## 1NC vs Adam

### T – Off

#### Interpretation: Reduce means unconditional and permanent

**Reynolds 59** – Judge (In the Matter of Doris A. Montesani, Petitioner, v. Arthur Levitt, as Comptroller of the State of New York, et al., Respondents [NO NUMBER IN ORIGINAL] Supreme Court of New York, Appellate Division, Third Department 9 A.D.2d 51; 189 N.Y.S.2d 695; 1959 N.Y. App. Div. LEXIS 7391 August 13, 1959, lexis)

Section 83's counterpart with regard to nondisability pensioners, section 84, prescribes a reduction only if the pensioner should again take a public job. The disability pensioner is penalized if he takes any type of employment. The reason for the difference, of course, is that in one case the only reason pension benefits are available is because the pensioner is considered incapable of gainful employment, while in the other he has fully completed his "tour" and is considered as having earned his reward with almost no strings attached. It would be manifestly unfair to the ordinary retiree to accord the disability retiree the benefits of the System to which they both belong when the latter is otherwise capable of earning a living and had not fulfilled his service obligation. If it were to be held that withholdings under section 83 were payable whenever the pensioner died or stopped his other employment the whole purpose of the provision would be defeated, i.e., the System might just as well have continued payments during the other employment since it must later pay it anyway.  [\*\*\*13]  The section says "reduced", does not say that monthly payments shall be temporarily suspended; it says that the pension itself shall be reduced. The plain dictionary meaning of the word is to diminish, lower or degrade. The word "reduce" seems adequately to indicate permanency.

#### Violation: Companies can still choose exclusive patent protection and data exclusivity

1NC Feldman 3 Robin Feldman 2-11-2019 "‘One-and-done’ for new drugs could cut patent thickets and boost generic competition" <https://www.statnews.com/2019/02/11/drug-patent-protection-one-done/> (Arthur J. Goldberg Distinguished Professor of Law, Albert Abramson ’54 Distinguished Professor of Law Chair, and Director of the Center for Innovation)//SidK + Elmer

I believe that one period of protection **should be enough**. We should make the legal changes necessary to prevent companies **from building patent walls** and piling up mountains of rights. This could be accomplished **by a “one-and-done” approach** for patent protection. Under it, a drug would receive just one period of exclusivity, and no more. The choice of which “one” could be left entirely in the hands of the pharmaceutical company, with the election made when the FDA approves the drug. Perhaps development of the drug went swiftly and smoothly, so the remaining life of one of the drug’s patents is of greatest value. Perhaps development languished, so designation as an orphan drug or some other benefit would bring greater reward. The choice would be up to the company itself, based on its own calculation of the maximum benefit. The result, however, is that a pharmaceutical company chooses whether its period of exclusivity would be a patent, an orphan drug designation, a period of data exclusivity (in which no generic is allowed to use the original drug’s safety and effectiveness data), or something else — but **not all of the above** and more. Consider Suboxone, a combination of buprenorphine and naloxone for treating opioid addiction. The drug’s maker has extended its protection cliff eight times, including obtaining an orphan drug designation, which is intended for drugs that serve only a small number of patients. The drug’s first period of exclusivity ended in 2005, but with the additions its protection now lasts until 2024. That makes almost two additional decades in which the public has borne the burden of monopoly pricing, and access to the medicine may have been constrained. Implementing a one-and-done approach in conjunction with FDA approval underscores the fact that these problems and solutions are designed for pharmaceuticals, not for all types of technologies. That way, one-and-done could be implemented through **legislative changes to the FDA’s drug approval system**, and would apply to patents granted going forward. One-and-done would apply to both patents and exclusivities. A more limited approach, a baby step if you will, would be to invigorate the existing patent obviousness doctrine as a way to cut back on patent tinkering. Obviousness, one of the five standards for patent eligibility, says that inventions that are obvious to an expert or the general public can’t be patented. Either by congressional clarification or judicial interpretation, many pile-on patents could be eliminated with a ruling that the core concept of the additional patent is nothing more than the original formulation. Anything else is merely an obvious adaptation of the core invention, modified with existing technology. As such, the patent would fail for being perfectly obvious. Even without congressional action, a more vigorous and robust application of the existing obviousness doctrine could significantly improve the problem of piled-up patents and patent walls. Pharmaceutical companies have become adept at maneuvering through the system of patent and non-patent rights to create mountains of rights that can be applied, one after another. This behavior lets drug companies keep competitors out of the market and beat them back when they get there. We shouldn’t be surprised at this. Pharmaceutical companies are profit-making entities, after all, that face pressure from their shareholders to produce ever-better results. If we want to change the system, we must change the incentives driving the system. And right now, the incentives for creating patent walls are just too great.

#### Vote neg:

#### 1—Limits—there are dozens of conditions that the aff could use to justify offsets in expansion: manufacturing, innovation, distribution, etc—makes NEG prep impossible.

#### 2—Ground—they don’t result in a tangible change to a world without IP Protections, unless the conditions are triggered—wrecks DA ground predicated on IPR good

#### No RVI’s – illogical to win for meeting the burden of being fair, and encourages unfair affs to bait out T arguments and go for the RVI

#### Competing Interps – reasonability is arbitrary and forces the judge to intervene to decide if aff defense is sufficient. If its not, it collapses because you compare offense vs defense which is definitionally competing interps.

### CP – Off

#### Text: The member nations of the World Trade Organization should reduce intellectual property protections for all medicines, except Nanomedicines, by implementing a one-and-done approach for patents and exclusivity protections for patent originators.

#### IPR key to Nanotechnology production – our ev is pharma specific and indicates that nanotech requires a competitive advantage that is impossible without IP

Siri et al 20 [Siri, Jothiratna G S et al. “Nanotechnology and Protection of Intellectual Property: Emerging Trends.” Recent patents on nanotechnology vol. 14,4 (2020): 307-327. <https://pubmed.ncbi.nlm.nih.gov/32532198/> Accessed 9/23 //gord0]

**Background:** Technology experts foresee that nanotechnology is the next industrial revolution and it has great potential to bring solutions to many challenges of global relevance in terms of a diverse range of applications. Efficiency-driven economies are transforming into innovation-driven economies where Intellectual Property (IP) plays a pivotal role in achieving a competitive advantage. Whereas industry analysts assert that IP roadblocks will be a severe detriment to the development of nanotechnology due to infringements and high-profile patent battles. Various authors have made a significant effort to analyse the implications of IP on nanotechnology but most of the published literature covers only the years 2000- 2010. Data and insights pertaining to recent developments are lagging behind. Therefore, the objective of this review was to explore cutting-edge empirical evidence towards emerging trends of Intellectual Property protection in nanotechnology, thereby to provide insights aimed at unleashing the full potential of nanotechnology innovation for socio-economic advantage.

**Materials and methods:** Patent information over the period 2000 to 2018 was collated and analysed to determine the latest trends. To gain a global perspective, nanotechnology patents issued by the United States Patent and Trademark Office (USPTO) and nanotechnology patents published in the 'PatentScope' of the World Intellectual Property Organization (WIPO) were surveyed along with literature in relation to nanotechnology commercialization and litigation.

**Results:** Our study revealed that worldwide protection of Intellectual Property in nanotechnology has steadily been increasing year-on-year accounting 3.3 million patent applications filed in 2018 in which China and U.S. are dominating. The other main contributors are Japan, Germany Republic of Korea, France and U.K. Asia has emerged as the single region to file more than half of total filings for the first time thus shifting global IP landscape from Europe to Asia. Another notable finding is that there is a significant growth in trademark registration in many of the leading economies. Top five technology fields with high international patenting activity are computer technology, medical technology, digital communication, electrical machinery and pharmaceuticals where computer technology is dominating. More than 90% of the total patents are granted on materials, devices and processes developed as basic building blocks of nanotechnology at laboratory level which sound as more downstream innovations in the short-term. Amid the upward trends in nanotechnology patenting, newly emerging obstacles pose risks to innovation. A key finding of the present study is that the increasing trend of patent litigation almost follows the same path of patent grants indicating a positive correlation. A global prominence of middle-income and low-income countries in patent filing is yet to emerge which foreshadows an IP divide.

#### Secondary patents are required to get treatments and products off the ground

Stanwood 16 [[Ken Stanwood](https://www.ipwatchdog.com/author/ken-stanwood/) is CTO of WiLAN, Inc. where he oversees WiLAN’s engineering staff. One of his primary responsibilities is running WiLAN’s university technology transfer program which includes helping universities spin out startups. Mr. Stanwood transitioned into his role of CTO after having served as President and CEO of WiLAN Labs, the research and development arm of WiLAN, Inc. which focused on developing solutions to fundamental issues facing next generation wireless communications and cloud computing. Mr. Stanwood has extensive experience in Broadband Wireless technology development including protocol and algorithm development, intellectual property, and standardization. He has been in the communications industry for over 35 years. As an entrepreneur and inventor, he has founded two startups and holds more than 145 issued US patents. August 17, 2016. “Benefit of the Secondary Patent Market to Startups” <https://www.ipwatchdog.com/2016/08/17/benefit-secondary-patent-market-startups/id=71999/> Accessed 10/24 //gord0]

Secondary markets are defined as the places where previously sold products or issued securities are subsequently bought and sold. For example, when a company issues shares through an issuance or private placement, the shares are first sold on the primary market. Any subsequent trading of these securities occurs on the “secondary market”. Another example of well-known secondary market is the real estate market. Homes and buildings are seldom built, bought, and owned exclusively by one tenant for their entire life. This is particularly true of office buildings and apartment complexes. These buildings are typically built by one party, and managed by another. This specialization where builders build, managers manage, and renters rent is driven by the market because it is the most efficient arrangement.

A secondary market for patents emerged in the nineteenth century. As Adam Mossoff explains in his [essay](http://www.georgemasonlawreview.org/wp-content/uploads/2015/06/MossoffPatentLicensing.pdf) “Patent Licensing and Secondary Markets in the Nineteenth Century”, the secondary patent market is characterized by the licensing of patents to others to commercialize, selling patents to others to commercialize, and selling patents to others to license.

The validity of secondary markets for a variety of goods and services is never questioned. Securities are sold and resold many times after their initial offering, homes and buildings and built and resold many times, as are automobiles. A quick review of the products listed an eBay leaves little doubt that a robust secondary market exists for many goods and services across the American economy.

However, not everyone is in agreement that a secondary patent market is beneficial. For some reason, many people [villainize](http://www.americanbar.org/publications/landslide/2015-16/july-august/intellectual_property_laws.html) companies that practice patent licensing. Even resorting to the use of pejorative terms such as “patent troll” to describe these businesses. These detractors fail to account for the fact that inventors may not be the most efficient licensors. In addition, they don’t take into account that, just as a builder generates revenue to build more buildings by selling their current ones, companies that sell or license patents help fund further R&D with the proceeds.

FTC Commissioner Maureen Ohlhausen, while [speaking](https://www.youtube.com/watch?v=TC4PAlxbPiY) at the joint USPTO/CPIP conference The Economic Contribution of Technology Licensing on June 8, 2016 stated that “patenting technology and commercializing are increasingly separate acts undertaken by different entities and connected by patent licenses … after the fact.” She went on to indicate the opinion that the secondary patent market does “not undermine the patent system’s core function.”

I am currently CTO of WiLAN and am an inventor on over 110 issued US patents. In the course of my career I have co-founded two startups and worked for numerous others. I have seen firsthand some of the benefits of the secondary patent market that licensing companies provide to startups. Here is a perspective on the secondary patent market based on my experience.

My primary introduction to patents came when working at Ensemble Communications. We were working in the early days of broadband wireless and were breaking new ground. It was a very exciting and innovative environment. We were working with other companies, including WiLAN, in IEEE and ETSI to standardize broadband wireless communications.

Some of Ensemble’s technology ended up in the IEEE 802.16 standard. We also created a small portfolio of around 15-20 patents and patent applications, most of which named me as an inventor. Interestingly, figures from some of the patent applications were versions of some of the figures in the standard (possibly because I drew both versions). Unfortunately, Ensemble was growing fast at about the time the dotcom bubble burst. Some of Ensemble’s largest customers, like Adelphia, went into bankruptcy and took licensed spectrum with them. Ensemble’s equipment operated within that spectrum. Not good for Ensemble, but it set the stage for two different startups to receive related but different benefits from the secondary patent market.

First, Ensemble’s investors benefited from the sale of Ensemble’s patent portfolio, recouping a small but nontrivial portion of their investment. Since they were venture capitalists, one can assume this was reinvested somewhere or distributed amongst the funds’ investors. WiLAN was the company that acquired the bulk of the patent portfolio. At the time they were a wireless equipment manufacturing company working in the same standards groups. Together with their own patent portfolio, the Ensemble portfolio set the stage for WiLAN to survive the dotcom era, emerging with a technology licensing business model.

The second company that directly benefited from the secondary patent market was the company I co-founded shortly before Ensemble’s hard times. As part of my work in broadband wireless standards, I saw a market for femtocell ASIC’s to drive down the price of scheduled wireless to compete with WiFi for multimedia distribution. A friend and I started a company and started looking for funding. Fortunately, NextWave had been working with Ensemble, trying to free the spectrum locked in bankruptcy by the likes of Adelphia. NextWave was very aware of Ensemble’s technology, our patent portfolio, and my contribution. NextWave had faith in my ability to lead the development of valuable intellectual property. They funded my new startup for two reasons. First, they had a belief in the market we were pursuing. But second, as a fall back plan, they believed in our ability to generate patents that would be worth something on the secondary market if we didn’t succeed. This correlates directly with Zorina Khan’s [observation](http://www.georgemasonlawreview.org/wp-content/uploads/2014/06/Khan-Website-Version.pdf) that “Successful inventors were able to leverage their reputations and underwrite … research and development”.

In 2009, I co-founded a second startup. This time to develop technology to improve the distribution of video over broadband wireless. We did the initial work in our spare time and filed provisional patent applications while seeking funding. Funding came from a familiar source – WiLAN. Initially, WiLAN provided funding to convert our provisional applications to utility applications. The applications were collateral, indicating they were valuable even if the startup did not succeed. Ultimately WiLAN acquired us, and we became their R&D arm, developing prototypes of products using the technology we developed. We received funds to file patent applications, and again our R&D was funded partially on the belief that we could generate patents that would be worth something on the secondary market.

I know from experience that the benefits of the secondary market to startups are real, and there are [numerous](http://law.slu.edu/sites/default/files/Journals/ryan_holte_article.pdf) benefits beyond what I have personally experienced. In the worst case, investors can recoup a part of their investment as a fallback if things go wrong. But to help prevent things from going wrong, the secondary market can provide options to the start-up during the critical early days. For example, a start-up can sell or license their technology when they need working capital. Licensing companies in the secondary market can help make that happen.

Startups are more likely to receive funding if the team and technology are expected to generate strong patents. Startups can also receive assistance from licensing companies that are better equipped to enforce patents against infringers. These secondary market benefits are in addition to the benefits patents provide a startup by protecting their market and products.

#### Nanotech needs to get off the ground – they’re in the early days

Stankova 15 [Desislava Stankova. January 30, 2015. “The Future of Nanotechnology In Medicine” <http://elaw.guide/future-nanotechnology-medicine/> Accessed 10/24 //gord0]

Nanotechnology is an umbrella science in which many disciplines converge that focus on the phenomena of materials on the nanometer scale (оne nanometer is one billionth of a meter). An important characteristic of nanomaterials is that they show completely different properties and qualities (surface, chemical reactions, etc.) compared to bigger particles. As promising as it seems, nanotechnology is nowadays a very disputable science that attracts the attention of scholars of all fields.

One of the most important application fields of nanotechnology is medicine and pharmaceutics with the promise to revolutionize the way current medicine is viewed and performed. Many futuristic technologies and devices are currently in a process of research and development, such as quantum dots, lab-on-a-chip, targeted drug delivery, automatic monitoring and drug delivery systems, tissue engineering and even smart nanobots. However, since nanotechnology is still in its early age of development, many risks and moral drawbacks need to be evaluated, especially regarding applications in such a globally important field as medicine.

Application

As mentioned, nanotechnology presents a vast set of opportunities for medical developments that are of significant interest for scientists and practitioners from multidisciplinary fields. Some of the possible nanomed applications have already been implemented in practice, such as nanomaterials in sunscreens and cosmetics, others as nanobots are still way in the future. Since nanotechnology is a convergent science covering many fields and disciplines, nano  devices are expected to be applied in multiple fields – military, cosmetics, pharmaceutics, etc. The current article will not try to elaborate a comprehensive list of all possible nano applications, but mostly focus on specific applications and challenges regarding nanomedicine.

#### Nanomedicines solve disease

Understanding Nano 07 [Understanding Nano. 2007. “Nanotechnology in Medicine - Nanoparticles in Medicine” <https://www.understandingnano.com/medicine.html#:~:text=One%20application%20of%20nanotechnology%20in%20medicine%20currently%20being,cells%2C%20which%20allows%20direct%20treatment%20of%20those%20cells>. Accessed 9/23 //gord0]

The use of nanotechnology in medicine offers some exciting possibilities. Some techniques are only imagined, while others are at various stages of testing, or actually being used today.

Nanotechnology in medicine involves applications of nanoparticles currently under development, as well as longer range research that involves the use of manufactured nano-robots to make repairs at the cellular level (sometimes referred to as nanomedicine).

Whatever you call it, the use of nanotechnology in the field of medicine could revolutionize the way we detect and treat damage to the human body and disease in the future, and many techniques only imagined a few years ago are making remarkable progress towards becoming realities.

Nanotechnology in Medicine Application: [Drug Delivery](https://www.understandingnano.com/nanotechnology-drug-delivery.html)

One application of nanotechnology in medicine currently being developed involves employing nanoparticles to deliver drugs, heat, light or other substances to specific types of cells (such as cancer cells). Particles are engineered so that they are attracted to diseased cells, which allows direct treatment of those cells. This technique reduces damage to healthy cells in the body and allows for earlier detection of disease.

For example researchers at North Carolina State University are developing a method to deliver cardiac stem cells to damaged heart tissue. They attach nanovesicles that are attracted to an injury to the stem cells to increase the amount of stem cells delivered to an injured tissue.

Nanotechnology in Medicine Application: [Diagnostic Techniques](https://www.understandingnano.com/nanotechnology-medical-diagnosis.html)

Researchers at Worcester Polytechnic Institute are using antibodies attached to carbon nanotubes in chips to detect cancer cells in the blood stream. The researchers believe this method could be used in simple lab tests that could provide early detection of cancer cells in the bloodstream.

A test for early detection of kidney damage is being developed. The method uses gold nanorods functionalized to attach to the type of protein generated by damaged kidneys. When protein accumulates on the nanorod the color of the nanorod shifts. The test is designed to be done quickly and inexpensively for early detection of a problem.

Nanotechnology in Medicine Application: [Antibacterial Treatments](https://www.understandingnano.com/nanoparticles-antibacterial.html)

Researchers at the University of Houston are developing a technique to kill bacteria using gold nanoparticles and infrared light. This method may lead to improved cleaning of instruments in hospital settings.

Researchers at the University of Colorado Boulder are investigating the use of quantum dots to treat antibiotic resistant infections.

Nanotechnology in Medicine Application: [Wound Treatment](https://www.understandingnano.com/nanotechnology-wound-healing.html)

Researchers at the University of Wisconsin have demonstrated a bandage that applies electrical pulses to a wound using electricity produced by nanogenerators worn by the patient.

For trauma patients with internal bleeding another way to reduce the blood loss is needed. Researchers at Chase Western Reserve University are developing polymer nanoparticles that act as synthetic platelets. Lab tests have shown that injection of these synthetic platelets significantly reduces blood loss.

#### Extinction – virulence and fatality rates

Piers Millett 17, Consultant for the World Health Organization, PhD in International Relations and Affairs, University of Bradford, Andrew Snyder-Beattie, “Existential Risk and Cost-Effective Biosecurity”, Health Security, Vol 15(4), http://online.liebertpub.com/doi/pdfplus/10.1089/hs.2017.0028

Historically, disease events have been responsible for the greatest death tolls on humanity. The 1918 flu was responsible for more than 50 million deaths,1 while smallpox killed perhaps 10 times that many in the 20th century alone.2 The Black Death was responsible for killing over 25% of the European population,3 while other pandemics, such as the plague of Justinian, are thought to have killed 25 million in the 6th century—constituting over 10% of the world’s population at the time.4 It is an open question whether a future pandemic could result in outright human extinction or the irreversible collapse of civilization.

A skeptic would have many good reasons to think that existential risk from disease is unlikely. Such a disease would need to spread worldwide to remote populations, overcome rare genetic resistances, and evade detection, cures, and countermeasures. Even evolution itself may work in humanity’s favor: Virulence and transmission is often a trade-off, and so evolutionary pressures could push against maximally lethal wild-type pathogens.5,6

While these arguments point to a very small risk of human extinction, they do not rule the possibility out entirely. Although rare, there are recorded instances of species going extinct due to disease—primarily in amphibians, but also in 1 mammalian species of rat on Christmas Island.7,8 There are also historical examples of large human populations being almost entirely wiped out by disease, especially when multiple diseases were simultaneously introduced into a population without immunity. The most striking examples of total population collapse include native American tribes exposed to European diseases, such as the Massachusett (86% loss of population), Quiripi-Unquachog (95% loss of population), and theWestern Abenaki (which suffered a staggering 98% loss of population).

In the modern context, no single disease currently exists that combines the worst-case levels of transmissibility, lethality, resistance to countermeasures, and global reach. But many diseases are proof of principle that each worst-case attribute can be realized independently. For example, some diseases exhibit nearly a 100% case fatality ratio in the absence of treatment, such as rabies or septicemic plague. Other diseases have a track record of spreading to virtually every human community worldwide, such as the 1918 flu,10 and seroprevalence studies indicate that other pathogens, such as chickenpox and HSV-1, can successfully reach over 95% of a population.11,12 Under optimal virulence theory, natural evolution would be an unlikely source for pathogens with the highest possible levels of transmissibility, virulence, and global reach. But advances in biotechnology might allow the creation of diseases that combine such traits. Recent controversy has already emerged over a number of scientific experiments that resulted in viruses with enhanced transmissibility, lethality, and/or the ability to overcome therapeutics.13-17 Other experiments demonstrated that mousepox could be modified to have a 100% case fatality rate and render a vaccine ineffective.18 In addition to transmissibility and lethality, studies have shown that other disease traits, such as incubation time, environmental survival, and available vectors, could be modified as well.19-2

### CP – Off

#### States except the United States ought to reduce intellectual property protection for medicines.

#### The United States Federal Judiciary ought to rule that intellectual property protections for medicines are unconstitutional.

#### Solves and they can do it – empirical influence over medicine

Capone 20 [Connie Capone, writer for MDLinx, September 3, 2020. “Court rulings that changed medicine” [https://www.mdlinx.com/article/court-rulings-that-changed-medicine/147FEf8WGxGdBQI4b8HG7u Accessed 8/27](https://www.mdlinx.com/article/court-rulings-that-changed-medicine/147FEf8WGxGdBQI4b8HG7u%20Accessed%208/27) //gord0]

What happens when technology firms, insurance companies, healthcare systems, and even the US government encroach on medical practice? In short, the courts get involved. Court decisions have frequently ruled on medical ethics and shaped healthcare policy. Landmark Supreme Court cases and lower court rulings have set the tone on medical ethics and shaped healthcare policy. Here are five such cases that made their mark on medicine. Vizzoni v. Mulford-Dera, 2019 In this case, the Superior Court of New Jersey Appellate Division upheld a trial court [decision](https://www.ama-assn.org/practice-management/sustainability/new-jersey-court-weighs-whether-non-patient-can-sue-physician) to dismiss a malpractice lawsuit after the family of a New Jersey woman who was killed during a car-bicycle accident sued the driver’s psychiatrist for medical negligence. The psychiatrist had been treating the driver, Barbara Mulford-Dera, for psychological conditions, and when Mulford-Dera struck and killed the cyclist, she had been taking a prescription medication that she allegedly did not know made it dangerous to drive. The bicyclist’s family maintained that the psychiatrist should have disclosed the potentially harmful effects of driving while under the influence of the prescribed psychotropic medication. But the trial court dismissed the case, ruling that it was not medical negligence. In an amicus brief, the American Medical Association warned that expanding physician legal obligations to the general public would have profound negative implications for medical professionals. State of Washington v. US Department of Health and Human Services, 2019 In this case, a federal judge in Washington issued a nationwide injunction blocking a series of proposed abortion restrictions. The restrictions, issued by the Trump administration, would have barred federally funded family planning facilities from advising or assisting patients seeking an abortion. Facilities backed by federal funding under the Title X program, including Planned Parenthood, were already prohibited from using those funds to perform abortions, but under this so-called “gag rule,” they would no longer be able to say or do anything to assist patients who were seeking an abortion, including referring them for abortion procedures. The rule was promulgated in March 2019 by the Department of Health and Human Services, and blocked by a federal judge the following month. In support of the injunction against the proposed plan, Washington state Attorney General Bob Ferguson [said](https://www.governor.wa.gov/news-media/updated-statements-inslee-and-ag-ferguson-regarding-judges-national-injunction-ruling) that it “ensures that clinics across the nation can remain open and continue to provide quality, unbiased healthcare to women.” National Federation of Independent Business v. Sebelius, 2012 In a Supreme Court ruling, a key provision in the Affordable Care Act (ACA), passed by Congress in 2010, was upheld. The ACA, created during the Obama administration, contained an individual mandate that required all Americans to buy health insurance or pay a tax penalty. It also required states to expand their Medicaid programs or risk losing federal funding. The court upheld the individual mandate on American citizens but rejected the provision to withhold federal funding from states that didn’t expand Medicaid, ruling that state participation in the program would be voluntary. “The Affordable Care Act’s requirement that certain individuals pay a financial penalty for not obtaining health insurance may reasonably be characterized as a tax,” Chief Justice John Roberts wrote in the [ruling](https://www.law.cornell.edu/supremecourt/text/11-393#writing-11-393_OPINION_3). “Because the Constitution permits such a tax, it is not our role to forbid it, or to pass upon its wisdom or fairness.”

#### The Courts are key --- reaffirming judicial supremacy is necessary to check back on majoritarian power and preserve a system of checks and balances --- that prevents the collapse of democracy

Redish and Heins 16 [Martin Redish, Louis and Harriet Ancel Professor of Law and Public Policy, Northwestern University School of Law. Matthew Heins, B.A. 2009, University of Southern California; J.D. 2015, Northwestern University School of Law. “Premodern Constitutionalism.” April 15, 2016. https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3651&context=wmlr]

The argument Kramer and others advance is not only normatively unpersuasive, it is also logically untenable in light of the structural Constitution and the basic premises of American constitutionalism. As we explained in Part I, the traditionalist view understands the value of countermajoritarian checking as a political mechanism for enshrining skeptical optimism, which can be readily deduced from the Constitutions structural design. Our constitutionalism is thus principally concerned with facilitating democracy while promoting rule of law values and protecting minorities.296 The reality is that any argument that temporary majorities or the governmental bodies that are directly accountable to those majorities are either more capable or more suitable arbiters of constitutional meaning ignores the careful framework for promoting these values that was etched into our supreme law at the constitutional convention. Our proclaimed unflagging commitment to due process of law, the existence of a supreme document ratified by supermajoritarian movement and subject to formal alteration only through a supermajoritarian process, and our provision of a politically insulated judiciary are all brightly flashing signals that our system understands the importance of speed bumps to slow majorities down. Popular constitutionalism seems to forget or intentionally ignore all of this. 297 Mark Tushnets case against judicial supremacy directly takes on Larry Alexanders and Frederick Schauers defense of judicial review.298 Alexander and Schauer assert that without judicial supremacy we would have a system of interpretive anarchy on our hands.299 The role of the Supreme Court, say Alexander and Schauer, is to provide a single authoritative interpreter to which others must defer, to serve the settlement function of the law. 300 Tushnet responds that when it declares that Congress has overstepped its bounds, the Court justifies its behavior using the selfinterestedness of the Congress: Congress is self-interested when it defines the scope of its own power. Members of Congress have an interest in maximizing their own power by expanding their sphere of power and responsibilities. Any decision [Congress] make[s], no matter how fully deliberated, will be shaped, and perhaps distorted, by this self-interest. 301 But this is an objection equally available to those who would question the Courts version of judicial supremacy, because the judiciary is just as apt to act self-interestedly and expand its own power.302 This position runs directly contrary to the basic principles underlying the structural Constitution. Tushnets argument essentially ignores the fact that the judiciary was built to be (1) limited in active power, and (2) countermajoritarian, staffed by insulated judges with salary and tenure protections. With the exception of issues surrounding its own powers, the judiciary is uniquely positioned to serve as the neutral adjudicator that can settle disputes as to the boundaries between executive and legislative, as well as federal and state branches. More importantly, if the judiciary were not tasked with settling the boundaries of majoritarian power, there would be no countermajoritarian check at all, and the Constitution would essentially be meaningless. And even as to its own power, the Courts authorityunlike that of Congress or the Presidentis confined to a passive role, awaiting cases to adjudicate.303 It therefore makes sense to give the Court final say as to its own constitutional power in order to protect its countermajoritarian role.304 Under a regime of judicial supremacy, the judiciary is no more capable of aggrandizement than is Congress. Professor Tushnet looks to City of Boerne v. Flores to show how the Court gives deference to Congress and assumes laws are constitutional because Congress has a duty to support the Constitution, but the Court does not give deference to congressional redefinitions of its own power because Congress is self-interested.305 But, he argues, the Court is no less self-interested because every institution with both power and the ability to aggrandize it will seek to expand or enhance that power.306 Both of Professor Tushnets proof points are flawed. The Court is no more empowered to engage in self-aggrandizement than is Congress, considering that Congress is arguably capable of simply stripping the federal courts of jurisdiction (within constitutional limits) whenever it chooses.307 Why would it be, under Tushnets theory, that the Framers would devise a constitutional system in which the Congress could be trusted to determine the scope of its own power, disregarding judicial pronouncements of the limits of that power, and then could strip the courts of jurisdiction to hear any challenges to such self-aggrandizement? Tushnet has effectively written Article III out of the Constitution. And although he focuses his attention on the fact that the Court is no more a single authoritative interpreterthan is Congressor maybe even less singular, because each individual voice is so much more meaningful on the Court308Tushnet forgets that Congress represents hundreds of millions of people and is, at some level, subject to their momentary preferences. What makes the Court uniquely capable of serving as the final voice of constitutional interpretationthe single authoritative interpreter that Alexander and Schauer describe and that the Framers envisioned is that it is insulated from such political pressure.309 Arguing that judicial supremacy distorts legislation, Professor Tushnet suggests that without it, Congress would act more responsibly in interpreting and abiding by the Constitution.310 For example, in the context of flag burning, he contends that judicial supremacy problematically prevented Congress from doing what its members and the people wantednamely, passing an effective law against the burning of the American flag.311 But that is exactly the point. Presumably by the exact same reasoning, it could have been argued that during the McCarthy era, the judiciary should not have been allowed to prevent the majority from doing what it wanted to do namely, suppress left-wing dissenters. The entire purpose of our structural Constitution is to embed Founding-era American skeptical optimism and force the majority, if it wishes to circumvent those fundamental truths, to garner enough supermajoritarian support to change them. If the American people are so concerned with flag burning, it is a good thing to require them to amend the Constitution formally, by means of the prescribed supermajoritarian process312to render constitutional those state or federal laws that ban it. If burning the flag is a method of expression, and laws forbidding it are contrary to the First Amendment because of their communicative impact, the people may amend the Constitution to declare thatflag-burning laws are an exception to the Amendments general coverage.313 Tushnet believes that lawmakers may apply their own conception of the Constitution if they are conscientious and if their interpretation is reasonable, 314 but this begs the question: Who is to decide whether a lawmaker has conscientiously considered and reasonably interpreted the Constitution? The lawmaker himself? Our constitutional democracy cannot survive such constant, momentary, self-interested reinterpretation. Tushnet says it is wrong to assume that members of Congress are inherently incapable of interpreting the Constitution.315 But the traditionalist view of American constitutionalism in no way stands for the position that Congress is incapable of properly exercising interpretive authority. To the contrary, we both hope and assume that Congress is doing just that in deciding whether to enact legislation. The Constitution does not in any way prohibit the majoritarian branches from ever exercising interpretive authority; in fact, as Professor Paulsen discusses with great alacrity, each and every politically accountable member of the federal government takes an oath to support the Constitution.316 Congress might be undereducated about the Constitution, and it might be that Congress would improve without the judiciary as a backstop, especially if given the same kind of institutional support that the executive receives in its endeavors of constitutional interpretation, such as the Solicitor Generals Office and the Department of Justices Office of Legal Counsel. 317 But this misses the point entirely. The problem is not that Congress is bad at constitutional interpretationit is that because of its inherently majoritarian nature, Congress is structurally incapable of effectively policing majoritarian threats to the values and dictates embodied in the countermajoritarian Constitution. This is especially true when Congress itself creates those threats. Thus, our structural Constitution does not envision Congress as the final interpreter, and for good reason. The peoples elected representatives exist to advance the current and future interests of their constituents; the courts exist to ensure that those current and future legislative and policy choices adhere to foundational principles embodied in the nations countermajoritarian supreme law.

#### Democratic backsliding causes extinction.

Kendall-Taylor 16 [Andrea; Deputy national intelligence officer for Russia and Eurasia at the National Intelligence Council, Senior associate in the Human Rights Initiative at the Center for Strategic and International Studies in Washington; “How Democracy’s Decline Would Undermine the International Order,” CSIS; 7/15/16; <https://www.csis.org/analysis/how-democracy%E2%80%99s-decline-would-undermine-international-order>/] Justin

It is rare that policymakers, analysts, and academics agree. But there is an emerging consensus in the world of foreign policy: threats to the stability of the current international order are rising. The norms, values, laws, and institutions that have undergirded the international system and governed relationships between nations are being gradually dismantled. The most discussed sources of this pressure are [the ascent of China](http://nationalinterest.org/feature/how-china-sees-world-order-15846) and other non-Western countries, Russia’s assertive foreign policy, and the diffusion of power from traditional nation-states to nonstate actors, such as nongovernmental organizations, multinational corporations, and technology-empowered individuals. Largely missing from these discussions, however, is the [specter of widespread democratic decline](http://www.journalofdemocracy.org/article/facing-democratic-recession). Rising challenges to democratic governance across the globe are a major strain on the international system, but they receive [far less attention](http://www.iiss.org/en/publications/survival/sections/2016-5e13/survival--global-politics-and-strategy-april-may-2016-eb2d/58-2-03-boyle-6dbd) in discussions of the shifting world order.

In the 70 years since the end of World War II, the United States has fostered a global order dominated by states that are liberal, capitalist, and democratic. The United States has promoted the spread of democracy to strengthen global norms and rules that constitute the foundation of our current international system. However, despite the steady rise of democracy since the end of the Cold War, over the last 10 years we have seen dramatic reversals in respect for democratic principles across the globe. [A 2015 Freedom House report](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf) stated that the “acceptance of democracy as the world’s dominant form of government—and of an international system built on democratic ideals—is under greater threat than at any point in the last 25 years.”

Although the number of democracies in the world is at an all-time high, there are a number of [key trends](file:///C:\Users\PMeylan\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\5V2CJVRN\160715_KendallTaylor_DemocracysDecline_Commentary.docx#http://www.journalofdemocracy.org/article/democracy-decline) that are working to undermine democracy. The rollback of democracy in a few influential states or even in a number of less consequential ones would almost certainly accelerate meaningful changes in today’s global order.

Democratic decline would weaken U.S. partnerships and erode an important foundation for U.S. cooperation abroad. [Research demonstrates](file:///C:\Users\PMeylan\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\5V2CJVRN\160715_KendallTaylor_DemocracysDecline_Commentary.docx#http://cmp.sagepub.com/content/18/1/49.abstract) that domestic politics are a key determinant of the international behavior of states. In particular, democracies are more likely to form alliances and cooperate more fully with other democracies than with autocracies. Similarly, authoritarian countries have established mechanisms for cooperation and sharing of “worst practices.” An increase in authoritarian countries, then, would provide a broader platform for coordination that could enable these countries to overcome their divergent histories, values, and interests—factors that are frequently cited as obstacles to the formation of a cohesive challenge to the U.S.-led international system.

Recent examples support the empirical data. Democratic backsliding in Hungary and the hardening of Egypt’s autocracy under Abdel Fattah el-Sisi have led to enhanced relations between these countries and Russia. Likewise, democratic decline in Bangladesh has led Sheikh Hasina Wazed and her ruling Awami League to seek closer relations with China and Russia, in part to mitigate Western pressure and bolster the regime’s domestic standing.

Although none of these burgeoning relationships has developed into a highly unified partnership, democratic backsliding in these countries has provided a basis for cooperation where it did not previously exist. And while the United States certainly finds common cause with authoritarian partners on specific issues, the depth and reliability of such cooperation is limited. Consequently, further democratic decline could seriously compromise the United States’ ability to form the kinds of deep partnerships that will be required to confront today’s increasingly complex challenges. Global issues such as climate change, migration, and violent extremism demand the coordination and cooperation that democratic backsliding would put in peril. Put simply, the United States is a less effective and influential actor if it loses its ability to rely on its partnerships with other democratic nations.

A slide toward authoritarianism could also challenge the current global order by diluting U.S. influence in critical international institutions, including the [United Nations](https://www.washingtonpost.com/opinions/christopher-walker-authoritarian-regimes-are-changing-how-the-world-defines-democracy/2014/06/12/d1328e3a-f0ee-11e3-bf76-447a5df6411f_story.html) , the World Bank, and the International Monetary Fund (IMF). Democratic decline would weaken Western efforts within these institutions to advance issues such as Internet freedom and the responsibility to protect. In the case of Internet governance, for example, Western democracies support an open, largely private, global Internet. Autocracies, in contrast, promote state control over the Internet, including laws and other mechanisms that facilitate their ability to censor and persecute dissidents. Already many autocracies, including Belarus, China, Iran, and Zimbabwe, have coalesced in the “Likeminded Group of Developing Countries” within the United Nations to advocate their interests.

Within the IMF and World Bank, autocracies—along with other developing nations—seek to water down conditionality or the reforms that lenders require in exchange for financial support. If successful, diminished conditionality would enfeeble an important incentive for governance reforms. In a more extreme scenario, the rising influence of autocracies could enable these countries to bypass the IMF and World Bank all together. For example, the Chinese-created Asian Infrastructure and Investment Bank and the BRICS Bank—which includes Russia, China, and an increasingly authoritarian South Africa—provide countries with the potential to bypass existing global financial institutions when it suits their interests. Authoritarian-led alternatives pose the risk that global economic governance will become [fragmented and less effective](http://www.tandfonline.com/doi/abs/10.1080/00396338.2016.1161899?journalCode=tsur20#.V2H3MRbXgdI).

Violence and instability would also likely increase if more democracies give way to autocracy. [International relations literature](https://www.foreignaffairs.com/articles/china/1995-05-01/democratization-and-war) tells us that democracies are less likely to fight wars against other democracies, suggesting that interstate wars would rise as the number of democracies declines. Moreover, within countries that are already autocratic, additional movement away from democracy, or an “authoritarian hardening,” would increase global instability. Highly repressive autocracies are the most likely to experience state failure, as was the case in the Central African Republic, Libya, Somalia, Syria, and Yemen. In this way, democratic decline would significantly strain the international order because rising levels of instability would exceed the West’s ability to respond to the tremendous costs of peacekeeping, humanitarian assistance, and refugee flows.

Finally, widespread democratic decline would contribute to rising anti-U.S. sentiment that could fuel a global order that is increasingly antagonistic to the United States and its values. Most autocracies are highly suspicious of U.S. intentions and view the creation of an external enemy as an effective means for boosting their own public support. Russian president Vladimir Putin, Venezuelan president Nicolas Maduro, and Bolivian president Evo Morales regularly accuse the United States of fomenting instability and supporting regime change. This vilification of the United States is a convenient way of distracting their publics from regime shortcomings and fostering public support for strongman tactics.

Since 9/11, and particularly in the wake of the Arab Spring, Western enthusiasm for democracy support has waned. Rising levels of instability, including in Ukraine and the Middle East, fragile governance in Afghanistan and Iraq, and sustained threats from terrorist groups such as ISIL have increased Western focus on security and stability. U.S. preoccupation with intelligence sharing, basing and overflight rights, along with the perception that autocracy equates with stability, are trumping democracy and human rights considerations.

While rising levels of global instability explain part of Washington’s shift from an historical commitment to democracy, the nature of the policy process itself is a less appreciated factor. Policy discussions tend to occur on a country-by-country basis—leading to choices that weigh the costs and benefits of democracy support within the confines of a single country. From this perspective, the benefits of counterterrorism cooperation or access to natural resources are regularly judged to outweigh the perceived costs of supporting human rights. A serious problem arises, however, when this process is replicated across countries. The bilateral focus rarely incorporates the risks to the U.S.-led global order that arise from widespread democratic decline across multiple countries.

Many of the threats to the current global order, such as China’s rise or the diffusion of power, are driven by factors that the United States and West more generally have little leverage to influence or control. Democracy, however, is an area where Western actions can affect outcomes. Factoring in the risks that arise from a global democratic decline into policy discussions is a vital step to building a comprehensive approach to democracy support. Bringing this perspective to the table may not lead to dramatic shifts in foreign policy, but it would ensure that we are having the right conversation.

#### Aff is congress

#### 1] Spec – lack of it in the 1ac means default to 1nc NM ev. Anything else lets the 1ar shift the direction of the aff based on the 1nc strategy which crowds out the only core generics on the topic. Congress key because its mostly predictable since ip reductions would have to go through congress, but don’t need to be ruled on by the courts.

#### 2] Congress for ipr

Orelli and Speights 5/29 [Dr. Orelli is a Senior Biotech Specialist. He has written about biotech, pharmaceutical, and medical device companies for The Motley Fool since 2007. May 29, 2021. “Will Patent Waivers Hurt COVID-19 Vaccine Companies?” [Will Patent Waivers Hurt COVID-19 Vaccine Companies? | The Motley Fool](https://www.fool.com/investing/2021/05/29/will-patent-waivers-hurt-covid-19-vaccine-companie/) Accessed 9/3 //gord0]

**Brian Orelli**: Last week, the Biden administration endorsed a proposal to waive COVID-19 vaccine patent rights. How big of a deal is this for the current vaccine makers like Moderna, BioNTech, Pfizer, and Johnson & Johnson?

**Keith Speights**: I really don't think that this is as big of a deal as some people are making it out to be. Certainly, not as big of a deal as the declines for the stocks showed last week.

I noticed that Moderna's CEO said publicly that he didn't lose a minute of sleep over this news. I think he's right; he shouldn't have lost any sleep. His reasoning was that there are other companies that, if they had access to the technology, they're not going to have the expertise to make the messenger RNA vaccines that Moderna makes. His thought was, "Look, even if this happens, we're not going to be threatened all that much." I suspect that he is right.

Now, Pfizer's CEO, Albert Bourla, did express some concerns. He wrote in a statement that this proposed intellectual-property-rights waiver could actually create more problems than it would solve. Bourla noted that infrastructure really isn't the bottleneck for Pfizer; it is the availability of raw materials. He thinks that this IP waiver would kick off a global scramble for those raw materials. The companies that don't have much expertise developing these vaccines could potentially disrupt the supply chain for companies like Pfizer that do have the expertise.

It wouldn't surprise me if that scenario that Bourla described might would happen to some extent. However, I would think that companies like Pfizer and Moderna would likely be able to pay a lot more for these raw materials and secure the suppliers they need and put the other companies that are trying to make these vaccines on their own at a severe disadvantage. But if that happened, I would think that Pfizer, Moderna would probably have to hike their prices to countries like the U.S. that could pay up.

Bourla also expressed some concerns that this move could provide disincentives to companies to take risks in the future. My thought on that, though, if it's only a temporary thing, it probably wouldn't be too much of an issue. But I think the big story [laughs] here is that this is probably all much ado about nothing, because Germany has already come out and said they are opposed to granting this temporary waiver and they are a member of the World Trade Organization, and from what I understand, Brian, they have veto power like other WTO members do. If Germany vetoes this, then all of this talk is a waste of time. [laughs] So I don't think this is going to be a big deal. I don't think it's going to go through, but even if it does, I just don't think this is a huge deal for Pfizer and Moderna and some of the other big vaccine makers.

**Orelli**: If it does go through, do you think it's a slippery slope? This is a pandemic; that makes sense. But then when you start doing it for cancer drugs that are really expensive or the insulin because people need it to live? That sort of thing.

**Speights**: I think it could be. I don't think it will be. The Biden administration is caving a little bit here, I think, to some pressure from within the Democratic Party. I don't think they would be -- I'm thinking any presidential administration in the U.S. -- wouldn't be in favor of just nearly [laughs] willy-nilly taking away patent rights. I think they realize that would undermine the foundation of our whole structure of drug development and that it would cause a lot more problems than it would solve. Maybe I'm being too optimistic there, Brian. I don't know about what you think, but I just don't think that's going to happen.

**Orelli**: Yeah. I guess it just depends on the state of the Congress and who's the president. I think right now, we're so divided that I don't think anything will get through Congress in its current state and probably in its future state. I think you're right, but I do worry about setting up a precedent. Although I think we've already had this one. They waved the patent rights on HIV drugs, and that didn't cause a major storm of inactivating patents over the last 20 years or however long its been since they did it. I think we're probably OK, but I just wanted to bring that up as a point.

**Speights**: Yeah. Personally, I don't think it's a good move. I think it's better to respect all intellectual-property rights and come up with a better solution. I do agree that more vaccines need to be made available to Third World countries and developing nations. I think there's probably a better way.

**Orelli**: Yeah. I think they're just letting the companies ramp up their production. Moderna is looking at 3 billion doses next year. I think that if we just let them go on [laughs] their own and maybe even support them financially, I think that should be sufficient to get us where we need to be.

### DA – Off

#### Infrastructure will pass now – dems are just touching up details

Duehren 10/29 [Andrew Duehren covers Congress and U.S. politics from The Wall Street Journal's Washington bureau. October 29, 2021. “Democrats Tackle Final Details of Biden’s $1.85 Trillion Framework” [https://www.wsj.com/articles/democrats-tackle-final-details-of-bidens-1-85-trillion-framework-11635536447 Accessed 10/29](https://www.wsj.com/articles/democrats-tackle-final-details-of-bidens-1-85-trillion-framework-11635536447%20Accessed%2010/29) //gord0]

WASHINGTON—Democrats turned to finalizing the details of President Biden’s [$1.85 trillion social-spending and climate framework](https://www.wsj.com/articles/democrats-budget-plan-what-11626301275?mod=article_inline), with some lawmakers pushing to add [measures lowering prescription drug prices](https://www.wsj.com/articles/lawmakers-push-to-include-medicare-drug-pricing-provision-in-biden-plan-11635516651?mod=article_inline) and repealing [a cap on the state and local tax deduction](https://www.wsj.com/articles/democrats-salt-tax-cap-high-earners-11635460218?mod=article_inline).

The White House [released the framework on Thursday](https://www.wsj.com/articles/biden-to-release-new-framework-on-1-75-trillion-social-spending-and-climate-package-11635422127?mod=article_inline) in a bid to quickly resolve the push-and-pull between the party’s progressive and centrist members, hoping to show progress on Mr. Biden’s agenda as he headed overseas for [a major climate conference](https://www.wsj.com/articles/cop26-glasgow-2021-un-climate-conference-11611254971?mod=article_inline).

House Speaker [Nancy Pelosi](https://www.wsj.com/topics/person/nancy-pelosi) (D., Calif.) used the framework to push for an immediate vote on [a parallel, roughly $1 trillion infrastructure bill](https://www.wsj.com/articles/infrastructure-bill-2021-what-11627515002?mod=article_inline) that progressives have held up for months to ensure movement on the social-spending and climate legislation. Progressives endorsed the framework Thursday, but continued to block the infrastructure vote, saying they needed more time to review the proposal and translate it into legislative text.

Rep. Pramila Jayapal (D., Wash.), the chairwoman of the Congressional Progressive Caucus, said she thought House Democrats could move forward with a vote on both pieces of legislation next week.

“We got to the best possible place we could get to, and now we’re ready to pass both bills through the House,” she told CNN Friday, saying votes could come within days.

Ms. Jayapal said that progressives support the legislation as it is laid out in the framework, which calls for funding for universal prekindergarten, child-care subsidies and a series of tax credits incentivizing reduced carbon emissions, among other measures. Democrats dropped several progressive priorities, including [a national paid-leave program](https://www.wsj.com/articles/manchin-calls-billionaires-tax-convoluted-as-democrats-seek-deal-11635352886?mod=article_inline), during the talks.

“I think we’ve made a lot of progress in a short amount of time,” said Rep. Colin Allred (D., Texas) on MSNBC Friday. “The main things have been ironed out. And now we just have to have the confidence in each other basically to take the votes.”

#### The plan decks PC that could be used on infrastructure

Bhadrakumar 5/11 [M.K. Bhadrakumar is a former Indian diplomat*.* May 11, 2021. “[Why Biden’s Vaccine IP Waiver is Political Theatre](https://www.counterpunch.org/2021/05/11/why-bidens-vaccine-ip-waiver-is-political-theatre/)” <https://www.counterpunch.org/2021/05/11/why-bidens-vaccine-ip-waiver-is-political-theatre/> Accessed 8/27 //gord0]

India’s Ministry of External Affairs has [welcomed](https://www.mea.gov.in/press-releases.htm?dtl/33848/Statement_on_the_US_support_for_TRIPS_Waiver) the statement of the US government of 5th May announcing their support for a relaxation in the norms of the agreement on TRIPS, to ensure quick and affordable access to vaccines and medicines for developing countries. Delhi is “hopeful that with a consensus based approach, the waiver can be approved quickly at the WTO.” But is the optimism warranted? The [US statement](https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/statement-ambassador-katherine-tai-covid-19-trips-waiver) itself is cautiously worded and is non-committal. It only says, “We will actively participate in text-based negotiations at the World Trade Organization (WTO) needed to make that happen. Those negotiations will take time given the consensus-based nature of the institution and the complexity of the issues involved.” The Biden administration’s emphasis continues to be on “our vaccine supply for the American people.” It is an America First strategy. President Biden has plans to at least partially vaccinate 70% of adults by July 4 so that herd immunity develops that will help the level of new infections to drop. Biden’s decision on the TRIPS waiver can only be seen as a political decision. A Reuters report says citing informed sources, “Wednesday’s decision allows Washington to be responsive to the demands of the (American) left and developing countries, while using WTO negotiations to narrow the scope of the waiver. Since the negotiations will take time, the decision also buys time to boost vaccine supplies through more conventional means.” In effect, the Biden Administration is juggling several balls in the air. On the one hand, the progressive left in the US politics, including Sen. Bernie Sanders and Rep. Alexandria Ocasio-Cortez in the Democratic Party, has been demanding TRIPS waiver for Covid vaccines; equally, developing countries, supported by the WHO and the UN, are also demanding the waiver; India, a key Indo-Pacific ally of the US, was the initiator of the proposal on TRIPS waiver back in December; and, in principle, Biden Administration is committed to “multilateralism.” On the other hand, Biden whose political life of half a century was largely spent in the US Congress, is well aware of the awesome clout of the pharmaceutical companies in American politics. From that lobby’s perspective, the patent waiver “amounts to the expropriation of the property of the pharmaceutical companies whose innovation and financial investments made the development of Covid-19 vaccines possible in the first place,” as a senior scholar at the Johns Hopkins Center for Health Security puts it. The US pharmaceutical industry and congressional Republicans have already [gone on the offensive](https://www.newsweek.com/waiving-intellectual-property-protection-what-could-go-wrong-opinion-1589273) blasting Biden’s announcement saying it undermines incentives for American innovation. Besides, the argument goes, even with the patent waiver, vaccine manufacturing is a complex process and is not like simply flipping a switch. Sen. Richard Burr, the top Republican on the US Senate Health Committee, has denounced Biden’s decision: “Intellectual property protections are part of the reason we have these life-saving products; stripping these protections only ensures we won’t have the vaccines or treatments we need when the next pandemic occurs.” The Republican senators backed by Republican Study Committee Chairman Jim Banks propose to introduce legislation to block the move. Clearly, Biden would rather spend his political capital on getting the necessary legislation through the Congress to advance his domestic reform agenda rather than spend time and energy to take on the pharmaceutical industry to burnish his image as a good Samaritan on the world stage. Conceivably, Biden could be counting on the “text-based negotiations” at the WTO dragging on for months, if not years, without reaching anywhere. The US support for the waiver could even be a tactic to convince pharmaceutical firms to back less drastic steps like sharing technology and expanding joint ventures to quickly boost global production. So far Covid-19 vaccines have been distributed primarily to the wealthy countries that developed them, while the pandemic sweeps through poorer ones, such as India and the real goal is, after all, expanded vaccine distribution. Biden is well aware that there will be huge opposition to the TRIPS waiver from the US’ European allies as well. The British press has reported that the UK has been in closed-door talks at the World Trade Organization in recent months along with the likes of Australia, Canada, Japan, Norway, Singapore, the European Union and the US, who all opposed the idea.

#### Biden’s PC is what got it through the Senate, and its key now.

Smith and Gambino 10/1 [David Smith is the Guardian's Washington DC bureau chief. Lauren Gambino is political correspondent for Guardian US, based in Washington DC. October 1, 2021. “Biden upbeat on rare Capitol Hill visit but domestic agenda hangs in jeopardy” [https://www.theguardian.com/us-news/2021/oct/01/democrats-congress-biden-infrastructure-talks Accessed 10/25](https://www.theguardian.com/us-news/2021/oct/01/democrats-congress-biden-infrastructure-talks%20Accessed%2010/25) //gord0]

Democrats returned to the Capitol on Friday deeply divided but determined to make progress on Joe Biden’s ambitious economic vision, after an embarrassing setback delayed a planned vote on a related $1tn measure to improve the nation’s infrastructure.

Biden on Friday made a rare visit to Capitol Hill to meet privately with House Democrats amid a stalemate that has put his sprawling domestic agenda in jeopardy. The visit comes after after the House speaker, Nancy Pelosi, [delayed a vote on part of his economic agenda,](https://www.theguardian.com/us-news/2021/sep/30/biden-nancy-pelosi-infrastructure-bill) a bipartisan $1tn public works measure, on Thursday night after a frantic day of negotiations failed to produce a deal.

“We’re going to get this thing done,” Biden said, as he exited the caucus room. “It doesn’t matter when – it doesn’t matter whether it’s in six minutes, six days, or six weeks – we’re going to get it done.”

Earlier in the day, Pelosi promised that there would be a “vote today” on the measure, an ambitious timeline that would require Democrats first reaching a compromise on the broader piece of Biden’s agenda that virtually every member of the party in both the House and Senate could support. But a resolution before the weekend appeared unlikely as Democrats remained deeply at odds over the scale and structure of a more expansive package containing containing a host of progressive priorities, provisions to expand health care access, establish paid leave, combat climate change and reduce poverty – all underwritten by tax increases on wealthy Americans and corporations.

Democrats are trying to score a major legislative victory with razor-thin majorities in both chambers. Failure would deny Biden much of his domestic agenda, leaving the party with little to show for their time controlling the White House, the Senate and House – a governing trifecta they last enjoyed in 2010.

Senator Joe Manchin of West Virginia has proposed a spending package of about $1.5tn – less than half the size of the proposal put forward by the president and Democratic leaders. Another Democratic centrist, Senator Kyrsten Sinema, declined to say whether she agreed with Manchin’s proposal.

The wrangling resumed in the House on Friday morning, which, due to a quirk of process, [remained](https://twitter.com/HouseDailyPress/status/1443770307903475712) in the legislative day of 30 September even as the calendar turned to October.

Huddled together in an hours-long caucus meeting, Pelosi tried to steer the feuding factions within her party toward common ground after Thursday’s marathon negotiating session generated deepening acrimony and no deal.

Congresswoman Pramila Jayapal, chair of the Congressional Progressive Caucus, emerged from the morning gathering optimistic that Democrats would eventually pass both bills. But she remained firm in her position – and confident in her members – that there the infrastructure bill would not move forward without assurances that the Senate would pass Biden’s larger bill.

“We’ve seen more progress in the last 48 hours than we’ve seen in a long time on reconciliation,” she said, crediting progressives’ infrastructure revolt for forcing Manchin and Sinema to the negotiating table.

The decision to postpone the infrastructure vote was seen as a victory for progressives who were unwavering in their resolve to “hold the line” and vote against the bill unless they received “ironclad” commitments that Biden’s proposed $3.5tn social and environmental package would also pass.

Many progressives also say they will withhold support for the infrastructure bill until the Senate passes the second piece of Biden’s economic agenda, legislation that has yet to be written. Jayapal made clear this was her preference, but later left the door open to the possibility that the party could reach an agreement without a vote.

“If there’s something else that’s short of a vote … that gives me those same assurances, I want to listen to that,” she told reporters.

The stalemate also laid bare deep ideological fractures within the party. Unlike the debate over Barack Obama’s healthcare legislation a decade ago, progressives appear to be more closely aligned with the president and able to flex their political muscles. On Thursday they were united in making the case that centrists are now in the minority.

Varshini Prakash, executive director of Sunrise Movement, a youth group fighting the climate crisis, [said:](https://mailchi.mp/sunrisemovement/sunrise-movement-responds-to-delay-of-bif-sinema-and-manchin-are-to-blame?e=18cba0fd52) “Tonight, we are so proud of progressives for holding the line. But let’s be clear, progressives are not the ones delaying the vote – Joe Manchin and Kyrsten Sinema are.”

Thursday’s delay could anger moderates and cause further infighting that puts Biden’s agenda at risk. Earlier this week Stephanie Murphy, a congresswoman from Florida, warned: “If the vote were to fail or be delayed, there would be a significant breach of trust.”

Republicans who had supported the infrastructure bill in the Senate also acknowledged the setback. Senators Rob Portman, Bill Cassidy, Susan Collins, Lisa Murkowski and Mitt Romney said in a joint statement: “While we are disappointed the [House of Representatives](https://www.theguardian.com/us-news/house-of-representatives) did not meet its deadline to vote on the bipartisan infrastructure bill, we remain hopeful the House will come together in a spirit of bipartisanship just as the Senate did and pass this important piece of legislation.

“This bill is critically important to modernizing and upgrading everything from our roads and bridges to broadband and increasing the resiliency of the nation’s electrical grid.”

Both pieces of legislation are critical to Biden’s economic vision. While he has staked his domestic agenda – and his legacy – on a $3.5tn social policy package, he invested precious political capital in courting Republicans to support the infrastructure bill, part of a campaign promise to usher in a new era of bipartisanship in Congress. The bill passed the Senate in August, with 19 Republican votes and great fanfare.

#### Infrastructure reform solves Existential Climate Change – it results in spill-over.

USA Today 7-20 7-20-2021 "Climate change is at 'code red' status for the planet, and inaction is no longer an option" <https://www.usatoday.com/story/opinion/todaysdebate/2021/07/20/climate-change-biden-infrastructure-bill-good-start/7877118002/> //Elmer

**Not long ago**, **climate change** for many Americans **was** like **a distant bell**. News of starving polar bears or melting glaciers was tragic and disturbing, but other worldly. Not any more. **Top climate scientists** from around the world **warned of a "code red for humanity**" in a report issued Monday that says severe, human-caused global warming is become unassailable. Proof of the findings by the United Nations' Intergovernmental Panel on Climate Change is a now a factor of daily life. Due to **intense heat waves and drought**, 107 wildfires – including the largest ever in California – are now raging across the West, consuming 2.3 million acres. Earlier this summer, hundreds of people died in unprecedented triple-digit heat in Oregon, Washington and western Canada, when a "heat dome" of enormous proportions settled over the region for days. Some victims brought by stretcher into crowded hospital wards had body temperatures so high, their nervous systems had shut down. People collapsed trying to make their way to cooling shelters. Heat-trapping greenhouse gases Scientists say the event was almost **certainly made worse and more intransigent by human-caused climate change**. They attribute it to a combination of warming Arctic temperatures and a growing accumulation of heat-trapping greenhouse gases caused by the burning of fossil fuels. The **consequences of** what mankind has done to the atmo**sphere are now inescapable**. Periods of **extreme heat** are projected to **double** in the lower 48 states by 2100. **Heat deaths** are far **outpacing every other form of weather killer** in a 30-year average. A **persistent megadrought** in America's West continues to create tinder-dry conditions that augur another devastating wildfire season. And scientists say **warming oceans** are **fueling** ever **more powerful storms**, evidenced by Elsa and the early arrival of hurricane season this year. Increasingly severe weather is causing an estimated $100 billion in damage to the United States every year. "It is honestly surreal to see your projections manifesting themselves in real time, with all the suffering that accompanies them. It is heartbreaking," said climate scientist Katharine Hayhoe. **Rising seas** from global warming Investigators are still trying to determine what led to the collapse of a Miami-area condominium that left more than 100 dead or missing. But one concerning factor is the corrosive effect on reinforced steel structures of encroaching saltwater, made worse in Florida by a foot of rising seas from global warming since the 1900s. The clock is ticking for planet Earth. While the U.N. report concludes some level of severe climate change is now unavoidable, there is still a window of time when far more catastrophic events can be mitigated. But mankind must act soon to curb the release of heat-trapping gases. Global **temperature** has **risen** nearly **2 degrees** Fahrenheit since the pre-industrial era of the late 19th century. Scientists warn that in a decade, it could surpass a **2.7**-degree increase. That's **enough** warming **to cause catastrophic climate changes**. After a brief decline in global greenhouse gas emissions during the pandemic, pollution is on the rise. Years that could have been devoted to addressing the crisis were wasted during a feckless period of inaction by the Trump administration. Congress must act Joe Biden won the presidency promising broad new policies to cut America's greenhouse gas emissions. But Congress needs to act on those ideas this year. Democrats cannot risk losing narrow control of one or both chambers of Congress in the 2022 elections to a Republican Party too long resistant to meaningful action on the climate. So what's at issue? A trillion dollar **infrastructure bill** negotiated between Biden and a group of centrist senators (including 10 Republicans) is a start. In addition to repairing bridges, roads and rails, it would **improve access** by the nation's power infrastructure **to renewable energy sources,** **cap millions of abandoned oil and gas wells spewing greenhouse gases**, **and harden structures against climate change**. It also **offers tax credits for** the **purchase of electric vehicles** and funds the construction of charging stations. (**The nation's largest source of climate pollution are gas-powered vehicles**.) Senate approval could come very soon. Much **more is needed** if the nation is going to reach Biden's necessary goal of cutting U.S. climate pollution in half from 2005 levels by 2030. His ideas worth considering include a federal clean electricity standard for utilities, federal investments and tax credits to promote renewable energy, and tens of billions of dollars in clean energy research and development, including into ways of extracting greenhouse gases from the skies. Another idea worth considering is a fully refundable carbon tax. **The vehicle** for these additional proposals **would be a second infrastructure bill**. And if Republicans balk at the cost of such vital investment, Biden is rightly proposing to pass this package through a process known as budget reconciliation, which allows bills to clear the Senate with a simple majority vote. These are drastic legislative steps. But drastic times call for them. And when Biden attends a U.N. climate conference in November, he can use American progress on climate change as a mean of persuading others to follow our lead. Further delay is not an option.

## Case

### 1NC – Evergreening

#### Biotech R&D has never been higher—quantitative analysis

NASDAQ 8/9 [NASDAQ is a stock market index that includes almost all stocks listed on the Nasdaq stock exchange. Along with the Dow Jones Industrial Average and S&P 500, it is one of the three most-followed stock market indices in the United States. This article was written by NASDAQ contributors and published on CNBC. The editorial staff of CNBC did not contribute to the creation of this study.) “Why the Nasdaq Biotechnology Index is poised for a run of sustainable growth” CNBC, NASDAQ, 8/9/2021, <https://www.cnbc.com/advertorial/2021/08/09/why-the-nasdaq-biotechnology-index-is-poised-for-a-run-of-sustainable-growth-.html>] RM

Between the recent bio innovation success stories in the battle against Covid-19 and the technology-driven advances ushering in new efficiencies for research and development (R&D), **the biotech industry has never been more relevant**.

As home to more than 265 companies, the pioneering Nasdaq Biotechnology Index (NBI) has long been committed to providing healthcare’s innovators with access to the capital they need to keep moving forward. Now, investors have access to the Index’s companies through a new ETF, the Invesco Nasdaq Biotechnology ETF (IBBQ).

Launched in 1993, in the wake of the original “biotech revolution” led by the discovery of recombinant DNA, NBI® remains the most representative index in the space. In fact, 98% of all U.S. listed biotech companies are listed on Nasdaq. When considering the massive growth taking place in the sector, it’s no surprise that NBI has outperformed both the S&P 500 (SPX) and Health Care Select Sector Index (IXVTR) in certain market environments.

According to Mark Marex, Index R&D Senior Specialist for Nasdaq who recently compiled an in-depth report on the NBI, global events and digital acceleration have contributed to the Index’s recent strong performance; and Nasdaq’s dedication to maintaining a true benchmark for technology-driven healthcare innovation has provided a framework for growth.

Building the ideal benchmark

Given the existence of pureplay biotech firms, hybrid biopharmaceutical companies, and less R&D-intensive pharmaceutical manufacturers, creating a single benchmark that truly captures the biotech sector and the symbiotic relationships among its players is no easy task.

One of the unique aspects of NBI, versus biotech-focused indexes created by other index providers, is its subsector classifications split between Biotechnology and Pharmaceuticals. As of June 30, 2021, ICB (FTSE Russell’s Industry Classification Benchmark) classified 222 NBI companies as Biotechnology and 47 as Pharmaceuticals. The resulting split by index weight is approximately 65% and 35%, respectively, which illustrates the major difference between the two groups: Pharmaceutical companies tend to be much larger than Biotechnology firms.

This split within a single index provides advantages for investors: While offering some exposure to more established pharmaceutical companies, it also includes R&D-heavy biotech firms that over time may transition into biotech-driven pharma companies. That’s exactly what happened this year when NBI’s largest company, Amgen (AMGN / $144Bn), was reclassified by ICB from Biotechnology to Pharmaceuticals. By retaining firms as they straddle the two classifications over the course of their lifecycle, NBI presents potential growth advantages when compared with index providers that focus rigidly on one classification versus the other.

Home to world-changing breakthroughs

Nasdaq’s vision for the Index has served it well, **both in terms of its longevity and its current role as a champion of the companies paving the way for a post-pandemic world through their technological advances and life-saving treatments**. The broad reach of NBI constituents across multiple fronts in the fight against Covid-19, for example — from diagnosis to vaccines and treatment —demonstrates the strength of its core approach.

NBI companies including Gilead and Regeneron made headlines for their successes during the pandemic with antiviral therapeutics and antibody-based therapeutics for high-risk patients. But it’s the stunning success of m-RNA vaccine technology from Moderna and BioNTech, two NBI companies, that most clearly showcase the home run potential among the biotech entrepreneurs in the space.

And while NBI is currently up 8.2% YTD on a price-return basis (as of June 30) **versus a broader market gain of 14.4% by SPX**, the S&P Biotechnology Select Industry Index (SPSIBI) is down 3.7%.

It’s worth noting that in 2020, NBI outperformed SPX with a price gain of 25.7% versus 16.3%, respectively. This shows the resilience of the NBI and the inherent strength of its current mix of companies.

The possibilities of accelerated R&D

As a whole, the life-changing work being done by NBI constituents requires enormous amounts of R&D. In 2020, R&D expenses for the entire group totaled $68.5Bn, nearly 31% of these companies’ revenue totals. Two-thirds of NBI’s firms reported R&D expenses that exceeded their revenues

For several NBI companies, however, these massive investments provided tangible benefits in the fight against Covid-19. Undoubtedly, years of back-end work and minimal profits ultimately helped deliver the very products that are now driving historic returns. Psychologically, their breakthroughs demonstrated the enormous potential of science and technology to serve humankind.

Looking ahead, **revolutions in Mapping and Engineering processes, boosted by rapid advancements in Machine Learning and Artificial Intelligence, are fostering a true fusion of Biology and Technology that could transform the traditionally costly and labor-intensive R&D function**. Some research estimates these advances could reduce the failure rate of drugs by up to 45% and shorten drug trials by up to 50%. The result could be even more breakthroughs, performed much more efficiently, greatly increasing the returns on biopharmaceutical R&D.

Even a conservative interpretation of the above numbers would significantly reduce R&D costs and boost the market capitalization of therapeutics companies from the current $2Tn up to $9Tn as soon as 2024, according to estimates from ARK Financial.

Meanwhile, increasingly cost-effective human genomics could revolutionize several other industries, from agriculture to biofuels.

By any measure, there is much to be excited about across the spectrum of biotech — especially coming out of a global pandemic. And while no person, nor index, can truly predict what the future holds, chances are strong that companies sitting within NBI will have a hand in leading the way.

“**For investors**, the Index already serves as a fascinating lens through which to view human society’s scientific and technological advancements,” says Mark Marex. “To me, it’s very exciting to ponder what the researchers, scientists, and business leaders in this space will accomplish next.”

#### IPR protections are key to sustain healthcare investments and manufacturing. Key to pandemic-era vaccines

Roberts 6/25/21 [James M. Roberts is a Research Fellow for Economic Freedom and Growth at the Heritage Foundation. Roberts' primary responsibility as one of The Heritage Foundation's lead experts in economic freedom and growth is to edit the Rule of Law and Monetary Freedom sections of [Index of Economic Freedom](https://www.heritage.org/index/). An influential annual analysis of the economic climate of countries throughout the world, the Index is co-published by Heritage and The Wall Street Journal.) “Biden’s OK of Global Theft of America’s Intellectual Property is Wrong, Dangerous.” 6/25/2021, The Heritage Foundation, Commentary—Public Health] RM

Last month, President Biden advocated removing international intellectual property rights (IPR) protections for American-made COVID-19 vaccines.

**Foreign companies may take the president’s policy as a green light to produce reverse-engineered, counterfeit substitutes**.

The best way to prevent and treat new diseases is to ensure that private American pharmaceutical companies continue their innovative research and vaccine production.

Three U.S. companies—Pfizer, Moderna, and Johnson & Johnson—created and manufactured the world’s most effective mRNA COVID vaccines in record time. An increasing majority of Americans have now been inoculated, but much of the developing world remains in desperate need of vaccines. Americans naturally want to help. The question is how.

Last month, President Biden advocated removing international intellectual property rights (IPR) protections for American-made COVID-19 vaccines. This, he said, would help make the vaccines more plentiful and available in needy countries. **It’s a short-sighted approach and doomed to fail.**

Mr. Biden wants to waive the World Trade Organization’s “Trade-Related Aspects of Intellectual Property Rights” (TRIPS) agreement for U.S. vaccines and let foreign countries issue “compulsory licenses“ allowing their domestic pharmaceutical companies to manufacture the medicines without adequately compensating the companies that invented them.

Practically speaking, countries such as India and South Africa are unlikely to manufacture the vaccines. They lack an advanced infrastructure for cold supply-chain distribution and many other crucial resources required by these products’ capital-intensive, state-of-the-art manufacturing process.

But the Biden policy is bad for many other reasons.

Developing breakthrough medications takes tremendous ingenuity and immense financial investments. **It’s an extraordinarily high-risk endeavor, and the prospect of making a profit is what convinces private companies to undertake those risks.**

Signaling that the United States will not fight to defend their intellectual property rights **actively undermines innovation and manufacturing** in American health care and medicines.

It also erodes patient protections by undermining quality control. Foreign companies may take the president’s policy as a green light to produce reverse-engineered, counterfeit substitutes. Already there are reports of ineffective and even dangerous counterfeit COVID-19 vaccines being sold around the world.

Those pushing to break U.S. pharmaceutical patents say they want to do so for altruistic reasons. Consequently, they also insist that the prices for the medications be set far below their actual value.

But history shows us that forcing private companies to provide vaccines at an “affordable price,” regardless of the cost to the companies, actually impedes the manufacture of high-quality vaccines. Moreover, it inhibits the **future development of vaccines** needed to meet as-yet-unknown diseases.

Washington first imposed vaccine price controls as part of Hillary Clinton’s 1993 healthcare-for-all crusade. As the Wall Street Journal later noted, it was a body blow to the U.S. vaccine industry. Ironically, government-decreed prices left the companies unable to produce enough vaccines to meet Mrs. Clinton’s admittedly admirable goal of universal immunization of children. Since then, U.S. firms have largely eschewed the vaccine market because they could not recoup their R&D and manufacturing costs and earn enough profit to fund future innovation.

Ultimately, **compulsory licensing legalizes the theft of intellectual property**. Recognizing this, senators from both sides of the aisle have joined with other government officials and industry leaders to call on the administration to reverse this bad decision.

The U.S. patent protection system has served the nation well since its founding.  **It is and has been a bulwark of American prosperity**, but the strength of that protection has been weakening in the past few decades. **Compulsory licensing contributes to the erosion** of that protection.

As the U.S. and the rest of the world emerge from the pandemic, it is clear that more innovative medicines and vaccines will be needed for future protection from viruses and other emerging biological threats.

**The best way to prevent and treat those new diseases is to ensure that private American pharmaceutical companies continue their innovative research and vaccine production**.

That way, U.S.-manufactured vaccines can be made available to all Americans quickly. And governments can subsidize their export and sale to other countries far more effectively and less expensively than through compulsory licensing schemes.

Meanwhile, let’s hope Mr. Biden listens to the more reasonable and less-agenda driven voices in this debate and reverses course on the TRIPS waiver.

#### Minor tweaks of drugs are key to ensure adequate treatment- otherwise patients skip doses or medicines fail in hot climates – forces people to go underground to get effective new drugs which decks aff solvency

**Holman 2018** (Christopher, Professor of Law, University of Missouri-Kansas City School of Law. “Why Follow-On Pharmaceutical Innovations Should Be Eligible For Patent Protection” <https://www.ip-watch.org/2018/09/21/follow-pharmaceutical-innovations-eligible-patent-protection/> September 21, 2018)DR 21

Follow-on pharmaceutical innovation can come in the form of an extended-release formulation that permits the drug to be administered at less frequent intervals than the original formulation. Critics of secondary patents downplay the significance of extended-release formulations, claiming that they represent nothing more than a ploy to extend patent protection without providing any real benefit to patients. In fact, the availability of a drug that can be taken once a day has been shown to improve patient compliance, a significant issue with many drugs, particularly in the case of drugs taken by patients with dementia or other cognitive impairments. Extended-release formulations can also provide a more consistent dosing throughout the day, avoiding the peaks and valleys in blood levels experienced by patients forced to take an immediate-release drug multiple times a day.

Other examples of improved formulations that provide real benefits to patients are **oral**ly administrable formulations of drugs that could previously only be administered by more invasive intravenous or intramuscular **injection**, combination products that combine two or more active pharmaceutical agents in a single formulation (resulting in improved patient compliance), and a heat-stable formulation of a lifesaving drug used to treat HIV infection and AIDS (an important characteristic for use in developing countries with a hot climate).

#### There’s a reason the aff’s authors are blogs not lawyers – Evergreen doesn’t prolong patents -- secondary patents *only* cover the improvement, but the original patent dies regardless.

**Holman 2018** (Christopher, Professor of Law, University of Missouri-Kansas City School of Law. “Why Follow-On Pharmaceutical Innovations Should Be Eligible For Patent Protection” <https://www.ip-watch.org/2018/09/21/follow-pharmaceutical-innovations-eligible-patent-protection/> September 21, 2018)DR 21

“Evergreening” – an Incoherent Concept

Drug innovators are often accused of using secondary patents to “evergreen” the patent protection of existing drugs, based on an assumption that a secondary patent somehow extends the patent protection of a drug after the primary patent on the active ingredient is expired. As a general matter, this is a false assumption — **a patent on an improved formulation,** for example**, is limited to that improvement** and does not extend patent protection for the original formulation.

Once the patents covering the original formulation have expired, generic companies are free to market a generic version of the original product, and patients willing to forgo the benefits of the improved formulation can choose to purchase the generic product, free of any constraints imposed by the patent on the improvement. Of course, drug innovators hope that doctors and their patients will see the benefits of the improved formulation and be willing to pay a premium for it, but it is important to bear in mind that ultimately it is patients, doctors, and third-party payers who determine whether the value of the improvement justifies the costs.

#### That solves pricing and monopoly- the improvement might be patented but generics of the original compound become incredibly cheap

**Holman 2016** (Christopher, Professor of Law, University of Missouri-Kansas City School of Law; J.D., University of California, Berkeley; Ph.D., University of California, Davis. “IN DEFENSE OF SECONDARY PHARMACEUTICAL PATENTS: A RESPONSE TO THE UN’S GUIDELINES FOR PHARMACEUTICAL PATENT EXAMINATION” *Indiana Law Review* 50, 2016)DR 21

Rather than the blanket presumption against patents on new formulations endorsed by the Guidelines, which would tend to deny patent protection for both minor improvements and highly significant improvements, the needs of patients would be better served if the market and the judgment of patients and healthcare providers were allowed to determine the value of a new formulation on an existing drug. If the improvement is of such significance that it justifies a substantial cost premium, then society has benefited from the development of this improved mode of drug delivery, and payment of the premium is justified, in the same way that it is by development of a therapeutically useful new active ingredient. If the improvement is nominal, then payers should refuse to pay the premium, which they can do by simply purchasing the original formulation from generic companies at a discounted price. If there are market inefficiencies that somehow induce payers to pay the premium even though the improvement is minimal, then those market inefficiencies should be addressed, rather than attempting to address it by changing the standard for patentability in a discriminatory manner that targets specific categories of inventions.

#### It's illegal to extend a patent on the same drug—only new compounds can be patented

**Holman 2020** (Christopher, Professor of Law, University of Missouri-Kansas City School of Law; J.D., University of California, Berkeley; Ph.D., University of California, Davis “Congress should decline ill-advised legislative proposals aimed at evergreening of pharmaceutical patent protection” *University of the Pacific Law Review*, 51(3), 493-524)DR 21

When critics of the pharmaceutical industry initially began talking about "evergreening," the discussion often seemed to imply that pharmaceutical companies were literally re-patenting the same product. However, those more familiar with patent law have responded by pointing out that, as a general matter, pharmaceutical companies are not simply re-patenting a product, and that various doctrines of patent law work in conjunction to prevent a company from obtaining new patents on a product that is **already on the market**. For example, at a May 7 Congressional Hearing entitled Intellectual Property and the Price of Prescription Drugs: Balancing Innovation and Competition, Professor David Olson of the Boston College Law School explained to lawmakers that:

It is axiomatic patent law doctrine that a later-filed patent (other than a continuation) cannot cover an earlier invention. Thus, no patent that covers an earlier composition or biologic is valid. To the extent that a patent owner says that a later-filed patent, with a later priority date and expiration date covers the same subject matter as an earlier-filed patent, that person is plainly wrong .... New patents can be filed on different formulations of a previous drug, on different manufacturing processes, and on new uses of previous drugs. Although some may call this "evergreening," new uses of drugs and new ways of producing them are the kinds of innovations that the patent system is designed to encourage. It would be a very significant change in patent law to change the law to not allow these kinds of patents in the pharmaceutical field.

If, on the other hand, a patent owner files new method patents and then asserts that a competitor cannot make the originally-claimed drug without infringing the new method, **the new patent** is either **invalid** or being asserted too broadly. If the patent owner uses trade secret methods to produce its drug, and later seeks to patent those trade secret methods, then the patent owner is seeking an invalid patent and can be liable for fraud on the patent office if the patent owner did not disclose that the method was used as a trade secret for more than a year before filing. 9

#### Secondary patents are key to innovation – recouping development costs and new applications of existing medicines

Richards et al 20 [(Kevin T., Associate Solicitor at the US Patent and Trademark Office, former legislative attorney at CRS, JD from UVA School of Law) “Drug Pricing and Pharmaceutical Patenting Practices,” Congressional Research Service, 2/11/2020] JL

Defenders of evergreening respond that the term is "inherently pejorative" because it creates the impression that pharmaceutical companies are exploiting the patent system.157 Defenders contend that there is nothing inherently suspect about secondary patents, which must meet the same requirements for patentability and pass through the same examination procedures as any other patent.158 Indeed, those requirements bar a secondary patent on an obvious variation of the primary patent or on another product or invention already available to the public.159 "[I]t is often the case," defenders contend, "that the value of a follow-on patent is comparable to, or even might exceed, that of a primary patent."160 One example arguably supporting this view is the drug Evista (raloxifine). Evista was "initially studied as a potential treatment for breast cancer" but, in 1997, FDA approved the drug for the prevention of osteoporosis.161 At that time, there were only a few years left on Evista's initial patent, which was filed in 1983.162 If the brand could not patent the new use (i.e., for prevention of osteoporosis), one commentator has argued that insufficient incentives would have existed to make the investment in R&D necessary to bring the drug to market.163

Defenders also argue that the ability to receive a patent on a later-developed formulation provides a significant incentive to address problems with the original formulation. For example, the original formulation of Lumigan, which is used to treat glaucoma, resulted, at times, in sufficiently severe red eye that patients would discontinue its use.164 Researchers subsequently developed an improved formulation with significantly decreased risk of this side effect.165 Defenders of secondary patents contend that without the possibility of patent protection, there would have been little incentive to perform this sort of research due to the significant costs involved.166

Secondary patents are also defended on the grounds of being necessary to recoup development costs. A recent study found that even though the patent term is generally twenty years, delays in PTO and FDA approval can decrease the nominal Orange Book patent term to 15.9 years, and generic competition can result in an effective market exclusivity of only 12.2 years.167 This effective market exclusivity is less than the sixteen years that one commentator suggests is necessary to recoup the brand's fixed costs for research, development, and clinical testing.168

#### Squo solves superbugs, and it doesn’t require more innovation

Sprenger 17 (Marc Sprenger, [WHO Director, Antimicrobial Resistance Secretariat, ], 5-29-2017, “Superbugs: The world is taking action, but low-income countries must not be left behind“, No Publication, accessed: 9-5-2021, https://www.who.int/news-room/commentaries/detail/superbugs-the-world-is-taking-action-but-low-income-countries-must-not-be-left-behind) ajs

Now, antimicrobial resistance has finally come to the forefront in health and political circles, leading to the development in 2015 of a Global Action Plan, endorsed by Ministers of Health and Agriculture at the governing bodies of WHO, FAO and OIE, and Heads of State at a high-level meeting of the UN General Assembly last September. Since then, countries have been developing national action plans to put the globally-agreed policy changes into practice.

Our survey of country progress offers some good news. More than 90% of people in the world (6.5 billion) live in a country that has developed, or is developing, a national action plan on antimicrobial resistance. Some of the key areas in which countries report that they are doing well are: training doctors, nurses, and other health workers on how to reduce the spread of antimicrobial resistance; improving the prevention and control of infections; and strengthening systems to detect the extent of the problem. These are incredible achievements. National plans are multisectoral—which means that leaders in human health, animal health, and the environment, who often talk about joined-up approaches, are actually putting it into action.

When you drill down into the numbers, a slightly less rosy picture emerges. High-income countries that already have stronger health and agricultural systems are much better prepared to deal with antimicrobial resistance—more than 80% of these countries have a plan in place, or are developing one. By contrast, about 30% of low-income countries either have or are developing a plan. This is not surprising. Many low-income countries lack the expertise or capacity to develop a national plan, or they are overwhelmed by dealing with fragile health systems or outbreaks of infectious diseases.

Yet low-income countries are the ones that need to be the best prepared since they are likely to bear the brunt of resistance: infectious diseases are much more common, and their health systems are much weaker and less able to adapt as first-line antibiotics (which tend to be cheaper) become less effective. The burden of harder-to-treat infectious diseases and the impact of treatment failure in human lives and relative economic cost will be much higher than in richer countries.

The lack of preparedness in low-income countries should concern us all, no matter how rich a country we live in. Antibiotic resistance will not just affect the ability to treat diseases such as malaria or tuberculosis, which many might think occur in the poorest parts of the world. Resistant bacteria will challenge our ability to treat women in childbirth, people undergoing surgery, or those on cancer chemotherapy. And, in a globalized world, microbes don’t respect national borders. They spread with ease.

So how can we support all countries to be better prepared? WHO is providing training and support to several countries, but my hope is that other development partners will engage to support implementation in low-income countries. There are many more immediate and visible problems in these countries, but not addressing antimicrobial resistance straight away, threatens the sustainability of recent progress in fragile health systems and creates a global risk.

The survey shows, perhaps not surprisingly, that strengthening the health response will be challenging, but an even greater challenge will be to build resilient systems in other sectors. Antimicrobial resistance is not just a health issue—it is a development issue. We need to engage with the development community to strengthen health, agricultural and environmental systems. National governments, development agencies and banks need to invest in national action plans now to prevent the greater impact on health, economic development and livestock production.

The good news is that we know how to reduce antimicrobial resistance. We need to reduce the need for antimicrobials through good clinical practice, immunization, improvements in water, sanitation and hygiene, and good animal husbandry; we also need to ensure that these medicines are used more prudently in both people and animals, through better diagnostics, better access to the right drugs, and better regulation of antibiotics. We also need a much better system for monitoring supplies of drugs, where they are shipped, how they are distributed, and monitoring and reporting of the prevalence of drug-resistant infections in humans and animals.

This is a complex puzzle, but one that we can solve. It is one that, for the sake of the world’s health and wealth, we must solve.

#### Nang and Martin doesn’t say hotspot escalation. They need ev that each of those impacts causes extinction – global health diplomacy is at an all time low because of conflicting WTO and WHO messages on COVID + IP.

#### No extinction from pandemics

* Death rates as high as 50% didn’t collapse civilization
* Fossil fuel record caps risk at .1% per century
* health, sanitation, medicine, science, public health bodies, solve
* viruses can’t survive in all locations
* refugee populations like tribes, remote researchers, submarine crews, solve

Ord 20 Ord, Toby. Toby David Godfrey Ord (born 18 July 1979) is an Australian philosopher. He founded Giving What We Can, an international society whose members pledge to donate at least 10% of their income to effective charities and is a key figure in the effective altruism movement, which promotes using reason and evidence to help the lives of others as much as possible.[3] He is a Senior Research Fellow at the University of Oxford's Future of Humanity Institute, where his work is focused on existential risk. BA in Phil and Comp Sci from Melbourne, BPhil in Phil from Oxford, PhD in Phil from Oxford. The precipice: existential risk and the future of humanity. Hachette Books, 2020.

Are we safe now from events like this? Or are we more vulnerable? Could a pandemic threaten humanity’s future?10 The Black Death was not the only biological disaster to scar human history. It was not even the only great bubonic plague. In 541 CE the Plague of Justinian struck the Byzantine Empire. Over three years it took the lives of roughly 3 percent of the world’s people.11 When Europeans reached the Americas in 1492, the two populations exposed each other to completely novel diseases. Over thousands of years each population had built up resistance to their own set of diseases, but were extremely susceptible to the others. The American peoples got by far the worse end of exchange, through diseases such as measles, influenza and especially smallpox. During the next hundred years a combination of invasion and disease took an immense toll—one whose scale may never be known, due to great uncertainty about the size of the pre-existing population. We can’t rule out the loss of more than 90 percent of the population of the Americas during that century, though the number could also be much lower.12 And it is very difficult to tease out how much of this should be attributed to war and occupation, rather than disease. As a rough upper bound, the Columbian exchange may have killed as many as 10 percent of the world’s people.13 Centuries later, the world had become so interconnected that a truly global pandemic was possible. Near the end of the First World War, a devastating strain of influenza (known as the 1918 flu or Spanish Flu) spread to six continents, and even remote Pacific islands. At least a third of the world’s population were infected and 3 to 6 percent were killed.14 This death toll outstripped that of the First World War, and possibly both World Wars combined. Yet even events like these fall short of being a threat to humanity’s longterm potential.15 In the great bubonic plagues we saw civilization in the affected areas falter, but recover. The regional 25 to 50 percent death rate was not enough to precipitate a continent-wide collapse of civilization. It changed the relative fortunes of empires, and may have altered the course of history substantially, but if anything, it gives us reason to believe that human civilization is likely to make it through future events with similar death rates, even if they were global in scale. The 1918 flu pandemic was remarkable in having very little apparent effect on the world’s development despite its global reach. It looks like it was lost in the wake of the First World War, which despite a smaller death toll, seems to have had a much larger effect on the course of history.16 It is less clear what lesson to draw from the Columbian exchange due to our lack of good records and its mix of causes. Pandemics were clearly a part of what led to a regional collapse of civilization, but we don’t know whether this would have occurred had it not been for the accompanying violence and imperial rule. The strongest case against existential risk from natural pandemics is the fossil record argument from Chapter 3. Extinction risk from natural causes above 0.1 percent per century is incompatible with the evidence of how long humanity and similar species have lasted. But this argument only works where the risk to humanity now is similar or lower than the longterm levels. For most risks this is clearly true, but not for pandemics. We have done many things to exacerbate the risk: some that could make pandemics more likely to occur, and some that could increase their damage. Thus even “natural” pandemics should be seen as a partly anthropogenic risk. Our population now is a thousand times greater than over most of human history, so there are vastly more opportunities for new human diseases to originate.17 And our farming practices have created vast numbers of animals living in unhealthy conditions within close proximity to humans. This increases the risk, as many major diseases originate in animals before crossing over to humans. Examples include HIV (chimpanzees), Ebola (bats), SARS (probably bats) and influenza (usually pigs or birds).18 Evidence suggests that diseases are crossing over into human populations from animals at an increasing rate.19 Modern civilization may also make it much easier for a pandemic to spread. The higher density of people living together in cities increases the number of people each of us may infect. Rapid long-distance transport greatly increases the distance pathogens can spread, reducing the degrees of separation between any two people. Moreover, we are no longer divided into isolated populations as we were for most of the last 10,000 years.20 Together these effects suggest that we might expect more new pandemics, for them to spread more quickly, and to reach a higher percentage of the world’s people. But we have also changed the world in ways that offer protection. We have a healthier population; improved sanitation and hygiene; preventative and curative medicine; and a scientific understanding of disease. Perhaps most importantly, we have public health bodies to facilitate global communication and coordination in the face of new outbreaks. We have seen the benefits of this protection through the dramatic decline of endemic infectious disease over the last century (though we can’t be sure pandemics will obey the same trend). Finally, we have spread to a range of locations and environments unprecedented for any mammalian species. This offers special protection from extinction events, because it requires the pathogen to be able to flourish in a vast range of environments and to reach exceptionally isolated populations such as uncontacted tribes, Antarctic researchers and nuclear submarine crews. 21 It is hard to know whether these combined effects have increased or decreased the existential risk from pandemics. This uncertainty is ultimately bad news: we were previously sitting on a powerful argument that the risk was tiny; now we are not. But note that we are not merely interested in the direction of the change, but also in the size of the change. If we take the fossil record as evidence that the risk was less than one in 2,000 per century, then to reach 1 percent per century the pandemic risk would need to be at least 20 times larger. This seems unlikely. In my view, the fossil record still provides a strong case against there being a high extinction risk from “natural” pandemics. So most of the remaining existential risk would come from the threat of permanent collapse: a pandemic severe enough to collapse civilization globally, combined with civilization turning out to be hard to re-establish or bad luck in our attempts to do so.

1. No i/l

### 1NC – Drug Prices

#### No econ internal link, doesn’t say pharma’s the largest cause of healthcare spending – alt causes

Smith 3/19 [(Gabrielle, Medical Care Manager in Virginia, People Keep columnist) “Seven reasons for rising healthcare costs,” People Keep, 3/19/2021] JL

1. Medical providers are paid for quantity, not quality

Most insurers—including Medicare—pay doctors, hospitals, and other medical providers under a fee-for-service system that reimburses for each test, procedure, or visit. That means the more services provided, the more fees are paid.

This encourages a high volume of redundant testing and overtreatment, including on patients that have questionable potential to improve their health.

On top of this, our medical system is not integrated. [The World Health Association](https://www.who.int/healthsystems/technical_brief_final.pdf) defines integrated health services as “the organization and management of health services so that people get the care they need, when they need it, in ways that are user friendly, achieve the desired results and provide value for money.”

So what does that have to do with cost? Integrated health means providers, management, and support teams are all in communication with one another on a patient’s care. On the other hand, in an unintegrated system, the lack of coordination can result in patients receiving duplicate tests and paying for more procedures than they truly need.

2. The U.S. population is growing more unhealthy

According to the [National Center for Biotechnology Information](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7077778/#:~:text=Today%2C%20chronic%20disease%20affects%2050,of%20health%20care%20costs%203.), half of the U.S. population has at least one chronic condition, such as asthma, heart disease, or diabetes, which all drive up costs. A staggering 85% of healthcare costs in the U.S. are for the care of a chronic condition.

What’s more, recent data from the [Center for Disease Control and Prevention](https://www.cdc.gov/nchs/fastats/obesity-overweight.htm) finds that over 40% of adults in the U.S. are either overweight or obese, which also leads to chronic illness and inflated medical spending.

As the U.S. population gets sicker and more overweight, the risk involved in insuring the average American goes up. And in turn, the higher the risk, the higher the cost of insurance premiums. Data from the [Kaiser Family Foundation](https://www.kff.org/report-section/ehbs-2020-summary-of-findings/attachment/figure-a-37/) (KFF) shows between 2015 and 2020 the average annual premiums for family coverage rose from $15,545 to $21,342—that’s a whopping 37%.

3. The newer the tech, the more expensive

Medical advances can improve our health and extend our life, but they also add to the cost of healthcare and the overutilization of expensive technology.

According to a study by the [*Journal of the American Medical Association*,](https://www.medschool.lsuhsc.edu/emergency_medicine/docs/overutilization.pdf) (JAMA) Americans tend to associate more advanced technology and newer procedures with better care, even if there’s little to no evidence to prove that they’re more effective.

This assumption leads to both patients and doctors often demanding the newest (read: most expensive) treatments and technology available.

4. Many Americans don’t choose their own healthcare plan

Data from the [KFF](https://www.ehealthinsurance.com/resources/small-business/how-many-americans-get-health-insurance-from-their-employer) finds that roughly 49% of the U.S. population gets their insurance through their employer. That means nearly half of Americans don’t actually make any true consumer decisions about the cost of their care or coverage, because it was already made for them by their employer.

Organizations have an incentive to purchase more expensive healthcare plans because the amount employers pay toward coverage is tax deductible for the organization and tax exempt to the employee. In addition, low deductibles or small office co-payments can encourage overuse of care, driving both demand and cost.

5. There’s a lack of information about medical care and its costs

Despite a wealth of information at our fingertips online, there’s no uniform or quick way to understand treatment options and the costs associated with them. We would never buy a car without comparing models, features, gas mileage, cost, and payment options—but yet, this is how we buy healthcare.

[Kaiser Health News](https://khn.org/news/health-care-costs/) (KHN) reports that even when evidence shows a treatment isn’t effective or is potentially harmful, it takes too long for that information to become readily known, accepted, and actually change how doctors practice or what patients demand.

And in too many cases, even when hospitals make their service prices available, they are difficult to navigate and understand. Many of the [chargemasters](https://intermountainhealthcare.org/locations/intermountain-medical-center/hospital-information/chargemaster/shoppables/) that have been legally required to be made public are written using codes that only medical care professionals can understand.

6. Hospitals and providers are well-positioned to demand higher prices

According to the [Center for Studying Health System Change](http://www.hschange.org/CONTENT/1230/), mergers and partnerships between medical providers and insurers is one of the more prominent trends in America’s current healthcare system.

Increased provider consolidation has decreased the market competition, which normally allows for lower prices, improved productivity, and innovation. Without this competition, these near-monopolies created in some markets have both providers and insurers in a position to drive up their prices unopposed.

For example, a study done by the [*American Journal of Managed Care*](https://pubmed.ncbi.nlm.nih.gov/21756018/) found that hospitals in concentrated markets were able to charge considerably higher prices for the same procedures offered by hospitals in competitive markets. The cost for a coronary angioplasty was found to be 25% higher, while a total knee replacement was 19% higher.

7. Fear of malpractice lawsuits

Oftentimes called “defensive medicine,” some doctors will prescribe unnecessary tests or treatment out of fear of facing a lawsuit. The cost for these treatments add up over time—a study done by [JAMA](https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/1904758) estimates that an annual $46 billion are wasted in defensive medicine practices.

#### No economy impact.

Clary ’15 (Christopher; 4/25/15; Ph.D. in political science from the Massachusetts Institute of Technology, M.A. in National Security Affairs, Postdoctoral fellow, Watson Institute for International Studies, Brown University; MIT Political Science Department Research Paper, “Economic Stress and International Cooperation: Evidence from International Rivalries,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2597712)

Do economic downturns generate pressure for diversionary conflict? Or might downturns **encourage austerity and economizing behavior** in foreign policy? This paper provides **new evidence** that economic stress is associated with **conciliatory policies** between strategic rivals. For states that view each other as military threats, the biggest step possible toward bilateral cooperation is to terminate the rivalry by taking political steps to manage the competition. Drawing on **data from 109 distinct rival dyads since 1950**, 67 of which terminated, the evidence suggests rivalries were approximately **twice as likely to terminate** during economic downturns than they were during periods of economic normalcy. This is true controlling for all of the main alternative explanations for peaceful relations between foes (democratic status, nuclear weapons possession, capability imbalance, common enemies, and international systemic changes), as well as many other possible confounding variables. This research questions existing theories claiming that economic downturns are associated with diversionary war, and instead argues that in certain circumstances peace may **result from economic troubles**. I define a rivalry as the perception by national elites of two states that the other state possesses conflicting interests and presents a military threat of sufficient severity that future military conflict is likely. Rivalry termination is the transition from a state of rivalry to one where conflicts of interest are not viewed as being so severe as to provoke interstate conflict and/or where a mutual recognition of the imbalance in military capabilities makes conflict-causing bargaining failures unlikely. In other words, rivalries terminate when the elites assess that the risks of military conflict between rivals has been reduced dramatically. This definition draws on a growing **quantitative literature** most closely associated with the research programs of William Thompson, J. Joseph Hewitt, and James P. Klein, Gary Goertz, and Paul F. Diehl.1 My definition conforms to that of William Thompson. In work with Karen Rasler, they define rivalries as situations in which “[b]oth actors view each other as a significant politicalmilitary threat and, therefore, an enemy.”2 In other work, Thompson writing with Michael Colaresi, explains further: The presumption is that decisionmakers explicitly identify who they think are their foreign enemies. They orient their military preparations and foreign policies toward meeting their threats. They assure their constituents that they will not let their adversaries take advantage. Usually, these activities are done in public. Hence, we should be able to follow the explicit cues in decisionmaker utterances and writings, as well as in the descriptive political histories written about the foreign policies of specific countries.3 Drawing from available records and histories, Thompson and David Dreyer have generated a universe of strategic rivalries from **1494 to 2010** that serves as the basis for this project’s empirical analysis.4 This project measures rivalry termination as occurring on the last year that Thompson and Dreyer record the existence of a rivalry. Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to **austerity pressures**, which in turn incent leaders to search for ways to **cut defense expenditures**. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to **threat deflation**, where elites attempt to **downplay** **the seriousness** of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to **consider threat prioritization**, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from **international economic cooperation**. Leaders **seek foreign aid**, **enhanced trade**, and **increased investment** from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as **capable of resolving economic difficulties**, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it **much more likely** that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this **causal logic** in greater detail, while also providing **historical examples** that these mechanisms recur in practice. Economic Crisis Leads to **Austerity** Economic crises generate pressure for austerity. Government revenues are a function of national economic production, so that when production diminishes through recession, revenues available for expenditure also diminish. Planning almost **invariably assumes growth** rather than contraction, so the deviation in available revenues compared to the planned expenditure can be sizable. When growth slowdowns are prolonged, the cumulative departure from planning targets can grow even further, even if no single quarter meets the technical definition of recession. Pressures for austerity are **felt** most **acutely** in governments that face difficulty borrowing to finance deficit expenditures. This is **especially the case** when this borrowing relies on international sources of credit. Even for states that can borrow, however, intellectual attachment to balanced budgets as a means to restore confidence—a belief in what is sometimes called “expansionary austerity”—generates **incentives to curtail expenditure**. These incentives to cut occur precisely when populations are experiencing economic hardship, making reductions especially painful that target poverty alleviation, welfare programs, or economic subsidies. As a result, mass and elite constituents strongly resist such cuts. Welfare programs and other forms of public spending may be especially susceptible to a policy “ratchet effect,” where people are **very reluctant** to forego benefits once they have become accustomed to their availability.6 As Paul Pierson has argued, “The politics [of welfare state] retrenchment is typically treacherous, because it imposes **tangible losses** on concentrated groups of voters in return for diffuse and uncertain gains.”7

#### Growth is unsustainable and drives environmental crises.

Stuart et al. ‘20 [Diana, Ryan Gunderson, Brian Petersen; Associate Professor in the Sustainable Communities Program and in the School of Earth and Sustainability at Northern Arizona University, \*Assistant Professor of Sociology and Social Justice Studies in the Department of Sociology and Gerontology and Affiliate of the Institute for the Environment and Sustainability at Miami University, \*\*Associate Professor in the Geography, Planning and Recreation Department at Northern Arizona University; 11-2-2020; "The Degrowth Alternative: A Path to Address our Environmental Crisis?"; Routledge; https://doi.org/10.4324/9781003019305; Accessed 1-14-2021; LR]

Many scientists now agree that a system prioritizing economic growth is a root driver of both the climate and biodiversity crises. Green et  al. (2018: 1), representing nearly 100 scientists, argue that governments have betrayed us “in failing to acknowledge that infinite economic growth on a planet with finite resources is non-viable.” Steffen et al. (2018: 5–6) state that “[t]he present dominant socioeconomic system, however, is based on high-carbon economic growth and exploitative resource use” and we need “changes in behavior, technology and innovation, governance, and values.” The IPBES summary report (2019a: 10) similarly explains:

A key component of sustainable pathways is the evolution of global financial and economic systems to build a global sustainable economy, steering away from the current, limited paradigm of economic growth… It would also entail a shift beyond standard economic indicators such as gross domestic product to include those able to capture more holistic, long-term views of economics and quality of life.

Lastly, Ripple et al. (2019: 4) state that:

Excessive extraction of materials and overexploitation of ecosystems, driven by economic growth, must be quickly curtailed to maintain long-term sustainability of the biosphere … Our goals need to shift from GDP growth and the pursuit of affluence toward sustaining ecosystems and improving human well-being by prioritizing basic needs and reducing inequality

Why are these scientists focusing so much on GDP? GDP stands for Gross Domestic Product and represents the market value of all goods and services produced in a specific time period. GDP was created as an indicator during World War II, aimed to assess productive capabilities for the war effort. Increasing GDP annually was then widely adopted as a global economic goal, with average yearly increases in the US of around 3%. That means every year more and more goods are produced and services offered.

However, producing an ever-increasing amount of goods and services each year continues to require an increasing amount of materials and energy. It therefore makes sense that a GDP growth of 1% equals a 0.6% growth in material use (Wiedmann et al. 2015) and a 1% increase in GDP equals a 0.5–0.7% increase in carbon emissions (Burke et al. 2015). It also makes sense that the most notable carbon emissions reductions have occurred during economic recession due to a reduction in production and consumption (Feng et al. 2015). Based on their analyses of carbon budgets, Anderson and Bows (2011) find that overall reductions in economic growth are necessary to effectively address climate change.

In terms of biodiversity loss, the production of goods drives higher rates of extraction and use of resources impacting land use, habitat, hunting/harvesting, pollution, invasive species, and climate change—all major drivers of extinction (Ceballos et al. 2017; IPBES 2019a; Otero et al. 2020). The production of beef, soybeans, and biofuels (Rudell et  al. 2009) drives deforestation in the tropics, the leading cause of terrestrial extinction (Sodhi et al. 2009). In addition, globalized trade has resulted in the proliferation of invasive species (Mooney and Hobbs 2000; Otero et al. 2020). Czech et al. (2012) and Sol’s (2019) analyses reveal a strong positive association between GDP growth and species endangerment. In a 2020 review, Otero et al. illustrate how economic growth increases resource use, trade, land use change, climate change, and invasive species—all contributing to biodiversity loss. As the United Nations biodiversity chief Paşca Palmer explains, this means that to address the biodiversity crisis, “[w]e need a transformation in the way we consume and produce” (Conley 2019). Scientists increasingly agree that to address climate change and biodiversity loss we need to rethink and even recreate our economic system.

#### It’s try or die for transition.

Stuart et al. ‘20 [Diana, Ryan Gunderson, Brian Petersen; Associate Professor in the Sustainable Communities Program and in the School of Earth and Sustainability at Northern Arizona University, \*Assistant Professor of Sociology and Social Justice Studies in the Department of Sociology and Gerontology and Affiliate of the Institute for the Environment and Sustainability at Miami University, \*\*Associate Professor in the Geography, Planning and Recreation Department at Northern Arizona University; 11-2-2020; "The Degrowth Alternative: A Path to Address our Environmental Crisis?"; Routledge; https://doi.org/10.4324/9781003019305; Accessed 1-14-2021; LR]

Mounting evidence indicates that we are in a climate crisis. With only a little more than 1°C increase in average global temperatures since preindustrial levels, we are already seeing serious impacts including unprecedented fires, floods, and hurricanes; and much more severe impacts are projected as warming continues. Steffen et al. (2018) explain the real possibility of reaching a critical threshold of warming or a global tipping point after which additional warming would be uncontrollable, resulting in a “Hothouse Earth” scenario. In Nature, Lenton et al. (2019: 595) state that climate change “is an existential threat to civilization,” explaining that “the evidence from tipping points alone suggests that we are in a state of planetary emergency: both the risk and urgency of the situation are acute.”

Climate impacts are already unfolding and the crisis will amplify with increasing climate-related disasters, melting ice, and rising sea levels. The 2018 Intergovernmental Panel on Climate Change (IPCC) Special Report Global Warming of 1.5°C contains much bolder language than previous reports to stress the significant difference in impacts between a 1.5°C and a 2°C increase in average global temperatures and the need for immediate, unprecedented, and far-reaching action. In addition, a 2019 report in the Lancet details how climate change is already impacting human health globally and warns of devastating health impacts as warming continues (Watts et al. 2019). Lastly, Ripple et al. (2019: 1), representing the Alliance of World Scientists, identify “disturbing” and “worrisome” vital signs of climate impacts that they state “clearly and unequivocally” illustrates we are in a “climate emergency.”

Although the climate crisis contributes to biodiversity loss (Thomas et  al. 2004), it is considered a separate, yet related, crisis. Conservation biologists pointed out years ago that we are in the midst of the sixth global mass extinction event, driven by humans (Barnosky et al. 2011), also referred to as the “extinction tsunami” (Lovejoy 2017) or “biological annihilation” (Ceballos et al. 2017). Recent indicators of a biodiversity crisis include half of all vertebrate populations in decline (Ceballos et al. 2017), a global extinction rate of approximately 200 species each day (Green et al. 2018), the loss of 29% of birds in North America since 1970 (Rosenberg et al. 2019), and 1 million species (25%) facing extinction globally (IPBES 2019a). A comprehensive report from the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES 2019a) concludes that humans are driving global changes in plant and animal life that are unprecedented in history.

The biodiversity crisis will increasingly impact human societies. While many people overlook human dependency on other species, scientists continue to argue that at current rates we will alter the natural world in ways that threaten not only human well-being but also human existence (Ceballos et al. 2015). The concept of ecosystem services has been used for decades to emphasize the ways that humans benefit from and depend on ecosystems (Millennium Ecosystem Assessment 2005) and projections of global change reveal the potential severity of social impacts from biodiversity loss. The IPBES media release (2019b) states that species loss has accelerated to rates that “constitutes a direct threat to human well-being in all regions of the world.” The United Nations biodiversity chief warns of ecological thresholds and tipping points that could result in a cascade of extinctions, collapse, and social impacts (Conley 2019).

If a crisis is a decisive moment, crucial time, or a critical phase that determines future events, then, according to scientists, we are in a state of environmental crisis. If a crisis is a condition of danger or precarity that poses serious problems, extreme trouble, and great difficulty, then the science again indicates we are in a climate and ecological crisis. In addition to scientists, an increasing number of other people now recognize these serious threats. For example, United States (US) public opinion polls reveal that more than a quarter of Americans consider climate change a “crisis” with a further 36% defining it as a “serious problem” (CBS News 2019). In addition, 60% of Americans polled think government should do something to address global warming and 70% believe environmental protection is more important than economic growth (Marlon et al. 2019). In the United Kingdom (UK), 85% of citizens are concerned about climate change, 52% are very concerned, and 55% think the UK should bring emissions to net zero before 2050 targets (Dickman and Skinner 2019).

If we define a crisis as “a process of transformation where the old system can no longer be maintained” (Venette 2003: 43), we also see mounting evidence that we are in a state of crisis. According to scientists, the status quo can no longer be maintained and instead “rapid and far-reaching changes are needed in all aspects of society” (IPCC 2018). Lenton et  al. (2019: 595) explain that “[n]o amount of economic cost–benefit analysis is going to help us. We need to change our approach to the climate problem.” Ripple et al. (2019: 3, 4) and the Alliance of World Scientist state that to “secure a sustainable future, we must change how we live” and “[t]he good news is that such transformative change, with social and economic justice for all, promises far greater human well-being than does business as usual.” If we are indeed in a state of crisis, where the old system must be replaced, what kind of new system do we need? What changes are necessary to minimize ecological and social impacts?