## NR

Our CI is 1 Conditional Advocacy– solves our offense and avoids theirs

Offense –

1. Real World Education- Its bad to be force to defend weak advocacies because it prevents us from producing good political strategies that we can export outside of debate, which is key to education that is applicable.
2. Info Processing – deciding how to effectively respond to large amounts of information is a critical portable skill to confront information overload – only condo solves
3. Friction Good – resolving ideologically diverse arguments are uniquely key to education by allowing new forms of thought and forming defense of contingent views instead political dichotomies – if we double turn ourselves they should straight turn arguments
4. Risk Averse – Giving negatives a fallback strategy encourages research as opposed to relying on generics – key to topic education

Defense—

1. Perms check – they’re condo and solve their impacts
2. Skew and depth inevitable – we’re talking at 300wpm
3. Diminishing Utility after 2 means no slippery slope
4. Err neg on this question because of the aff bias in debate (don’t read this—this is for policy but can make a similar bias arg mb)
5. Judge is a referee – if we haven’t done anything uniquely bad IN THIS ROUND then don’t vote us down

### NR – Overview

#### The affirmative is the newest indulgence into neoliberalism – there are three impacts:

#### First, this commitment to competition fuels a mentality of rugged individualism that pits us against one another and prevents us from coming together to actually fight against the root cause of structural injustice – this means that the alt is a prerequisite to solving all of the aff’s impacts.

#### Second, neoliberalism makes structural violence inevitable – it engenders violence into our everyday modes of being.

#### To be clear, our thesis is not a critique of capitalism. Regardless of what economic system we exist in or its merit, our argument is simply that we should interrogate the centrality of competition to our society. The aff has to win that the free market is good before we can debate whether we should increase its freedom.

### NR – Framework

#### The role of the judge is to be a critical intellectual, weighing the ideological investments of the aff vs the alt – this evaluation should occur absent any interrogation of the consequences of these policies

#### There are four net benefits to this:

#### Self-enclosed individualism – The K turns their framework impacts – they all rest on the implicit belief that increasing competition is good which our K turns at a thesis level - their desire to preserve the game at the cost of power analysis is part-and-parcel of the status quo story that individual achievement has to be prioritized in a competitive market – if we win our impact claims, it proves their form of debate-as-game inherently pits us against each other and excludes the recognition of our interconnectedness that the K requires – prefer discussion of ideology to debate-as-ideology

#### No AFF Offense: AT weigh the aff

#### Fairness is an internal link – the process only matters if the product is relevant

#### They’re worse for aff ground – exclusive plan focus encourages word PICs and process CPs

#### It’s inevitable – DAs, T violations, and speed – fairness is arbitrary

#### No ground loss – they should be prepared to defend their ideology. Holding the aff accountable forces the aff to narrow the debate to arguments they can defend; otherwise, no debate is productive. Anything else condones oppressive discourse.

#### Spillover – Our framework enables out of round alt solvency – voting aff doesn’t get rid of IP protections, but our Wilson evidence says that challenging neoliberal thought processes can break down status quo stories which lock us out of alternative models of viewing the world and facilitate actual change against current systems of power – Wilson is great on this because it specifically says that everyday modes of resistance are key to deconstructing neoliberalism - prioritize the real-world over fiat

#### Core Controversy – Obviously a 26 minute debate is too short to hash out all of the details of the alt – especially when the alt isn’t introduced until minute 10 – our method of debate hones clash to the core issue: is getting rid of IP protections in order to let the market run free good – if we win that overarching claim, debating over small alt-takeouts is a distraction from the necessity of broad-reaching structural transformation of our structures of power

### NR – Alt Overview

#### The alternative is a mindset shift – these policies won’t happen which takes out consequentialism good offense – BUT until we unlearn the assumption that getting government out of the way will let markets flourish and solve all our problems, we'll never be able to engage in robust, communitarian policymaking that truly centers human need and our obligations to others. This is crucial for every day modes of resistance that our Wilson card says can break through status quo stories and thereby enable us to envision actual alternatives to the current neoliberalist story.

#### The alt is mutually exclusive with the AC because it says that the plan is bad for trying to increase competition. This a) answers the permutations, and b) means that if I win the impact debate, it proves that critiquing neoliberalism is a prerequisite to solving the aff’s impacts.

You should also be particular amenable to the K in the world of the AFFs deliberation framework 🡪 how we discuss topics is the only lasting impact coming out of the debate so framing it in a neoliberal context has real world implications

### NR – Link – Competition

#### Competition - They have chosen the most neoliberal aff on the topic. Instead of legislating communal ownership of drug IP or forcing transfers of property to save lives, they have chosen merely to temporarily suspend one set of government regulations, and done so in the name of making the markets operate more efficiently. Their politics cedes to the right core assumptions about the role of government and the relative value of property rights and community welfare.

### NR – AT: Perm

#### The perm doesn’t solve

#### The links are all DAs – each investment the AFF makes in neoliberalism inhibits the revolutionary potential of the alternative.

#### Framework means they don’t get a perm – they don’t get to mix and stir fundamental differences in ideology and thought experiments exist in bubbles, not as fluid strategies that can be mixed and matched when politically expedient

#### The perm is severance – they sever their ideological investments in meritocracy which makes it impossible to garner links – their AC said that increasing market competition was good – they don’t get to just back out of that claim – severance destroys neg ground and is a voter

## 1.

#### Counterplan text: The member nations of the World Trade Organization should implement and fund a Health Impact Fund as per the Hollis and Pogge 08 card

#### The Health Impact Fund would guarantee patent rights and increase profits, while also equalizing the cost of medicines

Hollis & Pogge ’08 - Aidan Hollis [Associate Professor of Economics, the University of Calgary] and Thomas Pogge [Leitner Professor of Philosophy and International Affairs, Yale University], “The Health Impact Fund Making New Medicines Accessible for All,” *Incentives for Global Health* (2008) AT

We propose the Health Impact Fund as the most sensible solution that comprehensively addresses the problems. Financed by governments, the HIF would offer patentees the option to forgo monopoly pricing in exchange for a reward based on the global health impact of their new medicine. By registering a patented medicine with the HIF, a company would agree to sell it globally at cost. In exchange, the company would receive, for a fixed time, payments based on the product’s assessed global health impact. The arrangement would be optional and it wouldn’t diminish patent rights.¶ The HIF has the potential to be an institution that benefits everyone: patients, rich and poor alike, along with their caregivers; pharmaceutical companies and their shareholders; and taxpayers.¶ HOW THE HEALTH IMPACT FUND WORKS FOR PATIENTS¶ The HIF increases the incentives to invest in developing medicines that have high health impact. It directs research toward the medicines that can do the most good. It can also reward the development of new products, and the discovery of new uses for existing products, which the patent system alone can’t stimulate because of inadequate protection from imitation. All patients, rich and poor, would benefit from refocusing the innovation and marketing priorities of pharmaceutical companies toward health impact.¶ Any new medicines and new uses of existing medicines registered for health impact rewards would be available everywhere at marginal cost from the start. Many patients – especially in poor countries, but increasingly in wealthy ones too – are unable to afford the best treatment because it is too expensive. Even if fully insured, patients oft en lack access to medicines because their insurer deems them too expensive to reimburse. The HIF simply and directly solves this problem for registered drugs by setting their prices at marginal cost.¶ HOW THE HEALTH IMPACT FUND WORKS FOR PHARMACEUTICAL COMPANIES¶ Most proposals for increasing access to medicines would reduce the profits of pharmaceutical companies and hence their ability to fund research. The HIF, however, leaves the existing options of pharmaceutical firms untouched. It merely gives them the opportunity to make additional profits by developing new high-impact medicines that would be unprofitable or less profitable under monopoly pricing. Selling such registered medicines at cost, firms won’t be forced to defend a policy of charging high prices to poor people and they won’t be pressured to make charitable donations. With HIF-registered medicines they can instead “do well by doing good”: bring real benefit to patients in a profitable way. Research scientists of these firms will be encouraged to focus on addressing the most important diseases, not merely those that can support high prices.¶ HOW THE HEALTH IMPACT FUND WORKS FOR TAXPAYERS¶ The HIF will be supported mainly by governments, which are supported by the taxes they collect. Taxpayers want value for their money, and the HIF provides exactly that. Because the HIF is a more efficient way of incentivizing the pharmaceutical R&D we all want, total expenditures on medicines need not increase. However, if they do, the reason is that new medicines that would not have existed without the HIF are being developed. The HIF mechanism is designed to ensure that taxpayers always obtain value for money in the sense that any product regis-tered with the HIF will have a lower cost for a given amount of health impact than products outside the HIF. Taxpayers may also benefit from a reduction in risks of pandemics and other health problems that easily cross national borders.

## 2.

**The WTO is dying, but reforming IPR saves it.**

Stangler 9/10 - Cole Stangler, 9-10, 11, Jacobin, Joe Biden Is Still Fighting a Vaccine Waiver for the Rest of the World, https://jacobinmag.com/2021/09/joe-biden-vaccine-waiver-global-ip-world-trade

In May, the Biden administration made a bombshell declaration, endorsing a call to temporarily suspend intellectual property (IP) rights on COVID vaccines that health and trade experts say could greatly improve access to shots in the Global South — a move that appeared to mark a turning point in the global fight against the pandemic. Months later, though, as **the pandemic rages** and **the glaring gap in vaccine access grows, the effort remains blocked at the** World Trade Organization **(WTO**). Any waiver for vaccines needs the green light from the organization’s TRIPS Council — the commission in charge of IP rights — and unanimous support from all 164 members. But as delegations return to Geneva after summer break, a long-circulated proposal backed by India and South Africa has yet to gain traction. Meanwhile, the Biden administration — which has deep ties to the pharmaceutical industry — has proven unwilling to share vaccine recipes with other countries, as we reported earlier this week. “It’s really upsetting watching this process,” says Hu Yuan Qiong, policy co-coordinator and senior legal and policy adviser for Doctors Without Borders’ Access Campaign. “Viruses disregard whatever game we’re playing in human society; they just carry on and mutate.” The deadlock is the product of multiple factors. Hostility from the United Kingdom and the European Union as well as criticism from Big Pharma have complicated efforts, but as experts tell us, so has the apparent unwillingness of the Biden administration to go beyond its four-month-old statement and actually start pressing for a waiver. “I’ve been working on trade policy for a while, and I know that when the United States wants something, they get it,” Burcu Kilic, a trade policy expert at Public Citizen, tells us. “The United States should [play] a proactive role in this discussion.” European Intransigence Amid Pharma’s Lobbying Blitz One immediate obstacle is the United Kingdom. As Hu from Doctors Without Borders says, Prime Minister Boris Johnson’s government has shown little interest in changing its position over the last few months. She says it’s effectively stuck to the talking points of AstraZeneca, pointing to the pharmaceutical company’s willingness to work with producers in the developing world as supposed evidence that a waiver is unnecessary. Appearing before the TRIPS Council in June, for instance, the British government argued that technology transfers and voluntary licensing “exemplified by the Oxford AstraZeneca vaccine” and its partnerships are “making real, positive impact.” In a statement, the UK said it was not “convinced how an IP waiver, if agreed, would increase the supply of COVID-19 goods.” Hu doesn’t buy it. “We’ve explained to them, ‘We’re not just talking about AstraZeneca vaccines, we’re talking about many vaccines and many treatments,’” she says of the UK. “Maybe a company like AstraZeneca has done a little bit more than another company, but that will not solve the global issue.” An ideal waiver on IP rights, she stresses, would also cover the two messenger RNA (mRNA) vaccines developed by Pfizer and Moderna, as well as medical equipment, technologies used for therapeutic treatment, and future vaccines. Lobbying disclosure regulations in the UK are relatively weak. Only lobbyists working for third-party firms are required to sign the country’s lobbying register, which, as a result, covers just a small fraction of the country’s lobbyists, most of whom are employed in-house. Still, British government departments are required to disclose information about meetings with external organizations — and, according to records compiled by Transparency International and consulted by us, no single external organization in the UK has met more with the British government since the beginning of 2021 than AstraZeneca. The Cambridge-based pharmaceutical giant beat out the country’s top business lobby, the Confederation of British Industry, and the Port of Dover, the massive seaport that has struggled to adjust to Brexit. In the meantime, the European Union also continues to oppose a proposed TRIPS waiver. While several national governments — including France and Spain — have said they support a waiver, what ultimately counts in Geneva is the stance of the EU’s executive branch, the European Commission. Rather than open up talks over the text backed by South Africa and India, the EU has offered up a separate proposal of its own, bogging down the discussion. EU officials maintain that a broad waiver on IP rights for vaccines doesn’t address the underlying problem of inadequate manufacturing capacity. According to this argument, even if producers in lower-income countries had the legal authority to start churning out COVID vaccines, they wouldn’t be able to, because they lack the factories or technological know-how. But Hu of Doctors Without Borders says that’s a red herring. Like many supporters of a temporary suspension in IP rights, she doesn’t claim a waiver will result in a transformation overnight. Instead, she views it as a launching pad to a scenario in which knowledge, data, and technology can flow more freely between states and manufacturers. “We can’t say, ‘Okay, you have a law,’ and then tomorrow start [producing]’ — it’s not going to happen that fast,” she explains. “But the earlier you open the door, the more certainty you can provide for the producers so they can prepare . . . the longer they don’t allow this door to open, the more problems we’ll face.”As we have previously reported, Big Pharma boasts a heavy presence in Brussels. Between March 2020 and May 2021, EU commissioners involved in medicine and vaccine issues met 140 times with pharmaceutical companies, and just once with an organization that supports a waiver on IP rights, according to the Corporate Europe Observatory, a watchdog group. Last year, Europe’s top pharmaceutical lobby spent more than €5.25 million on lobbying EU officials, the eighth-highest amount reported by any lobbying organization in the EU in 2020. For Hu, Big Pharma’s political influence helps explain the hostility from both London and Brussels to a waiver. “We strongly believe there is a direct correlation,” she says. Closely related political and ideological factors help drive pushback as well — especially when it comes to Europe’s largest economy and most prominent opponent of a waiver, Germany. The country is home to BioNTech, which developed the widely used mRNA shot alongside Pfizer. Even though the latter company has reaped most of the vaccine’s financial rewards, Burcu Kilic of Public Citizen says that officials in Berlin seem to regard vaccine development as a source of national pride. For many within Chancellor Angela Merkel’s ruling party, the Christian Democratic Union, there is a sense that lifting IP protections amounts to a slap in the face to national industry. “It goes beyond BioNTech,” Kilic says. “It’s about German inventions, German [small and midsize enterprises], Germany saving the world . . . it’s political, but it’s also emotional.” American Indifference Both Hu and Kilic argue the United States should be more aggressive — by putting pressure on its allies to back a waiver or, at the very least, by jump-starting serious negotiations. Up until now, the Biden administration has largely kept to the sidelines on the issue of IP rights. However, the US government may already have a strong case that it owns the IP on the Moderna vaccine, given its role in the shot’s development. The Biden administration could, in theory, share information about the dose with other producers — as the South Korean government has already requested. But even beyond the narrow issue of the Moderna shot, the American agency that negotiates trade policy, the United States Trade Representative (USTR), hasn’t issued a statement on the subject of a vaccine waiver since its widely celebrated declaration of support back in May. “That’s not usually what the United States or USTR does in these types of negotiations,” says Kilic from Public Citizen. “It’s like Lionel Messi saying, ‘I want to be in the World Cup,’ but then he’s not playing. You say you want a waiver, but you don’t do anything about it.” The USTR did not respond to a request for comment. In any case, the WTO’s TRIPS Council is slated to meet informally next week, on September 14. After weeks of inaction, that meeting could prove the impetus for progress, even if a full breakthrough doesn’t come until later in the year. Kilic remains optimistic that the deadlock will break. For one, she says political pressure is mounting on the United States, EU, and UK. But she also argues **the future of the WTO is at stake** — a fact that helps explain why the organization’s newly appointed director-general Ngozi Okonjo-Iweala has taken an active role in talks. **“In the last decade, the WTO became** a **nonfunctional** organization, and **there’s pressure** on the WTO and the WTO leadership **to do something** about that,” Kilic says. **“[The director-general] knows that if they let this go, this’ll be the end of the WTO.”** That doesn’t necessarily mean the result will be to the liking of those pushing for a broad waiver. Unlike India and South Africa, for instance, the United States has called for a waiver that covers vaccines alone — not medical equipment or other COVID-related treatments. Kilic also expects Big Pharma to start flexing its muscles in the coming weeks. If a deal at the WTO appears inevitable, industry will want to shape that outcome in its favor. She says much of the final outcome may depend on the Biden administration. “We need them to take the lead,” Kilic says of the United States. “I believe there will be something, but the question is, what will it be?”

#### The WTO is key to international trade.

WTO ’21 - World Trade Organization, “WTO in Brief,” (2021). <https://www.wto.org/english/thewto\_e/whatis\_e/inbrief\_e/inbr\_e.pdf> AT

In brief, the World Trade Organization (WTO) is the only international organization dealing with the global rules of trade. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.¶ Global trade rules¶ Global rules of trade provide assurance and stability. Consumers and producers know they can enjoy secure supplies and greater choice of the finished products, components, raw materials and services they use. Producers and exporters know foreign markets will remain open to them.¶ This leads to a more prosperous, peaceful and accountable economic world. Decisions in the WTO are typically taken by consensus among all members and they are ratified by members’ parliaments. Trade frictions are channelled into the WTO’s dispute settlement process, where the focus is on interpreting agreements and commitments and how to ensure that members’ trade policies conform with them. That way, the risk of disputes spilling over into political or military conflict is reduced.¶ By lowering trade barriers through negotiations among member governments, the WTO’s system also breaks down other barriers between peoples and trading economies.¶ At the heart of the system – known as the multilateral trading system – are the WTO’s agreements, negotiated and signed by a large majority of the world’s trading economies, and ratified in their parliaments.¶ These agreements are the legal foundations for global trade. Essentially, they are contracts, guaranteeing WTO members important trade rights. They also bind governments to keep their trade policies transparent and predictable which is to everybody’s benefit.¶ The agreements provide a stable and transparent framework to help producers of goods and services, exporters and importers conduct their business.¶ The goal is to improve the welfare of the peoples of the WTO’s members.

**Trade causes food insecurity, environmental destruction, racist and sexist violence, poverty, exploitation, and destroys investment in public wellbeing. Business hoards the gains.**

Paul & Gebrial ’21 - The Ecologist, August 25, 2021, Harpreet Kaur Paul and Dalia Gebrial are the curators and editors of Perspectives on a Global Green New Deal, where this article first appeared. <https://theecologist.org/2021/aug/25/agribusiness-devastates-our-environment>

The global food system is driving environmental injustice and increasing greenhouse gas emissions. The ability of communities around the world to live autonomously and harmoniously on the land to which they are tied is routinely and violently intercepted by multinational corporations in the name of conservation and food and energy provision. Yet, the same **communities in the Global South whose land is grabbed under** international **trade** and investment **agreements** for these purposes**, are the same communities systematically denied from the harvests exported from places that have been taken**. This series of articles has been published in partnership with Dalia Gebrial and Harpreet Kaur Paul and the Rosa Luxemburg Stiftung in London. It first appeared in a collection titled Perspectives on a Global Green New Deal. Toll The global food system is driving environmental injustice through extreme water use, the pollution of ecosystems by pesticides and agricultural run-off and producing roughly a quarter of the world’s greenhouse gas emissions. **In the last two decades,** it is estimated that **26.7 million hectares of land has been acquired by foreign investors** for use in the agriculture business. Yet, the global, multinational corporation driven agricultural industry - which we refer to as agribusiness - implicated in these acquisitions, has only become more inefficient, unequal, polluting and reliant on displacement.Much of this is rooted in the unevenness of land ownership, where **industrial commodity crop farms have taken land away from those who use it for** direct, **local food production,** and who often have spiritual, cultural and ancestral connections to the land. Many of these commodity crop farms use vast swathes of land for the production of just one crop, like palm oil or sugar, which places a huge toll on the health of the soil and its ability to support diverse plant growth later. Deprivations According to GRAIN, small farms make up 90 percent of all farms - and yet these small farmers have just 25 percent of the world’s farmland to work on.3 Indeed, small farmers - mainly women - feed most of the world on less than a quarter of all agricultural land. The large **agribusinesses** that own the majority of the land and **control trade in grain, biotech and industrial food production force out local food producers and impoverished people,** and drive environmental degradation **with** the highly **polluting activities and intensive water use** at the core of their practice. Workers in the industry also continue to rank among the world’s most insecure workforces. The International Labour Organization (ILO) estimates that at least **170,000 workers in the agricultural sector are killed each year** - whether **through lack of protections, higher risk of poverty or exposure to toxic pesticides. Indigenous peoples** are custodians of 80 percent of the world’s remaining biodiversity, but **are facing severe food insecurity** Meanwhile, indigenous peoples are custodians of 80 percent of the world’s remaining biodiversity, but are facing severe food insecurity, extreme poverty and other human rights deprivations. Trade **Agribusiness** fundamentally **fails** to adequately fulfil **the food needs of the worlds’** population - **one in three people face** some form of **malnourishment,** and one in nine face hunger issues. The ‘supermarketisation’ of food systems leads to an increase in reliance on processed, rather than fresh, food - con- tributing to this rise in malnutrition and obesity. Children remain the most vulnerable to malnutrition - according to the World Health Organization, malnutrition is the underlying contributing factor in approximately 45 percent of deaths of children under five. Today’s ***food systems are dominated by trade​​​​​​ agreements and economic policies that prioritise profits over the right to food.*** ***Power is concentrated in the hands of a few corporate actors that benefit from free trade rules and export-oriented agricultural policies.*** Such regimes privilege large-scale agribusinesses to the detriment of others, creating instability in the global food system. Pollution Yet, the food produced in this way represents a small part of global production - the UN estimates that 70-80 percent of the food consumed in most of the Global South is produced by smallholder farms. The 20-30 percent of food produced by large agri-businesses is having huge, destructive impacts across the system. Big commodity traders like Bunge Ltd, Cargill, Luis Dreyfus and Archer Daniels Midland, are the agricultural equivalents of fossil fuel companies like Shell and BP. They reap the rewards of a broken system and are subsidised by state handouts, while leaving the basic needs of millions unfulfilled and de- stroying the natural world. **Trade agreements encourage the planting of cash crops and the industrial meat industry, thereby incentivising deforestation, the redirection of water away from local communities and the pollution of ecosystems.** Grazing Indeed, the destruction of forests in order to grow animal feed is one of the biggest threats to biodiversity, which is vital to sustainable agriculture, resilient and sustainable food production, and carbon sequestration. This process also results in the marginalisation of women from agricultural decision-making, whose subsistence-based knowledge and practices are derided and made impossible. Women face a lack of voice in shaping work agendas, and increasingly depend on men for cash and access to the market to purchase the food they previously grew. This contributes to a growing dissonance between women’s roles as agriculturalists and the social recognition accorded to them, and has particularly troubling implications for household food security, since the main responsibility for this lies in women’s hands. It also prioritises business-led ways of knowing and doing over more sustainable methods, like traditional rotational systems, permanent pasture and conservation grazing. System Industrial agricultural practices also threaten food stability by reducing our resilience to intensifying ecological impacts - such as desertification - in the future. A 2015 report from the UN Food and Agriculture Organization found that, globally, 25 to 40 billion tonnes of topsoil are lost annually to erosion, thanks mainly to ploughing and intensive cropping. The IPCC’s August 2019 Special Report on Climate Change and Land found that to become fit for purpose in an era of climate change, agriculture must move away from intensive and industrialised approaches, and towards food systems based on agroecology and less and better meat. **Countries on the frontline** of the most extreme impacts **have** done very little to cause the crisis and instead **been required - through trade** and investment **agreements - to open** their **markets to foreign investment in a carbon intensive, displacing and polluting way of growing food.** A vicious and ironic cycle, where global agribusiness is behind some of the biggest threats to food sustainability and accessibility, is therefore coded in the DNA of our global food system. Agro-chemicals The Special Rapporteur on Extreme Poverty and Human Rights warns that **this is leading towards a “climate apartheid** scenario **in which the wealthy pay to escape overheating, hunger and conflict, while the rest of the world is left to suffer**”. In response to this crisis, the international peasant movement La Vía Cam- pesina developed the concept of ‘food sovereignty’ in the 1990s. Introduced at the World Food Summit in 1996, food sovereignty was framed as an explicit critique of the neoliberal global food system13, representing a radical break with the dominant agrarian system. The 2007 Nyeleni Declaration defines food sovereignty as “the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems.” Food sovereignty prioritises factors such as local production, direct commercialisation, the use of agroecological methods, opposition to genetically modified crops and agro-chemicals, and rights to land, water, seeds and biodiversity. Trade creates gender and social inequality Donatella Alessandrini, 8-23, 21, Trade and the Green New Deal, <https://theecologist.org/2021/aug/23/trade-and-green-new-deal>, Donatella Alessandrini is a Professor Of Law at University Of Kent in Canterbury, UK. Giant chickens opposing a US trade deal visit the North Somerset constituency surgery of Liam International **trade** and investment **treaties are built on the** problematic **assumption that countries trade** with one another **because** they have different **competitive advantages** which can be exchanged to everyone’s mutual benefit. The problem with this assumption is that it fails to articulate how various advantages came about.The ways in which **states and corporations** come to **gain** specific **competitive advantages** are **through processes permeated** by social inequalities, including **gender and racial inequalities.** This series of articles has been published in partnership with Dalia Gebrial and Harpreet Kaur Paul and the Rosa Luxemburg Stiftung in London. It first appeared in a collection titled Perspectives on a Global Green New Deal.Inequalities **Underpinning gender inequalities in the labour market,** as feminist economists have argued**, is the pursuit of competitive advantage by avoiding paying towards the full costs of the reproduction of the labour force and of our planet.** For example **firms** may **establish themselves in jurisdictions where they pay less tax, which has a negative impact on the revenue available to provide** local public **education, health services and,** crucially**, environmental standards.** Multinational corporations also create complex supply webs to push any costs of contributing in these ways to local contractors who then squeeze the labour force and exploit or neglect the environment in order to extract profits on small operating revenues, **while big brands take the bulk of the trade benefit.** CompetitivenessThe way in which workers and the environment are treated and regulated is constitutive of what we call competitive advantage, rather than being its consequence or ‘externality’.The pressure on firms and states to abide by the ‘commercial provisions’ of trade and investment treaties (to say nothing of the private contracts signed between firms) means that, unless the contribution workers and the environment make to production and trade is properly acknowledged, treated and remunerated, its invisibilization and/or devaluation will continue to provide a source of competitiveness in the global economy.

**Warming threatens extinction - prefer new evidence that represents consensus**

**Griffin, Claremont philosophy professor, 2015**

(David, “The climate is ruined. So can civilization even survive?”, 4-14, <http://www.cnn.com/2015/01/14/opinion/co2-crisis-griffin/>)

Although most of us worry about other things, climate scientists have become increasingly worried about the survival of civilization. For example, Lonnie Thompson, who received the U.S. National Medal of Science in 2010, said that **virtually all climatologists "are now convinced that global warming poses a clear and present danger to civilization."** Informed journalists share this concern. The climate crisis "threatens the survival of our civilization," said Pulitzer Prize-winner Ross Gelbspan. Mark Hertsgaard agrees, **saying that the continuation of global warming "would create planetary conditions all but certain to end civilization as we know it."** These scientists and journalists, moreover, are worried not only about the distant future but about the condition of the planet for their own children and grandchildren. James Hansen, often considered the world's leading climate scientist, entitled his book "Storms of My Grandchildren." The threat to civilization comes primarily from the increase of the level of carbon dioxide (CO2) in the atmosphere, due largely to the burning of fossil fuels. Before the rise of the industrial age, CO2 constituted only 275 ppm (parts per million) of the atmosphere. But it is now above 400 and rising about 2.5 ppm per year. Because of the CO2 increase, the planet's average temperature has increased 0.85 degrees Celsius (1.5 degrees Fahrenheit). Although this increase may not seem much, it has already brought about serious changes. The idea that we will be safe from "dangerous climate change" if we do not exceed a temperature rise of 2C (3.6F) has been widely accepted. But many informed people have rejected this assumption. In the opinion of journalist-turned-activist Bill McKibben, "the one degree we've raised the temperature already has melted the Arctic, so we're fools to find out what two will do." His warning is supported by James Hansen, who declared that "a target of two degrees (Celsius) is actually a prescription for long-term disaster." The burning of coal, oil, and natural gas has made the planet warmer than it had been since the rise of civilization 10,000 years ago. Civilization was made possible by the emergence about 12,000 years ago of the "Holocene" epoch, which turned out to be the Goldilocks zone - not too hot, not too cold. But now, says physicist Stefan Rahmstorf, "We are catapulting ourselves way out of the Holocene." **This catapult is dangerous, because we have no evidence civilization can long survive with significantly higher temperatures**. And yet, the world is on a trajectory that would lead to an increase of 4C (7F) in this century. In the opinion of many scientists and the World Bank, this could happen as early as the 2060s. What would "a 4C world" be like? According to Kevin Anderson of the Tyndall Centre for Climate Change Research (at the University of East Anglia), "during New York's summer heat waves the warmest days would be around 10-12C (18-21.6F) hotter [than today's]." Moreover, he has said, above an increase of 4C only **about 10% of the human population will survive.** Believe it or not, some scientists consider Anderson overly optimistic. The main reason for pessimism is the fear that the planet's temperature may be close to a tipping point that would initiate a "low-end runaway greenhouse," involving "out-of-control amplifying feedbacks." This condition would result, says Hansen, if all fossil fuels are burned (which is the intention of all fossil-fuel corporations and many governments). **This result "would make most of the planet uninhabitable by humans."** Moreover, many scientists believe that runaway global warming could occur much more quickly, because the rising temperature caused by CO2 could release massive amounts of methane (CH4), which is, during its first 20 years, 86 times more powerful than CO2. Warmer weather induces this release from carbon that has been stored in methane hydrates, in which enormous amounts of carbon -- four times as much as that emitted from fossil fuels since 1850 -- has been frozen in the Arctic's permafrost. And yet now the Arctic's temperature is warmer than it had been for 120,000 years -- in other words, more than 10 times longer than civilization has existed. According to Joe Romm, a physicist who created the Climate Progress website, methane release from thawing permafrost in the Arctic "is the most dangerous amplifying feedback in the entire carbon cycle." The amplifying feedback works like this: The warmer temperature releases millions of tons of methane, which then further raise the temperature, which in turn releases more methane. The resulting threat of runaway global warming may not be merely theoretical. Scientists have long been convinced that methane was central to the fastest period of global warming in geological history, which occurred 55 million years ago. Now a group of scientists have accumulated evidence that methane was also central to the greatest extinction of life thus far: the end-Permian extinction about 252 million years ago. Worse yet, whereas it was previously thought that significant amounts of permafrost would not melt, releasing its methane, until the planet's temperature has risen several degrees Celsius, recent studies indicate that a rise of 1.5 degrees would be enough to start the melting. What can be done then? Given the failure of political leaders to deal with the CO2 problem, it is now too late to prevent terrible developments. **But it may -- just may -- be possible to keep global warming from bringing about the destruction of civilization. To have a chance, we must, as Hansen says, do everything possible to "keep climate close to the Holocene range" -- which means, mobilize the whole world to replace dirty energy with clean as soon as possible.**

## 3.

#### The Aff’s portrayal of a world with reduced IP protections as an “information commons” where the evergreen is solved by deregulation perpetuates the neoliberal myth of increased competition ensuring a perfect market **Kapczynski 14** [(Amy, a Professor of Law at Yale Law School, Faculty Co-Director of the Global Health Justice Partnership, and Faculty Co-Director of the Collaboration for Research Integrity and Transparency. She is also Faculty Co-Director of the Law and Political Economy Project and cofounder of the Law and Political Economy blog. Her areas of research include information policy, intellectual property law, international law, and global health.) “INTELLECTUAL PROPERTY’S LEVIATHAN” Duke Law, Law & Contemporary problems, 2014. <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4710&context=lcp>] BC

Over the last decade or so, a powerful set of critiques has emerged to contest the dominant account just sketched out as well as the contemporary state of IP law.12 These arguments have come from many directions, some even arising from scholars who previously were champions of the dominant account.13 The most prominent and potent line of theoretical critique in the legal literature has come in the guise of arguments for free culture and the “information commons” and has been most influentially articulated by Lawrence Lessig and Yochai Benkler.14 Both have stressed the problems with expansive exclusive rights regimes in information and have also sketched a set of actually existing alternatives to market-based exclusionary forms of information and cultural production. Lessig has written a series of influential books that have made him a “rock star of the information age,”15 particularly for young Internet and free-culture activists. He has argued powerfully, for example, that existing copyright law is in deep conflict with the radical new possibilities for creativity in the digital age. As he points out, when a mother posting a video of her toddler dancing to a Prince song on YouTube is threatened with a $150,000 fine for copyright infringement, something has gone seriously awry.16 Lessig also contends that copyright law today is too long, too expansive, and instantiates a “permission culture” that is antithetical to free expression in the age of the remix.17 As he puts it, “the Internet has unleashed an extraordinary possibility for many to participate in the process of building and cultivating a culture that reaches far beyond local boundaries,” creating the possibility of markets that “include a much wider and more diverse range of creators,” if not stifled by incumbents who use IP law to “protect themselves against this competition.”18 Benkler’s work has also been extraordinarily formative in the field, particularly for his insights into the multiplicity of modes of information production. As he has stressed, the conventional justification for IP does not account for the many successful and longstanding modes of market nonexclusionary information production.19 For example, attorneys write articles to attract clients, software developers sell services customizing free and opensource software for individual clients, and bands give music away for free to increase revenues from touring or merchandise.20 More pathbreaking still is Benkler’s account of the importance of “commons-based peer production,” a form of socially motivated and cooperative production exemplified by the volunteer network that maintains Wikipedia or the groups of coders who create open-source software products such as the Linux operating system.21 In the digital networked age, as Benkler describes, the tools of information production are very broadly distributed, “creating new opportunities for how we make and exchange information, knowledge, and culture.”22 These changes have increased the relative role in our information economy of nonproprietary production and facilitate “new forms of production [that] are based neither in the state nor in the market.”23 Because commons-based peer production is not hierarchically organized and is motivated by social dynamics and concerns, it also offers new possibilities for human development, human freedom, a more critical approach to culture, and more democratic forms of political participation.24 This line of critique has been profoundly generative and has helped launch an important new conceptualization of the commons as a paradigm. That paradigm, as a recent book puts it, “helps us ‘get outside’ of the dominant discourse of the market economy and helps us represent different, more wholesome ways of being.”25 Proponents of the commons concept draw upon contemporary articulations of successful commons-based resource management by Elinor Ostrom and her followers.26 They do mobilize retellings of the political and economic history of the commons in land in Europe before enclosure,27 and recent evidence from psychology and behavioral economics that suggests that humans have deep tendencies toward cooperation and reciprocation.28 They argue that A key revelation of the commons way of thinking is that we humans are not in fact isolated, atomistic individuals. We are not amoebas with no human agency except hedonistic “utility preferences” expressed in the marketplace. No: We are commoners—creative, distinctive individuals inscribed within larger wholes. We may have unattractive human traits fueled by individual fears and ego, but we are also creatures entirely capable of self-organization and cooperation; with a concern for fairness and social justice; and willing to make sacrifices for the larger good and future generations.29 This stands, of course, as a powerful rebuke to the neoliberal imaginary, which “constructs and interpellates individuals as . . . rational, calculating creatures whose moral autonomy is measured by their capacity for ‘self-care’— the ability to provide for their own needs and service their own ambitions.”30 III Given this radical—and, in my view, critically important—attempt to rethink the subject at the core of neoliberal accounts, it is all the more striking that proponents of the commons often appear to adopt a neoliberal image of the state. For example, the introduction to a recently edited volume that gathers writings on the commons from seventy-three authors in thirty countries (entitled, tellingly, The Wealth of the Commons: A World Beyond Market and State) has this to say: The presumption that the state can and will intervene to represent the interests of citizens is no longer credible. Unable to govern for the long term, captured by commercial interests and hobbled by stodgy bureaucratic structures in an age of nimble electronic networks, the state is arguably incapable of meeting the needs of citizens as a whole.31 The commons, they suggest, is a concept that seeks not only to liberate us from predatory and dysfunctional markets, but also from predatory and dysfunctional states. Something immediately seems incongruous here. If people are inherently cooperative reciprocators, why are states irredeemably corrupt? After all, as Harold Demsetz famously wrote in his 1967 attack on Arrow’s optimism about state production of information, “[g]overnment is a group of people.”32 Lessig, one of the progenitors of the language of the commons in the informational domain, often leads with a similar view of the state: [I]f the twentieth century taught us one lesson, it is the dominance of private over state ordering. Markets work better than Tammany Hall in deciding who should get what, when. Or as Nobel Prize-winning economist Ronald Coase put it, whatever problems there are with the market, the problems with government are more profound.33 Lessig reveals his own sense of the power of this conception of the state when he seeks to tar IP law with the same brush; we should rebel against current IP law, he suggests, because we should “limit the government’s role in choosing the future of creativity.”34 Benkler is more measured but admits as well to viewing the state as “a relatively suspect actor.”35 We should worry, he suggests, that direct governmental intervention “leads to centralization in the hands of government agencies and powerful political lobbies,”36 a view that echoes the neoliberal account described above. It should perhaps not surprise us that leading critics of neoliberal information policy embrace a neoliberal conception of the state. After all, neoliberalism is not merely an ideology, but also a set of policy prescriptions that may have helped to call forth the state that it has described. As David Harvey puts it, “[t]he neoliberal fear that special-interest groups would pervert and subvert the state is nowhere better realized than in Washington, where armies of corporate lobbyists . . . effectively dictate legislation to match their special interests.”37 There are, it must be said, few areas of law that better exemplify this problem than IP law. For example, Jessica Litman has documented the astonishing process through which the 1976 Copyright Act was drafted, in which Congress delegated most of the drafting to interest groups that were forced to negotiate with one another.38 Other scholars have offered similarly startling accounts of the genesis of the most important IP treaty today, the TradeRelated Aspects of Intellectual Property Rights (TRIPS) Agreement. TRIPS came into force in 1996, revolutionizing international IP law by both imposing new standards and by rendering them enforceable through the WTO’s disputeresolution system, which authorizes trade retaliation to enforce its judgments. Most countries in the world are members of TRIPS, and the Agreement introduced, for developing countries in particular, substantial new obligations, such as the obligation to grant patents on medicines and food-related inventions. Several excellent histories of the treaty have been written, documenting its beginnings as a brash idea proposed by “twelve chief executive officers (representing pharmaceutical, entertainment, and software industries).”39 As Susan Sell has described, the TRIPS Agreement was a triumph of industry organizing. Through TRIPS, Industry revealed its power to identify and define a trade problem, devise a solution, and reduce it to a concrete proposal that could be sold to governments. These private sector actors succeeded in getting most of what they wanted from a global IP agreement, which now has the status of public international law.

#### Attempts to reform the WTO are neoliberal attempts to sustain the US regime of accumulation – the contradictions of neoliberalism are why credibility is low, not IP protection

Bachand 20 [(Remi, Professor of International Law, Département des sciences juridiques, member of the Centre d’études sur le droit international et la mondialisation (CÉDIM), Université du Québec à Montréal, Canada) “What’s Behind the WTO Crisis? A Marxist Analysis” The European Journal of International Law, 8/12/2020. https://academic.oup.com/ejil/article-abstract/31/3/857/5920920?redirectedFrom=fulltext] BC

To offer our own explanation, we must recall two aspects of our theoretical framework. The first is Robert Cox’s claim113 that the function of international organizations is to ensure the creation and reproduction of hegemony. To be more accurate, they serve, if we follow his argument, to defend and to expand the ‘mode of production’ (we elected to substitute this term for the concept of ‘regime of accumulation’ that appears to be more appropriate for our means) of the dominant social classes of the dominant state. Joining this idea with the école de la régulation and social structure of accumulation theory writing114 according to which a regime of accumulation needs some regulation institutions to help resolve its contradictions (and ensure profits and capital accumulation to dominant social classes), we can conclude that the Geneva organization’s function in the US hegemonic order is to make sure that neoliberalism works well enough to provide a satisfying rate of profit for US capitalists. Going in that direction, Kristen Hopewell shows that the WTO’s creation participated in a shift in global governance from ‘embedded liberalism’ to neoliberalism115 and was slated to be an important part of that governance. Using the conceptual framework developed earlier, we can infer that the WTO was thus given a regulation function that was to ensure the operationalization of counteracting factors to the fall of the rate of profit for US capitalists. Now, as we have seen, the US rate of profit has been extremely unstable in the last two decades and Chinese expansion (and that of other ‘emerging countries’) allows one to predict that the situation could easily worsen in the future. Consequently, it should come as no surprise that the crisis that has been striking neoliberalism for the last 20 years may also result in a crisis of the organizations that are supposed to manage its contradictions, especially the WTO. Concretely, this organization seems unable to fulfil its regulatory function anymore, which is to ensure US capitalists a good rate of profit and opportunities to operationalize enough counteracting factors to negate its fall. To go further, we now need to return to Stephen Gill’s claim that the function of an international organization is to limit political and economic possibilities. It is to exclude, in other words, options that are incompatible with the social order promoted by the hegemon from what is possible and achievable.116 Effectively, the WTO was created to play such a role. Indeed, promoting liberalization of goods and services, protecting (notably intellectual) property rights and attacking subsidies (in non-agriculture sectors), just to give a few examples, all serve to severely reduce state interventions into the economy and to circumscribe or at least to strongly impede the turn towards an alternative model to neoliberalism

#### Neoliberalism rips apart communal bonds to maintain the illusion that structural inequalities are individual problems – the impact is systemic victim-blaming, poverty, and violence.

Smith 12 [(Candace, author for Societpages, cites Bruno Amable, Associate Professor of Economics at Paris School of Economics) “Neoliberalism and Individualism: Ego Leads to Interpersonal Violence?” Sociology Lens is the associated site for Sociology Compass, Wiley-Blackwell’s review journal on all fields sociological] AT

There appears to be a link between neoliberalism, individualism, and violence. In reference to the association between neoliberalism and individualism, consider neoliberalism’s insistence that we do not need society since we are all solely responsible for our personal well-being (Peters 2001; Brown 2003). From a criminological standpoint, it is not hard to understand how this focus on the individual can lead to violence. According to Hirschi’s (1969) social control theory, for instance, broken or weak social bonds free a person to engage in deviancy. Since, according to this theory, individuals are naturally self-interested, they can use the opportunity of individualization to overcome the restraining powers of society. Bearing in mind neoliberalism’s tendency to value the individual over society, it could be argued that this ideology is hazardous as it acts to tear apart important social bonds and to thereby contribute to the occurrence of ego-driven crimes, including violent interpersonal crimes. Such a thought suggests that as neoliberalism becomes more prominent in a country, it can be expected that individualism and, as a result, interpersonal violence within that country will increase. When it comes to individualization, this idea is one of the fundamental aspects of neoliberalism. In fact, Bauman (2000:34) argues that in neoliberal states “individualization is a fate, not a choice.” As Amable (2011) explains, neoliberals have realized that in order for their ideology to be successful, a state’s populace must internalize the belief that individuals are only to be rewarded based on their personal effort. With such an ego-driven focus, Scharff (2011) explains that the process of individualization engenders a climate where structural inequalities are converted into individual problems.

#### The alt is to reject the aff in favor of a critique that cultivates educated hope - evaluate the aff and alt on the level of ideological commitments – these policies won’t happen which takes out consequentialism good offense – BUT until we unlearn the assumption that getting government out of the way will let markets flourish and solve all our problems, we'll never be able to engage in robust, communitarian policymaking that truly centers human need and our obligations to others. Their cards about framework are wrong. It’s a prerequisite to analyze our ideological stance before analyzing policies. If a policy is racist it doesn’t matter what it solves. Wilson 17:

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New Stories for New Worlds As we will see in our mapping of the neoliberal conjuncture, competition's totalizing yet tenuous power over our everyday lives is rooted in what Keating calls “status quo stories”—those stories that get told in popular culture, and that we often tell ourselves, which cement our relationship to our present conjuncture and our investment in the world as we currently know it. She explains: Generally spoken with great certainty, these and similar comments (commands, really) reflect unthinking affirmation of the existing reality and a stubborn, equally unthinking resistance to change. Because we believe that our status-quo stories represent accurate factual statements about ourselves, other people, and the world, we view them as permanent, unchanging facts. This belief in the status-quo's permanence becomes self-fulfilling: We do not try to make change because change is impossible to make. “It's always been that way,” we tell ourselves, “so why waste our energy trying to change things?” “People are just like that-it's human nature, so plan accordingly and alter your expectations! There's no point in trying to change human nature!" Status-quo stories trap us in our current circumstances and conditions; they limit our imaginations because they prevent us from envisioning alternate possibilities.10 Status-quo stories double down on reality, making it seem like those socially constructed forces impinging on us are natural rather than historical, political, and subject to change. “Status-quo stories have a numbing effect,” Keating writes. “When we organize our lives around such stories or in other ways use them as ethical roadmaps or guides, they prevent us from extending our imaginations and exploring additional possibilities."11 One of my students aptly described neoliberal culture as a “status-quo storytelling machine.” To keep us living in competition, neoliberalism generates a host of status-quo stories about the naturalness and inevitability of self-enclosed individualism. Indeed, we might say that self-enclosed individualism operates as the foundational status quo story of neoliberal culture, where competition has become synonymous with all of life. Self-enclosed individualism keeps us not only divided from one another, but also actively pitted against each other. We are stuck in an oppositional consciousness that refuses to acknowledge our social interconnections, even though, as our shared anxieties suggest, we've never had more in common than right now! No matter where we are or what we're doing, neoliberal culture encourages us to see each other through a competitive lens that makes the transformation of our social world, and ourselves, impossible. We become incapable of acknowledging how our fortunes and fates are entwined with those of others who are living very different realities. We become callous and hardened to the suffering of others. We see suffering and death everywhere, and while this might register as bad or wrong or upsetting, we nonetheless stay stuck within the horizons of our own self-enclosed bubbles. The devastating powers of status-quo stories are clear in so many of the conversations we have on college campuses about power, privilege, and difference. In fact, I started teaching courses on neoliberal culture to help my students understand the broader histories and contexts that were impinging on these conversations and making them so fraught, and ultimately so unproductive. Time and time again, in open community forums and classroom discussions of systemic inequalities, I watched students voice painful personal experiences only to get nowhere. Indeed, when asked to consider various forms of privilege, many of my white, male students get defensive. The idea that they haven't earned their place through their own decisions and hard work, but rather benefited from inherited wealth and opportunity, means that they are not good people from the perspective of neoliberalism. Talking about issues of privilege threatens to diminish their sense of self and individual value, so they recoil from conversations that ask them to see their place within broader legacies of settler colonialism, patriarchy, and capitalism. Accordingly, they hold on tight to status-quo stories of self-enclosed individualism to protect themselves, doubling down on their privilege to secure their status in a competitive world. However, it is important to see that status-quo stories of self- enclosed individualism also inform my students from historically oppressed and marginalized groups. These students suffer daily: they live in an environment that professes to celebrate “diversity,” while, in the context of their own lives, they are reminded again and again just how much they don't belong or matter. Not surprisingly, they demand “safe spaces” and protection for themselves and their peers, and they often draw hard lines between allies and enemies. Here too though, we see neoliberal stories at work. What matters for my students, and rightly so, is the way that “microaggressions”—those daily, mundane experiences of discrimination that accumulate over time-diminish their own capacities for flourishing as self-enclosed individuals. My point here is not to suggest that privileged students and marginalized students are the same because they are both invested in a version of self-enclosed individualism. Rather, my point is they share a situation; despite their different and unequal social positions, they have similar feelings-of defensiveness and a fear of failure—and status-quo stories in common. These commonalities do not imply evenness or equality, but rather interconnection, that is, a shared conjuncture. It is the recognition of this conjunctural interconnection that can thread our lives together and open up possibilities for more egalitarian futures. However, living in competition and the oppositional consciousness it demands obscure these commonalities and the interconnections that could bring students into new relations with one another. As a result, we stay caught up in the world as we know it. We stay stuck in competition, even though we all are yearning for different worlds. We desperately need new stories, stories that offer us different pathways to each other. As Keating puts it, we need stories that help us move from “me” to “we” consciousness.12 However, this book is not going to write these new stories for you. Rather, the goal of this book is to provide you with the resources for writing these new stories in and through your own lives. The Work of Critique Ultimately, writing new stories will require a new sense of yourself and your world, as well as what is possible, and realizing this new sense will require, first and foremost, cultivating a deeply critical orientation toward the world as we currently know and experience it. This critical orientation dislodges the sense of inevitability of neoliberalism, self-enclosed individualism, and living in competition; it knows that things don't have to be this way and, thus, senses the possibilities for resistance and transformation that are everywhere. It is so crucial to understand that this critical orientation is not simply about saying that aspects of neoliberal culture are “bad” or "wrong.” Rather, the work of critique is about seeing the flows of power and ways of thinking that make the neoliberal conjuncture possible and hold it together. Critique is therefore a mode of knowing—a form of everyday intellectual work—that is aimed at exposing the myriad workings of power and its status-quo stories. As Michel Foucault explains, “A critique is not a matter of saying that things are not right as they are. It is a matter of pointing out on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought the practices that we accept rest.”13 To clarify Foucault's idea, let's think back to the student discussions of power and privilege discussed above. The work of critique is not simply about pointing out privilege, although this is, of course, vital work. The work of critique goes beyond pointing out what's wrong and seeks to unravel the socially constructed conjuncture in which these problems emerge and get negotiated. For only then can we step outside of the competitive, oppositional consciousness of neoliberal culture and begin to imagine a radically different future built on equality and shared security. This work of dislodging the inevitability of our conjuncture and its status-quo stories is hard but vital intellectual work that requires not only critique of our social world, but also transformation of ourselves. Indeed, truly critical work is always profoundly disruptive of our own identities and knowledges. This work can be immensely painful, as it strips away the certainty and comfort provided by status-quo stories. This work can also be, and should be, immensely joyful and life-giving, as it enables us to free ourselves from the status-quo stories and devastating limitations they put on our lives, imaginations, and social relationships. This mix of pain and joy at the heart of critical work comes from the way that critique asks us to “lose confidence” in our world. As feminist theorist Sara Ahmed writes, Losing confidence: it can be a feeling of something gradually going away from you, being eroded. You sense the erosion. You might stumble, hesitate, falter; things might gradually unravel so you end up holding onto the barest of threads. It might be an experience in the present that throws things up, throws you off balance.... When you lose confidence it can feel like you are losing yourself: like you have gone into hiding from yourself.4 Losing confidence in your world is thus a form of existential crisis —you are disoriented; your world is shattered. At the same time, losing confidence in status-quo stories means gaining confidence for resistance and transformation. We become bolder, less anxious, more optimistic, capable of social interconnection, political intervention, and acting on and from a place of commonality. This is real freedom. Critique is ultimately about unlearning our world so that we might reconstruct it anew. Losing confidence in neoliberal culture means being able to say no to it in the conduct of our daily lives. In these capacities for resistance, we gain confidence that another world might actually be better, worth opening ourselves up to, worth fighting for. We begin to cultivate what Henry Giroux calls educated hope. Educated hope is not “a romanticized and empty” version of hope; rather, it is a form of hope enabled by critique that “taps into our deepest experiences and longing for a life of dignity with others, a life in which it becomes possible to imagine a future that does not mimic the present.” With educated hope, our sense of who we are and of what might be possible shifts in profound ways. This is when those new worlds we are longing for open up. What’s to Come Each of the chapters that follow offer a variety of intellectual tools for mapping the neoliberal conjuncture. Taken together, they are designed to produce a holistic and thick understanding of neoliberalism and its myriad powers to shape our identities, sensibilities, social worlds, and political horizons. Having a thick understanding of neoliberalism means that you feel in your bones that there is nothing natural or inevitable about neoliberalism and its status-quo stories. It means that you understand that neoliberalism is the outcome of a range of contingent historical processes that have consequences across social, political, economic, and cultural fields. In other words, by the end of our journey, you'll know how our neoliberal conjuncture has been, and continues to be, constructed. You'll also, therefore, be able to sense the other worlds on the horizon that are just waiting to be constructed, so long as, together, we can develop the resources, capacities, and stories of interconnection for bringing them into being. More specifically, the book is divided into two sections. The first section, titled “Critical Foundations,” focuses on cultivating a broad, critical orientation toward neoliberal culture. The first chapter charts the rise of neoliberal hegemony through four historical phases. The goal is to illustrate exactly how competition came to be the driving cultural force in our everyday lives. As we will see, there is nothing natural or inevitable about neoliberalism. It was a political and class-based project to remake capitalism and liberal democracy that was conceived, organized for, and eventually won. In the second chapter, we delve into the world of neoliberal theory and its critical consequences. Here we'll explore exactly what neoliberal thinkers believe about the state, markets, and human actors, and what distinguishes neoliberalism from earlier schools of liberal thought. We'll also interrogate what I call the four Ds—disposability, dispossession, disimagination, and de- democratization—which, taken together, enable us to clearly see and articulate what is so devastating about the rise of neoliberalism. The third chapter examines the cultural powers specific to neoliberalism. Neoliberalism advances through culture, specifically through the promotion of an enterprise culture that works to impose competition as a norm across all arenas of social life. In order to see and specify how neoliberalism works through culture, we take contemporary education as a case study and unpack the entangled cultural powers of neoliberal governmentality, affect, and ideology. The second section is titled “Neoliberal Culture.” In these chapters, we explore the worlds of neoliberal labor, affect, and politics respectively, tracing what happens when our everyday lives as workers, individuals, and citizens become organized around living in competition. The fourth chapter examines how neoliberalism turns everyday life into a “hustle,” where all the contexts of daily life become animated by the demands of neoliberal labor. At stake here are the ways in which we are all hustling to get by, yet we stay radically divided from one another along lines of gender, race, and class thanks to the norm of self- enterprise. The next chapter hones in on what it feels like to inhabit enterprise culture by exploring neoliberal affect and the care of the self. As we already know, living in competition breeds widespread anxiety, not to mention depression and illness, making self-care an ongoing, pressing problem of everyday life. While neoliberal culture offers us plenty of tools for self-care that ultimately keep us stuck in our self-enclosed individualism, this chapter also considers how self-care might be a site for resistance and political intervention. The final chapter focuses on neoliberal politics, tracing what happens to citizenship and social action in our contemporary conjuncture. As we'll see, neoliberalism privatizes our political horizons by remaking democracy into a market competition for visibility and equality. Throughout this mapping of the neoliberal conjuncture, we will engage in a mode of critical work that will, hopefully, enable you to unlearn neoliberalism and thus begin to write new stories about our conjuncture—including both our commonalities and differences—and the alternative worlds we are yearning for. Indeed, our critical work will only matter to the extent that it opens up our individual and collective horizons to a future beyond living in competition.

## Case

### Framework

1. Purpose of deliberation is coming to correct conclusions about the world not just engaging in deliberation 🡪 every concrete impact is an internal link to deliberation
2. Don’t let them say impacts come after deliberation after they’ve advocated moral pluralism which indicates that all impacts are valuable

#### 1.Turn—secondary patents are key to generating new treatments to medicines based on existing medicines. Evergreening does not stop production of generic versions of the original formulation

Christopher M. Holman, [senior scholar C-IP2] 18 - ("Why Follow-On Pharmaceutical Innovations Should Be Eligible For Patent Protection," Intellectual Property Watch, 9-21-2018, accessed 9-18-2021, https://www.ip-watch.org/2018/09/21/follow-pharmaceutical-innovations-eligible-patent-protection/)//ML

Why Protect Follow-On Innovation?¶ The attack on secondary pharmaceutical patents is based in part on the flawed premise that follow-on innovation is of marginal value at best, and thus less deserving of protection than the primary inventive act of identifying and validating a new drug active ingredient. In fact, follow-on innovation can play a critical role in transforming an interesting drug candidate into a safe and effective treatment option for patients. A good example can be seen in the case of AZT (zidovudine), a drug ironically described in the Guidelines as the “first breakthrough in AIDS therapy.” AZT began its life as a failed attempt at a cancer drug, and it was only years later that its potential application in the fight against AIDS was realized. Follow-on research resulted in a method-of-use patent directed towards the use of AZT in the treatment of AIDS, and it was this patent that incentivized the investment necessary to bridge the gap between a promising drug candidate and a safe, effective, and FDA-approved pharmaceutical. Significantly, because of the long lag time between the first public disclosure of AZT and the discovery of its use in the treatment of AIDS, patent protection for the molecule per se was unavailable. In a world where follow-on innovation is unpatentable, there would have been no patent incentive to invest in the development of the drug, and without that incentive AZT might have languished on the shelf as simply one more failed drug candidate.¶ Other examples of important drugs that likely never would have been made available to patients without the availability of a “secondary” patent include Evista (raloxifene, used in the treatment of osteoporosis and to reduce the risk of invasive breast cancer), Zyprexa (olanzapine, used in the treatment of schizophrenia), and an orally-administrable formulation of the antibiotic cefuroxime.¶ Pharmaceutical development is prolonged and unpredictable, and frequently a safe and effective drug occurs only as a result of follow-on innovation occurring long after the initial synthesis and characterization of a pharmaceutically interesting chemical compound. The inventions protected by secondary patents can be just as critical to the development of drugs as a patent on the active ingredient itself.¶ The Benefits of Follow-On Innovation The criticism of patents on follow-on pharmaceutical innovation rests on an assumption that follow-on innovation provides little if any benefit to patients, and merely serves as a pretense for extending patent protection on an existing drug. In fact, there are many examples of follow-on products that represent significant improvements in the safety-efficacy profile. For example, the original formulation of Lumigan (used to treat glaucoma) had an unfortunate tendency to cause severe hyperemia (i.e., redeye), and this adverse event often lead patients to stop using the drug, at times resulting in blindness. Subsequent research led to a new formulation which largely alleviated the problem of hyperemia, an example of the type of follow-on innovation that significantly benefits patients but that which would be discouraged by a patent regime that does not reward follow-on innovation.¶ Follow-on pharmaceutical innovation can come in the form of an extended-release formulation that permits the drug to be administered at less frequent intervals than the original formulation. Critics of secondary patents downplay the significance of extended-release formulations, claiming that they represent nothing more than a ploy to extend patent protection without providing any real benefit to patients. In fact, the availability of a drug that can be taken once a day has been shown to improve patient compliance, a significant issue with many drugs, particularly in the case of drugs taken by patients with dementia or other cognitive impairments. Extended-release formulations can also provide a more consistent dosing throughout the day, avoiding the peaks and valleys in blood levels experienced by patients forced to take an immediate-release drug multiple times a day.¶ Other examples of improved formulations that provide real benefits to patients are orally administrable formulations of drugs that could previously only be administered by more invasive intravenous or intramuscular injection, combination products that combine two or more active pharmaceutical agents in a single formulation (resulting in improved patient compliance), and a heat-stable formulation of a lifesaving drug used to treat HIV infection and AIDS (an important characteristic for use in developing countries with a hot climate).¶ “Evergreening” – an Incoherent Concept¶ Drug innovators are often accused of using secondary patents to “evergreen” the patent protection of existing drugs, based on an assumption that a secondary patent somehow extends the patent protection of a drug after the primary patent on the active ingredient is expired. As a general matter, this is a false assumption — a patent on an improved formulation, for example, is limited to that improvement and does not extend patent protection for the original formulation.¶ Once the patents covering the original formulation have expired, generic companies are free to market a generic version of the original product, and patients willing to forgo the benefits of the improved formulation can choose to purchase the generic product, free of any constraints imposed by the patent on the improvement. Of course, drug innovators hope that doctors and their patients will see the benefits of the improved formulation and be willing to pay a premium for it, but it is important to bear in mind that ultimately it is patients, doctors, and third-party payers who determine whether the value of the improvement justifies the costs.¶ Of course, this assumes a reasonably well-functioning pharmaceutical market. If that market breaks down in a manner that forces patients to pay higher prices for a patented new version of a drug that provides little real improvement over the original formulation, then it is the deficiency in the market which should be addressed, rather than the patent system itself.¶ For example, if a drug company is found to have engaged in some anticompetitive activity to block generic competition in the market for the original product once it has gone off patent, then antitrust and competition laws should be invoked to address that problem. If doctors are prescribing an expensive new formulation of a drug that provides little benefit compared to a cheaper, unpatented original product, then that is a deficiency in the market that should be addressed directly, rather than through a broadside attack on follow-on innovation. In short, if is found that secondary patents are being used in a manner that creates an unwarranted extension of patent protection, it is that misuse of the patent system which should be addressed directly, rather than through what amounts to an attack on the patent system itself.¶

#### 2. turn: secondary patents needed for innovation – they provide long term proection for inventions

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There has been recognition of the patent incentive limitations for pharmaceutical companies. First, a patent only grants protection over the invention for a limited amount of time, thus keeping generic competitors off the market only for the life of the patent term.69 In addition, the financial burden of filing for and maintaining patents could sometimes deter pharmaceutical companies.70 Further, because companies may be focused on only exploring opportunities that can be afforded patent protection, the existence of the patent incentive may shift the focus of research and development, driving it only into areas of patentability, rather than into areas of high social importance or need.71 These factors all motivate and mold the pharmaceutical industry in a variety of ways, shaping the way brand companies, in particular, innovate and focus on certain types of drugs. The role that secondary patents play in the critique of this incentive is important. Many critiques of the patent law incentive focus on the role of secondary patents, claiming that brand companies use secondary patents as a means of extending patent protection past the initial period of patent exclusivity as determined by the expiration of the primary patent.72 Further, the fact that most pharmaceutical patent litigation is a result of secondary patents is concerning to some critics.73 In addition, secondary patents, resulting from follow-on innovation, are ultimately viewed as having marginal value, with critics suggesting that the lesser value makes them less deserving of protection than primary patents.74 Some even argue that the patentability requirements are lowered for secondary patents, meaning that the amount of novelty required for the invention is lowered.75 This, however, is not the case, as will be explored later. IV. THE HIDDEN SOLUTION TO RESTORE BALANCE IN THE INDUSTRY As discussed in this Note, the current incentives for innovation have their criticisms, weaknesses, and overall flaws. Yet, upon a closer look at the currently available avenues, the best chance of maximizing social welfare with respect to pharmaceuticals may be to further incentivize innovation for brand companies by finding an optimal combination of the current incentives. By providing incentives that cover multiple facets of the innovation process, brand companies will have a variety of avenues that will better incentivize the major financial, time, and resource investments on new product development. Secondary patents play a critical role in crafting this overall incentive plan for brand pharmaceutical companies. They provide protection to inventions later in the process, whereas protection is provided by primary patents upfront and by FDA exclusivities upon a product’s initial market entry. Therefore, the best means to incentivize innovation in the pharmaceutical industry is to not only maintain existing incentives like primary patents and exclusivities, but to also allow for and, in fact, encourage brand companies to obtain secondary patents on follow-on innovation, follow-on products, and overall product improvements.

A. Recognizing the Importance of Secondary Patents Patents remain a primary focus for the pharmaceutical industry as a means to protect new drug inventions and to provide an opportunity to recover some of the expended upfront costs of the extensive preclinical and clinical testing phases.76 Primary patents are often robust and serve to initially protect the invention.77 However, this initial patent term is not enough to allow a patent owner to effectively recover from the upfront time lost from the initial filing date and the high likelihood of failure in bringing a new drug product from early stage development to market.78 The FDA’s Hatch-Waxman Act solution of allowing for a patent restoration term, adding up to an additional five years of patent life onto the natural end of the patent, seeks to remedy this initial time lost as a result of the regulatory approval process.79 However, this extension still may not provide for enough time or incentive for brand companies to expend such extensive resources on new product research and development when the chance of failure for bringing a new product through the FDA approval process is so high. This is where the use of secondary patents comes in. The name “secondary patent” leaves the notion in a reader’s mind that these types of patents are not as important as “primary patents.”80 This is not an accurate depiction of the relative connection between primary and secondary patents. Rather, the first patent filed for a product which often covers the new molecule or new active pharmaceutical ingredient is simply referred to as the “primary patent,” while additional patents covering other aspects of the same product or follow-on innovation are referred to as the secondary patents.81 The categorization of primary verses secondary patents arises solely out of the timeline of when the patents for a given drug product are filed and ultimately obtained. However, regardless of the informal category given to the various types of pharmaceutical patents, a patent will not issue unless it satisfies the requirements of patentability as determined by the United States Patent and Trademark Office (USPTO).82 In that sense, an application is required to meet all patentability requirements before the patent will be issued. Therefore, a secondary patent should not be deemed lesser than a primary patent in that respect. It is true that the subject matter of secondary patents may be deemed “weaker.”83 This categorization, however, is based on the idea that it is easier to invalidate and “invent around” these patents in comparison to the patent covering the very specific new molecule or active ingredient itself.84 The categorization should not take away the importance of secondary patents for brand companies or the subject matter covered in the patents. Opponents of secondary patents in the industry suggest that pharmaceutical companies use these patents as a means of extending protection on the initial product itself.85 This argument stems from the idea that secondary patents can essentially be used to double-patent, or patent the exact same invention twice.86 However, as the USPTO will not issue a patent unless the requirements of patentability are met, specifically that the invention must be novel, the existence of secondary patents is not equivalent to double patenting.87 There are also steps that competitors can take to invalidate a patent that it believes to be an attempt at patenting the same idea twice.88 In fact, competitors do take advantage of the opportunities afforded to them to invalidate patents. For example, they often choose to litigate. Because a majority of these litigation challenges target brand companies’ secondary patents, this suggests that competitors are effectively policing the improper use of secondary patents.89 Therefore, there is little evidence that double patenting is as significant an issue as some allege that it may be. Opponents of secondary patents also suggest that the heightened amount of litigation disputes regarding these patents indicates that their existence in the industry adds little to no value.90 While there is likely a portion of secondary patents that do not add significant value and do just give rise to additional litigation, this is certainly not the case for all inventions contained within secondary patents. In fact, there have been breakthrough product discoveries, improvements, and treatment options that have resulted through follow-on research and the subsequent secondary patents obtained as a result.91 This path is not uncommon, as many products are initially discovered in an attempt to create a treatment for one disease or condition, and are later used in research and identified as potential drug candidates for a different disease or condition.92 This occurs as a result of “[p]harmaceutical development [being] prolonged and unpredictable, and frequently a safe and effective drug occurs only as a result of follow-on innovation occurring long after the initial synthesis and characterization of a pharmaceutically interesting chemical compound.”93 It is this precise innovation that is incentivized by the ability of a company to obtain a secondary patent for its research efforts.94

#### 3. Turn: generics and more competitions squash innovation

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In creating a solution to help brand companies, the impact on generic companies cannot be overlooked. While the encouragement of secondary patents for brand company innovations will negatively impact generic companies, it is, from this author’s perspective, necessary to reestablish an acceptable balance in the pharmaceutical industry. With the ever-growing presence of generics on the market, the growing ease for generic companies to challenge brand companies’ patents, and the large investments required by brand companies to further pharmaceutical developments, there is an imbalance favoring generic companies that may be unduly stifling innovation. It is critical that the balance between brand and generic companies be restored to ensure that evenly matched competition in the industry continues to drive pharmaceutical advancements and innovative efforts. With any luck, if this balance is restored, brand companies will expend even more money on research and innovation with little adverse effect to the generic industry. To maintain a proper, competitive balance in the pharmaceutical market, generic and brand companies both need their individual advantages balanced with respect to each other.