# 1AC

## Inherency

#### Medicinal IP policy is a violent tool of the private sector, justifying distribution disparities in the name of economic benefit and future innovation to kick developing countries and marginalized communities to the curb.

**Hull 21** (Gordon, Professor in the [Department of Philosophy](http://philosophy.uncc.edu/) @ UNC charlotte, Director of the [Center for Professional and Applied Ethic](http://ethics.uncc.edu/)s, focuses on moral and political philosophy, problems that emerge at the intersection of philosophy, law, and technology in the area of intellectual property and/or privacy./ “THE NECROPOLITICS OF INTELLECTUAL PROPERTY”/APRIL 28 2021/NEWAPPS/ACCESSED 7-8-21) (<https://www.newappsblog.com/2021/04/the-necropolitics-of-intellectual-propert.html>) (SPHS, AL)

**In my** [**Biopolitics of Intellectual Property**](https://doi.org/10.1017/9781108687232)**, I argue that IP policy has shifted from what I call a “public biopolitics” model to a neoliberal version. In its briefest form: the public version treats IP as a necessary but limited monopoly to promote public goods, and the neoliberal version focuses on private wealth gain through proprietization (I summarize the argument** [**here**](https://www.newappsblog.com/2020/01/the-biopolitics-of-intellectual-property.html)**).** Something that I don’t particularly talk about in the book, but that one knows from Foucault, is that biopolitics comes with its inverse, necropolitics: if biopolitics is about promoting life and health for the “population,” it is also about who is allowed to die. As Foucault puts it, “the ancient right to *take* life or *let* live was replaced by a power to *foster* life or *disallow* it to the point of death [au vieux droit de *faire* mourir ou de *laisser* vivre s'est substitué un pouvoir de *faire* vivre ou de *rejeter* dans la mort]” (*History of Sexuality* I, 138). **Governmental power goes from the right to kill to the power to cause people to live; death becomes something into which one is literally “thrown back.”** The leading examples of necropolitics are political, as for example Foucault’s discussion of state racism (of which Nazism is the apotheosis) in *Society must be Defended*. Achille Mbembe’s “Necropolitics” [article](https://muse.jhu.edu/article/39984) spends time on how post-colonial African states have dismantled populations, which are “disaggregated into rebels, child soldiers, victims or refugees, or civilians incapacitated by mutilation or simply massacred on the model of ancient sacrifices” (34). Building on these, Ege Selin Islekel’s [brilliant treatment](https://www.academia.edu/37622740/Nightmare-Knowledges_Necropolitical_Epistemologies_of_Disappearance) of the disappeared in Turkey notes that in necropolitical spaces, “the entire content and the fact of living, constituted by the ethical, political, and epistemological conditions of life, are subsumed under death.” **However, as Ute Tellman has** [**recently demonstrated**](https://cup.columbia.edu/book/life-and-money/9780231182263)**, the political treatment of biopolitics needs to take seriously how it is co-configured with the economy. On Tellman’s account, the notion of economic scarcity first appears in Malthus (it was missing in Smith!) as a way to police the behavior of the poor (and “savages” in the colonies) by training them to think in terms of futurity. For Malthus, the poor have to be trained not to eat and procreate their way into oblivion by forcing them to think in terms of economic rationality. This brings us to the neoliberal justification of IP, which is partly underpinned by the Schumpeterian thesis that innovation is to be pursued at all costs, because the gains of future innovation (“dynamic efficiency”) are more important than whatever short-term distribution problems (“static inefficiencies”) they entail.** Thus, more or less, is Harold Demsetz’s reply to Kenneth Arrow. It also subtends the argument being given for why IP rights around Covid vaccines shouldn’t be licensed to the poor in India (side note: Malthus served as professor at the [East India Company College](https://en.wikipedia.org/wiki/East_India_Company_College)). Developing countries have proposed a waiver of related IP rights to ensure the rapid production of generic Covid vaccines, and Pharma has responded with an [army of lobbyists](https://theintercept.com/2021/04/23/covid-vaccine-ip-waiver-lobbying/) to explain that no, IP can’t possibly be the problem with Covid vaccine distribution, and it would be much better for philanthropies to purchase lots of drugs and then distribute them. Other unrelated IP industries [have followed](https://theintercept.com/2021/04/27/covid-vaccine-copyright-hollywood-lobbyists/) with their own lobbyists. **Whatever *other* difficulties exist in getting vaccinations to people in developing countries, it seems hard to deny that insisting on IP rights and thereby limiting production of the drugs isn’t one of them.** Allowing generics – especially in India and Brazil – increases capacity. **Western countries have a long history of** [**taking advantage**](https://yalebooks.yale.edu/book/9780300146714/goods-good-life) **of developing countries with IP laws and their singular focus on economic growth and “innovation” as its own end, especially during public health emergencies, and this is no exception (it is worth noting that the current focus on IP** [**developed**](https://books.google.com/books/about/Private_Power_Public_Law.html?id=B81qmONSs9cC) **out of a group of pharma executives who decided to maximize their IP profits by convincing Congress that IP is good for trade policy).**  The basic move behind the theoretical neoliberlization of IP [is accomplished](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=855244) by making any sense of public good invisible, or (more precisely) declaring that it should be available for private internalization.  **If the neighbors are going to enjoy the music you’re playing in your backyard, that ought to be monetizable in the form of a public performance license!** In the case of Covid vaccines, this is not only immoral, it is bad economics. First, public health is a classic public good, which means that it’s non-rivalrous (we can all share it) and non-excludable (we can’t stop others from benefiting). Every person who is waiting for vaccination rates to drive down Covid transmission understands this point intuitively: when fewer people get sick from Covid, the benefits [spillover](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=898881) to all of us. Public goods are poorly served by markets, because there is no obvious way to capture the value of someone not getting sick. Even if you can sell me a vaccine, if my vaccination stops what otherwise would have been a chain of Covid transmission (because I didn’t get sick when exposed, and so didn’t transmit it to my family or friends), there is no way to monetize that benefit. This point is even clearer if the vaccination rate causes new variants not to develop, since the damage those would cause is unknown (and yes, virologists are deeply concerned that Covid’s running amok in India and elsewhere is breeding new variants that could be more contagious or more virulent or even evade vaccines). Avoiding those is of incalculable benefit, but that benefit doesn’t translate into the profits of a vaccine maker. This situation is part of why the world doesn’t have more vaccines in the first place – they are cheap treatments that prevent bad things from happening. **As I argue in the book, numerous scholars have shown that strong IP rights** [**tend to push**](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=894162) **drug development in the direction of diseases that primarily affect citizens of rich countries, towards treatments for expensive chronic conditions rather than less remunerative drugs like antibiotics and vaccines, and towards “me too” drugs that offer different treatments for conditions whose treatment generates lots of revenue (so think the multiple drugs to treat erectile dysfunction) rather than to genuinely novel drug development.** Even worse, excessive proprietization of everything tends to [divert](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(04)17066-9/fulltext) public policy and other resources away from proven-successes like water sanitation systems and into sexy, expensive drugs like genomics. All of these are “static inefficiencies” generated by being willing to absorb near-term harm for long-term gain in the form of innovation; they reflect the Malthusian bargain. But what about the more basic question of present consumption versus the future? An especially serious problem in this context is what economists call “deadweight loss.” Basically, in a free market, the price of something would be driven down by competition to marginal cost. Patents create an artificial monopoly, which means that the patent owner will charge above-market prices for their product if they can. Public image has helped here for some vaccines: why is the AstraZeneca/Oxford vaccine so important to developing countries? It’s not just that it’s cheap to make and stores in an ordinary fridge; it’s also that the company has promised to [sell it at cost in perpetuity](https://www.theguardian.com/global-development/2020/nov/23/oxford-astrazeneca-results-covid-vaccine-developing-countries). J&J is also committed to [not-for-profit](https://qz.com/1999082/jj-sold-100-million-worth-of-covid-19-vaccine-shots/) distribution of its vaccine, at least for the duration of the pandemic. But Pfizer and Moderna are making money, [including from future booster shots](https://qz.com/1997697/will-pfizer-and-moderna-profit-from-the-covid-19-booster-shot/). Those of us in the U.S. are getting our Pfizer and Moderna shots for free, but that’s because the government is paying. The IP advocates want philanthropy to pay to distribute the vaccines elsewhere. We can debate whether all this paying this is good policy in general. On the one hand, like literally [all other drugs](https://www.pnas.org/content/115/10/2329), these vaccines were made on the back of considerable public investment. One the other hand, the outcome was definitely serious innovation: the mRNA vaccines do appear to be proof of concept for a platform generating new drugs that could defeat not only Covid but potentially a [load of other diseases](https://www.theatlantic.com/ideas/archive/2021/03/how-mrna-technology-could-change-world/618431/), including many cancers. And companies like Moderna started their work into mRNA with venture capital long before Covid; that’s part of why the platform could turn around the vaccines so quickly. Moreover, the empirical questions about pharma incentives are deeply murky, and there are also [other ways to fund](https://digitalcommons.law.yale.edu/fss_papers/4694/) what is now IP, and good economic reasons why they might be better. All of that is a subject for another day. **For now, notice that places that don’t have that luxury of a rich government that can deficit spend at will, i.e., whose governments can’t afford the price, are suffering from deadweight loss.** This measures the gap between what demand for a product would be, if it were priced at marginal cost, and what it actually is, given the monopoly price. To understand this, go in your wayback machine to before streaming took over the music industry, and imagine that I own the rights to a song. Some folks are willing and able to pay the $2 I’m charging to license its use to your MP3 player. Other folks don’t have that money, or sort of enjoy the song but would rather spend the money on something else. Maybe they’d be willing to pay $1, or $.01 instead. That set of folks represents deadweight loss – unmet social demand. In the case of MP3s, maybe not such a big deal. **But when those folks need a vaccine that they cannot afford, then they risk dying: they are thrown back into death. This is the necropolitics of IP.** It is really important to recognize that there is nothing in nature or even economic laws that requires this! It is not just that the complaint that economic scarcity needs to determine our political decisions was an invention of Malthus, or that the bioeconomy has been built, as [Melinda Cooper argued](https://uwapress.uw.edu/book/9780295987910/life-as-surplus/), on a promise of an endlessly bountiful future and a permanent solution to the problem of scarcity (paid for, she adds, by an unsustainable debt load in the present, with environmental and other bills that will likely come due before the bountiful future actually arrives). **It is that the decision to treat public health as a private good for the purposes of vaccine distribution, and the unwillingness of the state to compel companies to allow production of vaccines at cost, are both *political decisions*.** IP theory was not always this way. The idea that the present should always be sacrificed at the altar of future innovation, and that this should guide IP, dates roughly to the 1960s. These decisions can be made differently, and in this case there is really no downside. Deadweight loss, recall, measures unmet social demand: the people who are going to die because they can’t buy the vaccine (or because there isn’t enough manufacturing capacity to get it to them). That describes the status quo, which means that getting these folks vaccine faster than they would in the status quo is not only a net social gain; it’s not a loss to Pharma, because *they weren’t going to buy the vaccine in the status quo*. **In this case, the need for present consumption outweighs speculation about the future. This is not a hard call, and that Pharma is dispatching armies of Malthusian lobbyists to deflect from it says everything you need to know.**

#### High-Income Countries have purchased more than half of the global Covid vaccine doses leaving low-income countries with not enough vaccines for their population.

**Rouw et al. 21** (Anna Rouw is a data analyst on the Global Health & HIV Policy team where she provides data analysis and policy research on a wide range of global health policy topics. Adam Wexler is an Associate Director of Global Health & HIV Policy with the Global Health team at the Henry J. Kaiser Family Foundation, where he focuses on analyzing the U.S. global health budget, international donor assistance for health, U.S. bilateral health agreements, and implications of foreign aid reform on U.S. global health efforts. Dr. Jen Kates is Senior Vice President and Director of Global Health & HIV Policy at KFF, where she oversees policy analysis and research focused on the U.S. government’s role in global health and on the global and domestic HIV epidemics. Josh Michaud is an Associate Director for Global Health Policy at the Henry J. Kaiser Family Foundation, where he helps guide and oversee KFF’s research and analysis in the area of global health. /“Global COVID-19 Vaccine Access: A Snapshot of Inequality”/ March 17 2021/ Accessed: 9-23-21) (<https://www.kff.org/policy-watch/global-covid-19-vaccine-access-snapshot-of-inequality/>) (SPHS,SO)

Ensuring widespread global access to COVID-19 vaccines, which is necessary for preventing cases and deaths and contributing to global population immunity, is a critical challenge and one that could threaten the ability to control the pandemic. Despite efforts to address vaccine access, most notably through the creation of COVAX, which aims to support the development and delivery of COVID-19 vaccines with a particular focus on assisting low- and middle-income countries, significant disparities remain. The latest data from the Duke Global Health Innovation Center Launch and Scale Speedometer, which monitors COVID-19 vaccine purchases, finds that high-income countries already own more than half of all global doses purchased, and it is estimated that there will not be enough vaccine doses to cover the world’s population until at least 2023.To further examine the current global distribution of COVID-19 vaccine doses, we used data from the Duke Launch and Scale Speedometer to calculate the share of doses purchased by country income group compared to their share of the global adult population (focusing on adults, ages 18+, because most COVID-19 vaccines are thus far only available for the adult population). In addition, we calculated potential vaccine coverage rates – that is, the share of the adult population that could be fully vaccinated – by country income group. To do so, we reapportioned doses secured through regional agreements to their respective country recipients and added these to individual country totals where bilateral agreements were also in place. While it is not possible to allocate most COVAX doses purchased to individual countries at this time, since COVAX has yet to release its full distribution plan, we did assess how allocating all COVAX doses to low- and middle-income countries (LMICs) would affect these distributions (see Methodology for more detail). Ultimately, we find that without redistribution of doses already purchased by high-income countries (through donations or other means) and/or increased support for manufacturing or production of additional doses, more than four in ten (41%) adults in the world will not be able to be vaccinated, even after allocating all COVAX doses to LMICs. High-income countries, representing just a fifth of the global adult population, have purchased more than half of all vaccine doses, resulting in disparities between adult population share and doses purchased for all other country income groups. We find that although high-income countries only account for 19% of the global adult population, collectively, they have purchased more than half (54%, or 4.6 billion) of global vaccine doses purchased to date. Of the remaining doses, 33% have been purchased by LMICs, who account for 81% of the global adult population; an additional 13% have been purchased by COVAX. Looking by country income group, the largest disparity between doses purchased and population share is for lower-middle-income countries (37% of the global population vs. 12% of purchased doses, or 989 million doses), followed closely by upper-middle-income countries (37% vs. 18%, or 1.5 billion doses). The disparity for low-income countries is smaller (3% vs. 7%, or 263 million doses) (see Figure 1a). The disparity is even more pronounced when looking at the share who could be vaccinated. While enough vaccine doses have been purchased to cover more than 80% of the adult population, high-income countries own enough doses to vaccinate more than twice their populations while LMICs can only cover one-third. High-income countries currently have enough vaccine doses to cover more than twice their adult populations (245% see Figure 2a). Meanwhile, LMICs currently only have enough vaccine doses to reach approximately one-third of their populations, with upper-middle-income countries able to cover 39% of their adult population, low-income countries 38%, and lower-middle-income countries 27%. Providing all COVAX doses to LMICs could help but would still leave vaccines out of reach for most of the global population. COVAX, which currently accounts for 13% (1.12 billion) of the total number of global doses purchased, has not yet finalized the distribution plan for its full supply, though most doses are expected to be distributed to LMICs. We looked at what would happen to global distribution, relative to population and to vaccine coverage, if all 1.12 billion COVAX doses were provided to LMICs (which is not going to be the case since some will go to high-income countries). While this would result in the share of doses purchased for LMICs increasing from 33% to 46%, it would still be well below their share of the global adult population (81%) (see Figure 1b). Moreover, even with the COVAX doses, less than half (49%) of the adult population in LMICs would be able to be vaccinated (see Figure 2b). Looking at potential global coverage rates, allocating all COVAX doses to LMICs only slightly improves the picture, increasing the percentage of adults globally that can be vaccinated from 46% to 59%. This is well below the percentage of adults globally that could be vaccinated based on the total number of doses purchased (86%) (see Figure 3). The disparity between vaccines purchased and country income level is significant, but could be addressed in large part through redistribution of doses, as some high-income countries have said they would do. However, such a strategy is highly dependent on the as-of-yet unknown outcomes of several vaccine candidate trials or a significant increase in the manufacturing and production of already authorized vaccines. This analysis demonstrates the significant disparity in vaccine access across much of the world, at least of doses purchased to date. While high-income countries have secured enough doses for more than twice their adult population, LMICs currently have only enough doses to vaccinate just a third, or, if all COVAX doses were allocated to them, still less than a half. Although there are currently enough purchased doses to vaccinate more than 80% of the global adult population, unless these doses are redistributed, huge inequities in vaccine distribution will persist, presenting a major challenge to achieving global population immunity. Some high-income countries have indicated that they will donate their excess doses, including France, Norway, the U.K., and the U.S. government, which has said it will do so only after it has vaccinated the U.S. population. Still, even if such donations were to occur, their ability to fully address these disparities is in part dependent on the success of some vaccine candidates still in clinical trials or the ability to support the increased manufacturing of or production capacity for already successful vaccine products.

## Plan

#### Thus, the plan: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

#### Only generics can help low-income countries with vaccine inequalities

**Memon 20**

( Shaz Memom /Monday, 23 November 2020/ “OPINION: Only a generic, not-for-profit COVID-19

Vaccine can protect the world's poorest “/ <https://news.trust.org/item/20201117160928-cozr9/> )(SPHS,SO)

Today’s announcement by AstraZeneca that their Covid vaccine has up to 90% efficacy, while not requiring cold-chain storage and being provided ‘at cost’ could be a lifeline to the developing world. It will reportedly be priced at just £3, compared to £15 and £28 for others. However, AstraZeneca’s share price dropped on the news, and there may be understandable pressure from shareholders to secure profits, just as their competitors are. In case of the firm reneging on its promise to provide the vaccine on a not-for-profit basis (or of the incidental costs being higher than forecast) it is only through India’s generic pharmaceutical sector that the most needy across the world can quickly receive a vaccine, bypassing the barriers (of limited supplies and high costs) created by the branded equivalents**. As well as the problems of deliverability (which other vaccines particularly suffer from), there is the issue of availability. Given limited supplies, the vast majority of vaccines will initially be secured by the world’s richest nations, despite some developing countries, such as India, being the hardest hit by the pandemic. And even once it is available, affordability may still be a barrier for many health authorities.** Without solving these issues and making vaccines available and affordable (as well as deliverable) to all, It could be years or decades until they are rolled out to the world’s poorest, if at all. This is exactly what has happened with other infectious diseases like polio, measles and tuberculosis (the latter took 1.4 million lives last year, mostly in the developing world, despite a vaccine being available for almost a century). On the current trajectory, we are heading for a global two-tier system where rich nations will likely have sufficient vaccine roll-out to return to normal life at some point next year, and the poorest parts of the world won’t**. Often, the rich world talks about getting a vaccine to ‘everyone who needs it’ without necessarily thinking about the billions of people in villages, shanty towns or refugee camps in the global south who need it just as much as those in London or Los Angeles.** There are a few global solutions to this problem. COVAX, led by Gavi, the vaccine alliance, aims to secure equitable vaccine access across the world. However, it is unclear how they can force vaccine manufacturers to give equal priority to, say, Uganda, as much as the USA or the EU. It is important to remember that vaccine manufacturers are for-profit businesses. There is no obvious way to influence who they choose to sell their products to, and their execs are obliged to their shareholders to pursue profits. Given that COVAX has raised just $2 billion USD to date, this is a modest budget in this commercial environment. Besides COVAX, there are efforts by the World Bank to provide $12 billion in financing to allow poorer countries to purchase vaccines at market rates, with a focus on the world’s poorest two billion people. While it is unclear whether that budget is realistic and whether countries will take up the financing, plans like this also assume an unlimited and immediate supply of vaccines. **There must be a solution to both problems: affordability, and availability. The only way to do that is through India’s generic drugs industry.** India has a long track record of manufacturing treatments that violate patents held by pharmaceutical companies, often based in Western industrialised nations. Protected by India’s 1970 Patents Act which does not recognise most drugs patents, the industry has grown exponentially, and is a key export sector for the country. Last month India, along with South Africa, asked the World Trade Organisation (WTO) to suspend all patents for any COVID-19 vaccines (in line with its domestic patent law). Although the WTO has resisted this, there will be another attempt by those countries at this Friday’s WTO meeting. I believe India should consider proceeding regardless of the outcome. **Although this will be opposed by the large pharmaceutical firms who have invested in developing vaccines, it will save millions of lives and livelihoods, both inside India and beyond its borders. As the only country with a significant generic drugs sector, India has not only an opportunity, but an obligation to create and distribute the vaccines the world needs.** To head off allegations that it was improperly profiting from this, a generic vaccine could be provided at cost, and only to those who demonstrably need it and are excluded from other supply agreements. As well as a humanitarian imperative, this would be in India’s self-interest. It’s image has been damaged in recent years amidst allegations of human rights abuses and sectarian divisions. A generic vaccine may be exactly what the decision makers in Delhi need, as well as exactly what the poorest in the global south need.

## Racialization adv

#### IPP solidifies white supremacy in an attempt to paint the western creator as innovative and “racially inferior” groups as criminal thieves of the white masterpiece.

**Vats 13** (Anjali, dissertation for doctor of phil “CREATED DIFFERENCES: RHETORICS OF RACE AND RESISTANCE IN INTELLECTUAL PROPERTY LAW”/2013/UWASH/Accessed 7-8-21) (<https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/23464/Vats_washington_0250E_11939.pdf?isAllowed=y&sequence=1>) (SPHS, AL)

**The links between intellectual property infringement and racial difference in part derive from the relationship between trademarks, copyrights, and patents and Enlightenment thought and Western colonialism**. James Boyle argues that **the image of the “romantic author,” which originated with Enlightenment visions of progress, animates contemporary intellectual property law. Envisioned as the sole creator in a study or laboratory who, in a moment of creative genius, produces a new and masterful work of art or invention, the romantic author is the product of the Western imaginary.**52 **Trademarks gained popularity in America during a time of Westward expansion, as a means of solidifying white superiority.**53 Increasingly, then, **discourses of trademarks, copyrights, and patents reinforce a dichotomy of creators and infringers, with the former being white Westerners perceived to be capable of producing new and innovative knowledge and the latter being associated with racial Otherness.** Moreover, **the association of intellectual property infringement with characteristics of racial difference often functions as a contemporary racial project, or attempt to deploy narratives of race in a manner that justifies the racialization of social structures, political organization, and distribution of resources**.54 **Representations of race in the context of intellectual property discourses operate as a means of justifying structural decisions that negatively affect the material realities of marginalized groups and systematically demonize racial Others.** To return to Mukasey’s comments, the articulation of counterfeit “AIDS medicine” with “theft,” “organized crime,” and “terrorism” erases global inequalities in access to life-saving drugs. Moreover, racialized portrayals of infringement become a means of justifying the criminalization of intellectual property crimes, often to the detriment of marginalized groups and the neocolonial periphery. Representing the Chinese as dishonest and lazy works as a justification for cracking down on intellectual property rights violations, not searching for alternate conceptualizations of the problem. **Intellectual property, as it is discussed in contemporary public culture normalizes a “racial common sense,**”55 or tacit understanding about racial difference, that presupposes the untrustworthiness, deviousness, and dangerousness of racial Others with respect to infringement of intellectual properties. **The term “IP crime” systematically silences racial Others, using traits often associated with difference to justify the imposition of Western understandings of creation.**

#### Only reformatting IPP can solve — resisting racialization is key.

**Vats 13** (Anjali, dissertation for doctor of phil “CREATED DIFFERENCES: RHETORICS OF RACE AND RESISTANCE IN INTELLECTUAL PROPERTY LAW”/2013/UWASH/Accessed 7-8-21) (<https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/23464/Vats_washington_0250E_11939.pdf?isAllowed=y&sequence=1>) (SPHS, AL)

The association of infringement of intellectual properties with race occurs through the consistent articulation of trademark, patent, and copyright violations with identities and characteristics understood as linked to racial Otherness. **Resistance to racialization, then, requires disarticulating understandings of intellectual property infringement from those negatively racially-inflected traits and constructing new, racially emancipatory discourses around trademarks, copyrights, and patents. The process of disarticulation occurs through counterhegemonic practices which expose the internal contradictions within intellectual property’s linking of race and infringement and reconceptualize the unauthorized use of creative works.** While there are countless examples of moments of resistance occurring outside of that which intellectual property law deems legal, some of which Debora J. Halbert outlines in her book Resisting Intellectual Property, the examples I discuss unfold within existing legal structures, as legally protected, and even sanctioned, acts of protest.60 Though the distinction between inter-legal and extra-legal forms of resistance is arguably, as Foucault would suggest,61 a non-existent one when conceptualized in biopolitical terms, in the context of intellectual property, it is theoretically useful to distinguish between those acts that attempt to build alternatives to intellectual property structures and those which culturally negotiate existing legal structures. **The latter operate in the interstices of regimes of trademark, patent, and copyright, simultaneously using and deconstructing legal concepts to show the internal contradictions of intellectual property law. Examining inter-legal acts of resistance as an at least partially separable type of resistance offers a lens for closely scrutinizing and theorizing race and racial formation in the context of the laws of trademark, patent, and copyright.**62 Where Halbert urges that we “excavate the alternatives to intellectual property available to us” and “[reimagine] the extent to which copyright and patent law will govern creative and innovative work”,63 I focus on rhetorical resistance unfolding within the liminal spaces of intellectual property law, foregrounding rhetorical struggles over the meanings and histories of intellectual property law. The within here thus suggests a hegemonic struggle between groups who vie for control over the very meaning of the language, histories, and erasures of intellectual property. In the cases I consider, resistance often involves stepping outside of the language used by trademark, copyright, and patent law and “envisioning new ways to think and act to what we now call intellectual property.” 64 In other words, Warhol’s Mammy, Randall’s The Wind Done Gone, and India’s Traditional Knowledge Digital Library reshape the boundaries of intellectual property law through rhetorical practices which force acknowledgement of new meanings of the terms which undergird and define the boundaries of intellectual property law. Moreover, these case studies show how marginalized groups can reconstitute existing identity categories through their resistive acts, engaging in practices of “rhetorical revision” which alter the “very boundary” of intellectual property’s central figures, namely creators and infringers.65 By and through the exercise of rhetorical agency in the face of intellectual property’s lawmaking imperative, marginalized groups confront the legal regime’s interpellative processes, articulating their own resistive identities. Such a reading is intended to move beyond simplistic essentialist/antiessentialist social constructionist accounts of identity formation. . Instead, consistent with the work of Judith Butler, William Connoly, E. Patrick Johnson, and of course Muñoz, among others, “identity [is] produced at the point of contact between essential understandings of self (fixed dispositions) and socially constructed narratives of self.”66 In this context, the remythologization of intellectual property’s racialization **is a productive process through which new understandings of the interface between the legal regime and difference evolves and dominant narratives of identity are reconstituted.**

## Variants Adv

#### Lack of global vaccination increases the risk of more deadly variants

**Stiglitz 21**(Joseph E. Stiglitz, a Nobel laureate in economics and University Professor at Columbia University, is a former chief economist of the World Bank (1997-2000), chair of the US President’s Council of Economic Advisers, and co-chair of the High-Level Commission on Carbon Prices. He is a member of the Independent Commission for the Reform of International Corporate Taxation and was lead author of the 1995 IPCC Climate Assessment./Sep 7,2021/ Accessd: 10-05-2021/<https://www.project-syndicate.org/commentary/covid19-spike-in-us-reflects-misunderstanding-of-liberty-by-joseph-e-stiglitz-2021-09> )(SPHS,SO)

In a pandemic, one person’s actions affect the well-being of others. And whenever there are such externalities, the well-being of society requires collective action: regulations to restrict socially harmful behavior and to promote socially beneficial behavior. NEW YORK – **The upsurge of COVID-19 cases, hospitalizations, and deaths in the United States serves as a bitter reminder that the pandemic is not over. The global economy will not return to normal until the disease is under control everywhere.** But the US case is a true tragedy, because what’s currently happening here is so unnecessary. **While those in emerging markets and developing countries are longing to get the vaccine (with many dying because they cannot get it), the US supply is ample enough to provide a double dose – and now a booster shot – to everyone in the country. And if almost everyone got vaccinated, COVID-19 would almost surely just “fade away,” as former President Donald Trump memorably put it. And yet not nearly enough people in the US have been vaccinated to prevent the highly contagious Delta variant from driving case numbers in many areas to new highs.** How do so many in a country with seemingly well-educated people act so irrationally, against their own interest, against science, and against the lessons of history? Part of the answer is that the country, for all of its wealth, is not as well-educated as one might expect – which is reflected in the country’s comparative international performance on standardized assessments. In many parts of the country – including some with the highest rates of resistance to vaccination – science education is particularly poor, owing to politicization of fundamental issues like evolution and climate change, which in many cases have been excluded from school curricula. In this environment, misinformation can gain traction with many people. And social-media platforms, insulated from liability for what they transmit, have made a business model of maximizing “user engagement” by spreading misinformation, including about COVID-19 and the vaccines. But a key part of the answer is a deep misinterpretation, especially among the right, of individual liberty. Those who refuse to wear masks or socially distance often argue that requirements to do so infringe on their freedom. But one person’s freedom is another person’s “unfreedom.” If their refusal to wear a mask or get vaccinated results in others getting COVID-19, their behavior is denying others the more fundamental right to life itself. The essence of the matter is that there are large externalities: In a pandemic, one person’s actions affect the well-being of others. And whenever there are such externalities, the well-being of society requires collective action: regulations to restrict socially harmful behavior and to promote socially beneficial behavior. Any ordered society entails restrictions. But while prohibitions against killing, stealing, and so on restrict an individual’s freedom, we all understand that society could not function without them. In our post-COVID world, we might interpret the Ten Commandments to include: “Thou shall not kill, including by spreading infectious diseases when thou can avoid doing so.” Similarly, “Thou shall get vaccinated.” Any infringement of an individual’s liberty by requiring safe and highly effective COVID-19 vaccination pales in comparison to the social benefits – and consequent economic benefits – of public health. It is a no-brainer to require all individuals, with only limited medical exemptions, to be vaccinated. While many governments appear to be too timid to impose this requirement, employers, schools, and social organizations – any organized activity that brings individuals into contact with others – should do so. As we have been learning for the last 18 months, global health is a global public good. As long as the disease rages in some parts of the world, the risk of a deadlier, more contagious, more vaccine-resistant mutation grows. **In most of the world, however, the problem is not resistance to vaccination but a severe shortage of vaccines. Evidently, the private sector is unable to scale up production to ensure an adequate supply.** Is that because vaccine producers lack capital? Is there a shortage of glass vials or syringes? Or is it because they hope that fewer doses will lead to higher prices and even bigger profits? Among the key barriers to greater supply is access to the requisite intellectual property, which is why the IP waiver being discussed at the World Trade Organization is so important. Given the urgency and scale of the challenge, more is needed: Among the steps US President Joe Biden’s administration could take is to invoke the Defense Production Act and leverage the federal government’s ownership of key patents. The US has been allowing the pharmaceutical companies to use this public IP freely, while they reap billions of dollars in profits. The US must use every instrument at its disposal to increase production at home and abroad. This, too, is a no brainer. Even if the costs of global vaccination totaled tens of billions of dollars, the amount would pale in comparison to the costs of persistent COVID-19 outbreaks to lives, livelihoods, and the world economy.

#### The ONLY way to stop new variants that overwhelm vaccines is to distribute drugs worldwide 2014 — empirically

**Heymann and Brewer 21**

(Jody Heymann, M.D., Ph.D., is a distinguished professor of public health, public policy, and medicine; founding director of the WORLD Policy Analysis Center, and served as dean of public health at UCLA from 2013-2018.Timothy Brewer, M.D., MPH, is a professor of medicine and epidemiology at UCLA, and served as program director for the International Society for Infectious Diseases, as well as in an advisory capacity to the World Health Organization./ “Fully vaccinating our nation won't end COVID — fully vaccinating the world will”/ 09/10/21/ OPINION CONTRIBUTORS/Accessed: 10-05-2021/

<https://thehill.com/opinion/healthcare/571705-fully-vaccinating-our-nation-wont-end-covid-fully-vaccinating-the-world/> )(SPHS, SO)

In most high-income nations, people are focused on their own country’s vaccination rates. This is a reasonable place to start since current outbreaks are driven by the unvaccinated. **Recent data from Los Angeles County showed that unvaccinated persons are five times more likely to become infected when exposed to SARS-CoV-2 than vaccinated persons, and 29 times more likely to be hospitalized with COVID-19. Studies from Scotland and elsewhere show unvaccinated persons also are more likely to spread SARS-CoV-2. But vaccinating high numbers of people in high-income countries will not end the global pandemic — not even close.** **The delta variant, responsible for 99 percent of current U.S. COVID-19 cases, was first detected in India. The Alpha variant, previously responsible for most U.S. cases, was first recognized in the United Kingdom. Beta came from South Africa, and Gamma from Brazil and Japan**. The global tour continues with variants on the horizon that are worrying scientists: Eta (U.K./Nigeria); Iota (U.S.); Kappa (India); Lambda (Peru); and Mu (Colombia). After these variants, there will be more, including ones that are highly transmissible and vaccine-resistant. **The only way to move past the pandemic is to eliminate the high transmission rates in countries around the world that create fertile soil for new variants. Until we do, the virus’s ongoing adaptation anywhere will put lives at risk everywhere. Importantly, this cannot be done without vaccinations.** Using data from all 54 African countries, together with colleagues from around the world, we recently showed that hundreds of millions of people living in Africa lack the means to isolate if sick, quarantine if exposed, and face high barriers to physically distancing or handwashing to prevent COVID-19 spread. Across 54 African countries, our study found that 718 million people live in households with six or more people at home and 283 million people live in households where at least three people sleep in a single room, making physical distancing impossible. Eight hundred and ninety million Africans lack running water at home, and 700 million people do not have regular access to soap, limiting regular hand washing to prevent COVID-19 spread. In both Nigeria, Africa’s most populous country, and the Democratic Republic of the Congo, one of the largest, fewer than one in 100 persons are vaccinated. Living conditions that heighten the urgency of vaccine access are likewise found in other low- and middle-income countries with little access to vaccines. **For example, in India, a country home to over 1.3 billion people where multigenerational households are common, just 11 percent of the population is fully vaccinated. Similarly, just 12 percent are fully vaccinated in the Philippines, home to the three most densely populated cities in the world. The only route to COVID-19 prevention for these and far more individuals and families in low- and middle-income countries around the world is universal access to vaccines. The bottom line is that each of us must also care about all the people globally who will become infected without vaccines — and the new deadly, highly infectious variants that will inevitably emerge and spread around our exceedingly interconnected world as a result.** So what will it take to get vaccines to everyone worldwide? Everyone needs to pitch in. Countries that have surplus vaccines need to share them — and not stockpile extra for their own population while low vaccination rates persist in most countries worldwide. Currently, not only is there a vaccine shortage in many lower-income countries but in some cases, their limited supply is getting diverted to high-income countries with a surplus of doses. It endangers everyone when millions of Johnson & Johnson vaccine doses are sent from South Africa, where 10 percent of the population is vaccinated, to countries such as Spain and Germany, with vaccination rates of 72 percent and 62 percent, respectively. Companies and countries that have patents and intellectual property rights need to stop blocking others from reproducing vaccines, share the IP and accelerate the production of vaccines around the world. Preventing low- and middle-income countries from producing their own vaccines needlessly limits supply in areas with shortages, creating grave risks in those countries while jeopardizing health everywhere. Although the U.S. has come out in favor of waiving patent protections on COVID-19 vaccines, other vaccine-producing countries remain opposed. Government and donor funds are needed to support ramping up production of vaccines to ensure that vaccines are free, so cost is not a barrier to anyone, and to build the public health systems that are needed to support vaccine delivery and reduce spread in this pandemic and the next. Employers and countries have a key role to play in ensuring workers can take leave to get vaccinated, reduce spread and care for their own and family health when sick. Finally, where vaccines are available, everyone needs to step up and get immunized — everyone’s actions affect not only their health but that of their family, their community, and communities that touch them. There is no closing borders to viruses when economies are dependent on trade and exchange to survive. Failing to recognize and respond to the global nature of COVID-19 prolongs the pandemic for everyone. Getting the world fully vaccinated is within our reach — but it’s up to every country, company, and individual to do their part.