# 1AC

### Adv 1

#### The time to expand vaccination on a global level is now – highly contagious mutations facilitate continued spread which renders current vaccines ineffective.

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

Two significant factors rekindled the debate on TRIPS waiver for essential medical products—first, vaccine inequity, and second, the insufficiency of existing waiver provisions in fighting the COVID-19 pandemic. COVID-19 is an exceptional circumstance, and equitable global access to the vaccine is necessary to bring the pandemic under control. However, the world is witnessing quite the reverse, i.e., vaccine nationalism. Vaccine nationalism is “my nation first” approach to securing and stockpiling vaccines before making them available in other countries. A TRIPS waiver would be instrumental in addressing the growing inequality in the production, distribution, and pricing of the COVID-19 vaccines. Vaccine Inequity According to Duke Global Health Innovation Center, which monitors COVID-19 vaccine purchases, rich nations representing just 14 per cent of the world population have bought up to **53 per cent** of the most promising vaccines so far. As of 4 July 2021, the high-income countries (HICs) purchased more than half (6.16 billion) vaccine doses sold globally. At the same time, the low-income countries (LICs) received only 0.3 per cent of the vaccines produced. The **low and middle-income countries** (LMICs), which account for 81 per cent of the global adult population, **purchased 33 per cent**, and COVAX (COVID-19 Vaccines Global Access) has received 13 per cent.10 Many HICs bought enough doses to vaccinate their populations several times over. For instance, Canada procured 10.45 doses per person, while the UK, EU and the US procured 8.18, 6.89, and 4.60 doses per inhabitant, respectively.11 Source:“Tracking COVID-19 Vaccine Purchases Across the Globe”, Duke Global Health Innovation Center, Updated 9 July 2021. Consequently, there is a significant disparity between HICs and LICs in vaccine administration as well. As of 8 July 2021, 3.32 billion vaccine doses had been administered globally.12 Nonetheless, only one per cent of people in LICs have been given at least one dose. While in HICs almost **one in fou**r people have received the vaccine, in LICs, it is **one in more than 500**. The World Health Organization (WHO) notes that about 90 per cent of African countries will miss the September target to vaccinate at least 10 per cent of their populations as a third wave looms on the continent.13 South Africa, the most affected African country, for instance, has vaccinated less than two per cent of its population of about 59 million. This is in contrast with the US where almost 47.5 per cent of the population of more than 330 million has been fully vaccinated. In Sub-Saharan Africa, vaccine rollout remains the slowest in the world. According to the International Monetary Fund (IMF), at current rates, by the end of 2021, a massive global inequity will continue to exist, with Africa still experiencing meagre vaccination rates while other parts of the world move much closer to complete vaccination.14 This vaccine inequity is not only morally indefensible but also clinically counter-productive. If this situation prevails, LICs could be waiting until 2025 for vaccinating half of their people. Allowing most of the world’s population to go unvaccinated will also spawn **new virus mutations, more contagious** **viruses** leading to a steep rise in COVID-19 cases. Such a scenario could cause twice as many deaths as against distributing them globally, on a priority basis. Preventing this humanitarian catastrophe requires removing all barriers to the production and distribution of vaccines. TRIPS is one such barrier that prevents vaccine production in LMICs and hence its equitable distribution.

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

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

Another argument against the proposed TRIPS waiver is that a waiver would not increase the manufacturing of COVID-19 vaccines. Indeed, one of the significant factors contributing to vaccine inequity is the lack of manufacturing capacity in the global south. Further, a TRIPS waiver will not automatically translate into improved manufacturing capacity. However, a waiver would be the first but essential step to **increase manufacturing** capacity worldwide. For instance, to export COVID-19 vaccine-related products, countries need to ensure that there are **no IP restrictions at both ends** – exporting and importing. The market for vaccine materials includes consumables, single-use reactors bags, filters, culture media, and vaccine ingredients. Export blockages on raw materials, equipment and finished products harm the overall output of the vaccine supply chain. If there is no TRIPS restriction, more **governments and companies** will invest in repurposing their facilities. Similarly, the arguments such as that no other manufacturers can carry out the complex manufacturing process of COVID-19 vaccines and generic manufacturing as that would jeopardise quality, have also **been proven wrong** in the past. For instance, in the early 1990s, when Indian company Shantha Biotechnics approached a Western firm for a technology transfer of Hepatitis B vaccine, the firm responded that “**India cannot afford such** high technology vaccines… And even if you can afford to buy the technology, your scientists cannot understand recombinant technology in the least.”25 Later, Shantha Biotechnics developed its own vaccine at $1 per dose, and the UNICEF (United Nations Children’s Emergency Fund) mass inoculation programme uses this vaccine against Hepatitis B. In 2009, Shantha sold over 120 million doses of vaccines globally. **India** also produces high-quality generic drugs for HIV/AIDS and cancer treatment and markets them across the globe. Now, a couple of Indian companies are in the last stage of producing mRNA (Messenger RNA) vaccines.26 Similarly, **Bangladesh** and **Indonesia** claimed that they could manufacture millions of COVID-19 vaccine doses a year if pharmaceutical companies share the know-how.27 Recently, **Vietnam** also said that the country could satisfy COVID-19 vaccine production requirements once it obtains vaccine patents.28 Countries like the United Arab Emirates (**UAE**), **Turkey, Cuba, Brazil, Argentina and** **So**uth **Ko**rea have the capacity to produce high-quality vaccines but lack technologies and **know-how**. However, Africa, **Egypt, Morocco, Senegal, South Africa and Tunisia** have limited manufacturing capacities, which could also produce COVID-19 vaccines after repurposing. Moreover, COVID-19 vaccine **IPR runs across the entire value chain** – vaccine development, production, use, etc. A mere patent waiver may not be enough to address the issues related to its production and distribution. What is more important here is to share the technical know-how and information such as trade secrets. Therefore, the existing TRIPS flexibilities, such as compulsory and voluntary licensing, are insufficient to address this crisis. Further, compulsory licensing and the domestic legal procedures it requires is cumbersome and not expedient in a public health crisis like the COVID-19 pandemic.

#### Boosting manufacturing capacity is critical to a timely response to COVID AND ensures preparedness for future pandemics.

Jecker & Atuire 21, Dr Nancy S Jecker, Department of Bioethics & Humanities, University of Washington School of Medicine. Department of Philosophy, University of Johannesburg, Auckland Park, Gauteng, South Africa. Caesar A Atuire, Department of Philosophy and Classics, University of Ghana, Accra, Accra, Ghana. All Souls College, University of Oxford, Oxford, Oxfordshire, UK. Journal of Medical Ethics 2021;47:595-598. “What’s yours is ours: waiving intellectual property protections for COVID-19 vaccines.” <https://jme.bmj.com/content/47/9/595> brett

Since consequentialist justifications treat the value of IP as purely instrumental, they are also vulnerable to counterarguments showing that a sought-after goal is not the sole or most important end. During the COVID-19 pandemic, we submit that the **vaccinating the world is an overriding goal**. With **existing IP protections** intact, the world has fallen well short of this goal. Current forecasts show that at the current pace, there will not be enough vaccines to cover the world’s population until 2023 or **2024**.15 IP protections further frustrate the goal of universal access to vaccines by limiting who can manufacturer them. The WHO reports that 80% of global sales for COVID-19 vaccines come from five large multinational corporations.16 Increasing the number of manufacturers globally would not only **increase supply**, but **reduce prices**, making vaccines more affordable to LMICs. It would stabilise supply, **minimising disruptions** of the kind that occurred when India halted vaccine exports amidst a surge of COVID-19 cases. It might be objected that waiving IP protections will not increase supply, because it takes years to establish manufacturing capacity. However, since the pandemic began, we have learnt it takes less time. **Repurposing facilities** and **vetting them** for safety and quality can often happen in 6 or 7 months, about half the time previously thought.17 Since COVID-19 will not be the last pandemic humanity faces, expanding manufacturing capacity is also necessary preparation for **future pandemics**. Nkengasong, Director of the African Centres for Disease Control and Prevention, put the point bluntly, ‘Can a continent of **1.2 billion people**—projected to be 2.4 billion in 30 years, where one in four people in the world will be African—continue to import **99% of its vaccine?**’18

#### COVID causes extinction.

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

The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, **undermining resilience**, and **exacerbating** civil and inter-state **conflict**. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come. The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other **existential** global **threats**, most importantly, accelerating climate change and **resurgent nuclear threat-making.** The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5 Today, the **nine nuclear weapons arsenals** not only can annihilate hundreds of cities, but also cause **nuclear winter** and mass starvation of a billion or more people, if not the entire **human species**. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order. In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of **extreme crisis** and vulnerability can prompt **aggressive** and **counterintuitive** actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and **nuclear weapons**, as well as the threat of weaponized chemical and **biological** technologies. Consequently, the **risk of the use of** weapons of mass destruction (**WMD**), especially nuclear weapons, increases at such times, possibly sharply. The **COVID-19** pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the existential risks posed by retaining these capabilities – are all up for redefinition. A pandemic has potential to **destabilize a nuclear-prone conflict** by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or **military provocations** in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the **isolation and sanctions** against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies. In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon. To date, however, the COVID-19 pandemic has increased the **isolation** of some **nuclear-armed states** and provided a **textbook case** of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. **Foreign policies have become markedly more nationalistic**. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with **cascading effects** on the risk of nuclear war.

### Adv 2

#### The WTO is on the brink – the TRIPS waiver is the critical factor determining the survival of multilateral trade AND creates momentum for structural reforms

**Meyer 6-18** David Meyer, 6-18-2021, "The WTO’s survival hinges on the COVID-19 vaccine patent debate, waiver advocates warn – Fortune," Fortune, https://fortune.com/2021/06/18/wto-covid-vaccines-patents-waiver-south-africa-trips/amp/, EH and brett

The World Trade Organization knows all about crises. Former U.S. President Donald Trump threw a wrench into its core function of resolving trade disputes—a blocker that President Joe Biden has not yet removed—and there is widespread dissatisfaction over the fairness of the global trade rulebook. The 164-country organization, under the fresh leadership of Nigeria’s Ngozi Okonjo-Iweala, has a lot to fix. However, **one crisis is more pressing than the others**: the battle over COVID-19 vaccines, and whether the protection of their patents and other**i**ntellectual**p**ropertyshould be temporarily lifted to boost production and end the pandemic sooner rather than later. According to some of those pushing for the waiver—which was originally proposed last year by India and South Africa—the WTO’s future rests on what happens next. “The credibility of the WTO will depend on its ability to find a meaningful outcome on this issue that truly ramps-up and diversifies production,” says Xolelwa Mlumbi-Peter, South Africa’s ambassador to the WTO. “Final nail in the coffin” The Geneva-based WTO isn’t an organization with power, as such—it’s a framework within which countries make big decisions about trade, generally by consensus. It’s supposed to be the forum where disputes get settled, because all its members have signed up to the same rules. And one of its most important rulebooks is the Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS, which sprang to life alongside the WTO in 1995. The WTO’s founding agreement allows for rules to be waived in exceptional circumstances, and indeed this has happened before: its members agreed in 2003 to waive TRIPS obligations that were blocking the importation of cheap, generic drugs into developing countries that lack manufacturing capacity. (That waiver was effectively made permanent in 2017.) **Consensus is the key here**. Although the failure to reach consensus on a waiver could be overcome with a 75% supermajority vote by the WTO’s membership, this would be an unprecedented and seismic event. In the case of the COVID-19 vaccine IP waiver, it would mean standing up to the European Union, and Germany in particular, as well as countries such as Canada and the U.K.—the U.S. recently flipped from opposing the idea of a waiver to supporting it, as did France. It’s a dispute between countries, but the result will be on the WTO as a whole, say waiver advocates. “If, in the face of one of humanity’s greatest challenges in a century, the WTO functionally becomes an obstacle as in contrast to part of the solution, I think it could be the **final nail in the coffin**” for the organization, says Lori Wallach, the founder of Public Citizen’s Global Trade Watch, a U.S. campaigning group that focuses on the WTO and trade agreements. “If the TRIPS waiver is successful**,** and people see the WTO as being part of the solution—saving lives and livelihoods—it could **create goodwill and momentum** to address what are still **daunting structural problems**.” Those problems are legion.

#### HIV/AIDS prove legitimacy damage from patent controversy – every bit of delay saps credibility – now is key

Bacchus 20 James Bacchus [member of the Herbert A. Stiefel Center for Trade Policy Studies, the Distinguished University Professor of Global Affairs and director of the Center for Global Economic and Environmental Opportunity at the University of Central Florida. He was a founding judge and was twice the chairman—the chief judge—of the highest court of world trade, the Appellate Body of the World Trade Organization in Geneva, Switzerland. ], 12-16-2020, "An Unnecessary Proposal: A WTO Waiver of Intellectual Property Rights for COVID-19 Vaccines," Cato Institute, https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines accessed 7/20/2021 EH

Balancing IP Rights and Access to Medicines Not New to WTO. This waiver controversy comes nearly two decades after the end of the long battle in the multilateral trading system over access to HIV/AIDS drugs. **At the height of the HIV/AIDS crisis** at the turn of the century, numerous countries, including especially those from sub‐​Saharan Africa, could not afford the high‐​priced HIV/AIDS drugs patented by pharmaceutical companies in developed countries. Having spent billions of dollars on developing the drugs, the patent holders resisted lowering their prices. The credibility of the companies, the countries that supported them, and the **WTO itself**were all damaged byanextended controversy over whether patent rightsshould take precedence over providing affordable medicines for people afflicted by a lethal disease.

#### Perception alone solves, regardless of success, issuing the waiver is a sign of goodwill that shores up legitimacy

Winslett 5-27, Gary Winslett is an associate fellow for finance and trade at the R Street Institute. He is also an assistant professor of political science at Middlebury College. May 27, 2021. National Interest, “The Political Significance of the TRIPS Waiver” <https://nationalinterest.org/feature/political-significance-trips-waiver-186246> brett

Fourth, the U.S. government supporting a limited TRIPS waiver is a **massive step** toward rebuilding the **perceived legitimacy** of the WTO. The perception that the WTO was slowing the global response to the coronavirus, however oversimplified and unfair, would have been a potentially **devastating blow** to an institution that has already been under attack. A TRIPS waiver buys **considerable goodwill** from developing countries. It also buys goodwill from Democrats. That could help the whole party take a more trade-friendly stance on everything from an Environmental Goods Agreement to an e-commerce trade deal, to say nothing of the broader benefit of convincing Democrats to like trade even more than they already do—79 percent of Democrats view trade as more of an opportunity than a threat versus only 44 percent of Republicans who say the same.

#### Restoring credibility de-escalates every conflict.

Hamann 9, associate in Lewis, Roca, Rothberger’s Litigation Practice Group, J.D. from Vanderbilt University Law School. May 2009, “Replacing Slingshots with Swords: Implications of the Antigua-Gambling 22.6 Panel Report for Developing Countries and the World Trading System”, <http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/hamann-cr_final_final.pdf> brett

Voluntary compliance with WTO rules and procedures is of the utmost importance to the international trading system.100 Given the **increasingly globalized market**, the coming years will see an increase in the importance of the WTO as a cohesive force and arbiter of disputes that likely will become more frequent and injurious.101 The work of the WTO cannot be overstated in a **nuclear-armed world**, as the body continues to promote respect and even amity among nations with opposing philosophical goals or modes of governance.102 Demagogues in the **U**nites **S**tates may decry the rise of **China** as a geopolitical threat,103 and extremists in **Russia** may play dangerous games of brinksmanship with other great powers, but trade keeps politicians’ **fingers off “the button.”**104 The WTO offers an astounding rate of compliance for an organization with no standing army and no real power to enforce its decisions, suggesting that governments recognize the value of maintaining the international construct of the WTO.105 In order to promote voluntary compliance, the WTO must maintain a **high** level of **credibility**.106 \*\*\*start footnote 6\*\*\* See Rufus Yerxa, supra note 100, at 4 ("The WTO System works only to the extent Members want it to work, and only if they decide that compliance is in their overall economic interest. It therefore rests on the **credibility** of the rules, and also on the credibility of the dispute settlement decisions."); see also Debra P. Steger, Peace Through Trade: Building the WTO 290-91 (2004) (linking issues of the WTO's "external legitimacy" to the effectiveness of the institutional decision). \*\*\*end footnote 106\*\*\* **Nations must perceive the WTO as the most reasonable option for dispute resolution** or fear that the WTO wields enough influence to enforce sanctions. \*\*\*Start footnote 107\*\*\* **The goal of the WTO is to prevent unilateral decisions as to the justifiability of trade retaliation, a goal which can only be upheld by global adherence to the WTO and condemnation of unilateral retaliation outside it**. See Gabrielle Marceau, Consultations and the Panel Process in the WTO, in Key Issues In WTO Dispute Settlement: The First Ten Years, supra note 17, at 29, 30-31; see also Marcelo de Paiva Abreu, Trade in Manufactures: The Outcome of the Uruguay Round and Developing Country Interests, in The Uruguay Round and the Developing Countries, supra note 12, at 59, 69 (discussing the importance of "the WTO's capacity to create a level playing field among contracting parties of different sizes and heterogeneous bargaining power"). \*\*\*end footnote 107\*\*\* The **arbitrators** charged with performing the substantive work of the WTO by negotiating, compromising, and issuing judgments **are keenly aware of the responsibility they have to uphold the organization’s credibility**.108

### Plan

#### Plan: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines related to the prevention, containment, and treatment of COVID-19.

#### Enforcement through US TRIPS waiver is normal means

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

Scientists, engineers, and everyday people have developed solutions for testing, preventing, and treating the COVID-19 disease. Ordinarily, we wouldn’t think twice about granting patents on these inventions. But, today, when COVID-19 is spreading all over the world and killing millions of people, some world leaders are questioning whether we should be granting the exclusionary rights of patent protection on inventions that help respond to the pandemic. Included in that group is the Biden-Harris Administration, which, in May, announced their support of an **“IP waiver”** on COVID 19 vaccines. Patent Waiver The “patent waiver” is a proposal to waive certain provisions of the Trade-Related Aspects of Intellectual Property (**TRIPS**) Agreement for three years. The TRIPS Agreement requires certain member countries (“Members”), including the United States, to have certain minimum intellectual property protections. While this proposal is often referred to as a “**patent** waiver,” the proposal would also waive sections associated with **copyright**, **industrial designs**, and **undisclosed information**. The proposal seeks to waive Part II, Section 5 Patents of the TRIPS Agreement and the associated enforcement sections only with respect to “health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the **prevention, treatment or containment of COVID-19”** for a period of **three years**. Article 27 of Section 5 requires that certain Members issue patents to inventions that “are new, involve an inventive step and are capable of industrial application.” However, Members have the option to refuse to grant patents to certain categories of inventions, including, “diagnostic, therapeutic and surgical methods for the treatment of humans or animals.” Article 28 explains that an owner of a patent can prevent others from “making, using, offering for sale, selling, or importing” (“infringing”) the patented inventions. Finally, Part III of the TRIPS Agreement explains the potential consequences of infringing a patent. Among other things, the infringer can be liable for money damages and the judicial authority of the Member may order injunctions. Therefore, as the TRIPS Agreement currently stands, each Member must have patent laws that give patents to inventions that meet certain requirements, and each must provide avenues for patent holders to enforce its patent rights. As applied to the current situation, Members are required to grant patents to qualifying inventions related to “the prevention, containment and treatment of COVID-19” (with exceptions for pharmaceuticals if the Member does not allow pharmaceutical patents). Infringers could be liable for money damages and the judicial authority of the Member may order injunctions. If provisions in Part II, Section 5 and the associated enforcement sections are waived, Members would no longer be required to issue patents or provide avenues for patent holders to enforce patent rights. The proposal does not, however, require Members to waive their own domestic patent rights. In other words, the proposal to waive certain provisions of the TRIPS Agreement, the “patent waiver,” does not directly waive any patent protections. Rather, the patent waiver grants to Members permission to waive their own domestic patent protections. Patent laws are geographically limited; they only protect an invention in the country that issued the patent. For example, one cannot make, use, offer to sell, sell, or import an invention protected only by a U.S. patent in the U.S; however, one may do those things in another country where corresponding patent protection does not exist. Therefore, in order to waive patent protections worldwide, each Member subject the TRIPS Agreement’s requirement to have certain minimum intellectual property protection would have to waive its own domestic patent protections. The United States patent laws are codified in Title 35 to the U.S. Code. It provides that inventors may obtain patents for their new and useful inventions and infringers are liable for making, using, offering to sell, selling, or importing into the U.S. patented inventions without the patent holders consent. Because the power to enact patent laws lies with Congress, Congress would likely have to waive these laws.

### Framing

#### The standard is maximizing expected well-being, or hedonistic act utilitarianism.

#### 1] Neuroscience- pleasure and pain *are* intrinsic value and disvalue – everything else regresses.

Blum et al. 18 [Kenneth Blum, 1Department of Psychiatry, Boonshoft School of Medicine, Dayton VA Medical Center, Wright State University, Dayton, OH, USA 2Department of Psychiatry, McKnight Brain Institute, University of Florida College of Medicine, Gainesville, FL, USA 3Department of Psychiatry and Behavioral Sciences, Keck Medicine University of Southern California, Los Angeles, CA, USA 4Division of Applied Clinical Research & Education, Dominion Diagnostics, LLC, North Kingstown, RI, USA 5Department of Precision Medicine, Geneus Health LLC, San Antonio, TX, USA 6Department of Addiction Research & Therapy, Nupathways Inc., Innsbrook, MO, USA 7Department of Clinical Neurology, Path Foundation, New York, NY, USA 8Division of Neuroscience-Based Addiction Therapy, The Shores Treatment & Recovery Center, Port Saint Lucie, FL, USA 9Institute of Psychology, Eötvös Loránd University, Budapest, Hungary 10Division of Addiction Research, Dominion Diagnostics, LLC. North Kingston, RI, USA 11Victory Nutrition International, Lederach, PA., USA 12National Human Genome Center at Howard University, Washington, DC., USA, Marjorie Gondré-Lewis, 12National Human Genome Center at Howard University, Washington, DC., USA 13Departments of Anatomy and Psychiatry, Howard University College of Medicine, Washington, DC US, Bruce Steinberg, 4Division of Applied Clinical Research & Education, Dominion Diagnostics, LLC, North Kingstown, RI, USA, Igor Elman, 15Department Psychiatry, Cooper University School of Medicine, Camden, NJ, USA, David Baron, 3Department of Psychiatry and Behavioral Sciences, Keck Medicine University of Southern California, Los Angeles, CA, USA, Edward J Modestino, 14Department of Psychology, Curry College, Milton, MA, USA, Rajendra D Badgaiyan, 15Department Psychiatry, Cooper University School of Medicine, Camden, NJ, USA, Mark S Gold 16Department of Psychiatry, Washington University, St. Louis, MO, USA, “Our evolved unique pleasure circuit makes humans different from apes: Reconsideration of data derived from animal studies”, U.S. Department of Veterans Affairs, 28 February 2018, accessed: 19 August 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6446569/>] R.S.

**Pleasure** is not only one of the three primary reward functions but it also **defines reward.** As homeostasis explains the functions of only a limited number of rewards, the principal reason why particular stimuli, objects, events, situations, and activities are rewarding may be due to pleasure. This applies first of all to sex and to the primary homeostatic rewards of food and liquid and extends to money, taste, beauty, social encounters and nonmaterial, internally set, and intrinsic rewards. Pleasure, as the primary effect of rewards, drives the prime reward functions of learning, approach behavior, and decision making and provides the **basis for hedonic theories** of reward function. We are attracted by most rewards and exert intense efforts to obtain them, just because they are enjoyable [10]. Pleasure is a passive reaction that derives from the experience or prediction of reward and may lead to a long-lasting state of happiness. The word happiness is difficult to define. In fact, just obtaining physical pleasure may not be enough. One key to happiness involves a network of good friends. However, it is not obvious how the higher forms of satisfaction and pleasure are related to an ice cream cone, or to your team winning a sporting event. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure [14]. Pleasure as a hallmark of reward is sufficient for defining a reward, but it may not be necessary. A reward may generate positive learning and approach behavior simply because it contains substances that are essential for body function. When we are hungry, we may eat bad and unpleasant meals. A monkey who receives hundreds of small drops of water every morning in the laboratory is unlikely to feel a rush of pleasure every time it gets the 0.1 ml. Nevertheless, with these precautions in mind, we may define any stimulus, object, event, activity, or situation that has the potential to produce pleasure as a reward. In the context of reward deficiency or for disorders of addiction, homeostasis pursues pharmacological treatments: drugs to treat drug addiction, obesity, and other compulsive behaviors. The theory of allostasis suggests broader approaches - such as re-expanding the range of possible pleasures and providing opportunities to expend effort in their pursuit. [15]. It is noteworthy, the first animal studies eliciting approach behavior by electrical brain stimulation interpreted their findings as a discovery of the brain’s pleasure centers [16] which were later partly associated with midbrain dopamine neurons [17–19] despite the notorious difficulties of identifying emotions in animals. Evolutionary theories of pleasure: The love connection BO:D Charles Darwin and other biological scientists that have examined the biological evolution and its basic principles found various mechanisms that steer behavior and biological development. Besides their theory on natural selection, it was particularly the sexual selection process that gained significance in the latter context over the last century, especially when it comes to the question of what makes us “what we are,” i.e., human. However, the capacity to sexually select and evolve is not at all a human accomplishment alone or a sign of our uniqueness; yet, we humans, as it seems, are ingenious in fooling ourselves and others–when we are in love or desperately search for it. It is well established that modern biological theory conjectures that **organisms are** the **result of evolutionary competition.** In fact, Richard Dawkins stresses gene survival and propagation as the basic mechanism of life [20]. Only genes that lead to the fittest phenotype will make it. It is noteworthy that the phenotype is selected based on behavior that maximizes gene propagation. To do so, the phenotype must survive and generate offspring, and be better at it than its competitors. Thus, the ultimate, distal function of rewards is to increase evolutionary fitness by ensuring the survival of the organism and reproduction. It is agreed that learning, approach, economic decisions, and positive emotions are the proximal functions through which phenotypes obtain other necessary nutrients for survival, mating, and care for offspring. Behavioral reward functions have evolved to help individuals to survive and propagate their genes. Apparently, people need to live well and long enough to reproduce. Most would agree that homo-sapiens do so by ingesting the substances that make their bodies function properly. For this reason, foods and drinks are rewards. Additional rewards, including those used for economic exchanges, ensure sufficient palatable food and drink supply. Mating and gene propagation is supported by powerful sexual attraction. Additional properties, like body form, augment the chance to mate and nourish and defend offspring and are therefore also rewards. Care for offspring until they can reproduce themselves helps gene propagation and is rewarding; otherwise, many believe mating is useless. According to David E Comings, as any small edge will ultimately result in evolutionary advantage [21], additional reward mechanisms like novelty seeking and exploration widen the spectrum of available rewards and thus enhance the chance for survival, reproduction, and ultimate gene propagation. These functions may help us to obtain the benefits of distant rewards that are determined by our own interests and not immediately available in the environment. Thus the distal reward function in gene propagation and evolutionary fitness defines the proximal reward functions that we see in everyday behavior. That is why foods, drinks, mates, and offspring are rewarding. There have been theories linking pleasure as a required component of health benefits salutogenesis, (salugenesis). In essence, under these terms, pleasure is described as a state or feeling of happiness and satisfaction resulting from an experience that one enjoys. Regarding pleasure, it is a double-edged sword, on the one hand, it promotes positive feelings (like mindfulness) and even better cognition, possibly through the release of dopamine [22]. But on the other hand, pleasure simultaneously encourages addiction and other negative behaviors, i.e., motivational toxicity. It is a complex neurobiological phenomenon, relying on reward circuitry or limbic activity. It is important to realize that through the “Brain Reward Cascade” (BRC) endorphin and endogenous morphinergic mechanisms may play a role [23]. While natural rewards are essential for survival and appetitive motivation leading to beneficial biological behaviors like eating, sex, and reproduction, crucial social interactions seem to further facilitate the positive effects exerted by pleasurable experiences. Indeed, experimentation with addictive drugs is capable of directly acting on reward pathways and causing deterioration of these systems promoting hypodopaminergia [24]. Most would agree that pleasurable activities can stimulate personal growth and may help to induce healthy behavioral changes, including stress management [25]. The work of Esch and Stefano [26] concerning the link between compassion and love implicate the brain reward system, and pleasure induction suggests that social contact in general, i.e., love, attachment, and compassion, can be highly effective in stress reduction, survival, and overall health. Understanding the role of neurotransmission and pleasurable states both positive and negative have been adequately studied over many decades [26–37], but comparative anatomical and neurobiological function between animals and homo sapiens appear to be required and seem to be in an infancy stage. Finding happiness is different between apes and humans As stated earlier in this expert opinion one key to happiness involves a network of good friends [38]. However, it is not entirely clear exactly how the higher forms of satisfaction and pleasure are related to a sugar rush, winning a sports event or even sky diving, all of which augment dopamine release at the reward brain site. Recent multidisciplinary research, using both humans and detailed invasive brain analysis of animals has discovered some critical ways that the brain processes pleasure. Remarkably, there are pathways for ordinary liking and pleasure, which are limited in scope as described above in this commentary. However, there are **many brain regions**, often termed hot and cold spots, that significantly **modulate** (increase or decrease) our **pleasure or** even produce **the opposite** of pleasure— that is disgust and fear [39]. One specific region of the nucleus accumbens is organized like a computer keyboard, with particular stimulus triggers in rows— producing an increase and decrease of pleasure and disgust. Moreover, the cortex has unique roles in the cognitive evaluation of our feelings of pleasure [40]. Importantly, the interplay of these multiple triggers and the higher brain centers in the prefrontal cortex are very intricate and are just being uncovered. Desire and reward centers It is surprising that many different sources of pleasure activate the same circuits between the mesocorticolimbic regions (Figure 1). Reward and desire are two aspects pleasure induction and have a very widespread, large circuit. Some part of this circuit distinguishes between desire and dread. The so-called pleasure circuitry called “REWARD” involves a well-known dopamine pathway in the mesolimbic system that can influence both pleasure and motivation. In simplest terms, the well-established mesolimbic system is a dopamine circuit for reward. It starts in the ventral tegmental area (VTA) of the midbrain and travels to the nucleus accumbens (Figure 2). It is the cornerstone target to all addictions. The VTA is encompassed with neurons using glutamate, GABA, and dopamine. The nucleus accumbens (NAc) is located within the ventral striatum and is divided into two sub-regions—the motor and limbic regions associated with its core and shell, respectively. The NAc has spiny neurons that receive dopamine from the VTA and glutamate (a dopamine driver) from the hippocampus, amygdala and medial prefrontal cortex. Subsequently, the NAc projects GABA signals to an area termed the ventral pallidum (VP). The region is a relay station in the limbic loop of the basal ganglia, critical for motivation, behavior, emotions and the “Feel Good” response. This defined system of the brain is involved in all addictions –substance, and non –substance related. In 1995, our laboratory coined the term “Reward Deficiency Syndrome” (RDS) to describe genetic and epigenetic induced hypodopaminergia in the “Brain Reward Cascade” that contribute to addiction and compulsive behaviors [3,6,41]. Furthermore, ordinary “liking” of something, or pure pleasure, is represented by small regions mainly in the limbic system (old reptilian part of the brain). These may be part of larger neural circuits. In Latin, hedus is the term for “sweet”; and in Greek, hodone is the term for “pleasure.” Thus, the word Hedonic is now referring to various subcomponents of pleasure: some associated with purely sensory and others with more complex emotions involving morals, aesthetics, and social interactions. The capacity to have pleasure is part of being healthy and may even extend life, especially if linked to optimism as a dopaminergic response [42]. Psychiatric illness often includes symptoms of an abnormal inability to experience pleasure, referred to as anhedonia. A negative feeling state is called dysphoria, which can consist of many emotions such as pain, depression, anxiety, fear, and disgust. Previously many scientists used animal research to uncover the complex mechanisms of pleasure, liking, motivation and even emotions like panic and fear, as discussed above [43]. However, as a significant amount of related research about the specific brain regions of pleasure/reward circuitry has been derived from invasive studies of animals, these cannot be directly compared with subjective states experienced by humans. In an attempt to resolve the controversy regarding the causal contributions of mesolimbic dopamine systems to reward, we have previously evaluated the three-main competing explanatory categories: “liking,” “learning,” and “wanting” [3]. That is, dopamine may mediate (a) liking: the hedonic impact of reward, (b) learning: learned predictions about rewarding effects, or (c) wanting: the pursuit of rewards by attributing incentive salience to reward-related stimuli [44]. We have evaluated these hypotheses, especially as they relate to the RDS, and we find that the incentive salience or “wanting” hypothesis of dopaminergic functioning is supported by a majority of the scientific evidence. Various neuroimaging studies have shown that anticipated behaviors such as sex and gaming, delicious foods and drugs of abuse all affect brain regions associated with reward networks, and may not be unidirectional. Drugs of abuse enhance dopamine signaling which sensitizes mesolimbic brain mechanisms that apparently evolved explicitly to attribute incentive salience to various rewards [45]. Addictive substances are voluntarily self-administered, and they enhance (directly or indirectly) dopaminergic synaptic function in the NAc. This activation of the brain reward networks (producing the ecstatic “high” that users seek). Although these circuits were initially thought to encode a set point of hedonic tone, it is now being considered to be far more complicated in function, also encoding attention, reward expectancy, disconfirmation of reward expectancy, and incentive motivation [46]. The argument about addiction as a disease may be confused with a predisposition to substance and nonsubstance rewards relative to the extreme effect of drugs of abuse on brain neurochemistry. The former sets up an individual to be at high risk through both genetic polymorphisms in reward genes as well as harmful epigenetic insult. Some Psychologists, even with all the data, still infer that addiction is not a disease [47]. Elevated stress levels, together with polymorphisms (genetic variations) of various dopaminergic genes and the genes related to other neurotransmitters (and their genetic variants), and may have an additive effect on vulnerability to various addictions [48]. In this regard, Vanyukov, et al. [48] suggested based on review that whereas the gateway hypothesis does not specify mechanistic connections between “stages,” and does not extend to the risks for addictions the concept of common liability to addictions may be more parsimonious. The latter theory is grounded in genetic theory and supported by data identifying common sources of variation in the risk for specific addictions (e.g., RDS). This commonality has identifiable neurobiological substrate and plausible evolutionary explanations. Over many years the controversy of dopamine involvement in especially “pleasure” has led to confusion concerning separating motivation from actual pleasure (wanting versus liking) [49]. We take the position that animal studies cannot provide real clinical information as described by self-reports in humans. As mentioned earlier and in the abstract, on November 23rd, 2017, evidence for our concerns was discovered [50] In essence, although nonhuman primate brains are similar to our own, the disparity between other primates and those of human cognitive abilities tells us that surface similarity is not the whole story. Sousa et al. [50] small case found various differentially expressed genes, to associate with pleasure related systems. Furthermore, the dopaminergic interneurons located in the human neocortex were absent from the neocortex of nonhuman African apes. Such differences in neuronal transcriptional programs may underlie a variety of neurodevelopmental disorders. In simpler terms, the system controls the production of dopamine, a chemical messenger that plays a significant role in pleasure and rewards. The senior author, Dr. Nenad Sestan from Yale, stated: “Humans have evolved a dopamine system that is different than the one in chimpanzees.” This may explain why the behavior of humans is so unique from that of non-human primates, even though our brains are so surprisingly similar, Sestan said: “It might also shed light on why people are vulnerable to mental disorders such as autism (possibly even addiction).” Remarkably, this research finding emerged from an extensive, multicenter collaboration to compare the brains across several species. These researchers examined 247 specimens of neural tissue from six humans, five chimpanzees, and five macaque monkeys. Moreover, these investigators analyzed which genes were turned on or off in 16 regions of the brain. While the differences among species were subtle, **there was** a **remarkable contrast in** the **neocortices**, specifically in an area of the brain that is much more developed in humans than in chimpanzees. In fact, these researchers found that a gene called tyrosine hydroxylase (TH) for the enzyme, responsible for the production of dopamine, was expressed in the neocortex of humans, but not chimpanzees. As discussed earlier, dopamine is best known for its essential role within the brain’s reward system; the very system that responds to everything from sex, to gambling, to food, and to addictive drugs. However, dopamine also assists in regulating emotional responses, memory, and movement. Notably, abnormal dopamine levels have been linked to disorders including Parkinson’s, schizophrenia and spectrum disorders such as autism and addiction or RDS. Nora Volkow, the director of NIDA, pointed out that one alluring possibility is that the neurotransmitter dopamine plays a substantial role in humans’ ability to pursue various rewards that are perhaps months or even years away in the future. This same idea has been suggested by Dr. Robert Sapolsky, a professor of biology and neurology at Stanford University. Dr. Sapolsky cited evidence that dopamine levels rise dramatically in humans when we anticipate potential rewards that are uncertain and even far off in our futures, such as retirement or even the possible alterlife. This may explain what often motivates people to work for things that have no apparent short-term benefit [51]. In similar work, Volkow and Bale [52] proposed a model in which dopamine can favor NOW processes through phasic signaling in reward circuits or LATER processes through tonic signaling in control circuits. Specifically, they suggest that through its modulation of the orbitofrontal cortex, which processes salience attribution, dopamine also enables shilting from NOW to LATER, while its modulation of the insula, which processes interoceptive information, influences the probability of selecting NOW versus LATER actions based on an individual’s physiological state. This hypothesis further supports the concept that disruptions along these circuits contribute to diverse pathologies, including obesity and addiction or RDS.

#### 2] No intent-foresight distinction for states.

Enoch 07 Enoch, D [The Faculty of Law, The Hebrew Unviersity, Mount Scopus Campus, Jersusalem]. (2007). INTENDING, FORESEEING, AND THE STATE. Legal Theory, 13(02). doi:10.1017/s1352325207070048 https://www.cambridge.org/core/journals/legal-theory/article/intending-foreseeing-and-the-state/76B18896B94D5490ED0512D8E8DC54B2

The general difficulty of the intending-foreseeing distinction here stemmed, you will recall, from the feeling that attempting to pick and choose among the foreseen consequences of one’s actions those one is more and those one is less responsible for looks more like the preparation of a defense than like a genuine attempt to determine what is to be done. Hiding behind the intending-foreseeing distinction seems like an attempt to evade responsibility, and so thinking about the distinction in terms of responsibility serves 39. Anderson & Pildes, supra note 38. I will use this text as my example of an expressive theory here. 40. See id. at 1554, 1564. 41. For a general critique, see Mathew D. Adler, Expressive Theories of Law: A Skeptical Overview, 148 U. PA. L. REV. 1363 (1999–2000). 42. As Adler repeatedly notes, the understanding of expression Anderson & Pildes work with is amazingly broad, so that “To express an attitude through action is to act on the reasons the attitude gives us”; Anderson & Pildes, supra note 38, at 1510. If this is so, it seems that expression drops out of the picture and everything done with it can be done directly in terms of reasons. 43. This may be true of what Anderson and Pildes have in mind when they say that “expressive norms regulate actions by regulating the acceptable justifications for doing them”; id. at 1511. http://journals.cambridge.org Downloaded: 03 Aug 2014 IP address: 134.153.184.170 Intending, Foreseeing, and the State 91 to reduce even further the plausibility of attributing to it intrinsic moral significance. This consideration—however weighty in general—seems to me very weighty when applied to state action and to the decisions of state officials. For perhaps it may be argued that individuals are not required to undertake a global perspective, one that equally takes into account all foreseen consequences of their actions. Perhaps, in other words, individuals are entitled to (roughly) settle for having a good will, and beyond that let chips fall where they may. But this is precisely what stateswomen and statesmen—and certainly states—are not entitled to settle for.44 In making policy decisions, it is precisely the global (or at least statewide, or nationwide, or something of this sort) perspective that must be undertaken. Perhaps, for instance, an individual doctor is entitled to give her patient a scarce drug without thinking about tomorrow’s patients (I say “perhaps” because I am genuinely not sure about this), but surely when a state committee tries to formulate rules for the allocation of scarce medical drugs and treatments, it cannot hide behind the intending-foreseeing distinction, arguing that if it allows45 the doctor to give the drug to today’s patient, the death of tomorrow’s patient is merely foreseen and not intended. When making a policy-decision, this is clearly unacceptable. Or think about it this way (I follow Daryl Levinson here):46 perhaps restrictions on the responsibility of individuals are justified because individuals are autonomous, because much of the value in their lives comes from personal pursuits and relationships that are possible only if their responsibility for what goes on in the (more impersonal) world is restricted. But none of this is true of states and governments. They have no special relationships and pursuits, no personal interests, no autonomous lives to lead in anything like the sense in which these ideas are plausible when applied to individuals persons. So there is no reason to restrict the responsibility of states in anything like the way the responsibility of individuals is arguably restricted.47 States and state officials have much more comprehensive responsibilities than individuals do. Hiding behind the intending-foreseeing distinction thus more clearly constitutes an evasion of responsibility in the case of the former. So the evading-responsibility worry has much more force against the intending-foreseeing distinction when applied to state action than elsewhere.

#### 4] Utilitarianism should be used in the context of public health emergencies – this framework avoids abuses while ensuring just outcomes at the tail end of disease risks.

Kirkwood 9 School of Health Studies, Faculty of Health Sciences, University of Western Ontario. 06/01/2009. “In the Name of the Greater Good?” Emerging Health Threats Journal, vol. 2, no. 0. CrossRef, doi:10.3402/ehtj.v2i0.7092.

Public health authorities in many economically advantaged nations are bracing themselves to face future pandemics that will harm large numbers of citizens. Modern medical horrors such as Monkeypox or the much-feared future mutations of Avian Influenza (H5N1) are mentioned in the same breath as virulent strains of influenza, as a danger to our ‘way of living.’ Far beyond sickness and large numbers of death, an outbreak of one of these pandemics poses a real threat to long-term health, as well as to the social and economic well being of significant percentages of our surviving population.1 While confronting issues brought forth by a pandemic, the fundamental nature of ‘public health’ and its focus on the welfare of a population demands special attention to utilitarian considerations of promotion of the greatest good—in this case, health—as well as the limitation of illness and death in the ‘worst-case’ scenarios posed by the most lethal of pandemics. Of particular interest to this paper are questions related to the obligation of health-care workers (HCWs) to report to work in the face of heightened immunological threat and whether those same workers should have greater access to immunizations and treatments than should non-HCWs. Utilitarianism within public health ethics The fundamental feature of the ethical theory of utilitarianism states that moral behavior is that which promotes good and minimizes harm.2 In writings based on public health, utilitarianism is widely recognized as a fragment in the ethical ‘scheme’ of public health,3 but it is not afforded a stronger role for two primary reasons: first, considering its extreme position, utilitarianism is morally problematic,4 as it could literally permit anything in the name of the ‘greatest good to the greatest number,’ and second it is virtually impossible to live a moral life under the most extreme forms of utilitarianism, because the obligations are too difficult to discern (the ‘what’ of promoting the good) and impossible to execute (the ‘how’).5 Utilitarianism, in a moderate form, used in public health ethics, means that our actions and policies should be focused on increasing the total ‘net’ goodness rather than an average ‘net’ good for each person. The institutions of individual rights and the recognition of patient autonomy are not contradictory to this, but are believed to serve the overall good, as individual benefit increases the total good, and serves as a preventative measure of unjustified majoritarian actions against smaller groups. This model of utilitarianism is evident in many aspects of public healthFnot only through health-promotion projects that encourage the otherwise illness-free individuals to take up a more healthful diet and exercise regimen but also through harm-reduction programs, in which people with negative health behaviors such as abuse of drugs or dietary fats are aided to eliminate, or at least minimize the harm they cause to those around them. In everyday practice, the force of this utilitarian aspect has a supportive role along with other ethical elements of public health practice, and presents a balanced moral justification for all actions undertaken in accordance with this practice.6 However, I contend that there must be an ‘escalator clause’ in the utilitarian aspect that suggests that in the event of an extensive threat to the existence of a population, the force of this utilitarian aspect becomes the primary consideration in proportion to the threat. Therefore, the greater the threat, the greater the moral force of utilitarianism in making public health decisions. This also entails that the greater the threat, the greater the moral impetus to minimize the harm to the population. On duty, outbreaks, and distribution of resources Obligations to minimize harm and promote the goods of public health are not particularly controversial in times of relatively stable ‘good-health’ measures among the populace. The more troubling question emerges from the scenario in which promoting health and minimizing illness and death demands more from HCWsFhow can, or should, we compel HCWs to attend to their duties in the event that a highly lethal form of communicable disease should start spreading?7 Although current debates focus on questions of duty, and how much personal risk invalidates that commitment, utilitarian aspects of that obligation are not given enough weight in the debate. In many of the debates, the question of risk is posed in terms of how we do not expect a trained ‘first responder’ to recklessly endanger his or her life to save the life of another. The classic story of the lifeguard is offered as exemplar: a lifeguard is not expected to rescue a drowning swimmer if a shark is clearly present.8 Although this statement seems reasonable, it does not justify itself. By contrast, the consideration of the utilitarian aspect makes the point that in attempting to save a life, two are likely to be lost, thus propagating a greater total harm. The same holds true for the example of firefighters rushing into a house badly damaged by an active fire. Although there may be a life on that second floor to save, we do not expect any number of firefighters to sacrifice their lives for the doomed soul because the loss of many, including the original life in peril, is a maximization of harm, when harm should be minimized. When you control for the risks involved, such as using precautions to assure a level of safety for the rescuers, such as shark nets for the lifeguard, or safety gear for the firefighters, then the obligation to assist comes back into full force, as the potential for greater harm is manageable.9 It is the variable of risk, which creates variable demands on those whose duty it is to care for the population in times of crisis. We consider not only the risk to the obligated but also a question of the scope of risk to the population. In academic and public debates regarding the compulsion to attend to duty in the face of danger, one fallacy has been allowed to stand: the notion that exposure to a pandemic can be avoided if one simply does not come to his or her job as a HCW. Although it is true that working in a hospital during times of influenza outbreak puts one at a greater risk for contracting the illness,10 the more widespread the outbreak, the more people become sick, and the more likely the ‘stayat-home’ HCW will become sick even after having avoided contact in the course of his or her duties. We could reasonably state that, by virtue of staying home during a time of need for his or her service, the HCW improves the odds that he or she will contract this illness outside professional practice as part of the greater number who will be exposed. Another feature of the argument offered to defend dereliction of duty is to suggest that this risk that the HCW takes with his or her own health is a fixed variable, and thus should be considered as an exception to duty. On the contrary, it is a common feature of the infection-control literature that states that doctors and nurses are overwhelmingly neglectful toward their own basic infection-control protocols.11 Therefore, the threat is not a fixed variable, but one that is actually quite within the scope of the control of a HCW. Ethically, one cannot willfully or negligently enhance the exceptions to duty. At the same time, it is an obligation of the management to ensure that diligent HCWs are equipped to do all they can to reduce their risks. During the SARS crisis in Toronto, health-care administrators did not effectively communicate which precautions should be undertaken by HCWs to protect themselves.12 It bears mentioning that once clear direction could be given about the type and execution of masking procedures, the intrahospital transmission of SARS decreased to 0%.13 This fact speaks to the issue of risk, as the non-transmission of SARS correlated with the increased attentions of management and staff to infection-control precautions and the provision and use of proper equipment.14 When we speak in terms of risk and pandemics from the utilitarian perspective discussed herein, we recognize that it is completely nonsensible to sacrifice highly trained HCWs by rushing them ill equipped into dangerous situations. Much as with the example of firefighters and the unsafe burning house, we find it morally unacceptable to treat them as disposable, because of the singularity of their lives and their right to exist as individuals. There is also the detriment we would cause in an event such as a pandemic by losing the people trained to save us to the very threat they were trained to save us from. By that same logic, it could be argued that HCWs should have first access to available and medically accepted vaccinations by virtue of the fact that those HCWs are absolutely essential to our survival. The fear of an Avian Influenza outbreak brought with it much debate about scarce Tamiflu supplies and giving HCWs preferential access.15 However, the added value of a HCW is the fact that he or she will be facing the greater risk by virtue of faithful and responsible execution of his or her duty, and if this is trueFand we have seen from the example of SARS that it is not always the case that HCWs exercise due diligence or face unmanageable risks of infection simply by being ‘on-site’Fthen we should do more to protect them. Nevertheless, if the claim is that they can excuse themselves from duty because of risk, then we excuse ourselves from privileging their protection, through the preferential access to measures such as Tamiflu. The same should be true for access to vaccines or treatments: those who are compelled into service to defend the overall health of a society at tremendous risk should be first in line, as their opportunity for infectionFand to act as a vector for infection both within and outside their health-care facilitiesFmeans that the greater good is served by privileging their access to prophylaxis. A common objection to this comes from the perspective of social justice. The objection would point out that those who are least able to prevent their own infection, such as those from the lower socioeconomic classes, retirees and pensioners, and other vulnerable groups, would be denied access to the protections and treatments that are going to HCWs whoFto varying degreesFenjoy more comfortable socioeconomic positions. Although this question of access is valid in questions of many public health interventions, the preference of HCWs in questions of preferential access to vaccines and treatments is not unjust in these terms. Fundamentally, justice addresses unjustified imbalances in treatment. Aristotle famously mandated that equals should be treated as equals, and unequals as unequals.16 The key point of justice is that there should be a valid justification for differential treatment, and in that light, in this context, we are describing pandemics that pose a unique and credible threat to the public in a manner that could fundamentally undermine our way of life. Preferential treatment of HCWs, in this limited context, is a just and defensible practice. It is this same special status that we afford those who can save us from the most lethal and dangerous illnesses in times of public health emergency that also places greater demands on those same people. The greater the risk to society, the greater the responsibilities on those who can reduce the body count. The relationship between the duty of a HCW and the lethality of a disease is proportional—danger and obligation increase in step with each other, as opposed to other conceptions that suggest a threshold of exception as the risk of illness becomes too great. The fundamental flaw with this suggestion is that a negation of duty in such an outbreak simply allows the outbreak to pose an even greater threat to the populationFincluding that same derelict HCWFrather than confronting the illness in the relatively controlled environment of a hospital. Conclusions Utilitarianism in the form of promoting the good and diminishing the bad is a key moral belief in the realm of public health. It is one view in concert with others, all working to counterbalance each view to achieve a tenable moral equilibrium. In the extreme cases under consideration herein, such equilibrium dictates that the moral force of health promotion and harm minimization increases in relation to the threat posed to the well being of a larger society. In the case of widespread death or disability caused by a pandemic, this paper contended that an increased threat generates a heightened obligation on the part of HCWs, while also creating a reasonable expectation that those same HCWs will have preferential access to vaccines and treatments.

#### Impact calc – extinction outweighs

A] Reversibility- it forecloses the alternative because we can’t improve society if we are all dead

B] Structural violence- death causes suffering because people can’t get access to resources and basic necessities

C] Objectivity- body count is the most objective way to calculate impacts because comparing suffering is unethical

D] Intuitions – Their the basis of all ethical theories, and we know that intuitionally things like death are inherently bad, proves extinction ows.

### UV

#### The Role of the Ballot is to endorse the best idea – weigh the benefits of the plan against a competitive alternative – prefer:

1] Any alternative moots the 1AC – denying us the chance to weigh the aff kills clash

2] Policy debates disseminate topic knowledge and foster critical thinking

3] Begs the question of what we lose – if their method doesn’t include the plan, we should get to weigh it as a justification for our method.

4] Ground and strat skew – their model imposes an absolute proof on us – gives them functionally infinite ground through skeptical arguments and logical tautologies – comparative worlds is a 1:1 burden structure that makes debate better and reciprocal.

5] Advocacy skills – their model leads to defensive offense so they never have an active advocacy – voter since we need to be advocate for solutions to messed up things in the world

#### 2] Use reasonability on NC theory –

the 1AR is too short to line by line every argument, make a counter interpretation, and go for substance – key to check arbitrary interps.

#### The negative must concede the affirmative framework if the affirmative framework was disclosed 30 minutes before and the standard is maximizing expected well-being.

Vote aff:

#### 1 – Planks solve their offense –

prevents any auto affirm frameworks and allows for clash on the advantage through the impact calc section, disclosure allows for research on our specific phil which ensures phil ed.

#### 2 – Time skew –

Winning the negative framework moots 6 minutes of 1AC offense and forces a 1AR restart against a 7 min 1NC – that outweighs on Quantifiability and Reversibility – I can’t get back time lost and it’s the only way to measure abuse.

#### 3 – Prep skew –

We can’t predict every single negative framework before round but they know the resolution coming into round which makes pre-tournament prep impossible. Especially true since there are millions of K’s and NC’s that could negate –

#### Prep skew outweighs

A – Sequencing – It’s a perquisite engaging in-round since you need prep to debate

B – Engagement – It ruins the quality and depth of discussions that make debate rounds educational.

#### 4 – Policy education –

Our framework forces debaters to do in-depth research on the consequences of different policy solutions – that outweighs:

#### It’s the most important source of portable skills – empirics prove.

Iverson ’9 [Joel; 2009; Associate Professor of Communication at the University of Montana, Ph.D in Communication from Arizona State University Relations at the University of Sydney; Debate Central, “Can Cutting Cards Carve into Our Personal Lives: An Analysis of Debate Research on Personal Advocacy,” <https://debate.uvm.edu/dybvigiverson1000.html>] brett

Mitchell (1998) provides a thorough examination of the pedagogical implication for academic debate. Although Mitchell acknowledges that **debate** provides **preparation** for participation in democracy, limiting debate to a laboratory where students practice their skill for future participation is criticized. Mitchell contends: For students and teachers of argumentation, the heightened salience of this question should signal the danger that critical thinking and oral advocacy skills alone may not be sufficient for citizens to assert their voices in public deliberation. (p. 45) Mitchell contends that the laboratory style setting creates barriers to other spheres, creates a "sense of detachment" and causes debaters to see research from the role of spectators. Mitchell further calls for "**argumentative agency** [which] involves the **capacity** to contextualize and employ the **skills and strategies** of argumentative discourse in fields of **social action**, especially wider spheres of public deliberation" (p. 45). Although we agree with Mitchell that debate can be an even greater instrument of empowerment for students, we are more interested in examining the impact of the intermediary step of research. In each of Mitchell's examples of debaters finding creative avenues for agency, there had to be a motivation to act. It is our contention that the **research** conducted for **competition** is a major **catalyst** to propel their action, change their opinions, and to provide a **greater depth** of **understanding** of the issues involved. The level of research involved in debate creates an in-depth understanding of issues. The level of research conducted during a year of debate is quite extensive. Goodman (1993) references a Chronicle of Higher Education article that estimated "the level and extent of research required of the average college debater for each topic is equivalent to the amount of research required for a Master's Thesis (cited in Mitchell, 1998, p. 55). With this extensive quantity of research, debaters attain a high level of investigation and (presumably) understanding of a topic. As a result of this level of understanding, debaters become knowledgeable citizens who are further empowered to make informed opinions and energized to take action. Research helps to educate students (and coaches) about the state of the world. Without the guidance of a **debate topic**, how many students would do **in-depth research** on **female genital mutilation** in Africa, or **U**nited **N**ations sanctions on Iraq**?** The **competitive** nature of **policy debate** provides an impetus for **students to research** the topics that they are going to debate. This in turn fuels students’ awareness of issues that go beyond their **front doors**. Advocacy flows from this increased awareness. Reading books and articles about the suffering of people thousands of miles away or right in our own communities drives people to become involved in the community at large. Research has also focused on how debate prepares us for life in the public sphere. Issues that we discuss in debate have found their way onto the national policy stage, and training in intercollegiate debate makes us good **public advocates**. The public sphere is the arena in which we all must participate to be active citizens. Even after we leave debate, the skills that we have gained should help us to be better advocates and citizens. Research has looked at how debate impacts education (Matlon and Keele 1984), legal training (Parkinson, Gisler and Pelias 1983, Nobles 19850 and behavioral traits (McGlone 1974, Colbert 1994). These works illustrate the impact that public debate has on students as they prepare to enter the public sphere.  The debaters who take active roles such as protesting sanctions were probably not **actively engaged** in the issue until their research drew them into the topic. Furthermore, the process of intense research for debate may actually change the positions debaters hold. Since debaters typically enter into a topic with only cursory (if any) knowledge of the issue, the research process provides exposure to issues that were previously unknown. Exposure to the literature on a topic can create, reinforce or alter an individual's opinions. Before learning of the School for the America's, having an opinion of the place is impossible. After hearing about the systematic training of torturers and oppressors in a debate round and reading the research, an opinion of the "school" was developed. In this manner, exposure to debate research as the person finding the evidence, hearing it as the opponent in a debate round (or as judge) acts as an initial spark of awareness on an issue. This process of discovery seems to have a similar impact to watching an investigative news report. Mitchell claimed that debate could be more than it was traditionally seen as, that it could be a catalyst to empower people to act in the social arena. We surmise that there is a step in between the debate and the action. The intermediary step where people are inspired to agency is based on the research that they do. If students are compelled to act, research is a main factor in compelling them to do so. Even if students are **not compelled** to take direct action, research **still changes** opinions and attitudes. Research often compels students to take action in the social arena. Debate topics guide students in a direction that allows them to explore what is going on in the world. Last year the college policy debate topic was, Resolved: That the **U**nited **S**tates **F**ederal **G**overnment should adopt a policy of constructive engagement, including the immediate removal of all or nearly all economic sanctions, with the government(s) of one or more of the following nation-states: Cuba, Iran, Iraq, Syria, North Korea.  This topic spurred quite a bit of activism on the college debate circuit. Many students become actively involved in protesting for the removal of sanctions from at least one of the topic countries. The college listserve was used to **rally people** in support ofvarious **movements** to remove sanctions on both Iraq and Cuba. These messages were posted after the research on the topic began. While this topic did not lend itself to activism beyond rallying the government, other topics have allowed students to take their beliefs outside of the laboratory and into action. In addition to creating awareness, the research process can also reinforce or alter opinions. By discovering new information in the research process, people can question their current assumptions and perhaps formulate a more informed opinion. One example comes from a summer debate class for children of Migrant workers in North Dakota (Iverson, 1999). The Junior High aged students chose to debate the adoption of Spanish as an official language in the U.S. Many students expressed their concern that they could not argue effectively against the proposed change because it was a "truism." They were wholly in favor of Spanish as an official language. After researching the topic throughout their six week course, many realized much more was involved in adopting an official language and that they did not "speak 'pure' Spanish or English, but speak a unique dialect and hybrid" (Iverson, p. 3). At the end of the class many students became opposed to adopting Spanish as an official language, but found other ways Spanish should be integrated into American culture. Without research, these students would have maintained their opinions and not enhanced their knowledge of the issue. The students who maintained support of Spanish as an official language were better informed and thus also more capable of articulating support for their beliefs.  The examples of debate and research impacting the opinions and actions of debaters indicate the strong potential for a direct relationship between debate research and personal advocacy. However, the debate community has not created a new sea of activists immersing this planet in waves of protest and political action. The level of influence debater search has on people needs further exploration. Also, the process of research needs to be more fully explored in order to understand if and why researching for the competitive activity of debate generates more interest than research for other purposes such as classroom projects. Since parliamentary debate does not involve research into a single topic, it can provide an important reference point for examining the impact of research in other forms of debate. Based upon limited conversations with competitors and coaches as well as some direct coaching and judging experience in parliamentary debate, parliamentary forms of debate has not seen an increase in activism on the part of debaters in the United States. Although some coaches require research in order to find examples and to stay updated on current events, the basic principle of this research is to have a commonsense level of understanding(Venette, 1998). As the NPDA website explains, "the reader is encouraged to be well-read in current events, as well as history, philosophy, etc. Remember: the realm of knowledge is that of a 'well-read college student'" (NPDA Homepage,<http://www.bethel.edu/Majors/Communication/npda/faq2.html>). The focus of research is breadth, not depth. In fact, in-depth research into one topic for parliamentary debate would seem to be counterproductive. Every round has a different resolution and for APDA, at least, those resolutions are generally written so they are open to a wide array of case examples, So, developing too narrow of a focus could be competitively fatal. However, research is apparently increasing for parliamentary teams as reports of "stock cases" used by teams for numerous rounds have recently appeared. One coach did state that a perceived "stock case" by one team pushed his debaters to research the topic of AIDS in Africa in order to be equally knowledgeable in that case. Interestingly, the coach also stated that some of their research in preparation for parliamentary debate was affecting the opinions and attitudes of the debaters on the team. Not all debate research appears to generate personal advocacy and challenge peoples' assumptions. Debaters must switch sides, so they must inevitably debate against various cases. While this may seem to be inconsistent with advocacy, **supporting and researching** both sides of an argument actually created **stronger advocates**. Not only did debaters learn both sides of an argument, so that they could **defend** their positions **against attack**, they also learned the nuances of each position. Learning and the **intricate nature** of various **policy proposals** helps debaters to strengthen their **own stance** on issues.