## I. Vaccine Apartheid

#### A TRIPS waiver for covid vaccines will not pass in the squo. Baschauk 7/26

Bryce Baschuk [Reporter, Bloomberg Economics], 21 - ("WTO Holiday From Vaccine Equity Talks Draws Calls for Action," Bloomberg, 7-26-2021, accessed 8-18-2021, https://www.bloomberg.com/news/articles/2021-07-26/wto-s-holiday-from-vaccine-equity-talks-draws-calls-for-action)//ML

An urgent global effort to rebalance the inequity between rich, vaccinated nations and poor nations sliding further into pandemic misery is colliding with an immovable calendar conflict: the European summer holiday. Next week World Trade Organization delegates are planning to depart Geneva for their August break and, in doing so, pause their fractious debate over a proposal to waive intellectual-property protections for Covid-19 shots until the second week of September.¶ Before they leave, members will adopt a report that acknowledges they’ve made scant headway on the proposal aimed at making doses more widely available, which the world’s top health expert says is critical to ending a “moral failure.”¶ “With so many lives on the line, profits and patents must come second,” World Health Organization Director-General Tedros Adhanom Ghebreyesus [said](https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-wto---who-high-level-dialogue-expanding-covid-19-vaccine-manufacture-to-promote-equitable-access) during a virtual summit last week.¶ WTO Director-General Ngozi Okonjo-Iweala previously urged ambassadors to shorten their usual six-week summer holiday to focus on pressing issues like the waiver. Nevertheless, members aren’t planning to reconsider the matter until the week of Sept. 6, according to officials familiar with the planning.¶ “August doesn’t matter in Geneva; it doesn’t matter if people are dying around the world,” said Shailly Gupta, a spokesperson at Médecins Sans Frontières. “We hope members will move at a faster pace.”¶ Disagreement persists on the fundamental question of whether a waiver is the “appropriate and most effective way” to address the shortage of vaccines, according to a draft status report produced by Dagfinn Sørli, the chairman of WTO council on Trade-Related Aspects of Intellectual Property Rights, or TRIPS.¶ That split could sink prospects for an ambitious vaccine waiver because WTO decisions must be taken on the basis of consensus -- which means any of the 164 members can veto a final agreement for any reason.¶ ”The WTO’s response to Covid is the most critical issue before our organization right now,” WTO spokesman Keith Rockwell said a phone interview. “Millions have died and lives are at stake. Finding a pragmatic outcome by December is essential.”¶ Proponents of the waiver had hoped to conclude their negotiations by the [end of July](https://pmindiaun.gov.in/public_files/assets/pdf/Statement_as_delivered_on_Waiver_Proposal.pdf) and are now criticizing the European Union and other developed nations for sandbagging the talks.¶ EU ‘Not Interested’¶ The European Commission, which [opposes a WTO TRIPS waiver](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_21_2361), has proposed a [series of measures](https://www.bloomberg.com/news/articles/2021-06-03/eu-s-trade-response-to-pandemic-stops-short-of-vaccine-ip-waiver) that it argues will create greater legal certainty for nations to leverage existing trade tools in order to expand their production capacities.¶ “The EU is not interested,” Gupta said. “Switzerland, Norway and the United Kingdom are not engaging. They’re saying: ‘This or that won’t work; the waiver won’t work.’ There is no intention of engaging.”¶ A spokesman for the EU mission in Geneva declined to comment.§ Critics counter that the proposal from Brussels is a distraction to redirect focus from India and South Africa’s earlier waiver proposal and to prevent members from engaging in more detailed negotiations.¶ “The EU’s actions are incredibly cynical and dangerous,” said Lori Wallach, the founder of Public Citizen’s Global Trade Watch. “They have submitted a paper that basically conflicts with the text-based negotiations by saying ‘We don’t want a waiver.’”¶ The U.S., meanwhile, has taken a back seat in the process and enthusiasm about Washington’s engagement on the issue has begun to wane in the three months since Trade Representative Katherine Tai announced American [support for a waiver](https://twitter.com/AmbassadorTai/status/1390021205974003720?s=20).¶ Though Tai’s surprise announcement briefly knocked shares of [Moderna Inc.](https://www.bloomberg.com/quote/MRNA:US), [Pfizer Inc.](https://www.bloomberg.com/quote/PFE:US), and [BioNTech SE](https://www.bloomberg.com/quote/BNTX:US), the stocks quickly rebounded and all are now trading at or near their highest levels of the year.¶ “People feel that message from Ambassador Tai is not playing out on the ground or being implemented in a meaningful way,” said Thiru Balasubramaniam a managing director at [Knowledge Ecology International](https://www.bloomberg.com/quote/0746610D:US) in Europe.

#### The only way to solve the pandemic is global vaccination, but current production is woefully short.

Public Citizen 3/29 - Public Citizen [“Public Citizen is a nonprofit consumer advocacy organization that champions the public interest in the halls of power. We defend democracy, resist corporate power and work to ensure that government works for the people – not for big corporations. Founded in 1971, we now have 500,000 members and supporters throughout the country. We don’t participate in partisan political activities or endorse any candidates for elected office. We take no government or corporate money, which enables us to remain fiercely independent and call out bad actors – no matter who they are or how much power and money they have.”], “Waiver of the WTO’s Intellectual Property Rules: Facts vs. Common Myths,” *Public Citizen Global Trade Watch Series*. March 29, 2021. Accessed Aug. 10, 2021. <https://www.citizen.org/article/waiver-of-the-wtos-intellectual-property-rules-myths-vs-facts/> AT

The COVID-19 public health disaster and resulting economic crises won’t end anywhere unless people everywhere are vaccinated. Despite this obvious truth, rich countries with only 14% of the global population have secured preferential access to over 50% of projected global vaccine supplies. Ongoing outbreaks anywhere allow the virus to mutate, threatening the whole world with vaccine-resistant variants or more deadly or easily spread variants. Governments invested billions to create the vaccines. But, there is a dire shortage, with no end in sight. As we enter the second quarter, about one billion doses have been produced in 2021. We need 10 to 12 billion to reach global herd immunity. And we will need far more if, like flu vaccines, they must be repeated or require booster shots. In every region, there are existing firms that could gear up production and governments willing to invest in expanding supply. But WTO rules require countries to guarantee pharmaceutical corporations monopoly control. More than 100 countries support a temporary, emergency suspension of these WTO rules, so more vaccines, treatments and diagnostic tests can be manufactured in as many places as possible. The United States and a handful of other WTO members are blocking the waiver: They won’t even agree to negotiate about waiver language to address whatever concerns that they may have with the current text. Donald Trump started this self-defeating blockade. President Joe Biden must reverse it to speed the end of the COVID-19 pandemic.

**Changing IP laws is key to combatting global health inequality and vaccine apartheid. Rich countries hoard vaccine supply, which means donor models never solve and reinforce colonialism. Harman et al 6/21**

Sophie Harman [professor of Politics and International Relations, Queen Mary University of London], Parsa Erfani [Fogarty Global Health Fellow at the University of Global Health Equity and a medical student at Harvard Medical School], Tinashe Goronga [Community Organiser Equal Health Global Campaign Against Racism at EqualHealth], Jason Hickel, Michelle Morse, Eugene T Richardson 6/21 - ("Global vaccine equity demands reparative justice — not charity," BMJ Global Health, 6/21/2021, <https://gh.bmj.com/content/6/6/e006504)//ML>

By late April, more than 80% of the world’s COVID-19 vaccines had gone to people in wealthy countries, with just 0.3% to people in low-income countries.[1](https://gh.bmj.com/content/6/6/e006504#ref-1) This reprehensible imbalance is no accident. High-income countries have used neocolonial negotiating power, global policy leverage and capital to procure enough doses to cover 245% of their citizens while leaving few doses for poorer countries.[2](https://gh.bmj.com/content/6/6/e006504#ref-2) As a result, lower-income countries may not be able to vaccinate their populations until 2023.[3](https://gh.bmj.com/content/6/6/e006504#ref-3)¶ Such inequity is yet another example of how the interests of racial capitalism run roughshod over the golden rule of global solidarity—attend to the highest risk first.[4](https://gh.bmj.com/content/6/6/e006504#ref-4) Currently, older and medically vulnerable individuals are dying from COVID-19 disproportionately in poor countries, while young, healthy individuals are getting vaccinated in wealthy ones.[5](https://gh.bmj.com/content/6/6/e006504#ref-5) Vaccine apartheid is a not novel phenomenon. The notion that only certain corners of the world get to benefit from life-saving treatments is an everyday reality of a global health system driven by a capitalist, philanthropic model.[6 7](https://gh.bmj.com/content/6/6/e006504#ref-6) But in times of crises—and as new variants threaten the vaccination plans of wealthy countries—these inequities and their solutions come to the forefront of global debate.[8](https://gh.bmj.com/content/6/6/e006504#ref-8)¶ Policy-makers in rich nations are aware of these issues. But the solutions they have proposed so far do nothing to address the underlying structural problems. They offer charitable donations and partial, temporary fixes that are designed to deflect the substantive demands for reform that global South countries are fighting for, including challenges to unethical intellectual property (IP) regimes.[9](https://gh.bmj.com/content/6/6/e006504#ref-9) This approach will not work, because it is not designed to ‘work.’ If we want to end vaccine apartheid, we need to target the root causes of global health inequities. We need reparative justice.¶ Three limited ‘solutions’ to vaccine inequity¶ There are currently three approaches to reduce inequity in COVID-19 vaccine distribution: bilateral charity, multilateral charity and temporary waivers or suspensions of IP.¶ The first is the most straightforward. States that stockpile COVID-19 vaccines have committed to sharing their leftovers with low-income and middle-income countries. Norway was one of the first nations to accede to donating doses to poorer countries in parallel with its vaccine programme.[10](https://gh.bmj.com/content/6/6/e006504#ref-10) This is the weakest form of equity as it is unclear if this will be done for free, at a lower cost, tied to diplomacy or conditionality, or crucially, when these vaccines will be made available, where they will go, or how many will be delivered. The bilateral charity approach has little to do with equity and more to do with geopolitics, wealth and aid dependency.[11 12](https://gh.bmj.com/content/6/6/e006504#ref-11)¶ The second is multilateral charity, best exemplified by COVAX. In 2020, COVAX emerged as an international collaboration by the World Health Organisation (WHO), United Nations Children’s Fund, Gavi and the Coalition for Epidemic Preparedness Innovations to ensure equitable global access to COVID-19 vaccines.[13](https://gh.bmj.com/content/6/6/e006504#ref-13) Rich countries can access doses for 10%–50% of their populations, depending on how much they have paid in, and poor countries can access doses for 20% through the scheme. It is the 20% for poor countries that has come to be COVAX’s unique selling point: here is a mechanism that ensures every country in the world can get the vaccine regardless of ability to pay. This is the first time such an initiative has been trialled.¶ The shortcomings of COVAX are numerous. If vaccines are delivered as planned, COVAX may reach 27% of the population in lower-income countries by the end of 2021—a depressing goal compared with the estimated 70% coverage needed for herd immunity and the open vaccine access currently granted to Americans.[14 15](https://gh.bmj.com/content/6/6/e006504#ref-14) Furthermore, COVAX is still significantly underfunded and there are concerns regarding supply chains. While capital and resource transfer from wealthy countries to poorer ones is surely needed in the current pandemic response, any system that solely relies on aid will ultimately fail to achieve equity. In the setting of vaccine scarcity, in which suppliers are unable to deliver doses as scheduled and countries are banning exports to keep vaccines at home, there is a risk that COVAX aid-recipient states will fall further down the priority list, awaiting the leftover vaccines from the rich country stockpiles.[16–18](https://gh.bmj.com/content/6/6/e006504#ref-16)¶ What may be most pernicious about the COVAX scheme, however, is that rich countries and their pharmaceutical companies have repeatedly used it as a shield to deflect demands for IP waivers. This is an enduring problem with aid: it papers over and distracts our attention away from the underlying structural violence. And in so doing, it maintains and perpetuates inequalities. Over 50 years ago, Kwame Nkrumah observed how aid is a ‘revolving credit’ which returns to countries of the global North in the form of increased profits.[19](https://gh.bmj.com/content/6/6/e006504#ref-19) To the extent that COVAX is being leveraged to protect corporate patents and profits, Nkrumah’s words continue to be germane¶. The third approach is focused on pooling, temporary waivers, or suspension of IP. In May 2020, the WHO created the COVID-19 Technology Access Pool for companies to share IP and transfer technologies in a coordinated manner. But to date, not a single company has utilised the transfer process—likely because such forms of global IP sharing would quell profits, even if royalties are included.[20](https://gh.bmj.com/content/6/6/e006504#ref-20) Pharmaceutical companies and universities prefer one-off transfer deals because it enables them to set their own terms with non-disclosure agreements. Given that they are accountable to shareholders and boards—not patients—financial incentives will drive transfer decisions, not public health demand.¶ Following the blockages at the WHO around IP, attention shifted towards the World Trade Organisation (WTO). In October 2020, India and South Africa proposed a temporary waiver of IP rights to COVID-19 technologies for the duration of the pandemic, so that all manufacturers with sufficient capacity and shared know-how could start production.[21](https://gh.bmj.com/content/6/6/e006504#ref-21) Although backed by over 100 countries within the WTO and a global campaign for the ‘People’s Vaccine,’ the proposal has been repeatedly blocked at every committee meeting since then by select wealthy countries with large pharmaceutical industries, including the UK, Japan and EU states.[22 23](https://gh.bmj.com/content/6/6/e006504#ref-22)¶ Those who oppose the IP waiver argue that it will not do anything to solve the problem: even if you were to liberate the recipe for the vaccines, low-income and middle-income countries do not have the capacity to produce it.[24](https://gh.bmj.com/content/6/6/e006504#ref-24) But this argument is specious. For one, several middle-income countries—including India, Brazil, Senegal and South Africa—do have the ability to ramp up production by repurposing existing manufacturing capacity.[25](https://gh.bmj.com/content/6/6/e006504#ref-25) In addition, an IP waiver can and should be supplemented with technology transfers, logistical support and financial investment to facilitate this repurposing process. And the most important point is that such a waiver could drastically reduce costs across the board, making vaccine imports more affordable for poor countries.¶ Opponents of the waiver also claim that IP-related obstacles can be addressed through existing arrangements for ‘compulsory licensing’ under the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).[26](https://gh.bmj.com/content/6/6/e006504#ref-26) But the past evidence suggests that this process is slow, cumbersome and subject to various shaming practices by the international community.[27 28](https://gh.bmj.com/content/6/6/e006504#ref-27) Some point instead to the possibility of voluntary licensing. But voluntary licenses are often executed secretly and are limited to companies or governments that can afford them. The University of Pennsylvania, which owns IP rights relating to the mRNA vaccines, is helping Chulalongkorn University in Bangkok develop a vaccine production facility. This partnership was possible because Thailand—unlike other middle-income countries—was able to put up the money.[29](https://gh.bmj.com/content/6/6/e006504#ref-29) Poorer countries are left out. Sharing of IP and technology transfers can and will accelerate global vaccine production. The question is on whose terms. Organisations such as the WHO and African Union are currently mobilising support and resources to accelerate production in low-income and middle-income countries.[30 31](https://gh.bmj.com/content/6/6/e006504#ref-30) But these efforts will be to waste unless IP for COVID-19 technologies is shared broadly and quickly.¶ Vaccine coloniality¶ Donor-based approaches to vaccine equity are grounded in old, even colonial ideas of aid and dependency, which have failed to serve the health needs of the Majority World or deliver on health equity. This failed model has not promoted health equity in the past and is clearly inadequate in the present, on account of dependency on donor whims (the bilateral ‘leftovers’ approach), persistent funding gaps and shortfalls (COVAX), and time-consuming diplomacy and filibustering over what is or is it not within current trade rules (WTO).¶ Once again in the political economy of global health, the charitable model of COVAX becomes the smokescreen for inequitable systems. When states are asked about their stockpiling, they point to COVAX. When pharmaceutical companies are asked about IP, they point to COVAX or their low-cost commitment. The focus on a donor-based model of aid in achieving vaccine equity has distracted leaders from the ideologies, economic systems and trade regulations that leave access to medicine to the forces of the marketplace rather than global health priorities.[32](https://gh.bmj.com/content/6/6/e006504#ref-32) Achieving global vaccine justice requires a rapid shift in trade regulations and contract transparency that streamlines IP sharing and technology transfers. The resultant collaborations across economies will not only accelerate vaccine production but will also increase competition and push vaccine prices down.¶ Finally, old models of vaccine equity have not kept pace with changes in discourse and thinking around global health governance, equity and justice. 2021 is not the early 2000s, where new public–private partnerships or funding models were de rigueur. Donor countries are increasingly wary of aid dependency as they pay the cost of continuing high profile health programmes with diminishing strategic returns. Aid-recipient countries are similarly exasperated by funding gaps that lead to delays and materiel shortfalls, the NGO-industrial complex and attendant consultants that rationalise them, and fundamentally, by the notion that their populations only seem to matter when another state can capitalise on them.¶ Conclusion¶ Vaccine apartheid is only one symptom of broader global health inequalities that have their roots in colonialism and persist today because of neocolonial forms of power. As Grosfoguel writes, ‘The heterogeneous and multiple global structures put in place over a period of 450 years did not evaporate with the juridical–political decolonisation of the periphery over the past 50 years. We continue to live under the same ‘colonial power matrix.’ With juridical–political decolonisation we moved from a period of ‘global colonialism’ to the current period of ‘global coloniality.’[33](https://gh.bmj.com/content/6/6/e006504#ref-33) Vaccine justice starts with moving beyond aid models of vaccine donation, in which poorer countries are gifted vaccine leftovers. It demands rapidly achieving global consensus for the IP waiver, democratising vaccine IP and know-how and supporting low-income and middle-income countries to build manufacturing capacity for this pandemic and the next. These steps can mark the start of a reparative justice movement in global health that demands we confront and overturn colonial legacies that continue to devastate the health of low- and middle-income countries.[34](https://gh.bmj.com/content/6/6/e006504#ref-34) A commitment to funding vaccine justice in the face of the COVID-19 pandemic can be a first step in this direction.

#### Compulsory licensing is not sufficient – drug company resistance, IP thickets, and devolved decision-making.

Stiglitz & Wallach 4/26 - Joseph E. Stiglitz and Lori Wallach [Joseph E. Stiglitz, co-recipient of the 2001 Nobel Memorial Prize in Economics Sciences, teaches at Columbia University. Lori Wallach is the director of Public Citizen’s Global Trade Watch.], “Opinion: Preserving intellectual property barriers to covid-19 vaccines is morally wrong and foolish,” *Washington Post* (Web). April 26, 2021. Accessed Aug. 10, 2021. <https://www.washingtonpost.com/opinions/2021/04/26/preserving-intellectual-property-barriers-covid-19-vaccines-is-morally-wrong-foolish/> AT

Unfortunately, the drug companies have consistently done whatever they can to preserve their monopoly control. Even today, as they battle the waiver and argue that existing compulsory licensing rights are sufficient, they lobby the U.S. government to sanction countries that use that tool.¶ These corporations have also undermined this option by building “thickets” of intellectual property barriers. They fortify their monopolies by registering exclusive rights to industrial designs and undisclosed data, such as trade secrets and test data, in addition to numerous patents and copyrights for each medicine. Each element would require a license, and the WTO’s flexibilities might not even encompass all of them.¶ Making matters more difficult, “product-by-product” and “country-by-country” compulsory licensing is nigh impossible to coordinate across countries for medicines with complex global supply chains, such as covid-19 vaccines.

**Vaccine shortfall causes widespread death and poverty.**

**Public Citizen 3/1 -** Public Citizen [“Public Citizen is a nonprofit consumer advocacy organization that champions the public interest in the halls of power. We defend democracy, resist corporate power and work to ensure that government works for the people – not for big corporations. Founded in 1971, we now have 500,000 members and supporters throughout the country. We don’t participate in partisan political activities or endorse any candidates for elected office. We take no government or corporate money, which enables us to remain fiercely independent and call out bad actors – no matter who they are or how much power and money they have.”], “Backgrounder: WTO-Required Monopolies for Pharmaceutical Corporations Obstruct Global Production of COVID-19 Vaccines & Treatment,” *Public Citizen Global Trade Watch Series*. March 1, 2021. Accessed Aug. 12, 2021. <https://www.citizen.org/article/wto-required-monopolies-for-pharmaceutical-corporations-obstruct-global-production-of-covid-19-vaccines-and-treatments/> AT

It is obvious that current production capacity cannot supply enough vaccines for the entire world. Many people in low- and middle-income countries around the globe will not get vaccinated until at least 2022 unless the world manufactures many more doses, according to the British Medical Journal. The world’s poorest countries may wait until 2024 for mass immunization, if it happens at all, reports the Economist Intelligence Unit.

The global vaccine apartheid unfolding right now could cost millions of lives and push tens of millions more into poverty. The devastation will be felt for a generation. A new International Chamber of Commerce report concluded that the world could face economic losses of more than $9 trillion under the scenario of wealthy nations being fully vaccinated by mid-2021, but poor countries largely shut out. Wealthy countries like the United States would bear nearly half of that hit. Vaccinating just half of low- and middle-income countries’ populations could reduce global losses by $5.5 trillion.

**Poverty and disease are mutually reinforcing, causing staggering suffering and injustice.**

**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

In 2004, some 970 million people, around 15 percent of the world’s population, were living below the extreme poverty line of $1 a day (more strictly defi ned, $392.88 annually) in 1993 Purchasing Power Parity (PPP) terms (Chen and Ravallion 2007, 16579).3 Furthermore, those living below this very low poverty line fell on average around 28 percent below it. Th eir average annual purchasing power therefore corresponded to approximately $420 in the US in 2008 dollars.4¶ Th ese are the poorest of the poor. Th e World Bank also uses a somewhat less miserly poverty line, namely $2 dollar a day, or an annual amount of $785.76 PPP 1993. Th e Bank’s data show that around 40 percent of the world’s population, or over 2.5 billion people, lived in income poverty so defi ned in 2004,5 with this population falling on average 41 percent below this higher line.6 Individuals I[];[\p[]p[]\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\n this much larger group could buy, on average, about as much in 2004 as could be bought in the US in 2008 for $690.¶ The Effects of Global Income Poverty on Health¶ The effects of such extreme income poverty are foreseeable and extensively documented. It is estimated that around 13 percent of all human beings (830 million) are chronically undernourished, 17 percent (1.1 billion) lack access to safe water, and 41 percent (2.6 billion) lack access to basic sanitation (UNDP 2006, 174, 33). About 31 percent (2 billion) lack access to crucial drugs and 25 percent (1.6 billion) lack electricity (Fogarty n.d., IEA 2002). Some 780 million adults are illiterate (UNESCO 2006), and 14 percent of children aged between fi ve and 17 (218 million) are child laborers, more than half in hazardous work (ILO 2006, 6).¶ Worldwide, diseases related to poverty, including communicable, maternal, perinatal, and nutritionrelated diseases, comprise over 50 percent of the burden of disease in low-income countries, nearly ten times their relative burden in developed countries (WHO 2006b, 3). If the developed world had its proportional share of poverty-related deaths (onethird of all deaths), severe poverty would kill some 16,000 Americans and 26,000 citizens of the European Union each week.¶ The cycle of mutually reinforcing poverty and disease besetting low income countries, and particularly the poorer communities in these countries, could be broken by signifi cantly reducing severe poverty. But it is also possible to make substantial progress against the global burden of disease more directly by improving health care in developing countries.¶ Poverty does not merely render poor people more vulnerable to disease, but also makes it less likely that they can obtain medical treatment for the diseases they contract. This is because in poor countries medical care is rarely available for free, and poor people are typically unable to buy either the care needed by themselves or their families or the insurance policies that would guarantee them such care. The price of health care in poor countries therefore also plays a crucial role in explaining the catastrophic health situation among the global poor.

## II. Solvency

#### Plan text: The member nations of the World Trade Organization ought to waive intellectual property protections for Covid-19 related medicines.

Public Citizen 6/22 - Public Citizen et. al, “Please Speedily Secure Implementation of a COVID-19 Emergency Waiver of WTO TRIPS Rules for Vaccines, Tests and Treatments,” *Open Letter to President Joe Biden*. June 22, 2021. <<https://www.citizenstrade.org/ctc/wp-content/uploads/2021/06/COVIDTRIPSWaiver_SignOnLtr2_062221.pdf#new_tab>> AT

We the undersigned organizations respectfully urge you to speedily secure a waiver that is:¶ • Comprehensive: The U.S. government must secure swift adoption of a temporary waiver of the patent, copyright, industrial design and undisclosed data rules of the WTO’s TRIPS Agreement with respect to COVID-19-related medical products. The scope of the waiver must extend beyond vaccines to also cover the diagnostic tests needed to detect outbreaks and variants; the treatments, ventilators and other medical devices necessary to shorten lockdowns and save the lives of the millions who will contract COVID-19 before sufficient vaccine doses can be made and the materials, components, means and methods of manufacturing such goods.¶ • Swift: The WTO Director General’s December 2021 deadline for a final waiver text is far too late to meet the urgency of the pandemic, which requires agreement on a waiver in a matter of weeks, not months.¶ • Long-lasting: A waiver must be of sufficient duration to incentivize and sustain increases in manufacturing capacity for and output of medical goods to prevent, contain or treat COVID19, taking into consideration that the pandemic may yet escape current vaccines. We support the waiver sponsors’ proposal that the initial waiver last three years and be regularly reviewed thereafter, particularly given uncertainties around variants, the need for boosters, and what levels of immunization may be needed.¶ Current global production capacity of COVID-19 vaccines, medicines, and diagnostic tests cannot come close to meeting global needs to detect, treat, prevent, or contain COVID-19. Absent significant increases in vaccine production, many in developing nations will not have access to vaccines until 2024. This lag would mean more deaths and the greater chances for development of new variants that can undermine vaccines' achievements to date.¶ Every country should have the right to develop and make their own vaccines free from the worry that they and their suppliers would be sued by IP holders. To date, vaccine intellectual property rightsholders have refused to issue open licenses under transparent and accountable terms and conditions, and transfer technology fully to and negotiate payment terms with qualified manufacturers in Africa, Asia, and Latin America, creating supply shortages and production bottlenecks and prohibiting urgently needed production of doses worldwide. The worst global health crisis in a century has resulted in at least 3.5 million deaths worldwide and is conservatively estimated to cost the U.S. alone $16 trillion in economic losses, accompanied by yet greater global losses that have impoverished hundreds of millions of people worldwide. We are in a race against time to save lives and prevent new variants. Absent a major increase in vaccines, treatments, diagnostic tests, ventilators, and other COVID-19-related medical supplies, the pandemic will rage largely unmitigated among a significant share of the world’s population. COVID-19 infections will increase, resulting in increased deaths and long-term damage to the health of millions of people, a dragging blow to the global economy and a risk that vaccine-resistant variants will put the world back on lockdown and evade immunity for those previously infected and/or vaccinated. The long-term impact on people’s health and the world’s health system would be unprecedented.

#### A waiver would increase leverage over pharma and provide legal certainty needed to spur critical production.

Stiglitz & Wallach 4/26 - Joseph E. Stiglitz and Lori Wallach [Joseph E. Stiglitz, co-recipient of the 2001 Nobel Memorial Prize in Economics Sciences, teaches at Columbia University. Lori Wallach is the director of Public Citizen’s Global Trade Watch.], “Opinion: Preserving intellectual property barriers to covid-19 vaccines is morally wrong and foolish,” *Washington Post* (Web). April 26, 2021. Accessed Aug. 10, 2021. <https://www.washingtonpost.com/opinions/2021/04/26/preserving-intellectual-property-barriers-covid-19-vaccines-is-morally-wrong-foolish/> AT

A waiver would immediately increase government leverage over vaccine makers that refuse to license the technology. Firms could choose to either expand production by negotiating with governments, alternative suppliers and global initiatives, or risk governments circumventing them and forcing the transfer of technology.¶ A waiver would also provide legal certainty for governments and investors that are inclined to repurpose existing pharmaceutical manufacturing or build new facilities but are fearful of intellectual property liability. And it could boost production of covid-19 treatments unavailable in much of the world, as well as diagnostic tests and vaccine supply chain products.

#### Legal certainty unlocks global production.

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Most critically, there simply is not enough supply to go around now or for every year in the future during which the whole world will need regular COVID vaccination to keep the virus under control. Thankfully, scores of countries are ready to invest in building new or repurposing existing production capacity. That is why more than 100 countries support a waiver of the WTO’s Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). These countries seek certainty that if they adjust their domestic laws and practices to support that investment by providing access to the necessary technology, they will not get dragged into expansive WTO litigation or face retaliatory sanctions from countries claiming WTO violations. The waiver will also serve as a worldwide buffer against the political pressure and legal harassment to which Big Pharma subjects countries that seek to promote affordable access to medicines.¶ In many countries, the regulatory authorities that had to approve domestic use of various vaccines and other COVID-related medical products have significant information from the firms that they could share with skilled teams from local universities, government agencies and pharmaceutical manufacturers — if they were not obliged by WTO rules to guarantee monopoly control of it. And world-class pharmaceutical firms already are making generic versions of new cutting-edge HIV-AIDS medicines and pumping out vaccines based on the platform that, for instance, the Johnson & Johnson vaccine uses.

**Manufacturing capacity is widespread around the world.**

**Public Citizen 3/29 -** Public Citizen [“Public Citizen is a nonprofit consumer advocacy organization that champions the public interest in the halls of power. We defend democracy, resist corporate power and work to ensure that government works for the people – not for big corporations. Founded in 1971, we now have 500,000 members and supporters throughout the country. We don’t participate in partisan political activities or endorse any candidates for elected office. We take no government or corporate money, which enables us to remain fiercely independent and call out bad actors – no matter who they are or how much power and money they have.”], “Waiver of the WTO’s Intellectual Property Rules: Facts vs. Common Myths,” *Public Citizen Global Trade Watch Series*. March 29, 2021. Accessed Aug. 10, 2021. <https://www.citizen.org/article/waiver-of-the-wtos-intellectual-property-rules-myths-vs-facts/> AT

In the press and on Capitol Hill, Big Pharma is pushing a Big Lie. The claim is that a lack of manufacturing capacity, not pharmaceutical corporation’s monopoly intellectual property (IP) protections, are thwarting greater production of COVID-19 vaccines. A related argument, with decidedly racist overtones, is that COVID-19 vaccines are too complicated for producers in developing countries to make successfully. The reality is that in every region of the world, there are multiple producers that could be greatly increasing global vaccine supplies if the technology and know-how were shared.¶ Just in Africa, “Biovac and Aspen in South Africa, Institute Pasteur in Senegal, and Vacsera in Egypt could rapidly retool factories to make mRNA vaccines,” notes a group of medicine-production experts in a recent Foreign Policy article. Indeed, a former Moderna director of chemistry revealed that with enough technology transfer and know- how-sharing, a modern factory should be able to get mRNA vaccine production online in, at most, three to four months. The Serum Institute in India already is slated to produce the AstraZeneca and Novavax vaccines, while Moderna declined to partner with a qualified Bangladeshi vaccine maker, claiming its engineers were too busy to focus beyond U.S. and EU production. In Latin America, existing facilities in Brazil, Argentina and Mexico under contract to monopoly holders are already pumping out vials, and in countries like Chile and Colombia, the pharmaceutical industry has expressed willingness to kickstart vaccine production.¶ Existing and planned contract manufacturing arrangements prove facilities in developing countries certainly can produce COVID-19 vaccines. But unless technology and know-how are shared more openly, the monopoly holders maintain absolute control over how much can be produced, what the price is and where it will be sold. So, 91% of the Johnson & Johnson vaccine that South African firm Aspen will manufacture must be shipped for sale outside South Africa, according to South Africa’s WTO Counselor. And the Serum Institute is barred from supplying upper- middle-income and high-income countries with the AstraZeneca vaccines it makes, meaning AstraZeneca can artificially segment the global market and ensure that it is the only supplier of the Oxford vaccine in the most profitable national markets, according to Doctors Without Borders.¶ Most critically, there simply is not enough supply to go around now or for every year in the future during which the whole world will need regular COVID vaccination to keep the virus under control. Thankfully, scores of countries are ready to invest in building new or repurposing existing production capacity. That is why more than 100 countries support a waiver of the WTO’s Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). These countries seek certainty that if they adjust their domestic laws and practices to support that investment by providing access to the necessary technology, they will not get dragged into expansive WTO litigation or face retaliatory sanctions from countries claiming WTO violations. The waiver will also serve as a worldwide buffer against the political pressure and legal harassment to which Big Pharma subjects countries that seek to promote affordable access to medicines.¶ In many countries, the regulatory authorities that had to approve domestic use of various vaccines and other COVID-related medical products have significant information from the firms that they could share with skilled teams from local universities, government agencies and pharmaceutical manufacturers — if they were not obliged by WTO rules to guarantee monopoly control of it. And world-class pharmaceutical firms already are making generic versions of new cutting-edge HIV-AIDS medicines and pumping out vaccines based on the platform that, for instance, the Johnson & Johnson vaccine uses.

## III. Framing

#### The Aff challenges dehumanizing cultural frames that allow us to ignore human suffering. Recognition of common vulnerability is key to a politics that rejects violence, oppression, and indifference.

Butler ’04 - Judith Butler [Prof. of Rhetoric and Comparative Literature, University of California at Berkeley], Precarious Life: The Powers of Mourning and Violence. New York: Verso (2006; First Published 2004). pp. 30-35 AT

Is there something to be gained from grieving, from tarrying with grief, from remaining exposed to its unbearability and not endeavoring to seek a resolution for grief through violence? Is there something to be gained in the political domain by maintaining grief as part of the framework within which we think our international ties? If we stay with the sense of loss, are we left feeling only passive and powerless, as some might fear? Or are we, rather, returned to a sense of human vulnerability, to our collective responsibility for the physical lives of one another? **Could** the experience of a **dislocation of First World safety** not **condition** the **insight into the radically inequitable ways that** corporeal **vulnerability is distributed globally?** To foreclose that vulnerability,to banish it, **to make ourselves secure at the expense of every other** human consideration **is to eradicate** one of the **most important resources from which we must** take our bearings and **find our way.¶** To grieve, and to make grief itself into a resource for politics, is not to be resigned to inaction, but it may be understood as the slow process by which we develop a point of identification with suffering itself. The disorientation of grief- “Who have I become?” or, indeed, “What is left of me?” “What is it in the Other that I have lost?” – posits the “I” in the mode of unknowingness.¶ But this can be a point of departure for a new understanding if the narcissistic preoccupation of melancholia can be moved into a consideration of the vulnerability of others. Then we might critically evaluate and oppose the conditions under which certain human lives are more vulnerable than others,and thus certain human lives are more grievable than others. From where **might a principle emerge by which we vow to protect others from the kinds of violence we have suffered,** if not **from an apprehension of a common human vulnerability?** I do not mean to deny that vulnerability is differentiated, that it is allocated differentially across the globe. I do not even mean to presume upon a common notion of the human, although to speak in its “name” is already (or perhaps only) to fathom its possibility.¶ I am referring to violence, vulnerability, and mourning, but there is a more general conception of the human with which I am trying to work here, one in which we are, from the start, given over to the other, one in which we are, from the start, even prior to individuation itself and, by virtue of bodily requirements, given over to some set of primary others: this conception means that we are vulnerable to those we are too young to know and to judge and, hence, vulnerable to violence; but also vulnerable to another range of touch, a range that includes the eradication of our being at the one end, and the physical support for our lives at the other.¶ Although I am insisting on referring to a common human vulnerability, one that emerges with life itself, I also insist that we cannot recover the source of this vulnerability: it precedes the formation of the “I.” This is a condition, a condition of being laid bare from the start and with which we cannot argue. I mean, that we can argue with it, but we are perhaps foolish, if not dangerous, when we do. I do not mean to suggest that the necessary support for a newborn is always there. Clearly, it is not, and for some this primary scene is a scene of abandonment or violence or starvation, that theirs are bodies given over to nothing, or to brutality, or to no sustenance.¶ We cannot understand vulnerability as a deprivation, however, unless we understand the need that is thwarted. Such infants still must be apprehended as given over, as given over to no one or to some insufficient support, or to an abandonment. It would be difficult, it not impossible, to understand how humans suffer from oppression without seeing how this primary condition is exploited and exploitable, thwarted and denied. The condition of primary **vulnerability**, of being given over to the touch of the other, even if there is no other there, and no support for our lives, **signifies a primary helplessness and need**, one **to which any society must attend.** Lives are supported and maintained differently, andthere are radically different ways in which human physical vulnerability is distributed across the globe. **Certain lives will be highly protected, and the abrogation of their** claims to **sanctity will** be sufficient to **mobilize the forces of war. Other lives** will not find such fast and furious support and will not even qualify as “grievable.”**¶** A hierarchy of grief could no doubt be enumerated. We have seen it already, in the genre of the obituary, where lives are quickly tidied up and summarized, humanized, usually married, or on the way to be, heterosexual, happy, monogamous. But this is just a sign of another differential relation to life, since we seldom, if ever, hear the names of the thousands of Palestinians who have died by the Israeli military with United States support, or any number of Afghan people, children and adults**. Do they have names, faces, personal histories, family, favorite hobbies, slogans by which they life?** What defense against the apprehension of loss is at work in the blithe way in which we accept deaths caused by military means with a shrug or with self-righteousness or with clear vindictiveness? To what extent have Arab peoples, predominantly practitioners of Islam, fallen outside the “human” as it has been naturalized in its “Western” mold by the contemporary workings of humanism? What are the cultural contours of the human at work here? How do our **cultural frames for thinking the human set limits on the kinds of losses we can avow** as loss**?** After all, if someone is lost, and that person is not someone, then what and where is the loss, and how does mourning take place?¶ This last is surely a question that lesbian, gay, and hi-studies have asked in relation to violence against sexual minorities; that transgendered people have asked as they are singled out for harassment and sometimes murder; that intersexed people have asked, whose formative years are so often marked by unwanted violence against their bodies in the name of a normative notion of the human, a normative notion of what the body of a human must be. This question is no doubt, as well, the basis of a profound affinity between movements centering on gender and sexuality and efforts to counter the normative human morphologies and capacities that condemn or efface those who are physically challenged. It must also be part of the affinity with anti-racist struggles, given the racial differential that undergirds the culturally viable notions of the human, ones that we see acted out in dramatic and terrifying ways in the global arena at the present time.¶ I am referring not only to humans not regarded as humans, and thus to a restrictive conception of the human that is based upon their exclusion. It is not a matter of a simple entry of the excluded into an established ontology, but an insurrection at the level of ontology, a critical opening up of the questions, What is real? Whose lives are real? How might reality be remade? Those who are unreal have, in a sense, already suffered the violence of derealization. What, then, is the relation between violence and those lives considered as "unreal"? Does violence effect that unreality? Does violence take place on the condition of that unreality?¶ If violence is done against those who are unreal, then, from the perspective of violence, it fails to injure or negate those lives since those lives are already negated. But they have a strange way of remaining animated and so must be negated again (and again). They cannot be mourned because they are always already lost or, rather, never "were," and they must be killed, since they seem to live on, stubbornly, in this state of deadness. Violence renews itself in the face of the apparent inexhaustibility of its object. The derealization of the "Other" means that it is neither alive nor dead, but interminably spectral. The infinite paranoia that imagines the war against terrorism as a war without end will be one that justifies itself endlessly in relation to the spectral infinity of its enemy, regardless of whether or not there are established grounds to suspect the continuing operation of terror cells with violent aims.¶ How do we understand this derealization? It is one thing to argue that first, on the level of discourse, certain lives are not considered lives at all, they cannot be humanized, that they fit no dominant frame for the human, and that their dehumanization occurs first, at this level, and that this level then gives rise to a physical violence that in some sense delivers the message of dehumanization that is already at work in the culture. It is another thing to say that discourse itself effects violence through omission. If 2oo,ooo Iraqi children were killed during the Gulf War and its aftermath/ do we have an image, a frame for any of those lives, singly or collectively? Is there a story we might find about those deaths in the media? Are there names attached to those children?¶ There are no obituaries for the war casualties that the United States inflicts, and there cannot be. If there were to be an obituary, there would have had to have been a life, a life worth noting, a life worth valuing and preserving, a life that qualifies for recognition. Although we might argue that it would be impractical to write obituaries for all those people, or for all people, I think we have to ask, again and again, how the obituary functions as the instrument by which grievability is publicly distributed. It is the means by which a life becomes, or fails to become, a publicly grievable life, an icon for national self-recognition, the means by which a life becomes noteworthy. As a result, we have to consider the obituary as an act of nation-building. The matter is not a simple one, for, if a life is not grievable, it is not quite a life; it does not qualify as a life and is not worth a note. It is already the unburied, if not the unburiable.¶ It is not simply, then, that there is a "discourse" of dehumanization that produces these effects, but rather that there is a limit to discourse that establishes the limits of human intelligibility. It is not just that a death is poorly marked, but that it is unmarkable. Such a death vanishes, not into explicit discourse, but in the ellipses by which public discourse proceeds. The queer lives that vanished on September I I were not publicly welcomed into the idea of national identity built in the obituary pages, and their closest relations were only belatedly and selectively (the marital norm holding sway once again) made eligible for benefits. But this should come as no surprise, when we think about how few deaths from AIDS were publicly grievable losses, and how, for instance, the extensive deaths now taking place in Africa are also, in the media, for the most part unmarkable and ungrievable.

**The Aff challenges the hegemonic ideology of the status quo by rejecting sacrificial rationalizations. That logic is the basis for colonialism, slavery, genocide, war, and global poverty.**

**Santos 3** 2003, Boaventura de Souza Santos is a Professor of Sociology at the University of Coimbra, “Collective Suicide?”, Bad Subjects, Issue # 63 , http://www.ces.fe.uc.pt/opiniao/bss/072en.php

According to Franz Hinkelammert, **the West has repeatedly been under the illusion that it should try to save humanity by destroying part of it.** This is a salvific and sacrificial destruction, committed in the name of the need to radically materialize all the possibilities opened up by a given social and political reality over which it is supposed to have total power. This is how it was in **colonialism,** with the **genocide of indigenous peoples,** and the **African slaves.** This is how it was in the period of **imperialist struggles, which caused millions of deaths in two world wars and** many other **colonial wars.** This is how it was in **Stalinism, with the Gulag and** in **Nazism, with the holocaust.** And now today, this is how it is in **neoliberalism, with the collective sacrifice of the periphery** and even the semiperiphery of the world system**.** With the war against Iraq, it is fitting to ask whether what is in progress is a new genocidal and sacrificial illusion, and what its scope might be. It is above all appropriate to ask if the new illusion will not herald the radicalization and the ultimate perversion of the western illusion: destroying all of humanity in the illusion of saving it. **Sacrificial genocide arises from a totalitarian illusion** that is manifested in the belief **that there are no alternatives to the present**-day **reality and that** the **problems** and difficulties confronting it **arise from failing to take its logic** of development **to its ultimate consequences**. If there is unemployment, hunger and death in the Third World, this is not the result of market failures; instead, it is the outcome of the market laws not having been fully applied. If there is terrorism, this is not due to the violence of the conditions that generate it; it is due, rather, to the fact that total violence has not been employed to physically eradicate all terrorists and potential terrorists. **This political logic is based on the supposition of total power and knowledge, and on the radical rejection of alternatives; it is ultra-conservative** in that **it aims to infinitely reproduce the status quo.** Inherent to it is the notion of the end of history. During the last hundred years, the West has experienced three versions of this logic, and, therefore, seen three versions of the end of history: Stalinism, with its logic of insuperable efficiency of the plan; Nazism, with its logic of racial superiority; and neoliberalism, with its logic of insuperable efficiency of the market. The first two periods involved the destruction of democracy. The last one trivializes democracy, disarming it in the face of social actors sufficiently powerful to be able to privatize the State and international institutions in their favour. I have described this situation as a combination of political democracy and social fascism. One current manifestation of this combination resides in the fact that intensely strong public opinion, worldwide, against the war is found to be incapable of halting the war machine set in motion by supposedly democratic rulers. At all these moments, a death drive, a catastrophic heroism, predominates, the idea of a looming collective suicide, only preventable by the massive destruction of the other. Paradoxically, the broader the definition of the other and the efficacy of its destruction, the more likely collective suicide becomes. In its sacrificial genocide version, neoliberalism is a mixture of market radicalization, neoconservatism and Christian fundamentalism. Its death drive takes a number of forms, from the idea of "discardable populations", referring to citizens of the Third World not capable of being exploited as workers and consumers, to the concept of "collateral damage" , to refer to the deaths, as a result of war, of thousands of innocent civilians. The last, catastrophic heroism, is quite clear on two facts: according to reliable calculations by the Non-Governmental Organization MEDACT, in London, between 48 and 260 thousand civilians will die during the war and in the three months after (this is without there being civil war or a nuclear attack); the war will cost 100 billion dollars, enough to pay the health costs of the world's poorest countries for four years. Is it possible to fight this death drive? We must bear in mind that, historically, sacrificial destruction has always been linked to the economic pillage of natural resources and the labor force, to the imperial design of radically changing the terms of economic, social, political and cultural exchanges in the face of falling efficiency rates postulated by the maximalist logic of the totalitarian illusion in operation. It is as though hegemonic powers, both when they are on the rise and when they are in decline, repeatedly go through times of primitive accumulation, legitimizing the most shameful violence in the name of futures where, by definition, there is no room for what must be destroyed. In today's version, the period of primitive accumulation consists of combining neoliberal economic globalization with the globalization of war. The machine of democracy and liberty turns into a machine of horror and destruction.

## Underview 1

#### Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first. Intuitions outweigh—they’re the foundational basis for any argument and theories that contradict our intuitions are most likely false even if we can’t deductively determine why.

#### Scholarly discourse and engagement with politics is key to effective structural reform - critique is insufficient.

Purdy ’20 - Jedediah S. Britton-Purdy et al, 20 - ("Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis by Jedediah S. Britton-Purdy, David Singh Grewal, Amy Kapczynski, K. Sabeel Rahman :: SSRN," 3-2-2020, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3547312)//ey/

To embrace the possibility of democratic renewal requires rejecting the terms of the Twentieth-Century Synthesis. We believe that the legal realists—and thinkers in a much longer history of political thought—were right in believing that "the economy" is neither self-defining nor self-justifying. The emphasis in these traditions has been the right one: on power, distribution, and the need for legitimacy as the central themes in the organization of economic life. Moreover, precisely because economic ordering is a political and legal artifact, the idea of an "autonomous" economic domain has always been obscurantist and ideological, even when accepted in good faith.' Law does not and never could simply defer to such a realm. Rather, **law is perennially involved in creating and enforcing the terms of economic ordering,** most particularly through the creation and maintenance of markets. One of its most important roles, indeed, is determining who is subject to market ordering and on what terms, and who is exempted in favor of other kinds of protection or provision.' Thus the program of law, politics, and institution building often called "neoliberalism" is, and can only be, a specific theory of how to use state power, to what ends, and for whose benefit.'The **ideological work** of the Twentieth-Century Synthesis has been **to** naturalize and **embed in legal institutions from the Supreme Court to the** Antitrust Office and **W**orld **T**rade **O**rganization a specific disposition of power**.** This power represents a deployment of market ordering that produces intense and cross-cutting forms of inequality and democratic erosion. However, Twentieth-Century Synthesis theorists tend not to see this, precisely because the Synthesis makes it so hard to see (or at least so easy to overlook). If it is to succeed, **law and political economy** will also **require something beyond mere critique. It will require a positive agenda.** Many **new** and energized **voices**, from the legal academy to political candidates to movement activists, are already building in this direction,' **calling for** and giving shape to **programs for more genuine democracy that also takes seriously questions of economic** power **and racial subordination;**171 more equal distribution of resources and life chances;172 more public and shared resources and infrastructues;173 the displacement of concentrated corporate power and rooting of new forms of worker power;174 the end of mass incarceration **and broader contestation of** the long history of the criminalization and **control of poor people and people of color in building capitalism;**175 the recognition of finance and money as public infrastructures;176 the challenges posed by emerging forms of power and control arising from new technologies;177 and the need for a radical new emphasis on ecology.178 These are the materials from which a positive agenda, over time, will be built. **Political fights interact generatively with scholarly and policy debates in pointing** the way **toward a more democratic political economy.** The emergence of new grassroots movements, campaigns, and proposals seeking to deepen our democracy is no guarantee of success. But their prevalence and influence make clear the dangers and opportunities of this moment of upheaval—and highlight the stakes of building a new legal imaginary. 179 Neoliberal political economy, with its underlying commitments to efficiency, neutrality, and anti-politics, helped animate, shape, and legitimate a twentieth-century consensus that erased power, encased the market, and reinscribed racialized, economic, and gendered inequities. By contrast, **a legal imaginary of democratic political economy**, that takes seriously underlying concepts of power, equality, and democracy, **can inform a wave of** legal **thought whose critique and policy imagination can amplify and accelerate these movements for structural reform** and, if we are lucky, help remake our polity in more deeply democratic ways.

**Adopt a hybridizing strategy - exploiting contradictions in hegemonic discourse maintains critical distance while effectively challenging the state. Kapoor ‘08**

Kapoor, 2008 (Ilan, Associate Professor at the Faculty of Environmental Studies, York University, “The Postcolonial Politics of Development,” p. 138-139)

There are perhaps several other social movement campaigns that could be cited as examples of **a ‘hybridizing strategy’**.5 But what emerges as important from the Chipko and NBA campaigns is the way in which they **treat** laws and **policies**, institutional practices, **and ideological apparatuses as deconstructible**. That is, they refuse to take dominant authority at face value, and proceed to reveal its contingencies. Sometimes, they expose what the hegemon is trying to disavow or hide (exclusion of affected communities in project design and implementation, faulty information gathering and dissemination). Sometimes, they problematize dominant or naturalized truths (‘development = unlimited economic growth = capitalism’, ‘big is better’, ‘technology can save the environment’). In either case, by contesting, publicizing, and politicizing accepted or hidden truths, they hybridize power, challenging its smugness and triumphalism, revealing its impurities. They show power to be, literally and figuratively, a bastard. While speaking truth to power, a **hybridizing** strategy also **exploits the instabilities of power**. In part, this involves showing up and taking advantage of the equivocations of power — conflicting laws, contradictory policies, unfulfilled promises. A lot has to do here with **publicly shaming the hegemon, forcing it to** remedy injustices and **live up to stated commitments** in a more accountable and transparent manner. And, in part, **this involves** nurturing or **manipulating the splits and strains within institutions. Such maneuvering can take the form of cultivating allies**, forging alliances, or throwing doubt on prevailing orthodoxy. Note, lastly, the way in which a **hybridizing** strategy **works with the dominant discourse**. This reflects the negotiative aspect of Bhabha’s performativity. The strategy may outwit the hegemon, but it does so from the interstices of the hegemony. The master may be paralyzed, but his paralysis is induced using his own poison/medicine. It is for this reason that cultivating allies in the adversarial camp is possible: **when you speak their language and appeal to their own ethical horizons,** you are building a modicum of common ground. It is for this reason also that **the master cannot easily dismiss or crush you.** Observing his rules and **playing his game** **makes it difficult for him not to** take you seriously or **grant** you **a certain legitimacy**. The use of non-violent tactics may be crucial in this regard: state repression is easily justified against violent adversaries, but it is vulnerable to public criticism when used against non-violence. Thus, the fact that Chipko and the NBA deployed civil disobedience — pioneered, it must be **Reform makes revolution more likely. Rejecting it condescendingly asserts the possibility of radical change is better than the certainty of real improvement.**

Delgado ’87 - Delgado, Richard [teaches civil rights and critical race theory at University of Alabama School of Law. He has written and co-authored numerous articles and books], “The Ethereal Scholar:  Does Critical Legal Studies Have What Minorities Want?”, Harvard Civil Rights - Civil Liberties Law Review, 1987

Critical scholars reject the idea of piecemeal reform. Incremental change, they argue, merely postpones the wholesale reformation that must occur to create a decent society.38 Even worse, an unfair social system survives by using piecemeal reform to disguise and legitimize oppression. 39 Those who control the system weaken resistance by pointing to the occasional concession to, or periodic court victory of, a black plaintiff or worker as evidence that the system is fair and just.40 In fact, Crits believe that teaching the common law or using the case method in law school is a disguised means of preaching incrementalism and thereby maintaining the current power structure.41 To avoid this, CLS scholars urge law professors to abandon the case method, give up the effort to find rationality and order in the case law, and teach in an unabashedly political fashion. 42

**The** CLS **critique of piecemeal reform is** familiar, **imperialistic and wrong.** **Minorities know from bitter experience that occasional court victories do not mean the Promised Land is at hand.**43 **The critique** is imperialistic in that it **tells minorities and other oppressed peoples how they should interpret events affecting them.**44 **A court order directing a housing authority to disburse funds for heating** in subsidized housing **may postpone the revolution, or it may not. In the meantime, the order keeps a number of poor families warm.** This may mean more to them than it does to a comfortable academic working in a warm office. **It smacks of paternalism to assert that the possibility of revolution later outweighs the certainty of heat now**, unless there is evidence for that possibility**.** The Crits do not offer such evidence.

Indeed, some **incremental changes may bring revolutionary changes closer**, not push them further away**.** Not all **small reforms** induce complacency; some may **whet the appetite for further combat.** The welfare family may hold a tenants' union meeting in their heated living room. CLS scholars' **critique of piecemeal reform** often **misses these possibilities, and neglects the question of whether total change, when it comes, will be what we want.**