## 1AR

#### Lack of IP for superior American vaccines means countries have to resort to Chinese vaccines – absent that it shifts the liberal order bcz of alternate narratives – causes instability, transition wars, and extinction.

#### [Security threats] Lack of IP decreases vaccine access – high income development isn’t enough – absent vaccinations mutations are inevitable which proliferates covid – causes weaknesses that cause WMD and nuke war.

#### 1] Perm do both

#### 2] Compulsory licensing fails.

HRW 21. “Seven Reasons the EU is Wrong to Oppose the TRIPS Waiver,” 6/3/21, <https://www.hrw.org/news/2021/06/03/seven-reasons-eu-wrong-oppose-trips-waiver> // Justin

Streamlining compulsory licensing systems are welcome, but not enough to rise to the challenge of the Covid-19 health response. One part of the EU’s planned “third way” proposal would aim to simplify the use of compulsory licenses under the TRIPS Agreement and the 2001 Doha Declaration, which affirmed that under global IP rules governments could issue licenses for patents during a public health crisis. Human Rights Watch supports governments’ use of existing flexibilities under the TRIPS Agreement, such as the Bolivian government’s decision to seek a compulsory license for the Canadian company Biolyse Pharma to produce 15 million doses of Johnson & Johnson’s Covid-19 vaccine. But there are significant barriers to making compulsory licenses a practical solution to the severe supply shortages the world is facing now. Scholars in the United Kingdom recently published an extensive legal analysis of the TRIPS waiver proposal and determined, “existing TRIPS flexibilities around compulsory licensing are incapable of addressing the present pandemic context adequately, both in terms of procedure and legal substance.” The MSF Access Campaign also published a new report explaining that compulsory licensing is burdensome and time-consuming because it must be applied on a product-by-product and country-by-country basis, and there are often significant regulatory obstacles to overcome. The Doha Declaration only addresses one form of IP: patents. The TRIPS waiver proposal, in contrast, would cover not just patents but other forms of IP, too. Experts have mapped the complex IP behind Covid-19 vaccines, highlighting the need for a TRIPS waiver that covers more than patents. A recent analysis of mRNA-based Covid-19 vaccines showed that each vaccine involves a complex web of patents owned by multiple companies, and found that “Webs of intellectual property claims underpin the marketing of many vaccines. For example, the underlying technology used to develop a vaccine can be protected by patents, while manufacturing methods and techniques (know-how) can be protected by trade secrets.” The landscaping study did not include patents and other forms of IP underlying bioreactor bags, filters, glass vials, and cold storage containers. Even where compulsory licenses are issued for patents, pharmaceutical companies may bring legal cases against them, and continue to lobby for trade-based measures against governments that use them. For example, Gilead recently sued the Russian government for issuing a compulsory license to manufacture remdesivir, a drug used to treat Covid-19. The Russian Supreme Court ruled against Gilead. Pharmaceutical industry associations lobbied against the Hungarian government’s compulsory license for remdesivir, as part of their submission to the United States Trade Representative’s “Special 301 Report.”

#### 3] Solvency deficit- doesn’t solve scale-up because technical know-how through trade secrets are key- takes way too long proven by Canada not responding to India for claims of compulsory licensing and is destroyed by Pharma lobbying- 1AC Kumar.

#### 2] Voluntary licensing is insufficient.

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Voluntary licensing is insufficient and industry-led efforts have left us with shortfalls and delays. Voluntary licensing is the practice where the developer of the vaccine or drug decides to whom and on what terms the IP can be licensed to enable manufacturing. The past year has shown that we cannot rely on the pharmaceutical industry to take voluntary action to scale up manufacturing of health products at the pace and scale needed to address the pandemic. Tedros Adhanom Ghebreyesus, director-general of the WHO, recently commented that voluntary licensing agreements “tend to be exclusive and nontransparent, compromising equitable access.” The supply delays and production challenges several pharmaceutical companies faced have been exacerbated by restrictive or exclusive licensing practices. Efforts to license vaccines have been slow. For example, Biolyse Pharma, a Canadian company, reported unsuccessfully requesting licenses to manufacture its Covid-19 vaccine from multiple companies. Numerous other manufacturers say they are willing to manufacture and are awaiting the right licenses, as explained above. Voluntary corporate commitment to open and nonexclusive licensing has been low, making government use of regulatory tools essential to ensure vaccines and health products are widely available and affordable for all. Numerous companies have signed the Open Covid Pledge issuing open and nonexclusive licenses, which experts say promote an “open innovation model.” But the Open Covid Pledge is dominated by technology companies. Only a handful of companies making health products are a part of it. To date, the EU has not brought any major pharmaceutical company operating within the EU to join the WHO’s Covid-19 Technology Access Pool (C-TAP), a platform launched over a year to ago to enable the voluntary sharing of IP, data, and knowledge with qualified manufacturers. No company has voluntarily joined this initiative either. Only a few EU member states have endorsed the C-TAP Solidarity Call to Action. While the Spanish National Research Council has reportedly promised that it will provide its diagnostic tests under a nonexclusive license to C-TAP, to date, no company marketing vaccines has agreed to join the WHO Covid-19 mRNA Technology Transfer Hub.

### 2

#### ] Aff solves the DA – it’s wraps:

#### A] The aff only occurs through limited IP waivers during public health emergencies which still allows for future innovations – innovations that occur during public health emergencies past the basic vaccine will have patent extensions which increases incentives during a time of high demand – that should be framed through specificity.

#### B] It’s a question of access: we aren’t accessing our full innovation potential because smaller countries don’t have the resources to innovate. Allowing for patents incentivizes third-world innovations and improvements to vaccines.

#### C] Frame this through scale-up: even if innovation occurs access to innovation is limited because of lack of distribution – only the aff has a risk of distribution of innovation to solve pandemics.

#### 2] Evergreening DA: patents are being misused to extend monopolies with useless tweaks that shields producers from competition which prevents innovation and prevent competitors from innovating – 1AC Gurgula. No new 2n responses—allows for sandbagging and time crunches the 3 minute 2ar.

#### 3] Non-unique – innovation stalling because of failing clinical trials, drug prices, econ.

Langley 4/21 [(Kare, reporter for The Wall Street Journal in New York, where she primarily covers the U.S. stock market), “Biotech Stocks Fall Out of Favor After Disappointing Trial Results, Big Rally “, WSJ, 4/21/2021, https://www.wsj.com/amp/articles/biotech-stocks-fall-out-of-favor-after-disappointing-trial-results-big-rally-11619016330] TDI // Re-Cut Justin

Shares of Sarepta Therapeutics Inc., Amicus Therapeutics Inc. and Frequency Therapeutics Inc. are among the recent losers for biotech investors, having lost more than half their value so far this year. “It’s felt like a kitchen sink in terms of the number of factors weighing on biotech sentiment in the near term,” said Andy Acker, who manages the Janus Henderson Global Life Sciences Fund. Among those are disappointing clinical trials, concern about the possibility of renewed focus on drug prices in Washington and the recent rotation into economically sensitive stocks. Biotech shares enjoyed a powerful rally last year. The Nasdaq biotech gauge soared 26% in 2020 on excitement about the potential for Covid-19 treatments and vaccines as well as a broader rally in shares of companies that can perform when the economy is struggling. The S&P 500, meanwhile, gained 16% last year, and the Nasdaq Composite surged 44%. Rapid gains or losses in share prices following clinical-trial results or regulatory decisions are a feature of biotech investing, but a smattering of negative news has damped enthusiasm in recent months. Shares of Sarepta Therapeutics plunged 51% on Jan. 8 after mixed results from a study of a drug targeting a form of muscular dystrophy. The shares are now down 58% for the year. Amicus Therapeutics shares dropped 33% on Feb. 12 after trial results for its treatment of a rare disorder called Pompe disease disappointed investors. And shares of Frequency Therapeutics plunged 78% on March 23 after the company found its lead drug aimed at treating sensorineural hearing loss didn’t lead to any hearing benefit when given in a four-dose schedule. Those stocks are down 57% and 72%, respectively, this year. Also weighing on sentiment: The Federal Trade Commission has indicated it is preparing to take a harder line on drug-company mergers, which are a source of potential value for investors in small biotech shops. The commission in March said it would reconsider its approach to scrutinizing deals that could harm competition. “Biotech can be driven by mergers,’ said Jeremie Capron, director of research at ROBO Global, a research and investment-advisory firm. “A change at the FTC, it reduces the probability of a favorable outcome in terms of an acquisition.” Analysts will also be keeping an eye on any efforts in Washington to reduce drug prices. Some investors are betting against companies in the industry. Biotech stocks accounted for five of the 10 most-shorted stocks on U.S. exchanges at the end of March, according to S&P Global Market Intelligence. Short interest in Esperion Therapeutics Inc.stood at 34% of shares outstanding as of March 31, followed by Clovis Oncology Inc. at 31% and Inovio Pharmaceuticals Inc. at 26%, an S&P analysis showed. As Covid-19 vaccines reach more people and the economy picks up, investors have favored shares of banks, energy producers and other companies that tend to do well in a strong economy. They have been less interested in stocks that hold out the prospect of innovation-driven growth in fields like technology and biotech. Expectations of a strong recovery have also been seen in the bond market, where falling prices lifted the yield on the benchmark 10-year U.S. Treasury note to 1.566% on Wednesday from 0.913% at the end of last year. As yields climb, borrowing costs for businesses also rise. That often lands hard on biotech companies, where hefty bills for research and development can arrive long before revenue.

#### 4] No link: strong innovation incentives.

So 20 [Anthony; Professor of the practice in International Health and the founding director of the Innovation+Design Enabling Access (IDEA) Initiative; “WTO TRIPS Waiver for COVID-19 Vaccines,” John Hopkins; 5/10/21; <https://www.jhsph.edu/covid-19/articles/wto-trips-waiver-for-covid-19-vaccines.html>] Justin

Another question raised by opponents of the waiver is: Have companies been able to make a strong return on their investment? The answer appears to be yes. In a market almost entirely created by public sector purchase of vaccines for a pandemic, Pfizer brought in $3.5 billion in COVID-19 vaccine revenues in the first quarter of this year, with estimated profit margins in the high 20% range, by far its greatest revenue generator. Pfizer’s partner, BioNTech, received upfront public financing, both from the German government and the European Investment Bank, while Pfizer itself has secured 6 billion dollars thus far from the U.S. government in guaranteed purchases of its COVID-19 vaccine. So even if the TRIPS waiver were to enable other vaccine producers to meet the huge unmet demand, it is hard to argue that the public sector has not already provided multibillion-dollar incentives to bring forward needed innovation.

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## 1AC

### 1AC – Adv – Vaccine Diplomacy

#### American vaccine diplomacy is failing in Latin America – that allows for Chinese influence. Only the plan can return the world back to a US led order.

Carman and Carl 6/15 [Ezequiel and Joseph; Argentine lawyer and global health and trade policy consultant. Previously, he served as a legal advisor to the Ministry of Justice of Buenos Aires, an assistant professor of international public law at the Universidad Católica Argentina, and a research assistant at the O’Neill Institute for National and Global Health Law; Graduate of Liberty University, where he studied international relations and strategic international studies. He has worked for the U.S. Department of State and the Heritage Foundation; “A U.S. vaccine diplomacy strategy for Latin America and the Caribbean,” Global Americans; 6/15/21; <https://theglobalamericans.org/2021/06/a-u-s-vaccine-diplomacy-strategy-for-latin-america-and-the-caribbean/>] Justin

Once again, history seems to be repeating itself. The United States, along with the world’s other rich and mostly Western countries, continue to be accused of hoarding medical supplies, having purchased one billion surplus vaccine doses (more than is required to vaccinate their citizens). In their absence, China—and, to a lesser extent, Russia—have rushed to take advantage of the vaccine gap in the Global South, particularly in Latin America and the Caribbean. A lack of leadership from Washington in sharing vaccines and their intellectual property (IP) earlier in the pandemic has allowed its geopolitical competitors to take advantage of Latin America’s desperate need to acquire scarce vaccines. Although the region represents only eight percent of the global population, it has experienced nearly one-third of all COVID-19 deaths. Historical precedent demonstrates this is not the first time that Washington’s international moral standing has been damaged during a global health crisis, due to the lack of political will to share lifesaving drugs and other vital resources. However, this time around, unlike in such past episodes, there will be concrete geopolitical consequences to Washington’s inaction.

In recent years, the U.S. has lost significant political and economic influence among its southern neighbors; without swift remedial action, its geopolitical rivals may cement such losses through their campaigns of vaccine diplomacy. To rebuild its influence in the region, Washington will need to muster the political will to increase Latin America and the Caribbean’s access to vaccines and develop a sound strategy for its own vaccine diplomacy. Already, some countries in the region have been sufficiently strong-armed by other global powers, the implications of which could be damaging for U.S. interests. As the world transitions into the next stage of the pandemic, those nations that continue to be most ravaged by COVID-19 will likely continue to remember which countries provided them with aid and succor in their time of need.

History repeats itself

In 1981, the first cases of acquired immunodeficiency syndrome (AIDS) were reported; the following decade was defined by a devastating global AIDS epidemic (which would eventually be recognized as a pandemic). Analogous to how Latin America and the Caribbean have borne disproportionately the burden of COVID-19, Africa was hit hardest by the AIDS epidemic. Many parallels can be drawn between the international handlings of both the COVID-19 and AIDS pandemics.

By the late 1980s, once antiretroviral therapies (ARV) were approved by the U.S. Food and Drug Administration (FDA), AIDS deaths in the U.S. began to decline immediately. Nevertheless, high levels of AIDS-related deaths in Africa continued for another decade. Africa’s enduring fight against AIDS was largely due to the cost of ARVs, which, at the time, were priced at USD $10,000 per person annually—completely out of reach for most developing countries.

Pharmaceutical companies argued that the drug’s high selling price was necessary to procure a return on its investment in the research and development (R&D) of the ARV, and that pricing the drugs at a marginal cost would maximize consumer surplus while also halting future development in the industry.

When pricing a drug, a pharmaceutical company needs to factor-in several costs: 1) the cost of R&D for drugs that never enter the market; 2) clinical trials necessary to comply with regulatory requirements; 3) and the marketing cost of promoting the new drug. While the original price of the patented ARV was USD $10,000 per patient per year, the price of the generic version, manufactured by the Indian pharmaceutical company Cipla, was only USD $1.00 per day.

During the AIDS pandemic, since many developing countries were members of the World Trade Organization (WTO), they were forbidden from importing generic pharmaceutical products because in order to maintain compliance with regulations imposed by the Trade Related Aspects of Intellectual Property (TRIPS) agreement. Western pharmaceutical companies—the owners of the IP rights for the medications—blocked access to generic ARV drugs out of fear that the importation of these generic alternatives would ultimately threaten their net profitization. Despite the protests of the pharmaceutical industry, India and South Africa continued to compete with and defy the U.S. and the WTO (a body in which powerful industrialized economies—those of the U.S., Europe, and Japan—wield disproportionate influence).

Drug companies eventually sued to keep lifesaving therapies out of the hands of dying AIDS-sufferers in Africa, a state of affairs that engendered a forceful reaction from international activists. After years of political pressure, Washington was forced to yield, eventually pushing for the relaxation of stringent IP protections for ARVs, making generic versions of the drugs more accessible and affordable. Despite its eventual concession, the perception that the U.S. had fought bitterly to prioritize pharmaceutical company profits over human lives in the Global South only helped bolster negative narratives surrounding the Western superpower.

However, unlike the unipolarity that characterized the 1990s and early 2000s, the U.S. is no longer the only global superpower, and the humanitarian decisions it makes now—during a new global health crisis—have the potential to be hugely consequential for the country’s influence and image. Similar to its trajectory at the height of the AIDS crisis, Washington only recently voiced its desire to back the WTO patent waiver proposal, having come under tremendous international pressure. Granted, the U.S. backed a patent waiver for COVID-19 vaccines much faster than it did for ARVs in the 1980s. However, having been presented with a rare opportunity to make amends for past moral missteps—by eliminating vaccine IP protections to ensure that affordable, generic versions of COVID-19 vaccines could be manufactured en masse around the world—the U.S. once again hesitated, limiting opportunities for developing nations to recover from the pandemic and again amplifying criticisms of the United States.

Backed by over 100 developing countries, India and South Africa are once again leading the current fight to eliminate IP protections. India and South Africa filed a waiver with the WTO requesting a temporary suspension of patent obligations under TRIPS (Sections 1, 4, 5, and 7 of Part II) so that developing countries can access vaccines in a timely manner. The intent of this effort is to boost domestic manufacturing capacity by facilitating the widespread production of generic versions of COVID-19 vaccines, evening the odds with respect to global vaccine procurement and accessibility. The waiver would also allow developing countries to procure vaccines more expeditiously, either by producing them themselves or by streamlining the cumbersome institutional and legal requirements of importing pharmaceutical products from other countries that possess the necessary manufacturing capacity.

After months of pushback from activists and political leaders, the U.S. finally expressed its support for patent waivers, with several key Western powers (notably France and the European Union (EU)) following suit. However, Germany—a major political player in the patent waiver debate due to its powerful pharmaceutical sector—continues to oppose the move. Other European countries remain similarly split on the patent waiver proposal, reflecting the fact that any patent waiver proposal will still requires extensive negotiation (in order for it to be accepted, there must be unanimous consent among WTO members).

Political leaders and activists continue to call on the West to support the waiving of IP protections, noting that current projections anticipate that wealthy countries will be able to immunize their entire populations by the end of 2021, while developing countries will only see the same results in the next three to four years. Unlike the AIDS pandemic, COVID-19 has generated not only massive medical concerns, but also a global economic crisis: vaccination campaigns in richer countries have already allowed them to begin to rebuild their economies, while mass unemployment and lockdowns continue to strangle the economies of many developing nations. Increasing the supply and accessibility of vaccines in the developing world will undoubtedly facilitate a faster, and more equal, economic recovery. Continuing to allow the virus to spread unencumbered throughout the Global South, however, will only increase the likelihood of further viral mutations, possibly jeopardizing the efficacy of existing vaccines and further perpetuating already grave economic and medical concerns.

Washington’s initial unwillingness to cross the pharmaceutical industry has undeniably damaged the moral standing of the United States. Moreover, this decision also created a humanitarian void eagerly filled by Beijing and Moscow, as they actively seek to position themselves as the benefactors of the most COVID-19-stricken region of the world: Latin America and the Caribbean. To date, Russian and Chinese vaccine diplomacy have already led to economic, diplomatic, and political losses being felt by Washington; this trend, if allowed to continue, will only further limit U.S. regional influence with its neighbors to the south.

A lack of strategy and political will

In the absence of an effective vaccine diplomacy strategy from Washington, and with the perpetuation of its current nationalistic vaccine policy, some of the pharmaceutical companies that the U.S. so readily protects have pushed countries throughout Latin America and the Caribbean into the waiting arms of Beijing and Moscow. While some Latin American countries have received a few vaccines from Western companies, most nations in the region continue to struggle to obtain doses. Pfizer, a U.S. pharmaceutical company, was accused of bullying Latin American countries during vaccine procurement negotiations, using its own leverage to attempt to force desperate nations to offer sovereign assets—such as their embassies—as collateral. Pfizer’s efforts resulted in a lost deal with Argentina, which has continued to grow increasingly closer to China.

While the U.S. possesses a surplus of COVID-19 vaccines, it has failed to develop an effective, far-reaching donation strategy. Only recently did the Biden administration announce its plans to ship 80 million vaccines—a small portion of its surplus supply—abroad. Of the initial 25 million doses destined to be distributed internationally, 19 million will be donated to the largely mismanaged UN-backed COVAX program, with only six million of these COVAX doses designated for Latin America and the Caribbean. In comparison, China alone has donated or sold over 165 million vaccines to Latin America, with countries like Chile and Uruguay having vaccinated 80 and 63 percent of their populations, respectively, with Chinese vaccines.

The administration of U.S. President Joe Biden previously donated a total of 4.2 million AstraZeneca vaccines to Canada and Mexico, the first vaccines that the U.S. had sent abroad. Still, this relatively modest donation was preceded by repeated calls from prominent Latin American leaders for President Biden to donate vaccines to U.S. allies in Latin America. Mexican President Andrés Manuel López Obrador (AMLO) was notably rebuffed in his request for shipments of U.S. vaccines, being told by the Biden administration that it was prioritizing the vaccination of the American public (despite the fact that Washington had already bought enough vaccines to inoculate the entire U.S. population several times over). Colombia President Iván Duque of Colombia, a country that is a key regional ally, has also called for the Biden administration to aid countries in the Western Hemisphere that are struggling to procure vaccines.

By contrast, some Latin American officials have described easier negotiations, cheaper prices, and overall better terms in their successful agreements with Russia and China. Last year, for example, Beijing offered a USD $1 billion loan to Latin American nations to help finance their purchasing of Chinese-made vaccines—an offer that was well-received by recipient countries. Due to a lack of vaccine support and assurance from Washington, countries are growing closer to Beijing and Moscow, succumbing to rival geopolitical powers that do not align with the diplomatic and economic interests of the United States.

Brazil remains one of the countries hardest hit by the COVID-19 pandemic. Despite President Jair Bolsanaro’s anti-science tendencies and hawkish stance towards Beijing, however, his government has still proven susceptible to the influence of China. Earlier this year, a New York Times report brought attention to the Bolsonaro government’s arrangement to allow Huawei, the Chinese telecommunications giant, to participate in upcoming biddings for contracts to construct Brazil’s 5G network. (Under the Trump Administration, Brazil had been one of the 50 countries to agree to the Clean Network Initiative—an agreement that committed signatories to forbidding Huawei from being involved in their 5G networks, due to national security concerns.) The announcement came after Brazil’s telecommunications minister, Fábio Faria, traveled to Beijing to meet with Huawei executives. Recounting his trip, Faria was quoted as saying that he had taken “advantage of the trip to ask for vaccines.” This development aligns with recent warnings from the U.S. Southern Command Chief Admiral Craig Faller, who claimed, during a U.S. Senate Armed Services Committee hearing, that China was using its vaccine leverage to push for Huawei’s integration into Latin America’s 5G networks.

In the absence of Washington, several countries have increased their engagement with China and Russia (or have at least been pressured to). Paraguay and Guyana, for instance, have been pushed by China to switch their official diplomatic recognition from Taiwan (Republic of China, or ROC) to China (People’s Republic of China, or PRC) and to increase bilateral trade relations. Colombia, historically one of Washington’s closest allies in Latin America, uncharacteristically applauded Beijing’s efforts to promote human rights at the United Nations Human Rights Council, only one week after it received half a million doses of a Chinese-made vaccine. In Mexico, Beijing and Moscow also scored points; after securing a second shipment of Chinese vaccines, Mexico announced it would expand its “strategic partnership” with China. With respect to Russia, when (AMLO) tested positive for COVID-19 in January, he received a call from Russian President Vladimir Putin, wishing his Mexican counterpart a quick recovery. Shortly thereafter, AMLO announced that Mexico would receive a shipment of 24 million Russian vaccines and that he had invited Putin to visit Mexico, which would mark the Russian leader’s first visit to the country in nearly a decade. These developments are especially relevant when considering the fact that, before President Biden announced the sharing of the U.S. supply of AstraZeneca vaccines with Mexico, he had initially rejected AMLO’s call for assistance.

In Bolivia, Putin has curried favor with President Luis Arce. President Arce’s political leanings are reminiscent of those of his predecessor, Evo Morales, who had an especially close relationship with Moscow; it would be reasonable to expect, therefore, that Arce may be similarly keen to deepen Moscow’s relationship with La Paz. After donating a large supply of vaccines to Bolivia, Putin sought out Arce to discuss the possible revival of several key Russian projects in the country: among them, the reactivation of a suspended nuclear power plant project, Russian development of Bolivia’s natural gas reserves, and investments in the country’s extensive lithium deposits (lithium being a mineral key to the global transition to clean energy, as it is a vital component in the production of high capacity batteries in both civilian and military hardware). In 2019, Russian businesses were beaten by other firms in the rush to invest in Bolivia’s nascent lithium industry; however, Arce has recently announced plans for new lithium projects that have received interest from both Russian and American companies.

Throughout Latin America and the Caribbean, Russia has continued to sign vaccine deals in an effort to increase its influence. Russia’s vaccine diplomacy has primarily been a soft power push, unlike China’s more brazen “wolf warrior” diplomacy. Nevertheless, it represents a re-establishment of a foothold in the region that Russia (and its predecessor, the USSR) has not boasted since the Cold War.

While some countries, like Mexico and Bolivia, appear genuinely interested in deepening their ties with U.S. geopolitical rivals, it is widely recognized that most other nations of Latin America and the Caribbean are being squeezed politically by vaccines. If Latin America is not offered a practical alternative, it will likely continue to conduct business with Moscow and Beijing, thus incurring more debts of gratitude to global powerhouses eager to expand their economic and political influence through vaccine diplomacy.

A forward-thinking strategy

To this point, the U.S. has been significantly outpaced by China and Russia when it comes to building and strengthening relations with its Latin American and Caribbean neighbors. The dynamic surrounding COVID-19 vaccine distribution is evocative of another era of recent history when the U.S. abandoned the suffering of the developing world for the sake of profit-maximizing pharmaceutical companies. With Latin America and the Caribbean being the region hardest hit in the world by the COVID-19 pandemic—much as Africa was at the height of the AIDS pandemic—the U.S. is only undermining its moral standing and regional influence by failing to more readily extend a helping hand.

As the war against COVID-19 reaches a détente in the U.S., the Biden administration should make this issue a top priority. First, the U.S. needs to aggressively push its Western partners to back the IP patent waiver at the WTO in order to push forward a patent proposal that will help increase vaccine production capacity worldwide. Doing so will demonstrate to the world that Washington has the political will to defy the wishes of the powerful pharmaceutical industry and and re-establish its leadership role among the Western powers.

#### Latin America is still skeptical of Chinese aid but lack of US presence means it’s the only choice – recent influence means it’s try or die to capitalize on this weakness.

Raimundo 9/3 [Joshua; 9/3/21; Graduate of the World Journalism Institute; “*China peddles influence with vaccines*,” World Tour, <https://wng.org/roundups/china-peddles-influence-with-vaccines-1630687161>] Justin

This past winter, as COVID-19 vaccines first became widely available, the Dominican Republic agreed to receive 768,000 doses of the Sinovac shot developed in China. The same week, Dominican President Luis Abinader lifted the nation’s longstanding ban on Huawei, a Chinese 5G telecommunications company. The decision disappointed many Dominicans who are suspicious of the Beijing-backed company. Many nations have banned or sanctioned Huawei, which they suspect uses its technology to spy on foreign customers. Sinovac now accounts for 7.9 million of the 9.2 million administered doses in the Dominican Republic, or 86 percent of the tiny island nation’s vaccines. Brazilian telecom regulator Anatel similarly reversed course on Huawei policy in February, lifting a ban three weeks after agreeing to receive 20 million Sinovac doses. The Chinese jab comprises about 80 percent of Brazil’s administered shots. While developing the Sinovac and Sinopharm shots in 2020, Beijing offered a $1 billion loan to Latin American nations to buy its vaccines. For some countries such as Honduras, a billion dollars is larger than the entire government budget. Many nations found the offer irresistible even though Chinese vaccines were more expensive and less effective than American ones and came with diplomatic strings attached. Early this spring, the Paraguayan government said Chinese institutions told them to cut ties with Taiwan as a condition for buying Beijing’s vaccines. Paraguay condemned the action and accused Chinese institutions of using the crisis to “satisfy petty, sectorial, interests” by manipulating smaller governments into doing what is economically and politically advantageous for China. Honduras has a long history of diplomacy with Taiwan, but President Juan Hernandez in May acknowledged he was considering opening a foreign trade office in China for the first time. The move would strain his country’s relations with Taiwan, but it would open the door for Honduras to buy Chinese vaccines. He said his impoverished country was struggling to get vaccines and would do whatever was necessary for the sake of the people. China has a track record of doing favors for Latin American countries to influence their foreign policy. Taiwanese diplomats claim that in 2018, Beijing offered the Dominican government $3.1 billion to cut ties with Taiwan. Jesús Ogando, a delegate in the Dominican Congress, confirmed China offered the Dominican Republic some kind of deal in 2018. “There has been since that occasion a better relationship between the Dominican government and the Chinese government, and a distancing from Taiwan,” he told me. China’s peddling of influence along with COVID-19 vaccines means people in Latin American countries might have missed out on more effective prevention. The World Health Organization has published various studies revealing **Sinovac’s comparative ineffectiveness** at stopping symptomatic infections after two doses. Phase III trials in Indonesia found Sinovac was 84 percent effective against symptomatic infection. Similar studies registered an effectiveness of 67 percent in Chile and 50.4 percent in Brazil. In comparison, the U.S.-made Pfizer and Moderna vaccines were about 95 percent effective against symptomatic coronavirus infections before the appearance of the delta variant. Since delta appeared, studies show varying effectiveness among the United States’ Pfizer and Moderna shots, which use mRNA technology, and vaccines made from inactive viruses such as Sinopharm, Sinovac, and Johnson & Johnson. A recent Mayo Clinic study, which is still awaiting review, suggested the effectiveness of vaccines by Moderna and Pfizer decreased to as low as 76 percent and 42 percent, respectively, among patients in Minnesota last month. Studies in Brazil and Bahrain found Sinopharm and Sinovac less protective against the delta variant than other vaccines. A study conducted in China by Chinese scientists during a delta outbreak found the two Chinese-made shots were 77 percent effective at preventing the coronavirus and 100 percent effective at preventing severe illness and death. “The truth is that everybody here wanted to get either Pfizer or Moderna vaccines,” said Pastor Alex Figueroa of Gracia Soberana Baptist Church in Santiago, Chile. “People got vaccinated with what was available, which was Sinovac.” Officials in Uruguay say Sinovac is helping stop COVID-19 there. While they concluded Sinovac was only 61 percent effective at preventing coronavirus cases, they found the Chinese vaccine helped reduce death and ICU admissions by 95 percent and 92 percent, respectively. Since early June, case and death rates in Uruguay have steadily declined.

#### Chinese influence ends the liberal order.

Cossu 7/16 [Elena; Early-stage researcher for the MSCA Innovative Training Network FATIGUE, PhD candidate in economics at Corvinus University of Budapest and recently finished her year as a visiting researcher at University College London and at the European Bank for Reconstruction and Development. Elena comes from a place culturally in between Germany and Italy. She has also had experience working in Greece, France, Latin America, Thailand, and Hungary. Elena is passionate about political and economic inequalities between states, and about understanding what prevents the political and economic convergence of different peripheries of the world; “In Latin America, Chinese vaccine diplomacy is directly challenging US’s declining authority,” Scroll.in; 7/16/21; <https://scroll.in/article/1000114/in-latin-america-chinese-vaccine-diplomacy-is-directly-challenging-uss-declining-authority>] Justin

It is impossible to enter a room these days without talking about Covid-19 vaccines. If, however, you happened to be talking to Latin Americans, you would notice an unusual pattern: considerable gratitude towards China for its vaccine rollout.

It is gratitude, moreover, that is very hard to find in Europe or the United States. The reason is simple: the number of vaccines provided by China to countries in need is truly impressive.

During a global vaccine shortage, China has been able to provide 252 million doses to the world. This includes the majority of total doses made available to Latin American countries.

Six national or regional entities can produce and distribute a consistent number of vaccines: Europe, the United States, China, South Korea and India. China has distributed the highest number, and almost half (42%) of these have gone outside its own country.

As of May, no other country can match this figure. Most countries are focused primarily on achieving their own herd immunity first.

Even more striking is the fact that the United States is exporting a mere 1% of its vaccines, almost solely to Canada and Mexico. In May, the US pledged to increase its exported doses by 100 million by the end of the year. Yet even if it had achieved this goal, it would not be even half of the Chinese figure. Chinese vaccine diplomacy in Latin America is challenging US authority in the region, at a time when US influence is in visible decline.

Declining ‘Washington Consensus’

The rationale behind American policy towards Latin America has long been that unstable neighbours (especially Communist ones) destabilise the region. In extreme cases, this has resulted in US involvement in various regime changes in Latin America. But the more frequently used mechanism of influence, especially since the end of the Cold War, has been economic diplomacy.

The main tool for this has been the infamous Washington Consensus. The logic of this was very simple: a state-led economic model is a bad thing. An “economist approved” liberal model should therefore solve all Latin America’s problems. It did not work out like that.

Despite good intentions, the International Monetary Fund and World Bank programmes did not alleviate Latin America’s problems. On the contrary, the Washington Consensus is often cited as having fuelled a resurgence of populism in Latin America. It is also held responsible for the succession of left-wing governments in the 1990s known as the Pink Tide.

Five of the nations subject to the Washington Consensus (Argentina, Brazil, Chile, Mexico and Venezuela) even displayed authoritarian tendencies. In the mid-2010s the region experienced a so-called Blue Tide: the rise of liberal governments to counterbalance the previous left-wing ones. This phenomenon was also considered a long-term consequence of the chronic failure of US economic diplomacy on the continent.

Today, Latin America still struggles with political instability and high levels of inequality. The United States’ top-down approach has failed. What is more, cooperation has dramatically declined because of the Trump administration’s approach and the US’s own internal problems.

Rising Chinese power

In this context, China has seen the Covid crisis as an opportunity to reinforce its ambitions as a rising power trying to exert more influence in the international order.

A scheduled $8 trillion for project infrastructure in sixty-eight countries through the New Silk Road programme vividly captures its approach. Brazil, Venezuela, Ecuador and Bolivia already have partnership projects with China and Mexico is considering joining one.

The US and Chinese tools for economic diplomacy are very similar in practice, yet fundamentally different in philosophy.

The US strategy is based on individualism: We as a nation will be the most economically successful by working hard to realise our individuality... We will export the idea that this is the best possible system through soft power and economic cooperation.

In contrast, Chinese economic diplomacy is an extension of a collective dream where individuals work hard to realise the success of the collectivity: everybody in their community and the world.

In the context of Latin America, this competition between two philosophical approaches is especially risky for the United States. Too many factors favour the Chinese way of thinking: the inward-looking diplomatic approach of the United States during the Trump administration; the perennial flirtation of some Latin American countries with various forms of socialism; and the failure of the US’s own economic and other (capitalist) strategies there.

Old international order

In this power vacuum, the rise of China during a crisis situation might push the world toward a new international bipolar order. Latin America’s enthusiasm for Chinese vaccines might constitute the first grouping of countries genuinely lost to US influence.

Latin America is not just showing an interest in vaccine rollout. It is also showing how the old dichotomy of capitalism versus socialism is becoming increasingly redundant in some parts of the world.

Analogous to the fading of the US-Russia dichotomy, rising Chinese influence in Latin America shows countries becoming more open-minded towards different economic and social narratives. They are less concerned with “good” and “bad” and more concerned with the concrete opportunities different choices offer.

#### Collapse of the liberal order causes extinction.

Yulis 17 [Max; Major in PoliSci, Penn Political Review; “In Defense of Liberal Internationalism,” Penn Political Review; 4/8/17; <http://pennpoliticalreview.org/2017/04/in-defense-of-liberal-internationalism/>] // Re-Cut Justin

Over the past decade, international headlines have been bombarded with stories about the unraveling of the post-Cold War world order, the creation of revolutionary smart devices and military technologies, the rise of militant jihadist organizations, and nuclear proliferation. Indeed, times are paradoxically promising and alarming. In relation to treating the world’s ills, fortunately, there is a capable hegemon– one that has the ability to revive the world order and traditionally hallmarked human rights, peace, and democracy. The United States, with all of its shortcomings, had crafted an international agenda that significantly impacted the post-WWII landscape. Countries invested their ambitions into security communities, international institutions, and international law in an effort to mitigate the chances of a nuclear catastrophe or another World War. The horrors and atrocities of the two Great Wars had traumatized the global community, which spurred calls for peace and the creation of a universalist agenda. Today, the world’s fickle and declining hegemon still has the ability, but not the will, to uphold the world order that it had so carefully and eagerly helped construct. Now, the stakes are too high, and there must be a mighty and willing global leader to lead the effort of diffusing democratic ideals and reinforcing stability through both military and diplomatic means. To do this, the United States must abandon its insurgent wave of isolationism and protectionism, and come to grips with the newly transnational nature of problems ranging from climate change to international terrorism.

First, the increase in intra-state conflict should warrant concern as many countries, namely in Africa and the Middle East, are seeing the total collapse of civil society and government. These power vacuums are being filled with increasingly ideological and dangerous tribal and non-state actors, such as Boko Haram, ISIS, and Al-Shabaab. Other bloody civil wars in Rwanda, Sudan, and the Congo have contributed to the deaths of millions in the past two decades. As the West has seen, however, military intervention has not been all that successful in building and empowering democratic institutions in the Far East. A civil crusade, along with the strengthening of international institutions, may in fact be the answer to undoing tribal, religious, and sectarian divisions, thereby mitigating the prospects of civil conflict. During the Wilsonian era, missionaries did their part to internationalize the concept of higher education, which has contributed to the growth of universities in formerly underdeveloped countries such as China and South Korea.[1] In addition, the teachings of missionaries emphasized the universality of humanity and the oneness of man, which was antithetical to the justifications for imperialism and the rampant sectarianism that plagued much of the Middle East and Africa.[2] Seeing that an increase in the magnitude of human casualty is becoming more of a reality due to advancements in military technology and the increasing outbreaks of civil war, international cooperation and the diffusion of norms that highlight the importance of stable governance, democracy, and human rights is the only recourse to address the rise in sectarian divides and civil conflicts. So long as the trend of the West’s desire to look inward continues, it is likely that nation states mired in conflict will devolve into ethnic or tribal enclaves bent on relying on war to maintain their legitimacy and power. Aside from growing sectarianism and the increasing prevalence of failed states, an even more daunting threat come from weapons that transcend the costs of conventional warfare.

The problem of nuclear proliferation has been around for decades, and on the eve of President Trump’s inauguration, it appeared that Obama’s lofty goal of advocating for nonproliferation would no longer be a priority of American foreign policy.[3] In addition, now that the American president is threatening to undo much of the United States’ extensive network of alliances, formerly non-nuclear states may be forced to rearm themselves. Disarmament is central to liberal internationalism, as was apparent by the Washington Naval Treaty advocated by Wilson, and by the modern CTBT treaty. The reverse is, however, being seen in the modern era, with cries coming from Japan and South Korea to remobilize and begin their own nuclear weapon programs.[4] A world with more nuclear actors is a formula for chaos, especially if nuclear weapons become mass-produced. Non-state actors will increasingly eye these nuclear sites as was the case near a Belgian nuclear power plant just over a year ago.[5] If any government commits a serious misstep, access to nuclear weapons on the behalf of terrorist and insurgent groups will become a reality, especially if a civil war occurs. States with nuclear weapons require domestic stability and strong security, which is why states such as Israel, North Korea, and Pakistan could be in serious trouble in the event of a domestic uprising or military coup. The disarmament of all states is essential for human survival, and if it is not achieved, then a world full of nuclear weapons and an international system guided by realpolitik could give rise to nuclear warfare. In today’s world, nuclear weapons leave all states virtually defenseless. But, for nuclear deproliferation to become a cornerstone of the global agenda, a pacifying and democratic power must rise to the limelight to advocate the virtues of peace, stability, and human rights.

#### Yes transition wars---both sides miscalculate.

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Underlying these arguments for an inevitable war between the two superpowers is PTT. PTT originally formulated by Organski (1958) posits that **war is likely** when the power of the dominant state in the international system (i.e. hegemon) is **declining** and that a dissatisfied rising challenger **substantially reduces the power gap between the hegemon and itself**. Unlike balance of power theory, PTT argues that the war is most likely when there is near power parity between a dominant state and a rising and dissatisfied challenger (Organski and Kugler, 1980, pp. 19-20)[5]. A rising power here is generally dissatisfied with the existing international order and **initiates war against a declining hegemon in order to impose orders that are more favorable to itself** (Organski 1958, pp. 364-367). Layne (2018, p. 110) put these power transition dynamics quite succinctly as follows: “Over time, however, the relative power of states changes, and eventually the international order no longer reflects the actual distribution of power between or among the leading Great Powers. When that happens, the legitimacy of the prevailing order is called into question, and it will be challenged by the rising power(s).” And when the balance of power between a dominant state and a rising challenger changes sufficiently, a new order replaces an old one typically **by a hegemonic war** (2018, p. 104). Paying close attention to the **growing Sino–US competition** over hegemony in the twenty-first century, therefore, Shirk (2007, p. 4), China specialist, argues that “History teaches us that rising powers are likely to provoke war.” On the other hand, scholars like Gilpin (1981) contend that the power transition war between great powers is likely to occur when a hegemonic state whose power is declining due to imperial overstretch[6] views “**preventive war as the most attractive means of eliminating the threat** posed by challengers” (Ned Lebow and Valentino, 2009, p. 391), although they do acknowledge that there might be some “ways to prolong the period of its power preponderance vis-à-vis the rising challenger, so that the rapidly rising power will not dare to challenge the hegemonic leadership” (Kim and Gates, 2015, p. 221). In this case, the initiator of war is a declining hegemon, rather than a rising challenger. The declining hegemon who fears a rising challenger’s overtaking its power in the near future **sees war as a better option** than other options of maintaining its hegemony such as reducing its commitments abroad and appeasing a rising challenger.

#### Chinese diplomatic influence escalates.

Brands 20 [Hal; Henry A. Kissinger Distinguished Professor of Global Affairs at the Johns Hopkins School of Advanced International Studies (SAIS), a resident scholar at the American Enterprise Institute, and a Bloomberg Opinion columnist; “Don’t Let Great Powers Carve Up the World Spheres of Influence Are Unnecessary and Dangerous,” Foreign Affairs; 4/20/20; https://www.foreignaffairs.com/articles/china/2020-04-20/dont-let-great-powers-carve-world] Justin

Opposition to spheres of influence, in other words, is a part of U.S. diplomatic DNA. The reason for this, Charles Edel and I argued in 2018, is that spheres of influence clash with fundamental tenets of U.S. foreign policy. Among them is the United States’ approach to security, which holds that safeguarding the country’s vital interests and physical well-being requires preventing rival powers from establishing a foothold in the Western Hemisphere or dominating strategically important regions overseas. Likewise, the United States’ emphasis on promoting liberty and free trade translates to a concern that spheres of influence—particularly those dominated by authoritarian powers—would impede the spread of U.S. values and allow hostile powers to block American trade and investment. Finally, spheres of influence do not mesh well with American exceptionalism—the notion that the United States should transcend the old, corrupt ways of balance-of-power diplomacy and establish a more humane, democratic system of international relations.

Of course, that intellectual tradition did not stop the United States from building its own sphere of influence in Latin America from the early nineteenth century onward, nor did it prevent it from drawing large chunks of Europe, East Asia, and the Middle East into a global sphere of influence after World War II. Yet the same tradition has led the United States to run its sphere of influence far more progressively than past great powers, which is why far more countries have sought to join that sphere than to leave it. And since hypocrisy is another venerable tradition in global affairs, it is not surprising that Americans would establish their own, relatively enlightened sphere of influence while denying the legitimacy of everyone else’s.

That endeavor reached its zenith in the post–Cold War era, when the collapse of the Soviet bloc made it possible to envision a world in which Washington’s sphere of influence—also known as the liberal international order—was the only game in town. The United States maintained a world-beating military that could intervene around the globe; preserved and expanded a global alliance structure as a check on aggression; and sought to integrate potential challengers, namely Beijing and Moscow, into a U.S.-led system. It was a remarkably ambitious project, as Allison rightly notes, but it was the culmination of, rather than a departure from, a diplomatic tradition reaching back two centuries.

GIVE THEM AN INCH…

The post–Cold War moment is over, and the prospect of a divided world has returned. Russia is projecting power in the Middle East and staking a claim to dominance in its “near abroad.” China is seeking primacy in the western Pacific and Southeast Asia and using its diplomatic and economic influence to draw countries around the world more tightly into its orbit. Both have developed the tools needed to coerce their neighbors and keep U.S. forces at bay.

Allison is one of several analysts who have recently advanced the argument that the United States should make a virtue of necessity—that it should accept Russian and Chinese spheres of influence, encompassing some portion of eastern Europe and the western Pacific, as the price of stability and peace. The logic is twofold: first, to create a cleaner separation between contending parties by clearly marking where one’s influence ends and the other’s begins; and second, to reduce the chances of conflict by giving rising or resurgent powers a safe zone along their borders. In theory, this seems like a reasonable way of preventing competition from turning into outright conflict, especially given that countries such as Taiwan and the Baltic states lie thousands of miles from the United States but on the doorsteps of its rivals. Yet in reality, a spheres-of-influence world would bring more peril than safety.

Russia’s and China’s spheres of influence would inevitably be domains of coercion and authoritarianism. Both countries are run by illiberal, autocratic regimes; their leaders see democratic values as profoundly threatening to their political survival. If Moscow and Beijing dominated their respective neighborhoods, they would naturally seek to undermine democratic governments that resist their control—as China is already doing in Taiwan and as Russia is doing in Ukraine—or that challenge, through their very existence, the legitimacy of authoritarian rule. The practical consequence of acceding to authoritarian spheres of influence would be to intensify the crisis of democracy that afflicts the world today.

The United States would suffer economically, too. China, in particular, is a mercantilist power already working to turn Asian economies toward Beijing and could one day put the United States at a severe disadvantage on the world’s most economically dynamic continent. Washington should not concede a Chinese sphere of influence unless it is also willing to compromise the “Open Door” principles that have animated its statecraft for over a century.

Such costs might be acceptable in exchange for peace and security. But spheres of influence during the Cold War did not prevent the Soviets from repeatedly testing American redlines in Berlin, causing high-stakes crises in which nuclear war was a real possibility. Nor did those spheres prevent the two sides from competing sharply, and sometimes violently, throughout the “Third World.” Throughout history, spheres-of-influence settlements, from the Thirty Years’ Peace between Athens and Sparta to the Peace of Amiens between the United Kingdom and Napoleonic France have often ended, sooner or later, in war.

### 1AC – Adv – Pandemics

#### Only the plan can solve covid access – inequalities heighten the risk of mutations and uneven development – neg objections miss the boat.

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According to Duke Global Health Innovation Center, which monitors COVID-19 vaccine purchases, rich nations representing just 14 per cent of the world population have bought up to 53 per cent of the most promising vaccines so far. As of 4 July 2021, the high-income countries (HICs) purchased more than half (6.16 billion) vaccine doses sold globally. At the same time, the low-income countries (LICs) received only 0.3 per cent of the vaccines produced. The low and middle-income countries (LMICs), which account for 81 per cent of the global adult population, purchased 33 per cent, and COVAX (COVID-19 Vaccines Global Access) has received 13 per cent.10 Many HICs bought enough doses to vaccinate their populations several times over. For instance, Canada procured 10.45 doses per person, while the UK, EU and the US procured 8.18, 6.89, and 4.60 doses per inhabitant, respectively.11 Consequently, there is a significant disparity between HICs and LICs in vaccine administration as well. As of 8 July 2021, 3.32 billion vaccine doses had been administered globally.12 Nonetheless, only one per cent of people in LICs have been given at least one dose. While in HICs almost one in four people have received the vaccine, in LICs, it is one in more than 500. The World Health Organization (WHO) notes that about 90 per cent of African countries will miss the September target to vaccinate at least 10 per cent of their populations as a third wave looms on the continent.13 South Africa, the most affected African country, for instance, has vaccinated less than two per cent of its population of about 59 million. This is in contrast with the US where almost 47.5 per cent of the population of more than 330 million has been fully vaccinated. In Sub-Saharan Africa, vaccine rollout remains the slowest in the world. According to the International Monetary Fund (IMF), at current rates, by the end of 2021, a massive global inequity will continue to exist, with Africa still experiencing meagre vaccination rates while other parts of the world move much closer to complete vaccination.14 This vaccine inequity is not only morally indefensible but also clinically counter-productive. If this situation prevails, LICs could be waiting until 2025 for vaccinating half of their people. Allowing most of the world’s population to go unvaccinated will also spawn new virus mutations, more contagious viruses leading to a steep rise in COVID-19 cases. Such a scenario could cause twice as many deaths as against distributing them globally, on a priority basis. Preventing this humanitarian catastrophe requires removing all barriers to the production and distribution of vaccines. TRIPS is one such barrier that prevents vaccine production in LMICs and hence its equitable distribution. TRIPS: Barrier to Equitable Health Care Access The opponents of the waiver proposal argue that IPR are not a significant barrier to equitable access to health care, and existing TRIPS flexibilities are sufficient to address the COVID-19 pandemic. However, history suggests the contrary. For instance, when South Africa passed the Medicines and Related Substances Act of 1997 to address the HIV/AIDS public health crisis, nearly 40 of world’s largest and influential pharma companies took the South African government to court over the violation of TRIPS. The Act, which invoked the compulsory licensing provision, allowed South Africa to produce affordable generic drugs.15 The Big Pharma also lobbied developed countries, particularly the US, to put bilateral trade sanctions against South Africa.16 Similarly, when Indian company Cipla decided to provide generic antiretrovirals (ARVs) to the African market at a lower cost, Big Pharma retaliated through patent litigations in Indian and international trade courts and branded Indian drug companies as thieves.17 Another instance was when Swiss company Roche initiated patent infringement proceedings against Cipla’s decision to launch a generic version of cancer drug, “erlotinib”. Though the Delhi High Court initially dismissed Roche's appeal by citing “public interest” and “affordability of medicines,” the continued to pressure the generic pharma companies over IPR. 18 Likewise, Pfizer’s aggressive patenting strategy prevented South Korea in developing pneumonia vaccines for children.19 A recent document by Médecins Sans Frontières (MSF), or Doctors Without Borders, highlights various instances of how IP hinders manufacturing and supply of diagnostics, medical equipment, treatments and vaccines during the COVID-19 pandemic. For instance, during the peak of the COVID-19 first wave in Europe, Roche rejected a request from the Netherlands to release the recipe of key chemical reagents needed to increase the production of diagnostic kits. Another example was patent holders threatening producers of 3D printing ventilators with patent infringement lawsuits in Italy.20 The MSF also found that patents pose a severe threat to access to affordable versions of newer vaccines.21 The opponents of the TRIPS waiver also argue that IP is the incentive for innovation and if it is undermined, future innovation will suffer. However, most of the COVID-19 medical innovations, particularly vaccines, are developed with public financing assistance. Governments spent billions of dollars for COVID-19 vaccine research. Notably, out of $6.1 billion in investment tracked up to July 2021, 98.12 per cent was public funding.22 The US and Germany are the largest investors in vaccine R&D with $2.2 billion and $1.5 billion funding. Private companies received 94.6 per cent of this funding; Moderna received the highest $956.3 million and Janssen $910.6 million. Moreover, governments also invested $50.9 billion for advance purchase agreements (APAs) as an incentive for vaccine development. A recent IMF working paper also notes that public research institutions were a key driver of the COVID-19 R&D effort—accounting for 70 per cent of all COVID-19 clinical trials globally.23 The argument is that vaccines are developed with the support of substantial public financing, hence there is a public right to the scientific achievements. Moreover, private companies reaped billions in profits from COVID-19 vaccines. One could argue that since the US, Germany and other HICs are spending money, their citizens are entitled to get vaccines first, hence vaccine nationalism is morally defensible. Nonetheless, it is not the case. The TRIPS Agreement includes several provisions which mandates promotion of technology transfer from developed countries to LDCs. For instance, Article 7 states that "the protection and enforcement of IP rights should contribute to the promotion of technological innovation and the transfer and dissemination of technology, to the mutual advantage of producers and users of technical knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations."24 Similarly, Article 66.2 also mandates the developed countries to transfer technologies to LDCs to enable them to create a sound and viable technological base. The LMICs opened their markets and amended domestic patent laws favouring developing countries’ products against this promise of technology transfer. Another argument against the proposed TRIPS waiver is that a waiver would not increase the manufacturing of COVID-19 vaccines. Indeed, one of the significant factors contributing to vaccine inequity is the lack of manufacturing capacity in the global south. Further, a TRIPS waiver will not automatically translate into improved manufacturing capacity. However, a waiver would be the first but essential step to increase manufacturing capacity worldwide. For instance, to export COVID-19 vaccine-related products, countries need to ensure that there are no IP restrictions at both ends – exporting and importing. The market for vaccine materials includes consumables, single-use reactors bags, filters, culture media, and vaccine ingredients. Export blockages on raw materials, equipment and finished products harm the overall output of the vaccine supply chain. If there is no TRIPS restriction, more governments and companies will invest in repurposing their facilities. Similarly, the arguments such as that no other manufacturers can carry out the complex manufacturing process of COVID-19 vaccines and generic manufacturing as that would jeopardise quality, have also been proven wrong in the past. For instance, in the early 1990s, when Indian company Shantha Biotechnics approached a Western firm for a technology transfer of Hepatitis B vaccine, the firm responded that “India cannot afford such high technology vaccines… And even if you can afford to buy the technology, your scientists cannot understand recombinant technology in the least.”25 Later, Shantha Biotechnics developed its own vaccine at $1 per dose, and the UNICEF (United Nations Children’s Emergency Fund) mass inoculation programme uses this vaccine against Hepatitis B. In 2009, Shantha sold over 120 million doses of vaccines globally. India also produces high-quality generic drugs for HIV/AIDS and cancer treatment and markets them across the globe. Now, a couple of Indian companies are in the last stage of producing mRNA (Messenger RNA) vaccines.26 Similarly, Bangladesh and Indonesia claimed that they could manufacture millions of COVID-19 vaccine doses a year if pharmaceutical companies share the know-how.27 Recently, Vietnam also said that the country could satisfy COVID-19 vaccine production requirements once it obtains vaccine patents.28 Countries like the United Arab Emirates (UAE), Turkey, Cuba, Brazil, Argentina and South Korea have the capacity to produce high-quality vaccines but lack technologies and know-how. However, Africa, Egypt, Morocco, Senegal, South Africa and Tunisia have limited manufacturing capacities, which could also produce COVID-19 vaccines after repurposing. Moreover, COVID-19 vaccine IPR runs across the entire value chain – vaccine development, production, use, etc. A mere patent waiver may not be enough to address the issues related to its production and distribution. What is more important here is to share the technical know-how and information such as trade secrets. Therefore, the existing TRIPS flexibilities, such as compulsory and voluntary licensing, are insufficient to address this crisis. Further, compulsory licensing and the domestic legal procedures it requires is cumbersome and not expedient in a public health crisis like the COVID-19 pandemic. India’s Role in Ensuring Vaccine Equity India's response to COVID-19 at the global level was primarily two-fold. First, its proactive engagements in the regional and international platforms. Second, its policies and programmes to provide therapeutics and vaccines to the world. Since the beginning of the COVID-19 pandemic, India has been advocating international cooperation and policy coordination in fighting it. For instance, in April 2020, India co-sponsored a UN resolution that called for fair and equitable access to essential medical supplies and future vaccines to COVID-19. Later, in October 2020, India also put pressure on developed countries with a joint WTO proposal for TRIPS waiver. India’s Vaccine Maitri initiative also aims vaccine equity. As of 29 May 2021, India has supplied 663.698 lakh doses of COVID-19 vaccines to 95 countries. It includes 107.15 lakh doses as a gift to more than 45 countries, 357.92 lakh doses by commercial sales, and 198.628 lakh doses to the COVAX facility.29 The COVAX initiative aims to ensure rapid and equitable access to COVID-19 vaccines for all countries, regardless of their income level. India has decided to supply 10 million doses of the vaccine to Africa and one million to the UN health workers under the COVAX facility. India has also removed the IPR of Covaxin that would help platforms like C-TAP once WHO and developed countries’ regulatory bodies approve the vaccine. If agreed, the waiver would benefit India in many ways. First, more vaccines will help the country to control the pandemic and its recurring waves. Second, it will be a boost to India's pharma industry, particularly the generic medicine industry. According to the Biotechnology Innovation Organization, 834 unique active compounds are involved in the current R&D of COVID-19 therapeutics, vaccines, and diagnostics. It means that thousands of new patents are awaited, and that will hinder India's ability to produce COVID-19 related medical products. Only through a waiver, this challenge can be addressed. Similarly, scientists note that mRNA is the future of vaccine technology. However, manufacturing mRNA vaccines involves complex processes and procedures. Only a very few Indian manufacturers have access to this technology; however, that too is limited. Once Indian companies have access to mRNA technology, it will help country’s generic medicine industry and boost India’s economy. Therefore, even if the WTO agrees on a waiver for a period shorter than proposed, India should accept it. In addition, mRNA vaccines can be produced in lesser time compared to the traditional vaccines. While traditional vaccines’ production takes four to five months, mRNA needs only six to eight weeks. Access to this technology will be vital for India in expediting the fight against COVID-19 and future pandemics. Finally, a waiver may strengthen India's diplomatic soft power. At present, what hinders India's Vaccine Maitri initiative is the scarcity of vaccines at home. On the other hand, China is increasing its standing in Africa, South America and the Pacific through vaccine diplomacy. The WHO approval of the Chinese vaccines and lack of access to vaccines by most developing countries, opens up huge space for China to do its vaccine diplomacy. Here, India should convince its Quad partners, particularly Australia and Japan, who oppose the waiver that vaccine production in developing countries through TRIPS waiver will enable the grouping to deliver its pledged billion doses of COVID-19 vaccine in the Indo-Pacific region. In short, the proposed waiver, if agreed, will help India in addressing the public health crisis by producing more vaccines and distributing them at home; economically, by boosting its generic pharmaceutical industry, and diplomatically, providing vaccines to the developing and least-developed countries. Therefore, India should use all available means and methods, from trade-offs to pressurising, to make the waiver happen.

#### Yes scale-up for covid.

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Currently many idle suppliers can’t begin vaccine production until they upgrade and repurpose existing manufacturing capacity for new technology. Opponents often argue that this step is the true barrier to rapid scale-up. One high-profile detractor, BIO President and CEO Michelle McMurry-Heath, argues that “handing [needy countries] the blueprint to construct a kitchen that — in optimal conditions — can take a year to build will not help us stop the emergence of dangerous new Covid variants.”

This argument ignores two core truths: In many cases, manufacturing capacity needs only repurposing which can take mere months. And Covid-19, at the current global response and vaccination rates, will be a threat for years.

Both truths suggest that we pass the blueprint and build the kitchen.

Facilitating structures to transfer technology and capacity are already in place. The WHO launched the mRNA technology transfer hub model last month to provide manufacturers in low- and middle-income countries with the financial, training, and logistical support needed to scale up vaccine manufacturing capacity. Scores of manufacturers in these countries have already expressed interest. This initiative, however, requires recipient manufacturers to acquire the IP necessary for mRNA technologies— which is currently missing.

#### Independently strategic patenting harms innovation incentives during pandemics – encourages reproduction of generics and decrease breakthroughs.

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As the COVID-19 pandemic is sweeping through the world, thousands of people urgently need access to affordable medicines. Based on past experience of treatments for other life-threatening diseases, there is a fear that access to any vaccines and treatment that may be developed in the future will be affected by patents, leading to unaffordably high prices. However, the problem of high drug prices is not new. It had been inflating healthcare budgets and posing a serious risk to the affordability and accessibility of medicines for society well before the pandemic.Footnote3 This problem is further exacerbated by the fact that, despite the alleged surge in investments into pharmaceutical R&D, current statistics indicate that the number of new breakthrough medicines is decreasing.Footnote4 On the other hand, the number of drugs that contain modifications of existing medicines is growing, demonstrating that pharmaceutical companies have been increasingly focusing their research on incremental drug development, rather than on breakthrough innovation.Footnote5 Various reasons for high drug prices and the growing focus on incremental innovation are put forward by pharmaceutical companies, including the complexity of drug discovery and development, as well as the expensive and lengthy regulatory procedures involved.Footnote6 While these reasons play an important role in this regard, some practices by pharmaceutical companies substantially contribute to this problem.Footnote7 In particular, pharmaceutical companies have been increasingly engaging in strategic patenting to delay or even block generic competition.Footnote8 These practices attracted the attention of the European Commission, which discussed them more than a decade ago in its 2009 Pharmaceutical Sector Inquiry Report.Footnote9 The Commission identified a series of patent strategies which it described as aiming “to extend the breadth and duration of [originators’] patent protection”Footnote10 and “to delay or block the market entry of generic medicine”.Footnote11 Such findings have fuelled debates as to whether these strategies may be deemed unlawful and violate EU competition rules, while also being justifiable business practices under patent law. Until today, no agreement has been reached either on the legality of these practices, or on an efficient legal tool to assess them. As a result, despite there being solid evidence that such strategies may block generic competition, allowing originators to maintain artificially high drug prices and preventing patients from accessing cheaper generics, they remain outside the ambit of the Commission’s activities. Instead, the Commission has been focusing on more straightforward patent-related practices, such as reverse payment agreements. This article argues that strategic patenting by pharmaceutical companies requires a long-overdue intervention by competition authorities. It aims to attract their attention to the harmful effects of strategic patenting. Specifically, it will contest the argument traditionally put forward by originator pharmaceutical companies that the intervention of competition law into patenting practices will reduce their incentives to innovate. The paper will argue to the contrary that, along with a more immediate negative effect in the form of high drug prices that is widely explored in the literature,Footnote12 strategic patenting also affects dynamic competition by stifling innovation. Importantly, it will be explained that the assessment of the effect of this practice should focus not only on innovation by originators, but should also take a wider market perspective by assessing its effect on follow-on innovation by generic companies. The latter argument is often overlooked. The paper will outline the current approach to strategic patenting that considers this practice lawful, and will provide arguments for the intervention of competition law. This, in turn, will open the possibility for competition authorities to investigate this practice in order to prevent its harmful effect on innovation and consumer welfare. Moreover, while patent law may provide certain mechanisms to deal with strategic patenting, such as raising the bar for patentability of pharmaceutical follow-on inventions,Footnote13 these tools may not be effective in all cases. Therefore, as will be explained further, competition law may be a more suitable tool to address the negative effects of strategic patenting.Footnote14 The article will be organised as follows. It will first discuss the complex structure of the pharmaceutical industry, focusing on its key players for the purpose of this article: originators and generic companies. It will further explore patenting practices employed by pharmaceutical companies and will define the notion of strategic patenting. The article will then argue that the latter strategy is against the rationale of patent and competition laws, as it stifles competition by impairing incentives to innovate of both originators and generic companies. Finally, it will discuss the current approach to strategic patenting that considers this practice lawful, and will argue that it should be subject to scrutiny under the rules of competition law, to address its negative effects. Pharmaceutical Innovation and Generic Competition in the Pharmaceutical Industry The pharmaceutical industry is unique in its complexity. It is characterised by heavy state regulation and, sometimes, by the competing interests of the pharmaceutical business and society. It also involves multiple actors, including originators,Footnote15 marketing authorisation bodies, generic companies,Footnote16 doctors, pharmacies and patients. Each of them plays their part in the lengthy and complicated process of transforming a chemical compound into an effective and affordable medicine, which is then prescribed, dispensed and consumed. In these complex relationships, the two key players have crucial roles. On the one hand, originators play an important role in developing new and improved medicines for the benefit of society. On the other hand, generic companies benefit society by supplying cheaper equivalents of the originators’ medicines, which leads to the reduction of drug prices and facilitates access to affordable medicines. When the interests of these two players are kept in balance, benefits are maximised for society, which receives innovative and improved medicines, as well as timely access to generic drugs. However, if the balance swings towards one of the players, then society loses out, as there will be insufficient access to either innovative or affordable medicines. Therefore, both pharmaceutical innovation and generic competition must be duly incentivised and protected. Moreover, these two elements of the pharmaceutical industry are constantly interacting and have a profound impact on each other. In particular, pharmaceutical innovation is the backbone of the pharmaceutical industry, in which originators play an important role. The process of drug development is long and complicated, requires significant investments, and bears considerable commercial risks.Footnote17 It is also highly regulated, including, among other things, the requirement for originators to obtain a special authorisation from a designated state authority to market a drug. Such marketing authorisations are granted to the originators only if they can prove that the drug is safe and effective, which typically requires lengthy and expensive clinical trials.Footnote18 In order to protect these significant efforts and investments, pharmaceutical companies rely heavily on the exclusivity granted by intellectual property rights, and in particular, patents.Footnote19 Patents provide a 20-year monopoly right, during which a pharmaceutical company enjoys market exclusivity and can charge a monopoly price for its products. Originators argue that strong patent protection is essential in order to recoup investments, as well as to incentivise them to engage in further innovation.Footnote20 Once such patent protection expires, however, other companies may develop generics of a branded drug, and start competing with the originator for the market. This is called generic competition. Generic drugs are bioequivalent versions of a branded drug that has lost its patent protection.Footnote21 It is estimated that the generic entry typically leads to, on average, an 80 per cent market share loss and a 20–30 per cent reduction of a drug price, with further price decreases with each additional generic entrant, leading, in some instances, to a fall in price of up to 90 per cent.Footnote22 A representative example of the effect of generic competition on the originators’ drug prices is the significant decrease in price and dramatic loss of profits by Eli Lilly. The expiration of a patent protecting its blockbusterFootnote23 antidepressant Prozac in 2001 resulted in a loss of almost 70 per cent of its market and $2.4 billion in annual U.S. sales.Footnote24 This effect of generic competition is beneficial for society, as it reduces the financial pressure on healthcare budgets and increases the accessibility of drugs. Patenting Practices by Pharmaceutical Companies As was mentioned above, generic competition is prevented during the life of a patent protecting an active compound of a drug (a so-called “basic” or “primary” patent).Footnote25 Such a basic patent covers an active ingredient itself and, therefore, provides the strongest protection for the product. Therefore, generic competition normally starts only after the basic patent expires, or if a generic company succeeds in invalidating it. While in the past pharmaceutical companies mainly protected their products with a single patent covering an active compound,Footnote26 they now increasingly seek additional patent protection on various aspects of a drugFootnote27 in order to protect their market position.Footnote28 Such additional patents are often called secondary patents.Footnote29 A pharmaceutical company may want to obtain secondary patents, which protect such aspects of a drug as, for example, its process of manufacture, formulation and/or specific form, etc. Therefore, even after the basic patent protecting an active compound expires, a drug may still be protected by other secondary patents. This may result in the extension of the scope and length of the protection of a product, especially if secondary patents have a later expiration date than a basic patent.Footnote30 This, in particular, may occur if, for example, the process of producing an active compound disclosed in the basic patent is sufficient only for reproducing this compound in a laboratory, but it is unsuitable for producing it on a large commercial scale.Footnote31 If the originator was able to secure a secondary patent that protects such a large scale manufacturing process, it would prevent generics from using this process for producing their generic versions of a drug; otherwise they would risk infringing this secondary patent.Footnote32 However, a unique feature of pharmaceuticals is that an active ingredient can be manufactured using different methods and processes, can exist in different forms or can be used in different formulations. Therefore, when a basic patent on an active ingredient expires, other companies can develop alternative methods of production, forms or formulations of this active compound and start competing with the originator company.Footnote33 While such patenting strategies by originators are lawful in principle, some of them may be problematic. In particular, in anticipation of the loss of patent protection, originators may engage in strategic patenting which artificially prevents generic competition and results in an extension of their market monopoly.Footnote34 Defining Strategic Patenting In its Sector Inquiry Report, the European Commission explained that the drug development process consists of three main stages: (i) the R&D stage, which ends with the launch of a drug on the market; (ii) the period between the launch and the patent expiry; and (iii) the period after the patent expiration, when generics can enter the market.Footnote35 During the second stage, i.e. after the launch of a drug, originators seek to maximise their income from the product in order to recoup their R&D investments and earn profits before the commencement of generic competition.Footnote36 It is also during this stage that pharmaceutical companies seek to prolong their market exclusivity. In recent years, pharmaceutical companies have been increasingly relying on the strategic use of the patent system to combat the pressure of generic competition. Such practices are often called “life cycle management” by originators and proponents of the practice. For example, as Burdon and Sloper explained, “[a] key element of any life cycle management strategy … is to extend patent protection beyond the basic patent term for as long as possible, by filing secondary patents which are effective to keep generics off the market”.Footnote37 However, critics have characterised the practice as “evergreening”,Footnote38 as it essentially evergreens the patent protection and the exclusivity of a product.Footnote39 For instance, Bansal et al. explain that evergreening “refers to different ways wherein patent owners take undue advantage of the law and associated regulatory processes to extend their IP monopoly, particularly over highly lucrative ‘blockbuster’ drugs, by filing disguised/artful patents on an already patent-protected invention shortly before expiry of the ‘parent’ patent”.Footnote40 During its investigation into the pharmaceutical industry, the European Commission found that the number of patents granted and pending applications significantly increases with the value of a drug, i.e. “blockbuster medicines can even be protected by up to nearly 100 INNFootnote41-specific EPO patented bundles and applications …, which in one particular case led to 1,300 patents and applications across all the EU Member States”.Footnote42 The Commission also found that the ratio of primary to secondary patents is 1:7, where the latter “mostly concern formulations, processes and non-formulation products…, such as salts, polymorphic forms, particles, solvates and hydrates”.Footnote43 As a result, the Commission concluded that the practice of “maximising patent coverage in such a way is the creation of a web of patents”, which affects the generics’ ability to “develop a generic version of the medicine in form of a salt, crystalline or amorphous form”, because it “would inevitably infringe a patent (for example, a patent for the relevant salt, crystalline or amorphous form of the medicine)”.Footnote44 Each of such patents would typically have a later expiration date, which effectively extends a period of market exclusivity beyond the expiration of a basic patent.Footnote45 In addition, most of these patents that protect such follow-on modifications are so-called “sleeping” patents, i.e. patents which a company has no intention of commercialising.Footnote46 Moreover, such modifications may provide little or no therapeutic benefits to the patient compared to the original drug.Footnote47 Nevertheless, such patents allow originators to secure the most efficient, broadest and longest possible protection for their successful products.Footnote48 The denser the web of secondary patents, the more difficult it is for generics to develop their generic equivalents, even if they know that only a few patents of a large portfolio would, in fact, be valid and infringed by their products.Footnote49 Despite such knowledge, it is impossible to be certain before introducing a generic whether this will be the case and, thus, whether the generic company will be subject to injunctions preventing the sale of their generic products.Footnote50 Such practice, therefore, provides an appreciable competitive advantage for originators by creating a significant legal and commercial uncertainty for generics in relation to the possibility of their market entry.Footnote51 This paper argues that such a strategic use of the patent system by pharmaceutical companies is against the shared goal of patent and competition laws of facilitating innovation for the benefit of society. As will be explained further, in addition to a more immediate negative effect in the form of high drug prices, strategic patenting may also impair innovation by reducing originators’ incentives to innovate, and affecting generics’ ability to develop alternative generic products. Strategic patenting, therefore, may enable originators to avoid competitive pressures by preventing generic competition without a need to engage in genuine innovation. Strategic Patenting Contradicts the Rationale of the Patent System and Competition Law In the competitive markets, the success of a company is based on its business performance.Footnote52 In order to compete on performance by “offering better quality and a wider choice of new and improved goods and services”Footnote53 firms must innovate. Realising the importance of protecting innovation, which is considered to be the main driver of economic growth,Footnote54 states have put in place various mechanisms to ensure a suitable environment for its advancement. These include granting the property rights to the results of innovation in the form of patents, as well as implementing competition law rules to stimulate dynamic competition.Footnote55 Specifically, one of the main justifications for the patent system is the encouragement of innovationFootnote56 that serves as an engine for economic growth and development.Footnote57 The patent system pursues this aim by offering the patent owners a period of exclusive rights as a reward for their innovative efforts and an incentive to engage in further innovation.Footnote58 Therefore, intellectual property rules, and patents in particular, are seen as an essential element of undistorted competition on the internal market.Footnote59 These exclusive rights are considered to be a necessary incentive to invest in R&D and innovation, particularly in such sectors as pharmaceuticals, where the R&D costs are high, but the costs of copying the R&D results are marginal.Footnote60 At the same time, the “innovation theory”, embodied in the EU competition law rules and policy, is designed to stimulate innovation by fostering competition on the markets.Footnote61 The competition law rules keep markets innovative by maintaining effective competition through preventing the foreclosure of markets and maintaining access to them.Footnote62 The rationale is that firms react to pressures of competition by continuously seeking to innovate.Footnote63 Therefore, patent and competition laws complement each other, as on the one hand, existing competition creates pressures on firms, forcing them to innovate, the so-called “stick”, while on the other hand, patent law provides a “carrot” in the form of the exclusive right, thus inducing innovators to innovate.Footnote64 These two bodies of laws are seen as “complementary efforts to promote an efficient marketplace and long-run, dynamic competition through innovation”.Footnote65 As the European Commission noted “both intellectual property rights and competition are necessary to promote innovation and ensure a competitive exploitation thereof”.Footnote66 These two bodies of laws, therefore, have the same fundamental goal of enhancing innovation for the benefit of consumer welfare. Importantly, patent and competition laws are designed to stimulate not only innovation of “pioneer” innovators, but they are also aimed at facilitating follow-on innovation.Footnote67 Patent law contains provisions that require inventors to disclose information about their inventions, as well as providing exceptions such as experimental use and compulsory licensing, which allow third parties to access the inventions still under patent protection.Footnote68 Therefore, along with pioneer innovators, the rationale of incentives to innovate in patent law also applies to follow-on innovators, balancing the interests of these two types of inventors.Footnote69 Similarly, competition law aims at stimulating all types of innovation, including follow-on innovation. On the other hand, EU competition law proscribes practices that reduce incentives to innovate both for “pioneer” and follow-on innovators. This is enshrined in Art. 102(b) TFEU, which prohibits abuses that consist of, inter alia, limiting technological development. For example, in AstraZeneca the General Court considered that the company’s practice of misusing the patent system had the potential of reducing its incentives to innovate and was anticompetitive.Footnote70 In MagillFootnote71 and Microsoft,Footnote72 the courts found that the IP rights owners abused their dominant positions by blocking innovation of their potential competitors. More recently, several decisions by the European Commission also emphasised the importance of protecting innovation. In January 2018, the Commission fined QualcommFootnote73 €997 million for abusing its market dominance in LTEFootnote74 baseband chipsets.Footnote75 The Commission considered that the exclusivity payments that Qualcomm paid to Apple denied rivals the possibility to compete on the merits, and deprived European consumers of genuine choice and innovation.Footnote76 Furthermore, in July 2018, the Commission found in Google Android that Google abused its dominant position, and fined the company €4.34 billion for anticompetitive restrictions it had imposed on mobile device manufacturers and network operators to strengthen its dominant position in general internet search.Footnote77 The Commission considered that Google’s restrictive practices denied other companies the chance to compete on the merits and innovate.Footnote78 Finally, in 2017 the Commission issued its decision, in which it took the view that Amazon abused its dominant positions on the markets for the retail distribution of e-books by inserting the so-called “parity clauses” in the agreements with its e-book suppliers.Footnote79 It concluded that these clauses had the potential of reducing the incentives to innovate both by e-book suppliers and retailers.Footnote80 These decisions demonstrate that the European Commission recognises the fundamental importance of protecting innovation. They confirm that strategies that are capable of stifling innovation and reducing the incentives to innovate may constitute an abuse of dominance under Art. 102 TFEU. It is argued in this article that, along with the practices condemned by the Commission in the decisions discussed above, strategic patenting can also harm innovation by impairing incentives to innovate of both originators and generic companies, and therefore should raise competition law concerns. Strategic Patenting Impairs Originators’ Incentives to Innovate While originator companies typically argue that the competition law intervention into their patenting practices will reduce their incentives to innovate,Footnote81 this article asserts that strategic patenting itself reduces originators’ incentives. Thus, in a properly functioning system, when a patent protecting a product is close to expiration the originator would be encouraged to innovate further in order to introduce a new product on the market and maintain its competitive position. However, by engaging in strategic patenting, the originator’s incentive to innovate diminishes as it enjoys its monopoly position by merely procuring numerous secondary patents that shield its current product from generic competition. Therefore, when companies engage in such strategic patenting, they are merely protecting themselves from the competitive pressures that competition law aims to establish. Maintaining that this practice is lawful, originators argue that strong patent protection is essential for recouping their investments, as well as for incentivising them to engage in further innovation.Footnote82 Such a position may find some support in the arguments put forward by Joseph Schumpeter and his followers, who claimed that since monopoly increases the reward of the innovator, monopolists are more prone to innovation.Footnote83 However, as Lowe noted:Footnote84 the empirical evidence of the past few decades has worked against Schumpeter and in favor of Kenneth Arrow, who contends that in favoring monopolies Schumpeter underestimated the incentives for innovation that competition can offer. Monopolists tend to want to keep their monopolies by resorting to any measures that can keep new entrants out. Firms under competitive pressure from actual or potential competition, on the other hand, are less complacent and know that inventing a new product is their best strategy for maintaining and increasing their market share. In the same vein, the Commission emphasises the importance of competition for the incentives to innovate, stating that: “[r]ivalry between undertakings is an essential driver of economic efficiency, including dynamic efficiencies in the form of innovation. In its absence the dominant undertaking will lack adequate incentives to continue to create and pass on efficiency gains.”Footnote85 Evidence from the pharmaceutical industry confirms that strategic patenting reduces incentives to engage in genuine and meritorious innovation. In many cases, strategically accumulated secondary patents are of marginal quality and are typically the result of routine research activities.Footnote86 For example, in Perindopril the European Commission revealed that most of the secondary patents, procured as part of the originator company’s anti-generic strategy, were seen by the company as “blocking” or “paper”, some of which it considered involved “zero inventive step”Footnote87 and a purely editorial task.Footnote88 Moreover, these follow-on pharmaceutical inventions are specifically timed around the expiration of the basic patent and can be developed on demand.Footnote89 In AstraZeneca the Commission noted that the company designed to “[f]ile a patent-cloud of mixtures, uses, formulations, new indications, and chemistry” in relation to its blockbuster product omeprazole to slow down generic entry at a specifically defined time, close to the expiration of the basic patent.Footnote90 The main aim of these patents is to increase uncertainty for generic companies as to the possibility of their market entry.Footnote91 Therefore, while many of these secondary patents may be trivial and potentially invalid, the originator pursues them to protect its current successful product from generic competition.Footnote92 Even if a company continues to engage in innovation in parallel to pursuing strategic patenting, it still protects itself from the pressures of competition, which would have forced the company to innovate faster and would thus provide consumers with better products and/or access to cheaper generic versions earlier. As Ullrich argues:Footnote93 A slowdown in the transition of the new medicines from the protected status of a proprietary medicine to the status of generic products manufactured and distributed in open competition does not simply mean a loss of static efficiency, namely a loss of consumer well-being due to a slowdown in the reduction of process. Rather, such a slowdown also involves the risk of a loss of dynamic efficiency in that it extends the duration of a monopoly rent situation, thus reducing the pressure to innovate more quickly. Following the rationale of the General Court’s statement in AstraZeneca, the practice of the originator that extends its market monopoly by relying on the patent system “potentially reduces the incentive to engage in innovation, since it enables the company in a dominant position to maintain its exclusivity beyond the period envisaged by the legislator”.Footnote94 Such practices, according to the Court, act “contrary to the public interest”.Footnote95 Therefore, the practice of strategic patenting that protects originators’ monopolies from competitive pressures and significantly reduces their incentives to engage in genuine innovation is contrary to the rationale of the patent system, has a significant negative effect on competition and should raise competition law concerns. Strategic Patenting Impairs Follow-on Innovation of Generic Companies Strategic patenting also has a chilling effect on follow-on innovation by generic competitors in the form of developing alternative versions of an off-patent compound. As was discussed earlier, the expiry of a basic patent that protects an active compound facilitates generic competition. This is because even if the product is still protected by process, specific form or formulation patents, generic companies may develop alternative ways of producing or formulating the product and start competing with the originator. In the absence of strategically accumulated patents by the originator, generic companies are typically open to innovating to launch alternative generic products as soon as the basic patent expires. However, by pursuing strategic patenting, originators may discourage generics from engaging in follow-on innovation because of the uncertainty about the patent protection and a fear of infringing on one of the numerous patents.Footnote96 In its Sector Inquiry Report, the Commission cited the following quote from one of the originators: The entire point of the patenting strategy adopted by many originators is to remove legal certainty. The strategy is to file as many patents as possible on all areas of the drug and create a “minefield” for the generics to navigate. All generics know that very few patents in that larger group will be valid and infringed by the product they propose to make, but it is impossible to be certain prior to launch that your product will not infringe and you will not be the subject of an interim injunction.Footnote97 Therefore, as a result of creating an impenetrable ring of patent protection by the originator,Footnote98 generic competitors may be prevented from developing alternative generic versions of an off-patent compound. One of the examples revealed by the Commission during its Pharmaceutical Sector Inquiry was the filing by an originator company of “more than 30 patent families translating into several hundreds of patents in the Member States in relation to one product”, many of which were filed after the introduction of the product.Footnote99 This affected the intentions of several generic companies that planned to develop and bring their generic versions of the original product to the market.Footnote100 As a result, in addition to the already high barriers to entry into the pharmaceutical market due to patents that protect an existing product and the need to obtain a marketing authorisation, strategic patenting raises these entry barriers further, making it very difficult for generic companies to overcome them. This strategy, therefore, “may without further enforcement action by originator companies, … delay generic entry until the patent situation is clearer or even discourage more risk-sensitive generic companies from entering altogether”.Footnote101 Consequently, the fact that actual or potential competitors of originators would not be able to develop alternative generic products means that no one could enter the market and challenge originators’ monopoly positions. This results in a weakening of competition in the relevant market and a strengthening of the originator’s already dominant position. As Maggiolino put it, “patent accumulation … may work as a pre-emptive entry-deterrence strategy to protect monopoly power and … lower consumer welfare by allowing dominant firms to keep on charging over-competitive prices”.Footnote102 Therefore, when an array of accumulated secondary patents “blocks monopolists’ rivals from producing follow-on innovations, this strategy prevents the whole society from enjoying … these further innovations”.Footnote103 While practices that facilitate innovation are encouraged by competition law, practices that are aimed at blocking follow-on innovation by competitors should raise competition law concerns.

#### Corona escalates security threats that cause extinction – cooperation thesis is wrong.

Recna 21 [Research Center for Nuclear Weapon Abolition; Nagasaki, Japan; “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report,” Journal for Peace and Nuclear Disarmament; 5/28/21; <https://www.tandfonline.com/doi/full/10.1080/25751654.2021.1890867>] Justin

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

#### COVID is a definitive determiner of conflict – negative statistics are short-term and don’t evaluate long-term impacts of instability.

ICG 20 [International Crises Group; 3/24/2020; The International Crisis Group is an independent organisation working to prevent wars and shape policies that will build a more peaceful world. We sound the alarm to prevent deadly conflict. We build support for the good governance and inclusive politics that enable societies to flourish. We engage directly with a range of conflict actors to seek and share information, and to encourage intelligent action for peace; “COVID-19 and Conflict: Seven Trends to Watch,” ICG, <https://www.crisisgroup.org/global/sb4-covid-19-and-conflict-seven-trends-watch>] Justin

II. Damage to International Crisis Management and Conflict Resolution Mechanisms One reason why refugee and IDP populations are likely to be especially vulnerable to COVID-19 is that the disease could severely weaken the capacity of international institutions to serve conflict-affected areas. WHO and other international officials fear that restrictions associated with the disease will impede humanitarian supply chains. But humanitarian agencies are not the only parts of the multilateral system under pressure due to the pandemic, which is also likely to curb peacemaking. Travel restrictions have begun to weigh on international mediation efforts. UN envoys working in the Middle East have been blocked from travelling to and within the region due to airport closures. Regional organisations have suspended diplomatic initiatives in areas ranging from the South Caucasus to West Africa, while the envoy of the International Contact Group on Venezuela – a group of European and Latin American states looking for a diplomatic solution to the crisis there – had to cancel an already long-delayed trip to Caracas in early March for COVID-related reasons. The disease could affect crucial intra-Afghan peace talks planned as a follow-up to the February preliminary agreement between the U.S. and the Taliban, at least reducing the number of those who can participate (although limiting the group to real decision-makers and essential support staff could be conducive to serious talks). Covid-19 means that international leaders, focused as they are on dramatic domestic issues, have little or no time to devote to conflicts or peace processes More broadly, the disease means that international leaders, focused as they are on dramatic domestic issues, have little or no time to devote to conflicts or peace processes. European officials say that efforts to secure a ceasefire in Libya (a priority for Berlin and Brussels in February) are no longer receiving high-level attention. Diplomats working to prevent a deadly showdown in northern Yemen desperately need the time and energy of senior Saudi and U.S. officials but report that meetings with both are being cancelled or curtailed. Kenya’s president Uhuru Kenyatta called off a 16 March summit with counterparts from Ethiopia and Somalia that aimed to defuse dangerously escalating tensions between Nairobi and Mogadishu, with Kenyan officials citing their need to focus on efforts to halt the virus’s potential spread. A summit between leaders of the EU and the “G5 Sahel countries” (Burkina Faso, Chad, Mali, Mauritania and Niger) will also be cancelled, dealing a blow to efforts to boost counter-terrorism operations in the region. The disease could also affect multinational peacekeeping and security assistance efforts. In early March, the UN secretariat asked a group of nine peacekeeping troop contributors – including China and Italy – to suspend some or all unit rotations to blue helmet operations due to concerns about the spread of COVID-19. UN operations have announced further limits to rotations since then, meaning that peacekeepers’ tours of duty will be extended for at least three months in tough mission settings such as the Central African Republic and South Sudan, potentially affecting their morale and effectiveness. A Security Council decision on setting up a new political mission to support Sudan’s transition to civilian rule appears likely to be postponed due to constraints on the Council’s meeting schedule to which its members agreed as part of virus containment measures. While these diplomatic and operational decisions will have no immediate impact on UN operations, a prolonged pandemic could make it difficult to find and deploy fresh forces and civilian personnel, wearing down missions. If international organisations may struggle to handle the crisis, media outlets and NGOs may also find it hard to report on conflict and crises due to travel restrictions, even as many readers and viewers are likely at least temporarily to lose interest in non-COVID-19-related stories. Some authoritarian governments seem ready to use the crisis to limit media access. Egypt has, for example, censured Western reporters for their coverage of the disease inside the country – removing the credentials of a Guardian reporter – while China has sent home a number of leading U.S. correspondents. Crisis Group itself has had to place significant limits on our analysts’ ability to travel during the pandemic for their own safety. As this briefing illustrates, we are determined to keep a spotlight on conflicts – whether related to COVID-19 or not – and provide the best coverage possible, but our work will face inevitable constraints. III. Risks to Social Order COVID-19 could place great stress on societies and political systems, creating the potential for new outbreaks of violence. In the short term, the threat of disease is likely acting as a deterrent to popular unrest, as protesters avoid large gatherings. COVID-19’s emergence in China precipitated a decline in anti-Beijing protests in Hong Kong (although public discomfort with radical elements of the protest movement may also have been a factor). There has been a decline, too, in the numbers of protesters taking to the streets in Algeria to challenge government corruption. The Russian opposition largely acquiesced in the authorities’ move, ostensibly justified on health grounds, to block protests against President Vladimir Putin’s decision to rewrite the constitution to extend his tenure in office. At least one exception to this general caution occurred in Niger, where demonstrators took to the streets against rules barring protest, which the government extended by invoking COVID-19. Three civilians were killed by security forces on 15 March. Yet the quiet in the streets may be a temporary and misleading phenomenon. The pandemic’s public health and economic consequences are liable to strain relations between governments and citizens, especially where health services buckle; preserving public order could prove challenging when security forces are overstretched and populations become increasingly frustrated with the government’s response to the disease. Early signs of social disorder already can be seen. In Ukraine, protesters attacked buses carrying Ukrainian evacuees from Wuhan, China, in response to allegations that some were carrying the disease. Prison breaks have been reported in Venezuela, Brazil and Italy, with inmates reacting violently to new restrictions associated with COVID-19, while in Colombia prison riots and a reported jailbreak over the perceived lack of protection from the disease resulted in the death of 23 inmates at La Modelo jail on 21 March. In Colombia as well, looters attacked food trucks headed for Venezuela, at least in part to protest the economic effects of the decision taken by both Bogotá and Caracas to close the Colombian-Venezuelan border for health reasons. Even reasonable precautions may inspire angry responses. In Peru, the authorities have arrested hundreds of citizens for breaking quarantine rules, in some cases leading to violence. The disease’s catastrophic economic impact could well sow the seeds of future disorder. More broadly, the disease’s catastrophic economic impact could well sow the seeds of future disorder. It could do so whether or not the countries in question have experienced major outbreaks of the disease, although the danger in those that have will be magnified. A global recession of as yet unknown scope lies ahead; pandemic-related transport restrictions will disrupt trade and food supplies; countless businesses will be forced to shut down; and unemployment levels are likely to soar. Governments that have close trading ties with China, especially some in Africa, are feeling the pain of the slowdown emanating from the original Wuhan outbreak. Oil producers are already struggling with the collapse of energy prices. Countries like Nigeria, which has strong import/export links to China and relies on oil prices to prop up its public finances, are suffering. Abuja has reportedly considered cutting expenditures by 10 per cent in 2020, meaning that authorities may have to default on promises to raise the minimum wage. Such austerity measures, combined with other economic effects of COVID-19 – such as the disappearance of tourists in areas that depend heavily on foreign visitors – could lead to economic shocks that last well beyond the immediate crisis, creating the potential for prolonged labour disturbances and social instability. As Crisis Group noted at the start of 2020, the raucous protests of 2019 stemmed from a “pervasive sense of economic injustice” that could “set more cities ablaze this year”. Anger over the effects of COVID-19 – and perceptions that governments are mismanaging them – could eventually trigger new demonstrations. The economic decline will have even more immediate effects on societies in low-income countries. Across large swathes of sub-Saharan Africa in particular, millions depend on their daily income to feed their families. An extended lockdown could rapidly create widespread desperation and disorder. One further reason for worry is COVID-19’s clear potential to unleash xenophobic sentiment, especially in countries with large immigrant communities. Early in the crisis, Chinese labourers in Kenya faced harassment linked to suspicions that China Southern Airline flights were bringing the coronavirus into the country. Some Western politicians, notably U.S. President Donald Trump, have attempted to whip up resentment of Beijing with jibes about the “Chinese virus”. There is anecdotal evidence of an increase in prejudice toward people of Chinese ethnicity in the U.S. and other Western countries, and a serious risk that the diseases will fuel more racist and anti-foreigner violence. IV. Political Exploitation of the Crisis Against this background of social pressures, there is ample room for political leaders to try to exploit COVID-19, either to solidify power at home or pursue their interests abroad. In the short term, many governments seem confused by the speed, reach and danger of the outbreak and, in some cases, the disease has infected political elites. An outbreak in Brazil’s isolated capital, Brasilia, has sickened a large number of officials and politicians. In Iran, there have been dozens of cases among senior officials and parliamentarians. In Burkina Faso, where the government is already struggling with the collapse of state authority in large parts of the country, a rash of cases has hit cabinet members. The secondvice president of the parliament was the first recorded fatality in sub-Saharan Africa. In such instances, the disease is more likely to weaken authorities’ ability to make decisions about both health issues and other pressing crises. Nonetheless, as the crisis goes on, some leaders could order restrictive measures that make public health sense at the peak of the crisis and then extend them in the hope of quashing dissent once the disease declines. Such measures could include indefinite bans on large public gatherings – which many governments have already instituted to stop community spread of COVID-19 – to prevent public protests. Here again there are precedents from West Africa’s Ebola crisis: local civil society groups and opposition parties claim that the authorities prohibited meetings for longer than necessary as a way of suppressing legitimate protests. A harbinger of what is to come may have appeared in Hungary, where Prime Minister Viktor Orban asked parliament on 21 March to indefinitely extend a state of emergency that prescribes five-year prison sentences for those disseminating false information or obstructing the state’s crisis response. There is ample room for political leaders to try to exploit COVID-19. Elections scheduled for the first half of 2020, and perhaps later, are also liable to be postponed; here too, the immediate public health justification may be valid but the temptation to use the virus as a pretext for further delays and narrowing of political space could well exist. Indeed, there are likely to be good practical reasons for delaying voting in such cases. In addition to complicating domestic planning, the pandemic will obstruct the deployment of international electoral support and, where planned, observation missions. Still, opposition parties are likely to suspect foul play, especially in countries where political trust is low, there has been recent instability, or the government enjoys dubious legitimacy or has a history of manipulating electoral calendars. Again, there are already examples. The interim president in Bolivia, Jeanine Añez, announced on 21 March that the presidential election planned for 3 May to find a full-time replacement for Evo Morales – whom the military ousted after controversial polls in 2019 – would be delayed to an unspecified future date. In Sri Lanka, an Election Commission decision to postpone parliamentary elections for public health reasons could grant President Gotabaya Rajapaksa – a hardline nationalist associated with human rights abuses directed at minorities and political critics – enhanced powers. Although Rajapaksa initially wanted the polls to go ahead (reflecting expectations of a landslide victory), should he refuse to recall parliament while elections remain on hold, the length and legality of his interim powers may well stir controversy. Some leaders may also see COVID-19 as cover to embark on destabilising foreign adventures, whether to deflect domestic discontent or because they sense they will face little pushback amid the global health crisis. No such case has yet surfaced, and there is a risk that analysts will now attribute crises to COVID-19 that are better explained by other factors. Still, at a time when the pandemic is distracting major powers and multilateral organisations, some leaders may surmise that they can assert themselves in ways that they would otherwise deem too risky. A spate of attacks against U.S. targets by Iranian-backed Shiite militias in Iraq may well be part of a pre-existing effort by Tehran to push the U.S. out of the Middle East. But with Iran’s leadership already under enormous domestic pressure, the toll taken by the coronavirus might also affect its calculus. As we wrote, “feeling besieged and with no obvious diplomatic exit ramp, Iran might conclude that only a confrontation with the United States might change a trajectory that’s heading in a very dangerous direction”. Similarly, the crisis may create openings for jihadist groups to launch new offensives against weakened governments in Africa and the Middle East. To date, neither ISIS nor any of al-Qaeda’s various branches has displayed a clear strategic vision relating to the pandemic (although ISIS has circulated health guidance to its militants on how to deal with the disease based on sayings by the Prophet Muhammad). Nonetheless, as Crisis Group has previously argued, jihadist forces tend to “exploit disorder”, gaining territory and adherents where conflicts already exist or weak states face social turmoil. ISIS, for example, used the post-2011 chaos in Syria to gain a level of power that would otherwise have been impossible. It is possible that social and political disorder may create similar openings for jihadist actors as the crisis goes on. Conversely, those groups – such as al-Shabaab in Somalia – that control significant swathes of territory could, like governments, face a surge of public discontent if they cannot keep COVID-19 in check.

### 1AC - Plan

#### Plan text: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines during pandemics.

#### Enforcement through limited IP waivers solve – patent term extensions are normal means and solves innovation and scale-up.

Young and Potts-Szeliga 21 [Roberta; Counsel in Seyfarth’s Litigation department and Intellectual Property and Patent Litigation practice groups in Los Angeles; Jamaica Potts-Szeliga; Partner in Seyfarth’s Litigation department and Intellectual Property and Patent Litigation practice groups in Washington, DC. She also provides advice on FDA regulatory issues and is part of the firm’s Health Care, Life Sciences, and Pharmaceuticals team; “A Third Option: Limited IP Waiver Could Solve Our Pandemic Vaccine Problems,” IP Watch Dog; 7/21/21; <https://www.ipwatchdog.com/2021/07/21/third-option-limited-ip-waiver-solve-pandemic-vaccine-problems/id=135732/>] Justin

Limited Waiver Approach

This article suggests a third option, between voluntary vaccine donation and the full IP waiver proposal, that may offer a way forward. The third proposed solution is incentivized limited IP waivers that could encourage (or require) private companies to engage in licensing agreements with nations to share some, but not all, of the knowledge and designs covering the COVID-19 vaccines to the developing world. The limited IP waivers could cover the minimum necessary portions of the technology to produce basic COVID-19 vaccines. The waivers could be limited in time to the duration of the pandemic, or another term agreed to by the WTO. The term could also be defined as ending when widespread vaccination and immunity goals are achieved. The incentive for pharmaceutical companies to support such limited IP waivers could be provided in the form of patent term extensions for the technology covered by the limited IP waivers.

Extensions of patent term are already known and widely used. In the U.S., patent term adjustments are automatically added on to the patent lifespan to account for any delays by the USPTO in the patent prosecution process. In some cases, these mechanisms may extend the patent term for years. Patent term extensions also are available for regulatory delays (35 U.S.C. § 156). In particular, patents covering, inter alia, drug products approved by the United States Food & Drug Administration may be eligible for up to five years of additional patent term to give back time required to complete the regulatory review process. Both patent term adjustments and patent term extensions arise from activities beyond the control of the pharmaceutical companies. A pandemic patent term extension fashioned after such known extensions could be made used to compensate for the current pressing global health needs.

This third proposal may be achievable at the WTO. Hurdles remain and it could be months or years before the WTO reaches an agreement on any waiver of IP protections, and years before countries build factories, gather materials, and gain the expertise to produce the vaccines. A steep hurdle is that mRNA is a new technology, with no machines or experts for hire. Nonetheless, the third solution offers hope to find a middle ground that may begin to be implemented before the end of the current pandemic and be in place for the future.

The patent term extension could be provided for countries with patent offices and could be adapted based on laws and conditions in each country. Pandemic-related patent term extensions could be given for a period of time that the compulsory license is in force. With current pandemic projections of six months to two years for sufficient distribution, providing a patent term extension is reasonable and in line with the time period of many patent term extensions. Given that most pharmaceutical patents are prosecuted in multiple countries, this provides an incentive to participate in a limited waiver program.

Let’s Not Repeat Past Mistakes

It’s been a century since the last pandemic devastated the globe and the only certainty is that this will not be the last pandemic. Solutions created today lay a foundation for mitigation of the next pandemic. It’s been said that those who refuse to learn from history are doomed to repeat it, a thought too painful to contemplate with a pandemic. The industrial nations of the world have technology that others are literally dying to obtain—a high price to pay. Incentivized limited IP waivers may offer a compromise to bridge the gap between maintaining IP rights (and thus relying on charity alone) and arbitrary compulsory licensing that could deter the technological investment to create life-saving solutions in the future.

#### The plan is critical to boosting WTO legitimacy.

Navnit 21 [Brajendra; Ambassador and Permanent Representative of India to WTO; “Science has delivered, will the WTO deliver?” Helsinki Times; 1/18/21; <https://www.helsinkitimes.fi/columns/columns/viewpoint/18561-science-has-delivered-will-the-wto-deliver.html>] Justin

TRIPS waiver proposal from India, South Africa and other members

A proposal by India, South Africa and eight other countries calls on the World Trade Organisation (WTO) to exempt member countries from enforcing some patents, and other Intellectual Property (IP) rights under the organization’s Agreement on Trade-Related Aspects of Intellectual Property Rights, known as TRIPS, for a limited period of time.

It is to ensure that IPRs do not restrict the rapid scaling- up of manufacturing of COVID-19 vaccines and treatments. While a few members have raised concerns about the proposal, a large proportion of the WTO membership supports the proposal. It has also received the backing of various international organizations, multilateral agencies and global civil society.

Unprecedented times call for unorthodox measures. We saw this in the efficacy of strict lockdowns for a limited period, as a policy intervention, in curtailing the spread of the pandemic.International Monetary Fund (IMF) in its October 2020 edition of World Economic Outlook states “…However, the risk of worse growth outcomes than projected remains sizable. If the virus resurges, progress on treatments and vaccines is slower than anticipated, or countries’ access to them remains unequal, economic activity could be lower than expected, with renewed social distancing and tighter lockdowns”. The situation appears to be grimmer than predicted, we have already lost 7% of economic output from the baseline scenario projected in 2019. It translates to a loss of more than USD 6 trillion of global GDP. Even a 1% improvement in global GDP from the baseline scenario will add more than USD 800 billion in global output, offsetting the loss certainly of a much lower order to a sector of economy on account of the Waiver.

"While making the vaccines available was a test of science, making them accessible and affordable is going to be a test of humanity"

Merely a signal to ensure timely and affordable access to vaccines and treatments will work as a big confidence booster for demand revival in the economy. With the emergence of successful vaccines, there appears to be some hope on the horizon. But how will these be made accessible and affordable to global population? The fundamental question is whether there will be enough of Covid-19 vaccines to go around. As things stand, even the most optimistic scenarios today cannot assure access to Covid-19 vaccines and therapeutics for the majority of the population, in rich as well as poor countries, by the end of 2021. All the members of the WTO have agreed on one account that there is an urgent need to scale-up the manufacturing capacity for vaccines and therapeutics to meet the massive global needs. The TRIPS Waiver Proposal seeks to fulfil this need by ensuring that IP barriers do not come in the way of such scaling up of manufacturing capacity.

Why existing flexibilities under the TRIPS Agreement are not enough

The existing flexibilities under the TRIPS Agreement are not adequate as these were not designed keeping pandemics in mind. Compulsory licenses are issued on a country by country, case by case and product by product basis, where every jurisdiction with an IP regime would have to issue separate compulsory licenses, practically making collaboration among countries extremely onerous. While we encourage the use of TRIPS flexibilities, the same are time-consuming and cumbersome to implement. Hence, only their use cannot ensure the timely access of affordable vaccines and treatments. Similarly, we have not seen a very encouraging progress on WHO’s Covid19-Technology Access Pool or the C-TAP initiative, which encourages voluntary contribution of IP, technology and data to support the global sharing and scale-up of the manufacturing of COVID- 19 medical products. Voluntary Licenses, even where they exist, are shrouded in secrecy. Their terms and conditions are not transparent. Their scope is limited to specific amounts or for a limited subset of countries, thereby encouraging nationalism rather than true international collaboration.

Why is there a need to go beyond existing global cooperation initiatives?

Global cooperation initiatives such as the COVAX Mechanism and the ACT-Accelerator are inadequate to meet the massive global needs of 7.8 billion people. The ACT-A initiative aims to procure 2 billion doses of vaccines by the end of next year and distribute them fairly around the world. With a two-dose regime, however, this will only cover 1 billion people. That means that even if ACT-A is fully financed and successful, which is not the case presently, there would not be enough vaccines for the majority of the global population.

Past experience

During the initial few months of the current pandemic, we have seen that shelves were emptied by those who had access to masks, PPEs, sanitizers, gloves and other essential Covid-19 items even without their immediate need. The same should not happen to vaccines. Eventually, the world was able to ramp up manufacturing of Covid-19 essentials as there were no IP barriers hindering that. At present, we need the same pooling of IP rights and know-how for scaling up the manufacturing of vaccines and treatments, which unfortunately has not been forthcoming, necessitating the need for the Waiver.

It is the pandemic – an extraordinary, once in a lifetime event – that has mobilized the collaboration of multiple stakeholders. It is knowledge and skills held by scientists, researchers, public health experts and universities that have enabled the cross-country collaborations and enormous public funding that has facilitated the development of vaccines in record time – and not alone IP!

Way forward

The TRIPS waiver proposal is a targeted and proportionate response to the exceptional public health emergency that the world faces today. Such a Waiver is well-within the provisions of Article IX of the Marrakesh Agreement which established the WTO. It can help in ensuring that human lives are not lost for want of a timely and affordable access to vaccines. The adoption of the Waiver will also re-establish WTO’s credibility and show that multilateral trading system continues to be relevant and can deliver in times of a crisis. Now is the time for WTO members to act and adopt the Waiver to save lives and help in getting the economy back on the revival path quickly.

While making the vaccines available was a test of science, making them accessible and affordable is going to be a test of humanity. History should remember us for the “AAA rating” i.e. for Availability, Accessibility and Affordability of Covid19 vaccines and treatments and not for a single “A rating” for Availability only. Our future generations deserve nothing less.

#### WTO cred solves wars that go nuclear.

Hamann 09 [Georgia; 2009; J.D. Candidate, Vanderbilt University Law School; “Replacing Slingshots with Swords: Implications of the Antigua-Gambling 22.6 Panel Report for Developing Countries and the World Trading System,” VANDERBILT JOURNAL OF TRANSNATIONAL LAW, http://www.jogoremoto.pt/docs/extra/duqJ53.pdf] Justin

Both Antigua and the U.S. claimed the resolution of the arbitration as a victory.99 In reality, the decision reached a midpoint between the respective countries’ positions, establishing a victory for the evolution of the international trading system itself. Voluntary compliance with WTO rules and procedures is of the utmost importance to the international trading system.100 Given the increasingly globalized market, the coming years will see an increase in the importance of the WTO as a cohesive force and arbiter of disputes that likely will become more frequent and injurious.101 The work of the WTO cannot be overstated in a nuclear-armed world, as the body continues to promote respect and even amity among nations with opposing philosophical goals or modes of governance.102 Demagogues in the Unites States may decry the rise of China as a geopolitical threat,103 and extremists in Russia may play dangerous games of brinksmanship with other great powers, but trade keeps politicians’ fingers off “the button.”104 The WTO offers an astounding rate of compliance for an organization with no standing army and no real power to enforce its decisions, suggesting that governments recognize the value of maintaining the international construct of the WTO.105 In order to promote voluntary compliance, the WTO must maintain a high level of credibility.106 Nations must perceive the WTO as the most reasonable option for dispute resolution or fear that the WTO wields enough influence to enforce sanctions.107 The arbitrators charged with performing the substantive work of the WTO by negotiating, compromising, and issuing judgments are keenly aware of the responsibility they have to uphold the organization’s credibility.108

### 1AC – Framing

#### The standard is maximizing expected wellbeing.

#### 1] Actor spec—governments must use util because they don’t have intentions and are constantly dealing with tradeoffs—outweighs since different agents have different obligations—takes out calc indicts since they are empirically denied.

#### 2] Death is bad and outweighs – a] agents can’t act if they fear for their bodily security which constrains every ethical theory, b] it destroys the subject itself – kills any ability to achieve value in ethics since life is a prerequisite which means it’s a side constraint since we can’t reach the end goal of ethics without life

#### 3] Pleasure and pain are the starting point for moral reasoning—they’re our most baseline desires and the only things that explain the intrinsic value of objects or actions

Moen 16, Ole Martin (PhD, Research Fellow in Philosophy at University of Oslo). "An Argument for Hedonism." Journal of Value Inquiry 50.2 (2016): 267.

Let us start by observing, empirically, that **a widely shared judgment about intrinsic value** and disvalue **is that pleasure is intrinsically valuable and pain is intrinsically disvaluable**. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for **there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels**, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” **are** here **understood inclusively**, as encompassing anything hedonically positive and anything hedonically negative. 2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store**, I might ask: “What for**?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. **The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good**. 3 As Aristotle observes: “**We never ask** [a man] **what** his **end is in being pleased, because we assume that pleasure is choice worthy in itself**.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that **if something is painful, we have a sufficient explanation of why it is bad**. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value**. Although **pleasure and pain thus seem to be good candidates for intrinsic value and disvalue**, several objections have been raised against this suggestion: (1) that pleasure and pain have instrumental but not intrinsic value/disvalue; (2) that pleasure and pain gain their value/disvalue derivatively, in virtue of satisfying/frustrating our desires; (3) that there is a subset of pleasures that are not intrinsically valuable (so-called “evil pleasures”) and a subset of pains that are not intrinsically disvaluable (so-called “noble pains”), and (4) that pain asymbolia, masochism, and practices such as wiggling a loose tooth render it implausible that pain is intrinsically disvaluable. I shall argue that these objections fail. Though it is, of course, an open question whether other objections to P1 might be more successful, I shall assume that if (1)–(4) fail, we are justified in believing that P1 is true itself a paragon of freedom—there will always be some agents able to interfere substantially with one’s choices. The effective level of protection one enjoys, and hence one’s actual degree of freedom, will vary according to multiple factors: how powerful one is, how powerful individuals in one’s vicinity are, how frequent police patrols are, and so on. Now, we saw above that what makes a slave unfree on Pettit’s view is the fact that his master has the power to interfere arbitrarily with his choices; in other words, what makes the slave unfree is the power relation that obtains between his master and him. The difﬁculty is that, in light of the facts I just mentioned, there is no reason to think that this power relation will be unique. A similar relation could obtain between the master and someone other than the slave: absent perfect state control, the master may very well have enough power to interfere in the lives of countless individuals. Yet it would be wrong to infer that these individuals lack freedom in the way the slave does; if they lack anything, it seems to be security. A problematic power relation can also obtain between the slave and someone other than the master, since there may be citizens who are more powerful than the master and who can therefore interfere with the slave’s choices at their discretion. Once again, it would be wrong to infer that these individuals make the slave unfree in the same way that the master does. Something appears to be missing from Pettit’s view. If I live in a particularly nasty part of town, then it may turn out that, when all the relevant factors are taken into account, I am just as vulnerable to outside interference as are the slaves in the royal palace, yet it does not follow that our conditions are equivalent from the point of view of freedom. As a matter of fact, we may be equally vulnerable to outside interference, but as a matter of right, our standings could not be more different. I have legal recourse against anyone who interferes with my freedom; the recourse may not be very effective—presumably it is not, if my overall vulnerability to outside interference is comparable to that of a slave— but I still have full legal standing.68 By contrast, the slave lacks legal recourse against the interventions of one speciﬁc individual: his master. It is that fact, on a Kantian view—a fact about the legal relation in which a slave stands to his master—that sets slaves apart from freemen. The point may appear trivial, but it does get something right: whereas one cannot identify a power relation that obtains uniquely between a slave and his master, the legal relation between them is undeniably unique. A master’s right to interfere with respect to his slave does not extend to freemen, regardless of how vulnerable they might be as a matter of fact, and citizens other than the master do not have the right to order the slave around, regardless of how powerful they might be. This suggests that Kant is correct in thinking that the ideal of freedom is essentially linked to a person’s having full legal standing. More speciﬁcally, he is correct in holding that the importance of rights is not exhausted by their contribution to the level of protection that an individual enjoys, as it must be on an instrumental view like Pettit’s. Although it does matter that rights be enforced with reasonable effectiveness, the sheer fact that one has adequate legal rights is essential to one’s standing as a free citizen. In this respect, Kant stays faithful to the idea that freedom is primarily a matter of standing—a standing that the freeman has and that the slave lacks. Pettit himself frequently insists on the idea, but he fails to do it justice when he claims that freedom is simply a matter of being adequately (and reliably) shielded against the strength of others. As Kant recognizes, the standing of a free citizen is a more complex matter than that. One could perhaps worry that the idea of legal standing is something of a red herring here—that it must ultimately be reducible to a complex network of power relations and, hence, that the position I attribute to Kant differs only nominally from Pettit’s. That seems to me doubtful. Viewing legal standing as essential to freedom makes sense only if our conception of the former includes conceptions of what constitutes a fully adequate scheme of legal rights, appropriate legal recourse, justiﬁed punishment, and so on. Only if one believes that these notions all boil down to power relations will Kant’s position appear similar to Pettit’s. On any other view—and certainly that includes most views recently defended by philosophers—the notion of legal standing will outstrip the power relations that ground Pettit’s theory.

#### 4] Extinction outweighs

MacAskill 14 [William, Oxford Philosopher and youngest tenured philosopher in the world, Normative Uncertainty, 2014]

The human race might go extinct from a number of causes: asteroids, supervolcanoes, runaway climate change, pandemics, nuclear war, and the development and use of dangerous new technologies such as synthetic biology, all pose risks (even if very small) to the continued survival of the human race.184 And different moral views give opposing answers to question of whether this would be a good or a bad thing. It might seem obvious that human extinction would be a very bad thing, both because of the loss of potential future lives, and because of the loss of the scientific and artistic progress that we would make in the future. But the issue is at least unclear. The continuation of the human race would be a mixed bag: inevitably, it would involve both upsides and downsides. And if one regards it as much more important to avoid bad things happening than to promote good things happening then one could plausibly regard human extinction as a good thing.For example, one might regard the prevention of bads as being in general more important that the promotion of goods, as defended historically by G. E. Moore,185 and more recently by Thomas Hurka.186 One could weight the prevention of suffering as being much more important that the promotion of happiness. Or one could weight the prevention of objective bads, such as war and genocide, as being much more important than the promotion of objective goods, such as scientific and artistic progress. If the human race continues its future will inevitably involve suffering as well as happiness, and objective bads as well as objective goods. So, if one weights the bads sufficiently heavily against the goods, or if one is sufficiently pessimistic about humanity’s ability to achieve good outcomes, then one will regard human extinction as a good thing.187 However, even if we believe in a moral view according to which human extinction would be a good thing, we still have strong reason to prevent near-term human extinction. To see this, we must note three points. First, we should note that the extinction of the human race is an extremely high stakes moral issue. Humanity could be around for a very long time: if humans survive as long as the median mammal species, we will last another two million years. On this estimate, the number of humans in existence in the The future, given that we don’t go extinct any time soon, would be 2×10^14. So if it is good to bring new people into existence, then it’s very good to prevent human extinction. Second, human extinction is by its nature an irreversible scenario. If we continue to exist, then we always have the option of letting ourselves go extinct in the future (or, perhaps more realistically, of considerably reducing population size). But if we go extinct, then we can’t magically bring ourselves back into existence at a later date. Third, we should expect ourselves to progress, morally, over the next few centuries, as we have progressed in the past. So we should expect that in a few centuries’ time we will have better evidence about how to evaluate human extinction than we currently have. Given these three factors, it would be better to prevent the near-term extinction of the human race, even if we thought that the extinction of the human race would actually be a very good thing. To make this concrete, I’ll give the following simple but illustrative model. Suppose that we have 0.8 credence that it is a bad thing to produce new people, and 0.2 certain that it’s a good thing to produce new people; and the degree to which it is good to produce new people, if it is good, is the same as the degree to which it is bad to produce new people, if it is bad. That is, I’m supposing, for simplicity, that we know that one new life has one unit of value; we just don’t know whether that unit is positive or negative. And let’s use our estimate of 2×10^14 people who would exist in the future, if we avoid near-term human extinction. Given our stipulated credences, the expected benefit of letting the human race go extinct now would be (.8-.2)×(2×10^14) = 1.2×(10^14). Suppose that, if we let the human race continue and did research for 300 years, we would know for certain whether or not additional people are of positive or negative value. If so, then with the credences above we should think it 80% likely that we will find out that it is a bad thing to produce new people, and 20% likely that we will find out that it’s a good thing to produce new people. So there’s an 80% chance of a loss of 3×(10^10) (because of the delay of letting the human race go extinct), the expected value of which is 2.4×(10^10). But there’s also a 20% chance of a gain of 2×(10^14), the expected value of which is 4×(10^13). That is, in expected value terms, the cost of waiting for a few hundred years is vanishingly small compared with the benefit of keeping one’s options open while one gains new information.

### Underview

#### 1] Aff gets 1AR theory since the neg can be infinitely abusive and I can’t check back. It’s drop the debater since the 1ar is too short to win both theory and substance. No RVI or 2NR paradigm issues since they’d dump on it for 6 minutes and my 3-minute 2AR is spread too thin. Competing interps since reasonability is arbitrary and bites judge intervention.

#### 2] Apocalyptic images challenge dominant power structures to create futures of social justice

Jessica Hurley 17, Assistant Professor in the Humanities at the University of Chicago, “Impossible Futures: Fictions of Risk in the Longue Durée”, Duke University Press, https://read.dukeupress.edu/american-literature/article/89/4/761/132823/Impossible-Futures-Fictions-of-Risk-in-the-Longue

If contemporary ecocriticism has a shared premise about environmental risk it is that genre is the key to both perceiving and, possibly, correcting ecological crisis. Frederick Buell’s 2003 From Apocalypse to Way of Life: Environmental Crisis in the American Century has established one of the most central oppositions of this paradigm. As his title suggests, Buell tells the story of a discourse that began in the apocalyptic mode in the 1960s and 70s, when discussions of “the immanent end of nature” most commonly took the form of “prophecy, revelation, climax, and extermination” before turning away from apocalypse when the prophesied ends failed to arrive (112, 78). Buell offers his suggestion for the appropriate literary mode for life lived within a crisis that is both unceasing and inescapable: new voices, “if wise enough….will abandon apocalypse for a sadder realism that looks closely at social and environmental changes in process and recognizes crisis as a place where people dwell” (202-3). In a world of threat, Buell demands a realism that might help us see risks more clearly and aid our survival.¶ Buell’s argument has become a broadly held view in contemporary risk theory and ecocriticism, overlapping fields in the social sciences and humanities that address the foundational question of second modernity: “how do you live when you are at such risk?” (Woodward 2009, 205).1 Such an assertion, however, assumes both that realism is a neutral descriptive practice and that apocalypse is not something that is happening now in places that we might not see, or cannot hear. This essay argues for the continuing importance of apocalyptic narrative forms in representations of environmental risk to disrupt conservative realisms that maintain the status quo. Taking the ecological disaster of nuclear waste as my case study, I examine two fictional treatments of nuclear waste dumps that create different temporal structures within which the colonial history of the United States plays out. The first, a set of Department of Energy documents that use statistical modeling and fictional description to predict a set of realistic futures for the site of the Waste Isolation Pilot Plant in New Mexico (1991), creates a present that is fully knowable and a future that is fully predictable. Such an approach, I suggest, perpetuates the state logics of implausibility that have long undergirded settler colonialism in the United States. In contrast, Leslie Marmon Silko’s contemporaneous novel Almanac of the Dead (1991) uses its apocalyptic form to deconstruct the claims to verisimilitude that undergird state realism, transforming nuclear waste into a prophecy of the end of the United States rather than a means for imagining its continuation. In Almanac of the Dead, the presence of nuclear waste introjects a deep-time perspective into contemporary America, transforming the present into a speculative space where environmental catastrophe produces not only unevenly distributed damage but also revolutionary forms of social justice that insist on a truth that probability modeling cannot contain: that the future will be unimaginably different from the present, while the present, too, might yet be utterly different from the real that we think we know.¶ Nuclear waste is rarely treated in ecocriticism or risk theory, for several reasons: it is too manmade to be ecological; its catastrophes are ongoing, intentionally produced situations rather than sudden disasters; and it does not support the narrative that subtends ecocritical accounts of risk perception in which the nuclear threat gives rise to an awareness of other kinds of threat before reaching the end of its relevance at the end of the Cold War.2 In what follows, I argue that the failure of nuclear waste to fit into the critical frames created by ecocriticism and risk theory to date offers an opportunity to expand those frames and overcome some of their limitations, especially the impulse towards a paranoid, totalizing realism that Peter van Wyck (2005) has described as central to ecocriticism in the risk society. Nuclear waste has durational forms that dwarf the human. It therefore dwells less in the economy of risk as it is currently conceptualized and more in the blown-out realm of deep time. Inhabiting the temporal scale that has recently been christened the Anthropocene, the geological era defined by the impact of human activities on the world’s geology and climate, nuclear waste unsettles any attempt at realist description, unveiling the limits of human imagination at every turn.3 By analyzing risk society through a heuristic of nuclear waste, this essay offers a critique of nuclear colonialism and environmental racism. At the same time, it shows how the apocalyptic mode in deep time allows narratives of environmental harm and danger to move beyond the paranoid logic of risk. In the world of deep time, all that might come to pass will come to pass, sooner or later. The endless maybes of risk become certainties. The impossibilities of our own deaths and the deaths of everything else will come. But so too will other impossibilities: talking macaws and alien visitors; the end of the colonial occupation of North America, perhaps, or a sudden human determination to let the world live. The end of capitalism may yet become more thinkable than the end of the world. Just wait long enough. Stranger things will happen.¶

#### 3] Youth participatory action research enables *transformative resistance* and is crucial to make activism work

Cammarota and Fine 08

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In the Matrix, Morpheus, played by Laurence Fishburne, places Keanu Reeves’ character Neo in a chair to tell him face to face about the real truth of his experience. Morpheus shows Neo a red pill in one hand and a blue one in the other, describing that the red pill will lead him “down the rabbit hole” to the truth while the blue pill will make him forget about their conversation and return everything back to “normal.” Neo looks confused and worried, hesitates for a moment, and then reaches to grab and then swallow the red pill. " e “blue and red pill” scene in ! e Matrix serves as an excellent metaphor for the relationships some educators/activists have with their students, and the kinds of choices we ask them to make. The critical educational experience offered might lead the student “down the rabbit hole” past the layers of lies to the truths of systematic exploitation and oppression as well as possibilities for resistance. A$ er he ingests the red pill, Neo ends up in the place of truth, awakening to the reality that his entire world is a lie constructed to make him believe that he lives a “normal” life, when in reality he is fully exploited day in and day out. What is “normal” is really a mirage, and what is true is the complete structural domination of people, all people. " is book, Revolutionizing Education, literally connects to the metaphorical play on chimera and veracity forwarded by the narrative in ! e Matrix. Examples are presented throughout in which young people resist the 1 normalization of systematic oppression by undertaking their own engaged praxis—critical and collective inquiry, re% ection and action focused on “reading” and speaking back to the reality of the world, their world (Freire, 1993). The praxis highlighted in the book—youth participatory action research (YPAR)—provides young people with opportunities to study social problems affecting their lives and then determine actions to rectify these problems. YPAR, and thus Revolutionizing Education, may extend the kinds of questions posed by critical youth studies (Bourgois, 1995; Fine and Weis, 1998; Giroux, 1983; Kelley, 1994; Macleod, 1987; McRobbie, 1991; Oakes et al., 2006; Rasmussen et al., 2004; Sullivan, 1989; Willis, 1977). How do youth learn the skills of critical inquiry and resistances within formal youth development, research collectives, and/or educational settings? How is it possible for their critical inquiries to evolve into formalized challenges to the “normal” practices of systematic oppression? Under what conditions can critical research be a tool of youth development and social justice work? The Matrix infers revolution by showing how Neo learns to see the reality of his experiences while understanding his capabilities for resistance. " e YPAR cases presented in this book also follow a similar pattern: young people learn through research about complex power relations,histories of struggle, and the consequences of oppression. They begin to re- vision and denaturalize the realities of their social worlds and then undertake forms of collective challenge based on the knowledge garnered through their critical inquiries. As you will read in this volume, the youth, with adult allies, have written policy briefs, engaged sticker campaigns, performed critical productions, coordinated public testimonials—all dedicated to speaking back and challenging conditions of injustice. What perhaps distinguishes young people engaged in YPAR from the standard representations in critical youth studies is that their research is designed to contest and transform systems and institutions to produce greater justice—distributive justice, procedural justice, and what Iris Marion Young calls a justice of recognition, or respect. In short, YPAR is a formal resistance that leads to transformation—systematic and institutional change to promote social justice. YPAR teaches young people that conditions of injustice are produced, not natural; are designed to privilege and oppress; but are ultimately challengeable and thus changeable. In each of these projects, young people and adult allies experience the vitality of a multi- generational collective analysis of power; we learn that sites of critical inquiry and resistance can be fortifying and nourishing to the soul, and at the same time that these projects provoke ripples of social change. YPAR shows young people how they are consistently subject to the impositions and manipulations of domi-nant exigencies. These controlling interests may take on the form of white supremacy, capitalism, sexism, homophobia, or xenophobia—all of which is meant to provide certain people with power at the expense of subordinating others, many others. Within this matrix or grid of power, the possibilities of true liberation for young people become limited. Similar to the film the Matrix, the individual, like Neo, may be unaware of the infections of power fostering oppression. The dawning of awareness emerges from a critical study of social institutions and processes in influencing one’s life course, and his/her capacity to see differently, to act anew, to provoke change. Critical youth studies demonstrate that the revolutionary lesson is not always apprehended in schools; sometimes, young people gain critical awareness through their own endogenous cultural practices. Such is the case of Willis’ (1977) Lads in Learning to Labor. Working- class youth attain insights about the reproductive function of schools through their own street cultural sensibilities. However, they use these insights to resist education en masse by forgoing school for jobs in factories. Scholars (Fine, 1991; Solórzano and Delgado- Bernal, 2001) identify this form of resistance as “self- defeating