories of medical supplies and devices in response to the coronavirus pandemic. Are we on the eve of a renationalized world economy? That is the aspiration of several American and European public officials who fault extended global supply chains and overdependence on China for the current mishaps in tackling the pandemic. But the view that economic nationalism and reshoring of manufacturing is a fail-safe path to security and prosperity is wrong. For one, it skirts the responsibility of governments to properly stockpile essential medical supplies. Furthermore, the export curbs will be counterproductive, eliminating incentives for producers to expand capacity and increasing the cost of much needed medicines and medical devices. If the recent lockdowns have taught us anything, it is that exclusive reliance on the domestic market is too risky. Diversification of supply, redundancies in the manufacturing chain, and stockpiling programs are better alternatives. In this endeavor, global supply chains are part of the solution, not the problem. COVID-19 will not produce an exodus of foreign companies from the Chinese market. Recent surveys of American companies with operations in China show that most firms intend to stay put. A February survey of Japanese companies conducted by Tokyo Shoko Research shows that only a fraction (4%) are considering exit from China. Therefore, the Japanese government’s $2.2 billion fund to restructure supply chains should be understood as risk management, not decoupling. When international companies map out their business strategies, they must factor in heightened risks – protectionism, national security controls, and economic lockdowns. **Hence, efforts by middle powers to offer an interim arbitration mechanism at the WTO** to handle trade disputes and to commit to maintaining open supply chains in essential medical goods **are the right antidote to rising economic nationalism**. As a staunch supporter of rules-based trade and with its decision to forego export protectionism in the current crisis, Japan has much to contribute to these efforts.

#### Trade solves great power competition – regionalism causes militarized crises.

Lake 18 [(David Lake is a Professor of Social Sciences and Distinguished Professor of Political Science at the University of California, San Diego. "Economic Openness and Great Power Competition: Lessons for China and the United States,” April 30, 2018. <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3171196/>] TDI

I develop two central arguments. First, historically, great power competition has been driven primarily by exclusion or fears of exclusion from each power’s international economic zone, including its domestic market. Great powers in the past have often used their international influence to build zones in which subordinate polities – whether these be colonies or simply states within a sphere of influence – are integrated into their economies. These economic zones, in turn, are typically biased in favor of the great power’s firms and investors, with the effect of excluding (in whole or part) the economic agents of other great powers. These other great powers, in response, are then compelled to develop or expand their own exclusive economic zones. The “race” for economic privilege can quickly divide the world up into economic blocs. Like the security dilemma, great powers need not actually exclude one another from their zones; the fear of exclusion alone is enough to ignite the process of division. The race for privilege then draws great powers into over-expanding into unprofitable regions and, more important, militarized competition. Economic and military competition are thus linked, with the former usually driving the latter. The most significant military crises have, historically, been over where to draw the boundaries between economic zones and subsequent challenges to those boundaries. Economic closure and fear of closure have been consistent sources of great power conflict in the past – and possibly will be in the future. The major exception to this trend was the peaceful transfer of dominance in Latin America from Britain to the United States in the late nineteenth century. This suggests that economic closure and great power competition is not inevitable, but a choice of the great powers themselves. Second, this international competition is driven, in turn, by domestic, rent-seeking groups and their economic interests. In all countries, scarce factors of production, import competing sectors, and domestically-oriented firms have concentrated and intense preferences for market restricting policies, including tariffs and the formation of exclusive economic zones. Consumers and free trade-oriented groups have diffuse preferences for market enhancing policies, and thus tend to lose at the ballot box and in the making of national policy. This inequality in preference intensity does not mean protectionists always win; after 1934, the United States insulated itself by shifting authority to the executive and negotiating reductions through broad, multi-product international agreements.8 Yet, as the recent return to economic nationalism of the Trump administration suggests, protectionism often wins out. Rent-seeking is a central tendency, not an inevitable success. Contemporary great power relations are at a critical juncture. As China’s influence expands, the role of special economic interests in China is especially worrisome. In pursuit of stability, political support, or private gains, the government will always be tempted to create economic zones that favor its nationals. In this way, China will be no different than the majority of great powers before it. But, given the expansive role of the state in the Chinese economy, especially its backing of outward foreign investments by its state-owned enterprises (SOEs), and the close ties between business elites and its authoritarian political leaders, however, it will be even harder for China to resist biasing any future economic zone to benefit its own firms. Although China has gained greatly from economic openness, its domestic political system will be prone to rent-seeking demands by important constituents in areas of future influence. Critically, the United States is also moving toward economic closure with the election of President Trump on a platform of economic nationalism. Demands for protection against Chinese goods have been growing over time.9 The “China shock” that followed Beijing’s joining the World Trade Organization was a huge disruption to the international division of labor, U.S. comparative advantage, and especially U.S. industry.10 The Trans-Pacific Partnership, though now defunct, was “marketed” by President Barak Obama as a means of “containing” China, both economically and militarily, but was opposed by virtually all of the candidates in the 2016 presidential election for its trade-enhancing potential. President Trump has already signaled a much more hostile and protectionist stance toward China – as well as calling for the repeal of NAFTA and even questioning the utility of the European Union. Not only has he imposed tariffs on washing machines, solar panels, steel and aluminum, dangerously declaring the latter two issues of national security, he is making exceptions on these tariffs for friends and allies. 11 Implicitly targeting China, these protectionist moves by the administration risk creating preferential trading blocs not seen since the 1930s. He has also now proposed punitive tariffs on over $60 billions of imports from China into the United States.12 Acknowledging his inconsistencies on many policy issues, Trump’s economic nationalism has remained the core of his political agenda. The threat to the liberal international economy is not only that China might seek an economic bloc in the future, but that the United States itself is turning more exclusionary. For each great power to fear that the other might seek to exclude it from its economic zone is not unreasonable. If so, great power competition could break out in the twenty-first century not because of bipolarity or any inevitable tendency toward conflict, but because neither great power can control its own protectionist forces nor signal to the other that it would not exclude it from its economic zone. The British-U.S. case, again, suggests that exclusion and competition are not inevitable, but the current danger of economic closure is real and increasing. This article is synthetic in its theory and merely suggestive in its use of historical evidence. The theory aims to integrate current work on political economy and national security, not to develop a completely original take on this relationship. In turn, rather than testing the theory in any rigorous sense or delving into particular cases to show the theoretical mechanisms at work, so to speak, it surveys selected historical episodes to illustrate central tendencies. It is the recurring pattern across multiple cases that suggests why we should worry today. The remainder of this essay is divided in three primary sections. Section I briefly outlines the analytics of economic openness and great power competition. Section II focuses on historical instances of great power competition, highlighting the role of economic openness as a central cleavage in international politics. Section III examines contemporary policies in and between China and the United States. The conclusion suggests ways that the potential for conflict may be mitigated. The Open Economy Politics of Great Power Competition All states have a tendency towards protectionism at home and exclusive economic zones abroad. A tendency, though, is not an inevitability. The pursuit of protection and economic zones by domestic interests is conditioned by the political coalition in power at any given time and institutions that aggregate and bias the articulation of social groups. 13 The tendency is also influenced, however, by the actions of other countries. Protectionism can sour great power relations, but it is the desire for exclusive economic zones that drives great power competition and, given the possibility of coercion, influences grand strategy. Thus, the theory sketched here integrates insights from international political economy (see below), the literature on domestic politics and grand strategy,14 and systemic theories of international relations.15

#### Independently, WTO cred solves nuclear war – allows an off-track for nuclear weapons.

Hamann 09 [(Georgia Hamann is a 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,” 2009.] TDI

**Voluntary compliance with WTO rules** and procedures is of the utmost importance **to the international trading system**.'0 0 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**. **01' 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. 10 2 Demagogues in the Unites States may decry the rise of China as a geopolitical threat, 0 3 and extremists in Russia may play dangerous games of brinksmanship with other great powers, **but trade keeps politicians' fingers off "the button**. ' 10 4 **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. 10 7 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.

### 1AC – Framing

#### The standard is maximizing expected well-being.

#### 1] Only pleasure and pain are intrinsically valuable – all other frameworks collapse.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] TDI

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that **pleasure is intrinsically valuable and pain is intrinsically disvaluable**. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for **there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels**, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 **The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values.** If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the **pleasure is not good for anything further**; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value.**

#### 2] Extinction first --- 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**.

#### 3] Actor specificity: A] Governments must aggregate since every policy benefit some and harms others, which also means side constraints freeze action. B] States lack wills or intentions since policies are collective actions. C] Actor-specificity comes first since different agents have different ethical standings.

## State good

#### Legal education: Engagement with government policy's valuable even if the law's irredeemable in the long run. Radical activism still requires knowledge of the levers of power.

**McCann and Lovell, 18** **(Michael McCann and George I. Lovell, \*Gordon Hirabayashi Professor for the Advancement of Citizenship at the University of Washington, \*\*Professor and Chair of Political Science at the University of Washington, 2018, accessed on 12-19-2020, *From the Streets to the State*, "Toward a Radical Politics of Rights: Lessons about Legal Leveraging and Its Limitations", http://library.lol/main/6BCF6AA5888487A3FA5BA9A4A516D981) \*brackets in original //lex dy**

In our aspirations for progressive change, engaging with the law is not a free choice among tactics. It is a necessity. Egalitarian activists are routinely forced into legal engagement by the omnipresence of law as a violent force imposing hierarchical order and harsh punitive constraints on oppressed populations. Although activists are often motivated by the quest for legal recognition of rights claims, offensively mobilizing law to support egalitarian struggles is only a small part of movement appeals to law. Defensive actions to evade law’s repressive force or to protect previous gains are often much more significant. In our view, there is surprisingly little rigorous theorizing about the different types of struggles on the terrain of law, the most useful indicators of effective legal action, and especially the measures of egalitarian or inclusionary change.1 Law is an enduring site for progressive democratic contestation. Although official law is often a tool of repression, legal norms and institutions can also be resources for egalitarian rights claims, and, at certain historical moments, even social transformation. No matter how radical one’s political aspirations, the necessarily long-run character of revolutionary social transformation requires a series of intermediate steps, including those on the terrain of law. As the British socialist E. P. Thompson (1975) asserts Most [people] have a strong sense of justice, at least with regard to their own interests. If the law is evidently partial and unjust, then it will mask nothing, legitimize nothing, contribute nothing to any class’s hegemony. The essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just. . . . The rhetoric and the rules of a society are something a great deal more than sham. In the same moment they may modify, in profound ways, the behavior of the powerful, and mystify the powerless. They may disguise the true realities of power, but, at the same time, they may curb that power and check its intrusions. . . . And it is often from within that very rhetoric that a radical critique of the practice of the society is developed. (436–39) In this chapter, we describe legal mobilization as the articulation of a social interest, general policy, or a societal vision in terms of legal entitlement. As Frances Kahn Zemans (1983) famously put it, legal mobilization entails that “a desire or want . . . is translated into a demand as an assertion of one’s rights” (3). Since legal language is indeterminate and polyvalent, it is contestable. Dominant legal norms are incomplete and rife with tensions, and they adapt as the perceived interests of dominant groups respond to, or occasionally converge with, the demands of oppressed groups (Bell 1980). Although much legal contestation occurs between recognized rights-bearing subjects over the authoritative meaning of clashing liberal legal principles, legal mobilization also involves oppressed groups mobilizing liberal principles against illiberal, repressive modes of social control. These contests over ascribed race, gender, sexual, immigrant, and other marginalized identities often expand the rule of liberal legalism (Smith 1997; Orren 1992). More importantly, struggles by progressive activists can use the liberal principle of equal citizenship to counter the property- and contract-based principles of capitalism, thereby challenging unequal resource distribution and class exploitation (Brown 2003; Smith 1997). As Stuart Scheingold (1974) argues, “law cuts both ways,” both for and against egalitarian social justice (91; see also McCann 1994). When, how, and to what degree legal discourse and institutions provide resources for oppressed groups depends largely on the mix of legal and especially extralegal factors in a given historical context. Our research devotes considerable attention to the changing features of the cultural and institutional terrain that delimit the possibilities and forms of contestation within and against law. Of course, fighting for control of legal institutions and principles does not guarantee radical social change. But succumbing to anti-legalism cedes control over the terms of institutional organization, instrumental rule, and regime legitimation to dominant forces propelling capitalism and other hierarchies. We recognize that our approach is at odds with some important recent movements and their interpreters. Arguably, the Occupy movements in and beyond the United States expressed a notable disdain for legal rights claiming, litigation strategies, and general appeals to legal strategies (Almog and Barzilai 2014). This disenchantment with law, legal processes, and lawyers is understandable in the post-civil rights era and the immediate post-recession moment. Indeed, wariness about law is always sound. Moreover, Occupy did profoundly reorient the dominant agenda in many parts of the global North. It put “deficit and debt hawks” on the defense and elevated concerns about economic fairness and the political accountability of private financial managers. At the same time, Occupy espoused and enacted little in the way of institutional changes within government and capitalist society. By shedding any reliance on discourses of rights, Occupy arguably limited its use of important ideological resources in the neoliberal context (Brown 2003; Obando 2014). It is noteworthy that many movements inspired by the Occupy movement— especially among low-wage workers and advocates for corporate accountability— have recovered and prominently invoked rights claims and legal resources. Indeed, there has been a recent convergence around rights-based claims by campaigns for a minimum wage and sick pay, for immigrant rights and support, for LBGTQ rights, for the Black Lives Matter movement, and for other progressive and radical causes in the United States. Their reliance on lawyers and litigation has varied widely, but none of these movements discount them as much as did the earlier Occupy movement. Furthermore, many grassroots struggles in both the global North and South—against apartheid; for indigenous people’s sovereignty; for socioeconomic entitlements to housing, health-care, education, and minimum income—also appeal to legal or human rights and rely in part on national or transnational courts (Haglund and Stryker 2015; Rodriguez-Garavito 2011).

#### Legal demands don't validate the law but are contingent interventions that materially reduce violence.

**Spade, 13** **(Dean Spade, trans activist and Associate Professor of Law at Seattle University School of Law, 2013, accessed on 12-19-2020, *Signs*, "Intersectional Resistance and Law Reform", http://www.deanspade.net/wp-content/uploads/2014/05/signs-proofs.pdf) //lex dy**

These critical perspectives suggest a very different method for analyzing American law, one that departs from the questions that lawyers and legal scholars, who are often engaged in single-axis thinking about systems of subjection, might ask. Those inquiries often identify the realm of “equality law” as centered in antidiscrimination and hate crime laws. They often look for places in law where particular groups are named for exclusion or could be named as protected and assume that achieving justice means focusing on reforming those laws. The critical scholars and movements I have been describing instead examine not what the law says about itself but how its operations distribute life chances. They are suspicious of formal declarations of equality and of the idea that legal governmental protections are remedies for violence rather than sources of it. They are vigilant about co-optation, asking whether such declarations have had the material impact promised. Administrative operations occurring in welfare departments, immigration agencies, the Bureau of Indian Affairs, bodies overseeing environmental regulations, departments of corrections, child protective services, and education and taxation systems have been the focus of those who refuse to accept formal legal equality or facial neutrality as the resolution of their claims. Their interventions have asked how these systems are experienced from the perspective of marginalized populations rather than from the perspective of white lawmakers who declare legal systems to be neutral or natural while in reality they center a white propertied male subject. Narrow interventions that purportedly deliver equality have not passed the test when measured against the experiences of people living on the losing end of the distribution of life chances administered by these systems. These critics reject the focus on declarations of equality that often turn out to be mere window dressing for perpetual violence.¶ Genealogies of violence¶ In analyzing purportedly neutral systems to reveal their targeted violence, critics often expose continuities of violence where dominant narratives have declared key historical breaks. National narratives of US history articulate that prior egregious state violences have been resolved, often by civil rights law or other legal reforms. The implicationn is that any existing differences in living conditions among subpopulations in the United States must be a result of merit or lack thereof. Critics contest this story, arguing that while the operations of systems of meaning and control have changed, and while certain technologies of violence have been altered or replaced, the declared breaks are fictions. For example, reproductive justice activists and others have analyzed the child welfare system’s targeting of Black families as an extension of chattel slavery, a system under which family ties between enslaved Black people were violently broken and Black motherhood was constituted as fundamentally different from the valorized white motherhood seen as central to reproducing the nation (Roberts 1993b). Prison abolitionists have argued that the US criminal punishment system is an extension of the racial control of slavery (Hartman 1997; Davis 2003). Their refutation of the purported historical break between slavery and freedom for Black people allows antiprison scholars to analyze criminal punishment very differently than if they saw the problems of the system as utterly separate from the foundational violences of chattel slavery. This viewpoint has fostered recognition that efforts to reform prisons have consistently resulted in the expansion of imprisonment. Often carried out in the name of making prisons more humane, reform results in more and more people—especially Black people, as well as other people of color and poor people—spending more time in prisons overall. The demand for prison abolition is seen as an extension of the unfinished project of abolishing slavery, and the racialized-gendered operations of policing and criminalization are analyzed in relation to their predecessors under slavery.¶ Tracing genealogies of racialized-gendered control and exploitation allows critics to look at purportedly neutral administrative governance in ways that foster very different demands than any single-axis analysis would produce. Such critiques reject the narrative that the US immigration system shed its racism when it abolished Asian-exclusion laws and racial quotas. Instead, immigration enforcement remains racially targeted, is justified through the mobilization of racist images, and perpetuates racialized-gendered nation-making goals: cultivating the life of a white European settler population and maintaining people of color as maximally exploitable and disposable by casting them as threats to that life. Indigenous scholars’ and activists’ refusal to adopt the narrative of the settler state, which seeks to portray the process of genocide and displacement as over or complete, and their constant resistance to ongoing land theft, occupation, attempts at forced assimilation, and erasure all expose the continuity between the supposed bad old days and today. Rejection of civil rights strategies, which seek recognition from and protection of US law, is a necessary element of this analysis, since indigenous scholars and activists have shown that the US government and its legal system are the most significant sources of violence and harm against indigenous people, not forces of protection (Smith 2005; Sharma and Wright 2008–9).¶ These critical inquiries and demands, and their rejection of legal-equality strategies, bring up significant questions about the US nation-state and the role of legal reform in remedying the violences of white supremacy, settler colonialism, heteropatriarchy, and ableism. The methodologies used by the critical traditions I have cited lead to a focus on the targeted violences of purportedly neutral administrative systems and an analysis of how those violences are contiguous with the racialized-gendered property relations that are foundational to the United States (Harris 1996). By invoking the term “population control,” these critical traditions allow us to recognize that the conditions they resist stem from a variety of administrative practices and governing logics that are often mistakenly analyzed separately when single-axis thinking dominates. When those logics and practices are viewed through the genealogies of foundational violences, formal legal change that is primarily symbolic, removing only explicit exclusions or targeting individuals acting with bad intentions, appears severely limited, and deeper questions and demands about fundamental structures of governance emerge.¶ Critical race studies scholarship has described the United States as a racial project (Omi and Winant 1986). The creation of the nation was accomplished through racialization, and racial categories and the United States are mutually constitutive (Harris 1996; Gómez 2007; Willse 2011). The governing capacity of the United States was established through racializing legal mechanisms, including the legal enforcement of a system of chattel slavery; the theft of land and the imposition of legal regimes that established the possibility of ownership for settlers while targeting indigenous people for death and forced assimilation; the establishment of an immigration enforcement system that used racial categories to determine who could become part of the nation; and the establishment of a broad range of social welfare programs that aimed to cultivate white life and distribute education, land, home ownership, and health care in racially targeted ways.9 While immigration, property, social welfare, education, and other programs are no longer allowed to include codified, explicit racial exclusions, their operations are still racialized and racializing.10 Women-of-color feminism, queer-of-color critique, and other critical work on gender and sexuality has helped us understand that the racialization processes that formed the United States and continue to operate under new guises are also always processes that produce, manage, and deploy gender categories and sexuality and family norms.11 The nation-state form itself is produced by the project of gendered-racialized population management.¶ Michel Foucault described this way of thinking about governance by suggesting that what he called “state racism” (2003, 61) is inherent to the project of cultivating the life of the national population. Foucault argued that the most prevalent form of power operating today is power that takes the population as its target, that endeavors, through a variety of means, to cultivate the life of the population and to identify and eliminate threats to and drains on that population. These threats and drains are the subpopulations that must be banished, killed, caged, or abandoned in order to promote the life of the national population (Foucault 2003; Valverde 2007). Perhaps this framework of saving or promoting the life of the national population through the exploitation or death of others is particularly visible in the example of racialized-gendered medical experimentation. Whether we look at the work of the Nazi doctors, the Tuskegee experiment, the intentional spread of infectious diseases to indigenous populations in North America, the widespread practices of medical experimentation on US prisoners, or the long history of forced sterilization of people of color and people with disabilities in the United States, we see the logic that aims to protect and improve the lives of some through exploiting, controlling, or extinguishing the lives of others (Durazo Rojas 2006). This kind of power is operating when state capacities are mobilized to ensure that borders are closed, prisons are locked down, identity documents are checked, and countless other security operations are enforced.¶ In the United States, recent decades have seen internal enemies cast as racialized-gendered figures—drug dealers, criminals, terrorists, illegals, gang members, and welfare queens. The white, propertied settler population must be protected from whatever racialized others are being targeted at the time, and images related to racial classifications, to ideas of foreignness, and to body, ability, gender, and sexuality norms are mobilized to produce these targets. Considering subjection intersectionally, examining purportedly neutral administrative systems to see their targeted violences, and tracing genealogies of racialized population control forces critical scholars and activists dedicated to transforming violent conditions to think broadly about the US legal system and the nation-state form.¶ What intersectional politics demands¶ Social movements using critical intersectional tools are making demands that are often difficult for legal scholars to comprehend because of the ways that they throw US law and the nation-state form into crisis. Because they recognize the fact that legal equality contains and neutralizes resistance and perpetuates intersectional violence and because they identify purportedly neutral administrative systems as key vectors of that violence, critical scholars and activists are making demands that include ending immigration enforcement and abolishing policing and prisons. These demands suggest that the technologies of gendered racialization that form the nation cannot be reformed into fair and neutral systems. These systems are technologies of racialized-gendered population control that cannot operate otherwise—they are built to extinguish perceived threats and drains in order to protect and enhance the livelihood of the national population. These kinds of demands and the analysis they represent produce a different relation to law reform strategies than the national narrative about law reform suggests, and different than what is often assumed by legal scholars interested in the field of “equality law.” Because legal equality “victories” are being exposed as primarily symbolic declarations that stabilize the status quo of violence, declarations from courts or legislatures become undesirable goals. Instead, law reform, in this view, might be used as a tactic of transformation focused on interventions that materially reduce violence or maldistribution without inadvertently expanding harmful systems in the name of reform. One recent example is the campaign against gang injunctions in Oakland, California. A broad coalition—comprising organizations focused on police violence, economic justice, imprisonment, youth development, immigration, gentrification, and violence against queer and trans people—succeeded in recent years in bringing significant attention to the efforts of John Russo, Oakland’s city attorney, to introduce gang injunctions (Critical Resistance 2011). The organizations in this coalition are prioritizing anticriminalization work that might usually be cast as irrelevant or marginal to organizations focused on the single axis of women’s or LGBT equality. The campaign has a law reform target in that it seeks to prevent the enactment of certain law enforcement mechanisms that are harmful to vulnerable communities. However, it is not a legal-equality campaign. Rather than aiming to change a law or policy that explicitly excludes a category of people, it aims to expose the fact that a facially neutral policy is administered in a racially targeted manner (Davis 2011; Stop the Injunctions 2011).¶ Furthermore, the coalition frames its campaign within a larger set of demands not limited to what can be won within the current structure of American law but focused on population-level conditions of maldistribution. The demands of the coalition include stopping all gang injunctions and police violence; putting resources toward reentry support and services for people returning from prison, including fully funded and immediate access to identity documents, housing, job training, drug and alcohol treatment, and education; banning employers from asking about prior convictions on job applications; ending curfews for people on parole and probation; repealing California’s three-strikes law; reallocating funds from prison construction to education; ending all collaborations between Oakland’s government and Immigration and Customs Enforcement (ICE); providing affordable and low-income housing; making Oakland’s Planning Commission accountable regarding environmental impacts of development; ending gentrification; and increasing the accountability of Oakland’s city government while augmenting decision-making power for Oakland residents (Stop the Injunctions 2011). These demands evince an analysis of conditions facing vulnerable communities in Oakland (and beyond) that cannot be resolved solely through legal reform since they include the significant harm inflicted when administrative bodies like ICE and the Planning Commission implement violent programs under the guise of neutral rationales. These demands also demonstrate an intersectional analysis of harm and refuse logics of deservingness that have pushed many social movements to distance themselves from criminalized populations. Instead, people caught up in criminal and immigration systems are portrayed as those in need of resources and support, and the national fervor for law and order that has gripped the country for decades, emptying public coffers and expanding imprisonment, is criticized.¶ Another example of intersectional activism utilizing law reform without falling into the traps of legal equality is activism against the immigration enforcement program Secure Communities. Secure Communities is a federal program in which participating jurisdictions submit the fingerprints of arrestees to federal databases for an immigration check. As of October 2010, 686 jurisdictions in thirty-three states were participating.12 Diverse coalitions of activists and organizations around the United States launched organizing campaigns to push their jurisdictions to refuse to participate. Organizations focused on domestic violence, trans and queer issues, racial and economic justice, and police accountability, along with many others, have joined this effort and committed resources to stopping the devolution of criminal and immigration enforcement. Their advocacy has rejected deservingness narratives that push the conversation toward reform for “good, noncriminal” immigrants. These advocates have won significant victories, convincing certain jurisdictions to refuse to participate and increasing understanding of the intersecting violences of criminal punishment and immigration enforcement.13 This work also avoids the danger of expanding and legitimizing harmful systems that other legal reform work can present. It is focused on reducing, dismantling, and preventing the expansion of harmful systems.14¶ I offer these examples not because they are perfect—certainly a significant range of tactics and strategies are part of each of these campaigns, and, with detailed analysis, we might find instances of co-optation, deservingness divides, and other dangers of legal reform work occurring even as some are avoided and rejected. However, these examples are indicative of resistance to limitations of legal equality or rights strategies. These demands exceed what the law recognizes as viable claims. These campaigns suggest that those who argue that a politics based on intersectional analysis is too broad, idealistic, complex, or impossible—or that it eliminates effective immediate avenues for resistance—are mistaken. Critical political engagements are resisting the pitfalls of rights discourse and seeking to build broad-based resistance formations made up of constituencies that come from a variety of vulnerable subpopulations but find common cause in concerns about criminalization, immigration, poverty, colonialism, militarism, and other urgent conditions. Their targets are administrative systems and law enforcement mechanisms that are nodes of distribution for racialized-gendered harm and violence, and their tactics seek material change in the lives of vulnerable populations rather than recognition and formal inclusion. Their organizing methods mobilize directly affected communities and value horizontal structures, leadership development, mutual aid, democratic participation, and community solutions rather than top-down, elite-imposed approaches to political transformation. These analytical and practical methods owe a great deal to women-of-color feminist formations that have innovated and continue to lead inquiry and experimentation into transformative social justice theory and practice.15