# 1NC Dubs Grapevine

## 1

### CP

#### CP text: The member nations of the world trade organization should

#### ---exclude patent applications for medicines based on Indigenous knowledge from patentability except for claims filed by Indigenous people.

#### ---establish an international legal instrument to protect indigenous intellectual property

#### It competes and is net better—

#### Eliminate means a complete removal

District Court of Minnesota ‘10 Buetow v. ALS Enterprises, Inc., 713 F. Supp. 2d 832 - Dist. Court, Minnesota 2010

The word "eliminate" is subject to only one reasonable interpretation—complete elimination. In determining the meaning of challenged advertisements, a court may reference dictionary definitions. See Am. Italian Pasta Co. v. New World Pasta Co., 371 F.3d 387, 391 (8th Cir.2004) (referencing a dictionary definition of "favorite"). The Compact Oxford English Dictionary provides that the word "eliminate" means "[t]o expel, exclude, remove, get rid of." The Compact Oxford English Dictionary 141 (2d ed. 1989). The American Heritage Dictionary provides that the word "eliminate" means "to wipe out someone or something, especially by using drastic methods such as banishment or execution." The American Heritage Dictionary 580 (4th ed. 2000). Thus, the word "eliminate" denotes a complete removal such that the word "complete" is unnecessary and repetitive.[9]

#### That is in line with indigenous demands.

**WIPO no date** WIPO, xx-xx-xxxx, "Traditional Knowledge and Intellectual Property – Background Brief," No Publication, <https://www.wipo.int/pressroom/en/briefs/tk_ip.html?fbclid=IwAR2iLd8fJ4lNl_fhhwQBHvCdoFEfB44H5GHIWBBb0xGPVBt1fRJT-uzUXDU> SJ//DA

The current international system for protecting intellectual property was fashioned during the age of industrialization in the West and developed subsequently in line with the perceived needs of technologically advanced societies. However**, in recent years, indigenous peoples, local communities, and governments, mainly in developing countries, have demanded equivalent protection for traditional knowledge systems. In 2000, WIPO members established an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), and in 2009 they agreed to develop an international legal instrument (or instruments) that would give traditional knowledge, genetic resources and traditional cultural expressions (folklore) effective protection. Such an instrument could range from a recommendation to WIPO members to a formal treaty that would bind countries choosing to ratify it.** Traditional knowledge is not so-called because of its antiquity. It is a living body of knowledge that is developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity. As such, it is not easily protected by the current intellectual property system, which typically grants protection for a limited period to inventions and original works by named individuals or companies. Its living nature also means that “traditional” knowledge is not easy to define. **Recognizing traditional forms of creativity and innovation as protectable intellectual property would be an historic shift in international law, enabling indigenous and local communities as well as governments to have a say over the use of their traditional knowledge by others.** This would make it possible, for example, to protect traditional remedies and indigenous art and music against misappropriation, and enable communities to control and benefit collectively from their commercial exploitation. Although the negotiations underway in WIPO have been initiated and propelled mainly by developing countries, the discussions are not neatly divided along “North-South” lines. Communities and governments do not necessarily share the same views, and some developed country governments, especially those with indigenous populations, are also active. Two types of intellectual property protection are being sought: **Defensive protection aims to stop people outside the community from acquiring intellectual property rights over traditional knowledge. India, for example, has compiled a searchable database of traditional medicine that can be used as evidence of prior art by patent examiners when assessing patent applications. This followed a well-known case in which the US Patent and Trademark Office granted a patent (later revoked) for the use of turmeric to treat wounds, a property well known to traditional communities in India and documented in ancient Sanskrit texts. Defensive strategies might also be used to protect sacred cultural manifestations, such as sacred symbols or words from being registered as trademarks.** Positive protection is the granting of rights that empower communities to promote their traditional knowledge, control its uses and benefit from its commercial exploitation. Some uses of traditional knowledge can be protected through the existing intellectual property system, and a number of countries have also developed specific legislation. However, any specific protection afforded under national law may not hold for other countries, one reason why many indigenous and local communities as well as governments are pressing for an international legal instrument. WIPO’s work on traditional knowledge addresses three distinct yet related areas: traditional knowledge in the strict sense (technical know-how, practices, skills, and innovations related to, say, biodiversity, agriculture or health); traditional cultural expressions/expressions of folklore (cultural manifestations such as music, art, designs, symbols and performances); and genetic resources (genetic material of actual or potential value found in plants, animals and micro-organisms). Although for many communities traditional knowledge, genetic resources and traditional cultural expressions form part of a single integrated heritage, from an intellectual property standpoint they raise different issues and may require different sets of solutions. In all three areas, in addition to work on an international legal instrument, WIPO is responding to requests from communities and governments for practical assistance and technical advice to enable communities to make more effective use of existing intellectual property systems and participate more effectively in the IGC’s negotiations. WIPO’s work includes assistance to develop and strengthen national and regional systems for the protection of traditional knowledge (policies, laws, information systems and practical tools) and the Creative Heritage Project which provides hands-on training for managing intellectual property rights and interests when documenting cultural heritage. Traditional knowledge When community members innovate within the traditional knowledge framework, they may use the patent system to protect their innovations. However, traditional knowledge as such - knowledge that has ancient roots and is often informal and oral - is not protected by conventional intellectual property systems. This has prompted some countries to develop their own sui generis (specific, special) systems for protecting traditional knowledge. There are also many initiatives underway to document traditional knowledge. In most cases the motive is to preserve or disseminate it, or to use it, for example, in environmental management, rather than for the purpose of legal protection. There are nevertheless concerns that if documentation makes traditional knowledge more widely available to the general public, especially if it can be accessed on the Internet, this could lead to misappropriation and use in ways that were not anticipated or intended by traditional knowledge holders. At the same time, documentation can help protect traditional knowledge, for example, by providing a confidential or secret record of traditional knowledge reserved for the relevant community only. **Some formal documentation and registries of traditional knowledge support sui generis protection systems, while traditional knowledge databases - such as India’s database on traditional medicine - play a role in defensive protection within the existing IP system. These examples demonstrate the importance of ensuring that documentation of traditional knowledge is linked to an intellectual property strategy and does not take place in a policy or legal vacuum.** In the WIPO talks, many argue that use of traditional knowledge ought to be subject to free, prior and informed consent, especially for sacred and secret materials. However, others fear that granting exclusive control over traditional cultures could stifle innovation, diminish the public domain and be difficult to implement in practice. Genetic resources Genetic resources themselves are not intellectual property (they are not creations of the human mind) and thus cannot be directly protected as intellectual property. However, inventions based on or developed using genetic resources (associated with traditional knowledge or not) may be patentable or protected by plant breeders’ rights. In considering intellectual property aspects of use of genetic resources, WIPO’s work complements the international legal and policy framework defined by the Convention on Biological Diversity (CBD), and its Nagoya Protocol, and the International Treaty on Genetic Resources for Food and Agriculture of the United Nations Food and Agriculture Organization. Issues under discussion at WIPO include: Defensive protection of genetic resources: This strand of the work aims at preventing patents being granted over genetic resources (and associated traditional knowledge) which do not fulfil the existing requirements of novelty and inventiveness. In this context, to help patent examiners find relevant prior art, proposals have been made that genetic resources and traditional knowledge databases could help patent examiners avoid erroneous patents and WIPO has improved its own search tools and patent classification systems. The other, more controversial, strand concerns the possible disqualification of patent applications that do not comply with CBD obligations on prior informed consent, mutually agreed terms, fair and equitable benefit-sharing, and disclosure of origin. “Biopiracy” is a term sometimes used loosely to describe biodiversity-related patents that do not meet patentability criteria or that do not comply with the CBD’s obligations – but this term has no precise or agreed meaning. Disclosure requirements: A number of countries have enacted domestic legislation putting into effect the CBD obligations that access to a country’s genetic resources should depend on securing that country’s prior informed consent and agreeing to fair and equitable benefit sharing. WIPO members are considering whether, and to what extent, the intellectual property system should be used to support and implement these obligations. Many, but not all, WIPO members want to make it mandatory for patent applications to show the source or origin of genetic resources, as well as evidence of prior informed consent and a benefit sharing agreement. Parallel discussions are also taking place in the World Trade Organization’s Council on Trade Related Aspects of Intellectual Property (TRIPS). WIPO also deals with the intellectual property aspects of mutually agreed terms for fair and equitable benefit-sharing. It has developed, and regularly updates, an online database of relevant contractual practices, and has prepared draft guidelines on intellectual property clauses in access and benefit-sharing agreements. Traditional cultural expressions Traditional cultural expressions (folklore) are seen as integral to the cultural and social identities of indigenous and local communities, embodying know-how and skills, and transmitting core values and beliefs. Protecting folklore contributes to economic development, encourages cultural diversity and helps preserve cultural heritage. Traditional cultural expressions can sometimes be protected by existing systems, such as copyright and related rights, geographical indications, appellations of origin, trademarks and certification marks. For example, contemporary adaptations of folklore are copyrightable, while performances of traditional songs and music may come under the WIPO Performances and Phonograms Treaty. Trademarks can be used to identify authentic indigenous arts, as the Maori Arts Board in New Zealand, Te Waka Toi, has done. Some countries also have special legislation for the protection of folklore. Panama has established a registration system for traditional cultural expressions, while the Pacific Regional Framework for the Protection of Traditional Knowledge and Expressions of Culture gives “traditional owners” the right to authorize or prevent use of protected folklore and receive a share of the benefits from any commercial exploitation. Developing an international legal instrument Because the existing international intellectual property system does not fully protect traditional knowledge and traditional cultural expressions, many communities and governments have called for an international legal instrument providing sui generis protection. **An international legal instrument would define what is meant by traditional knowledge and traditional cultural expressions, who the rights holders would be, how competing claims by communities would be resolved, and what rights and exceptions ought to apply. Working out the details is complex and there are divergent views on the best ways forward, including whether intellectual property-type rights are appropriate for protecting traditional forms of innovation and creativity. To take just one example, communities may wish to control all uses of their traditional cultural expressions, including works inspired by them, even if they are not direct copies. Copyright law, on the other hand, permits building on the work of others, provided there is sufficient originality. The text of the legal instrument will have to define where the line is to be drawn between legitimate borrowing and unauthorized appropriation.** On genetic resources, countries agree that intellectual property protection and the conservation of biodiversity should be mutually supportive, but differ on how this should be achieved and whether any changes to current intellectual property rules are necessary. **Representatives of indigenous and local communities are assisted by the WIPO Voluntary Fund to attend the WIPO talks, and their active participation will continue to be crucial for a successful outcome**. WIPO members have agreed to expedite their work so as to decide in late 2012 whether to convene a diplomatic conference for final adoption of one or more international instruments.

#### IP protections can be used as defensive measures for protection of traditional knowledge – empirics flow neg

Tesh Dagne 14, [© Tesh Dagne 2014. LL.B; LL.M; JSD; Assistant Professor of Law, Thompson Rivers University Faculty of Law, Kamloops, BC. This paper is part of a research project on control of access for the utilization of biodiversity resources, funded under the TRU Internal Research Fund. The author acknowledges the TRU Research Office for the support. Also, the author thanks Jessica DeMarinis for great research assistance. Protecting Traditional Knowledge in International Intellectual Property Law: Imperatives for Protection and Choice of Modalities, 14 J. Marshall Rev. Intell. Prop. L. 25 (2014)]/.anop

Given the effectiveness of IPRs in regulating economic relations, segments of stakeholders have recently become receptive to the possible use of IP as frameworks to protect TK for external use.110 Proposals to protect TK through IP mostly include either the use of existing IPRs, or the use of their modified versions in some cases, or the use of their amended version in others. Examples in the latter category include the application of case law interpreting unmodified statutes of IPRs in a manner that responds to the interest of ILCs. In this line, the Australian Aboriginal artists successfully invoked claims of copyrights and unfair trade practices against carpets imported from Vietnam that replicated Aboriginal arts.111 In resolving the dispute that arose, the Federal Court of Australia granted compensatory damages for “personal suffering” to take account of cultural aspects.112 It decided that even though only individuals could be recognized as copyright owners: [T]here may be scope…for the distribution of the proceeds of the action to those traditional owners who have legitimate entitlements, according to Aboriginal law, to share the compensation paid by someone who has, without permission, reproduced the artwork of an Aboriginal artist.”113 The jurisprudence developed from this and similar cases have generally helped to introduce the issue of TK into the Australian IPRs establishment.114 For example, the National Indigenous Arts Advocacy Association in Australia adopted the Indigenous Label of Authenticity in 1999 to help promote the marketing of the art and cultural products, and to deter the sale of products that are falsely labeled as originating from Aboriginal peoples.115 The result of the certification of authenticity in this manner, however, has not proved fruitful and thus, the initiative has been abandoned.116 New Zealand uses existing IPRs to provide defensive measures of TK protection.117 The New Zealand Trade Marks Act was amended to prohibit the registration of trademarks that would likely offend a significant segment of the community, including the indigenous Maori people.118 In addition, the Act allows the invalidation of a registered mark upon application by a person “culturally aggrieved,” even if the mark is distinctive of a registered owner.119 Bearing in mind the holistic nature of TK, it combines the use of IPRs with initiatives for sui generis approach to TK.120 In Canada, there has yet to be any amendments to IPRs legislation based on protection for TK and TK-based resources.121 As a working paper from the Department of Indian and Northern Development indicates, however, indigenous peoples in Canada directly utilize existing Copyrights and Trademark systems to establish rights on the products of their knowledge.122 This includes the use of copyrights in the woodcarvings of Pacific coast artists, including masks and totem poles, and in the silver jewelry of Haida artists.123 In the trademark regime, the Department of Indian and Northern Affairs uses the symbol Igloo as a certification mark, which identifies Inuit artwork as authentic.124 In addition, members and groups of Aboriginal peoples protect a number of marks as official marks and certification marks to identify a wide specter of goods and services, ranging from traditional art and artwork to food products, clothing, tourist services, and enterprises.125

#### We solve—

**1AC Breske ’18** [Ashleigh, visiting assistant professor of international studies in the global politics and societies (GPS) department @ Hollins University. She earned her Ph.D. in planning, governance, and globalization at Virginia Tech, her M.A.L.S. in social sciences with a focus on Roman history from Hollins University, and her B.S. in biology with a concentration in classical studies and chemistry. Her current research explores how institutions and cultural values mediate changes in repatriation policy for indigenous cultural property, “Biocolonialism: Examining Biopiracy, Inequality, and Power”, Spectra, 6(2), pp.58–73. DOI: http://doi.org/10.21061/spectra.v6i2.a.6]//pranav

Susan Hawthorne makes the claim that indigenous “communities are much more likely to lose not only access to their traditional knowledge but also control over how that knowledge is used, just as when the industrial revolution occurred the value of labor was alienated and the profits passed into the hands of the owners.”xcii The western legal system and international intellectual property law has commodified indigenous knowledge and traditional resources. Biopiracy is an “aggressive instrument of corporate globalizers” who profit from knowledge appropriation and endanger “intergenerational sustainability” for indigenous communities.xciii It is important to understand the barriers that patents and intellectual property rights create for poor areas of the world. Employing theories on biocolonialism allows us to see how biopiracy has commodified traditional resources and indigenous knowledge by transnational corporations under neoliberal economic practices. The patent system seen today is a recreation of the colonial system of extracting resources of a marginalized group by a more powerful (or wealthy) entity.xciv This paper has highlighted issues with current practices and used examples such as the INBio debacle, the Human Genome Diversity Project (HGDP), and the Maya ICBG project, to illustrate the nuanced problems of indigenous rights. The control of indigenous resources and knowledge is wrapped up in colonial language and assumptions in the form of biocolonialism. **Until indigenous peoples have greater control of their resources, MNCs and wealthy nations will continue to take advantage of the economic system.**

#### 1AC Diver

[Alice, Dr Alice Diver is a Senior Lecturer in Law at Liverpool John Moores University, who publishes in the areas of adoption, human rights, property law, and law in literature. She joined LJMU in September 2018, having worked as a Senior Law Lecturer and Programme Leader for the LLB (Law and Criminology) and as a Senior (Faculty) Fellow for L& T at EHU (2015-2018). Prior to that she was employed as a Lecturer in Law/TJI Associate Researcher, and Course Director for the LLB programmes (Magee campus) at Ulster University, N Ireland (2000-2015). She previously worked as a Solicitor in N Ireland in private practice (1989-1995) and as an Associate Lecturer in Law at NWRC (1993-2004). She is an alumna of Queen's University Belfast (LLB, 1984; LLM (Dist.), 2004) and gained a First class BA Hons in English Literature from Ulster University in 2017. She is the author of a 2013 monograph on origin deprivation, closed records and familial contact in adoption and surrogacy entitled 'A Law of Blood-ties: The 'Right' to Access Genetic Ancestry' (Springer) which is based upon her PhD (Ulster, 2012). She was co-editor of an international collection of essays on socio-economic rights: 'Justiciability of Human Rights Law in Domestic Jurisdictions'' (Springer, 2015). She has served as an EU-funded country reporter (UK, NI) for the Asser Inst./Utrecht University on matters of cross-border family law, in 2008 and 2017, contributing to an EU-wide guide for family law practitioners (2018). She was a co-convenor of the International Society of Family Law's Regional Conference in Derry, N Ireland (2010). She was a trustee of Londonderry Inner City Trust from 2012 -2016, and has been a trustee for Kinship Care NI since 2014, and a board member for Apex Housing NI since 2013. She has served as an external examiner for a number of LLB and LLM programmes throughout the UK and Ireland, since 1999, “‘A Just War’ - Protecting Indigenous Cultural Property”, 2004, [http://classic.austlii.edu.au/au/journals/IndigLawB/2004/43.html]//pranav](http://classic.austlii.edu.au/au/journals/IndigLawB/2004/43.html%5d//pranav)

If, however, as Heintz noted, Indigenous peoples ‘have ... limited capacity as subjects of international law,[68] the role of equitable domestic jurisprudence cannot be underestimated. Mabo could prove useful in ‘spiritual property’ cases; the ‘relevant nexus’ rule[69] may apply, linking Indigenous peoples to their rights, in perpetuity. Religious freedom may be more acceptable for ‘self-determination’ than territorial claims. Given the decade-long focus on indigenous rights, and growing international awareness of the ‘gradual destruction of the material and spiritual basis for the maintenance of indigenous societies’[70] indigenous cultural property rights may yet be seen as the ‘fourth generation’[71] of human rights. It would be ironic if this were achieved by regarding them as ‘religious freedom’ rights, given the role religion initially played in justifying colonialism. This time however, the ‘Just War’, would involve ‘no cessions, consent, military conquests, Hobbesian **covenants or social contracts’;[72] merely an ‘act of international justice’[73] in recognising the unique nature of indigenous cultural property rights.**

#### 1AC IPW

[Intellectual Property Watch quoting Debra Harry -- executive director of the Indigenous Peoples’ Council on Biocolonialism, and a member of the Paiute tribe in the United States, “Inside Views: Indigenous Groups Tell WIPO, ‘Don’t Patent Our Traditional Knowledge’”, [https://www.ip-watch.org/2006/12/06/inside-views-indigenous-groups-tell-wipo-dont-patent-our-traditional-knowledge/]//pranav](https://www.ip-watch.org/2006/12/06/inside-views-indigenous-groups-tell-wipo-dont-patent-our-traditional-knowledge/%5d//pranav)

Regarding section (iii), in order to “meet the actual needs of holders of TK,” our rights must not only be respected, but more importantly these rights must be recognized.

#### 1AC McGonigle

[Ian Vincent, Assistant Professor of Global Science, Technology, & Society at Nanyang Technological University. Was previously a PhD Candidate in Anthropology and Middle East Studies at the Center for Middle Eastern Studies at Harvard University. He has published over a dozen original research articles in top academic journals, such as: Ethnos: Journal of Anthropology; the Journal of Law and the Biosciences (including the most-read article, with over 30,000 reads); Anthropology Today (cover feature); Journal of Neuroscience; Biophysical Journal; ACS Chemical Neuroscience; and Biochemistry., “Patenting nature or protecting culture? Ethnopharmacology and indigenous intellectual property rights”, Journal of Law and the Biosciences, Volume 3, Issue 1, April 2016, Pages 217–226, DOI: https://doi.org/10.1093/jlb/lsw003]//pranav

Ethnopharmacologists are scientists and anthropologists that study indigenous medicines and healing practices, and who often develop new therapies and medicines for wider use. Ethnopharmacologists do fieldwork with indigenous peoples intraditional societies, wherethey encounter a wide range of cultural values and varying ideas about the nature of property relations. This poses difficulties for protecting indigenous intellectual property and for making just trade agreements. This Note reviews the legal issues relevant to the protection of indigenous resources in ethnopharmacology trade agreements, and suggests that recent developments in anthropology and the social study of science could be instructive in furthering the legal discourse and in providing policy directions. Specifically, the Note introduces the concepts of ‘ontological pluralism’ and ‘epistemic subsidiarity’, which could help lawmakers write sui generis trade agreements to better protect indigenous knowledge and resources

## 2

### K

#### The subject emerges through loss, constitutively unable to express it’s desires through language. That traps the subject in the symbolic, creating a constant desire towards the lost-object. Thus, the role of the ballot is to embrace loss.

McGowan 13 [Todd; Associate Professor of Film Studies at the UVermont; “Enjoying What We Don't Have: The Political Project of Psychoanalysis,” Pg. 26-29; 2013; University of Nebraska Press / Lincoln and London] Justin

The subject as such emerges through the experience of loss. It is the loss of a part of the subject — an initial act of sacrifi ce — that creates both subject and object, the object emerging through this act as what the subject has lost of itself. The subject takes an interest in the object world because it forms this world around its lost object. As Jacques Lacan notes, “Never, in our concrete experience of analytic theory, do we do without the notion of the lack of the object as central. It is not a negative, but the very spring for the relation of the subject to the world.”5 Th e loss of the object generates a world around this loss to which the subject can relate.

Obviously, no one literally creates objects through an initial act of sacrifi ce of an actual body part. Th is would be too much to ask. But the psychical act of sacrifi ce allows for a distinction to develop where none existed before and simultaneously directs the subject’s desire toward the object world. In his breakthrough essay “Negation,” Freud describes this process as follows: “Th e antithesis between subjective and objective does not exist from the fi rst. It only comes into being from the fact that thinking possesses the capacity to bring before the mind once more something that has once been perceived, by reproducing it as a presentation without the external object having still to be there. Th e fi rst and immediate aim, therefore, of reality-testing is, not to fi nd an object in real perception which corresponds to the one presented, but to refi nd such an object, to convince oneself that it is still there.”6 Th ough Freud doesn’t use terms from linguistics, it is clear that he is making reference to the subject’s alienation in language and that he sees this alienation as the key to the emergence of both the subject and the object

When the subject submits to the imperatives of language, it enters into an indirect relation with the object world. Th e speaking being does not relate to books, pencils, and paper but to “books,” “pencils,” and “paper.” Th e signifier intervenes between the subject and the object that the subject perceives. Th e subject’s alienation into language deprives it of immediate contact with the object world. And yet, in the above passage from “Negation,” Freud conceives of the subject’s entrance into language — its “capacity to bring before the mind once more something that has once been perceived, by reproducing it as a presentation without the external object having still to be there” — as the event that produces the very distinction between subject and object. Th is means that the indirectness or mediation introduced by language deprives the subject of a direct relation to the object world that it never had.

Prior to its immersion in the mediation of language, the subject had no object at all — not a privileged relation to objects but a complete absence of relationality as such due to its autoeroticism. In this sense, the subject’s willingness to accede to its alienation in language is the fi rst creative act, a sacrifice that produces the objects that the subject cannot directly access. Language is important not for its own sake but because it is the site of our founding sacrifi ce. We know that the subject has performed this act of sacrifi ce when we witness the subject functioning as a being of language, but the sacrifi ce is not an act that the subject takes up on its own.

Others always impose the entry into language on the subject. Th eir exhortations and incentives to speak prompt the emergence of the speaking subject. But the subject’s openness to alienation in language, its willingness to sacrifi ce a part of itself in order to become a speaking subject, suggests a lack in being itself prior to the entry into language. Th at is, the act through which the subject cedes the privileged object and becomes a subject coincides with language but is irreducible to it. Th e subject engages in the act of sacrifi ce because it does not fi nd its initial autoeroticism perfectly satisfying — the unity of the autoerotic being is not perfect — and this lack of complete satisfaction produces the opening through which language and society grab onto the subject through its alienating process. If the initial autoerotic state of the human animal were perfectly satisfying, no one would begin to speak, and subjectivity would never form. Speaking as such testifi es to an initial wound in our animal being and in being itself.

But subjectivity emerges only out of a self-wounding. Even though others encourage the infant to abandon its autoerotic state through a multitude of inducements, the initial loss that constitutes subjectivity is always and necessarily self-infl icted. Subjectivity has a fundamentally masochistic form, and it continually repeats the masochistic act that founds it. Th e act of sacrifi ce opens the door to the promise of a satisfaction that autoerotic isolation forecloses, which is why the incipient subject abandons the autoerotic state and accedes to the call of sociality. But the term “sacrifi ce” is misleading insofar as it suggests that the subject has given up a wholeness (with itself or with its parent) that exists prior to being lost.

In the act of sacrifi ce, the incipient subject gives up something that it doesn’t have. Th e initial loss that founds subjectivity is not at all substantial; it is the ceding of nothing. Th rough this defi ning gesture, the subject sacrifi ces its lost object into being. But if the subject cedes nothing, this initial act of sacrifi ce seems profoundly unnecessary. Why can’t the subject emerge without it? Why is the experience of loss necessary for the subject to constitute itself qua subject? Th e answer lies in the diff erence between need and desire. While the needs of the human animal are not dependent on the experience of loss, the subject’s desires are.

It is the initial act of sacrifi ce that gives birth to desire: the subject sacrifi ces nothing in order to create a lost object around which it can organize its desire. As Richard Boothby puts it in his unequaled explanation of the psychoanalytic conception of the emergence of desire, “Th e destruction and loss of the object . . . opens up a symbolic dimension in which what was lost might be recovered in a new form.”7 He adds: “Sacrifi ce serves to constitute the very matrix of desire. Th e essential function of sacrifi ce is less do ut des, I give so that you might give, than do ut desidero: I give in order that I might desire.”8 Th e subject’s desire is oriented around this lost object, but the object is nothing as a positive entity and only exists insofar as it is lost. Th is is why one can never att ain the lost object or the object that causes one to desire.9 Th e coming-into-being of this object originates the subject of desire, but, having no substance, the object can never become an empirical object of desire. We may see an object of desire as embodying the lost object, but whenever we obtain this object, we discover its emptiness. Th e lost object is constitutively rather than empirically lost

#### **The 1AC’s development discourse is the projection of repetitive desires of a capitalist system- the scapegoat is created to obscure the Real- necessitating the destruction of the third world.**

Kapoor 14 [Ilan; 10/2/14; Faculty of Environmental Studies, York University, Toronto, Canada; “*Psychoanalysis and development: contributions, examples, limits*,” Third World Quarterly, 35:7, 1120-1143, DOI: 10.1080/01436597.2014.926101] Justin recut SJKS

The blind spot on which I would like to dwell a little, however, is the continuing neglect of colonialism in mainstream development discourse. This neglect coincides with the very ‘invention’ of international development in the post-Second World War period: aid to ‘underdeveloped’ areas became vital to containing what the USA and other Western powers saw as Soviet expansionism. No wonder that modernisation theory – which pioneered development as an academic field and has anchored Western foreign policy and development institutions ever since – bears the strong imprint of such cold war politics. As several analysts have argued,26 modernisation tends to take a decidedly postSecond World War view of history, thus avoiding the history of Western colonialism. For instance, Walt Rostow’s The Stages of Economic Growth – so influential in economic and foreign policy circles – fails to deal with colonial rule in any meaningful way. It’s not that Rostow doesn’t mention colonialism at all; he does, but its significance is notably downplayed. In a short section on ‘Colonialism’, he goes so far as to state that colonies were founded for ‘oblique reasons’ and colonial subjects ‘looked kindly’ on the colonizer’s efforts to organise ‘suitable political frameworks’. 27 But such disavowal continues in various guises even today. It is visible in World Bank and International Monetary Fund structural adjustment programmes, 1126 I. Kapoor Downloaded by [York University Libraries] at 10:45 02 October 2014 which make no mention of, or allowances for, the fact that the West’s colonial plunder might have something to do with the recipient’s current socioeconomic conditions. And it is evident in World Trade Organization trade deals, which so often assume a global economic level playing field in their pursuit of ‘free’ trade, amounting to trade ‘freed’ of any past colonial entanglements. Robert Fletcher calls such persistent sanitisation of colonialism ‘imperialist amnesia’. He analyses the work of several development and globalisation pundits to drive home the point: New York Times columnist Thomas Freidman, former World Bank economist Paul Collier and economist and UN advisor Jeffrey Sachs, all of whom treat wealth accumulation in the global North or poverty in the global South by omitting consideration of the imperialist extraction of Third World resources.28 In The End of Poverty, for example, Sachs claims that ‘the combination of Africa’s adverse geography and its extreme poverty creates the worst poverty trap in the world’. 29 Vandana Shiva, struck by the glaring blind spot, takes Sachs to task, declaring: This is a totally false history of poverty...The wealth accumulated by Europe and North America is largely based on riches taken from Asia, Africa and Latin America. Without the destruction of India’s rich textile industry, without the takeover of the spice trade, without the genocide of the Native American tribes [sic], without African slavery, the Industrial Revolution would not have resulted in new riches for Europe or North America. It was this violent takeover of Third World resources and markets that created wealth in the North and poverty in the South.30 What this recurring blind spot reveals is the tendency to deny the West’s complicity (and one’s own complicity as Westerner) in the plight of the Third World. It is a tendency that, as many postcolonial critics have suggested,31 is rife within the history of Western thought, which so often represses the barbarism (colonialism, racism, violence against the subaltern and women) that founds modernity. And it is a tendency, as underlined above, which equally inaugurates the field of Development Studies, since cold war politics demanded the construction of a strong and irreproachable West, cleansed of any suggestion of complicity in Third World ‘underdevelopment’. Thus, the discourse of modernisation (in its postwar and contemporary forms) can be seen as receiving back its own message to the Third World in inverted form: it is as if it is saying ‘you need to be backward, irrational, poor, terroristic, weak, exotic, fundamentalist, passive, etc since that is my way of reassuring myself that I am civilised, rational, scientific, rich, strong, secular, active, etc’. What psychoanalysis adds to the postmodern understanding of binary construction is the dimension of the Real, which shows up here in the form of the blind spot – the element of selflimitation that one cannot really come to terms with, so one averts [selflimitation] by (unconsciously) projecting it onto the Other. To conclude this section, let me underline again how psychoanalysis can help uncover the unconscious of development discourse, pointing to the latter’s desires and traumas, which so often ‘speak’ when things go wrong (eg in the form of slips and blind spots). Thus, in the examples discussed above, the mastery, credibility and neutrality of the World Bank are tripped up by the ‘Summers memo’, revealing the Bank’s desire for free market economics, even if this means First World domination of the Third World, while the traumatic Third World Quarterly 1127 Downloaded by [York University Libraries] at 10:45 02 October 2014 inability of modernisation to face its limitations and complicities shows up in its disavowal of Western colonialism. Note that both these illustrations exemplify what is known in psychoanalysis as the ‘return of the repressed’: mainstream development’s construction of itself as rational, scientific and authoritative implies precisely the evacuation of certain desires and traumas, which ‘speak’ nonetheless, sometimes at the most inopportune moments. Note as well that, even though development’s slips and stumbles may appear ‘irrational’ (eg the ‘irrational’ implications of free market economic logic), such irrationality is the product of the excess of reason (eg development’s prioritisation of positivist economics and science), that is, its inability to come to terms with its conflicting desires (eg its desire to appear pure, yet its past yearnings for colonial plunder). Irrationality, in this sense, is integral to the very construction of a rational and scientific development discourse (in the same way that, for Lacan, the unconscious is integral to the very construction of language). Finally, note the emphasis on surface rather than depth when it comes to the unconscious: Lacanian psychoanalysis is not a ‘depth psychology’ meant to excavate unconscious desires from the recesses of the individual mind; rather than going below the surface, the point is to glean the unconscious hidden in plain view. The unconscious is thus immanent to language/discourse, visible topologically. This is why the way the Summers memo is presented (its secretive form) is more important, psychoanalytically speaking, than what is uttered in it. This is also why the slips contained in ‘population control’ and ‘sustainable development’ are outwardly visible from the start, although, as pointed out earlier, they are only gleaned retroactively, in light of the institutional machinations that stem from each. Enjoying development: understanding why development discourse endures The Lacanian concept of jouissance (enjoyment) refers not to the pleasure we derive from things but, rather, to the excessive satisfaction or kick we get from doing something transgressive, irrational or even wrong. It has been called ‘the thrill of the [R]eal’, 32 and helps explain, for example, such self-destructive pursuits as smoking and binge drinking, or such ‘extreme sports’ as bungee jumping and free diving: people do them not despite the fact that they are dangerous, but because they are. Jouissance thus involves the intense pleasure taken from pain, a kind of idiotic stupor that often makes us ask for more even though we well know the risks. According to Lacan, jouissance is the outcome of the child’s separation from the primordial (m)Other and entry into the symbolic order. This is a traumatic separation that results in deep loss (of enjoyment), a loss that we are never able to forget. The tragedy is that the loss is actually a fiction (no real primordial fullness ever existed in the first place), yet it always remains with us. We repeatedly assume fullness exists but constantly remain dissatisfied, thus turning ‘nothing into something’. 33 The promise of enjoyment is always deferred, with the result that we continuously miss our goal, yet keep coming back for more. One of Žižek’s significant contributions to political theory has been to make the notion of jouissance a political factor, showing how it is a crucial ingredient 1128 I. Kapoor Downloaded by [York University Libraries] at 10:45 02 October 2014 in the formation of political community and identity.34 For example, the deep comfort people may get from following rituals (bureaucratic or religious), or the enjoyment and thrill that may binds us together against an external enemy, help explain why institutions, nations, or groups often do ‘irrational’ things – in this case, obstinately defending bureaucratic red tape or religious identity, or engaging in aggressive racism or nationalism. Jouissance elucidates why people become so attached to cultural values and socio-political systems, and why power can turn out to be so intractable, persistent and enduring. One has trouble giving up such things as racism, materialism, sexism or religious fundamentalism because one enjoys them; they give one a certain sense of stability and fulfilment, despite the fact that (and sometimes because) one may well know they can be pernicious and cruel. As Stavrakakis points out, ‘by taking into account emotion, affect [and enjoyment]...one may be able to reach a more thorough understanding of “what sticks”: both what fuels identification processes and what creates fixity’. 35 Let me provide the following three illustrations. The first concerns the emphatically capitalist orientation of development: despite the fact that capitalism has been severely criticised – it results in socioeconomic inequality, global unevenness and ecological destruction – it is very much in the ascendancy; arguably, it constitutes the only available economic horizon today, whether in the global North or the South. From a Žižekian perspective, one of the key reasons for such tremendous success is jouissance. That is to say, people enjoy capitalism. We are libidinally bound to it because we get so much from it – cars TVs, houses, nice clothes, cheap fast-food, iPhones, etc. And capitalism, especially in its latest neoliberal phase, has been very effective in appealing to our passions. It is able to exploit what Lacanians see as our deep-seated sense of lack/loss, enabling us to fill such lack through consumerism and materialism. This means that we cannot easily postpone capitalism, since it promises to heal our ontological wound. Late capitalism’s productive engine thus depends on enjoyment-as-excess; its strength and success hinge on the extent to which it can elevate jouissance ‘into the very principle of social life’. 36 This is why late capitalist societies (whether in the West or Third World) are characterised by the normalisation of excess – the desire for the best, biggest, tallest, richest, most original; the pervasiveness of ‘super-sized’ everything, from dams and buildings to coffee and art; the orgiastic show of wealth; the rise of sexual promiscuity and ‘extreme’ sports; or the over-abundance of ‘choice’, whether in TV channels, music, restaurants or university programmes. The problem, however, is that, although capitalist development promises enjoyment, it never quite delivers: a Coke doesn’t quite quench, more wealth is still never enough and super-sized fast-food sickens rather than satisfies. But such failure is written into the very logic of capitalism. For, if an end to dissatisfaction were possible, that would spell the end of the global capitalist system. Instead, the aim of the system is always to solicit and activate desire, but never to allow it to be satiated; this is what enables ever-increasing growth, profit or market share. Capitalist development, in this sense, is driven by insatiable lack, so that, try as we may to satisfy our enjoyment, we always miss our mark. As Todd McGowan states, ‘the problem with the society of enjoyment is not that we suffer from too much enjoyment, but that we don’t have enough’. 37 Third World Quarterly 1129 Downloaded by [York University Libraries] at 10:45 02 October 2014 A second illustration of jouissance involves nationalism. Indeed, little else has been more enduring than national identifications in the development context. Appeals to national bonds were of course crucial during independence struggles across the former colonies, but they have also been a key ingredient in postindependence national politics to help unify the nation on key political issues (land reform, industrialisation or liberalisation strategies, pet or prestige development projects, emergencies, humanitarian disasters, wars, etc). What is notable is that these appeals have invariably relied, not so much on rational arguments as social passions. Nationalism operates at the libidinal level (ie at the level of our ‘guts’, hearts, affect), engaging our sense of belonging, community and pride. It relies on the (fantasmatic) promise of full enjoyment, which once again helps to explain the secret of its persistence. The problem is that, while nationalism may be able to deliver on a few of its development goals, it often leads to irrationalities and excesses. We are all too aware of stories about excessive government spending on the military or costly prestige projects (mega-dams, space programmes, state-of-the-art hospitals, etc), at the expense of, say, basic health care and education. It is precisely this that Frantz Fanon warned about in his scathing critique of the national bourgeoisie, which he famously accused of pandering to nationalist sentiment as a pretext for continuing elite wealth accumulation and ‘racket’. 38 But there is also a more sinister dimension to nationalism: its tendency to scapegoat. This is a tendency that arises as part of the very formation of national identity. To construct the nation is to appeal to what makes ‘us’ unique (our customs, culture, landscapes, food, dress, festivals, etc). It is this uniqueness that provides people with an ecstatic sense of unity and togetherness (ie jouissance). Yet, as Lacanians are quick to point out, such togetherness is a fiction, masking the lack and instability at the heart of any identity. And so, usually when things go wrong and this sense of national togetherness is threatened (eg by economic crises, recessions or internal political instability), a scapegoat is constructed – fundamentalists who terrorise us, the poor who threaten our security or environment, immigrants who steal our jobs or menace our women, the Jews/Indians/Chinese who plot to rule the world. Žižek underlines how such scapegoating allows the nation to avoid confronting its own inadequacies or contradictions by projecting them onto a stereotypical Other.39 My third, related example is about racism. Since colonial times not only has Western domination of the Third World been exercised in the socioeconomic and political spheres, but also when it comes to race. As Fanon claims, the ‘White man’ has become the universal subject or master signifier, so that being Black (or a person of colour) is only meaningful in relation to whiteness.40 From the Lacanian standpoint this implies that whiteness has been constructed as the promise of being less lacking, that is, more human and more whole.41 There is thus, as Kalpana Seshadri-Crooks argues, a kernel of jouissance in the construction of race and racism, with people of colour (and white people themselves) desiring whiteness,42 something which, it must be noted, fits neatly with the preponderant idealisation of the West in development discourse. No wonder once again that, despite the fact that people decry racism, it so obstinately remains with us. Skin bleaching (‘lactification’), the denigration of local culture in favour of all things Euro-North American, racial profiling (in policing, 1130 I. Kapoor Downloaded by [York University Libraries] at 10:45 02 October 2014 immigration), the resurgence of white supremacist movements – all speak to the jouissance inherent in racism and to persistent forms of ‘internalized whiteness’, whether in the global South or North. Žižek often associates racist enjoyment with envy, claiming that our enjoyment is always imbricated with the Other’s enjoyment, so that we can never enjoy on our own; we most often enjoy by envying the Other’s enjoyment, too.43 The creation of a scapegoat, according to him, is accompanied by anxiety about the ‘theft of enjoyment’: we cannot enjoy because the Other – terrorists who are threatening our security, foreigners who are taking our jobs – has stolen our enjoyment or is enjoying more than us. Hence, only by eliminating the Other can we recover our lost enjoyment and really enjoy (of course, no such real enjoyment exists). Such a perspective would help explain why extreme forms of racism result in the Other’s extermination (eg in the Rwandan and Armenian genocides, Bosnian ethnic cleansing, the massacre of indigenous peoples in Guatemala, Nazi concentration camps, etc). But it also helps explain more subtle or everyday forms of racism. For example, the neighbour declaring she likes family X living next door, but there’s something about them that bothers her (their noisy music, their entrepreneurialism, their body odour, their cooking smells, etc). What bothers her is (her construction of) their excess, their particular mode of enjoyment. An illustration of this in the development context is the recent discourse on HIV/AIDS. As Kalpana Wilson contends, despite the fact that the AIDS pandemic has much to do with political economy, the crisis is most often explained or rationalised (eg by Western aid agencies) in terms of ‘risk behaviours’ among ‘Africans’. 44 Wilson shows that weakened immune systems are the result not merely of the spread of a virus, but of people living in poverty, and the lack of access to cheap generic retroviral drugs (blocked by the big pharmaceuticals with the support of Western governments). That people live in poverty is the product of neoliberal structural adjustment policies across sub-Saharan Africa, which has seen reduced access to educational and health services for the poorest (especially women), and high unemployment, particularly among the ranks of former civil servants, teachers and health workers (several of whom live with HIV/AIDS). Yet the HIV/AIDS discourse tends towards a racialised stereotype on sexual behaviour: Africans lack sexual control, or African men and women are promiscuous. The consequence, according to Wilson, is a tendency on the part of Western aid agencies to target not the socioeconomic causes of the pandemic, but ‘African culture’ (behavioural modification, changes in values, etc). The stereotype of the hypersexual African is an old colonial one that Fanon famously seized upon.45 He claimed, from a psychoanalytic point of view, that it displayed a certain paranoid anxiety on the part of the coloniser about ‘African’ sexual prowess. That is, white racist repulsion was accompanied by its opposite – desire for, or sexual attraction to, Black people. And the same applies to the contemporary AIDS-related stereotype about the over-sexed African. To put it in Lacanian terms, it betrays a Western racist envy of the Other’s excess or enjoyment. The ‘African’ is constructed as possessing something we lack, which is what bothers us. But of course, what such racist constructions do is blind us to our own contradictions and deficiencies, which in this case have to do, as Wilson underlines, with Western complicities in the HIV/AIDS pandemic (support Third World Quarterly 1131 Downloaded by [York University Libraries] at 10:45 02 October 2014 for the big pharmaceuticals on restricting cheaper generic drugs, imposition of structural adjustment programmes, etc). Consequently Lacanian psychoanalysis helps us glean how such an unconscious social passion as enjoyment is so intertwined with development. Enjoyment provides for a (false) sense of satisfaction, stability and togetherness (as illustrated in the examples of neoliberal capitalism, nationalism and racism), but the excess it represents can also give way to irrational conduct (overindulgent materialism, scapegoating, and so on). Yet, whether in its positive or negative form (and often in both forms simultaneously), the notion of jouissance helps explain why things stick, why people hold on to sociocultural identifications, why such social ills as racism or rabid nationalism so obdurately persist. One last important argument: I want to suggest that it is the neglect of the passions, particularly jouissance, that bedevils the likes of post-development (hence it is not just mainstream development that has tended to disavow its psychoanalytic underpinnings, but even such non-mainstream thinking as postdevelopment). Indeed, Foucault, on whose work post-development relies, is quite critical of psychoanalysis (at least in his later work), seeing desire not as some extra-discursive passion that is repressed, but as something positively produced by discourse.46 Psychoanalysis, for him, is thus a normalising technology in the service of our disciplinary modern societies. Lacanian psychoanalysis is quite consistent with Foucault’s conception of power and discourse and how these discipline bodies, produce subjects, and shape such modern institutions as asylums, prisons, hospitals, schools, and indeed psychoanalysis.47 The problem, however, is that Foucault assumes that power produces the body without any mediation, that is, without any process of interiorisation. As Copjec argues, in ‘Foucault’s work the techniques of disciplinary power (of the construction of the subject) are conceived as capable of “materially penetrat[ing] the body in depth without depending even on the mediation of the subject’s own representations. If power takes hold on the body, this isn’t through its having first to be interiorized into people’s consciousness”.’ 48 For Lacanians it is precisely desire (growing out of enjoyment) that fixes the subject (however precariously and contingently), explaining how we both (mis) perceive power and become libidinally invested in it. And such desire/enjoyment is not discursively produced, as Foucault would have it, but as noted above is an inherent excess or an extimate core (the Real) to any discourse; it is the result of the insubstantial loss that arises the moment we enter language. Thus, the problem with Foucault, according to Copjec, is his refusal of any type of transcendence (not even the internally external transcendence envisaged by Lacan): his historicist discursivism ends up reducing society to power–knowledge relationships. But because power is always immanent for Foucault, his is a historicism which can neither account for itself (how does one apprehend power/discourse if one is always within it?) nor explain how social orders persist (or can be changed).49 Post-development shares several of the same problems. Drawing primarily on Foucault, post-development analysts such as Arturo Escobar and James Ferguson have focused on the construction of discourses about the Third World and their attendant disciplinary mechanisms. Escobar, for example, examines how development discourse is produced through the problematisation of issues 1132 I. Kapoor Downloaded by [York University Libraries] at 10:45 02 October 2014 (eg ‘poverty’) and the consequent professionalisation and institutionalisation of knowledge, which end up controlling and regulating people and communities.50 Ferguson, for his part, underlines how knowledge is simplified and depoliticised as a way of aggrandising institutional authority, so much so that, even when development projects fail, they can help expand bureaucratic power.51 But the problem with such analyses is that they inadequately grapple with human/social passions, failing to confront the psychic inclinations that support development discourses. In Escobar’s case there is no explanation of how power is mediated at the level of the subject, or why people so often acquiesce in, say, neoliberal discourse (as highlighted earlier). In fact, Escobar has been criticised precisely for a facile anti-development stance, with critics pointing out that many communities (including opposition groups) often fight for development (eg more jobs, even if they are low-paid, and better access to health, education, etc).52 Jonathan Rigg contends, for example, that in Southeast Asia many groups have ‘climbed aboard the modernization bandwagon, whether they be for or against it’. 53 Similarly, while Ferguson’s is a fascinating analysis of institutional power, he reduces the bureaucratic space to the power–knowledge relationships within it. There is no consideration of institutional desire – the ways in which, for instance, development administrators may obtain a certain reassurance and stability from following bureaucratic procedures and rules, or enjoy the prestige (and in the development context, benevolence) of their bureaucratic position and the discretionary power that comes with it. This would certainly explain more adequately why institutional power is able to sustain itself: it is not only produced discursively in an almost impersonal and anonymous way (ie an anti-politics machine), but is able to take hold and expand through libidinal attachments.54 Development as fantasy: doing ideology critique It is Žižek who has almost single-handedly renewed current interest in ideology. Given the Lacanian position that reality is always ruptured by gaps and contradictions (ie the Real), ideology, according to Žižek, is that which attempts to cover up these contradictions, to obscure the Real.55 In this sense reality is thoroughly ideological, with ideology serving as a way for it to escape its traumatic core and ideology critique constantly trying to focus attention back on this escape/trauma. Thus, in the case of (the ideology of) nationalist racism discussed above, we saw how a scapegoat was produced to cover up, and divert attention away from, the nation’s internal troubles (the Real). Here, the underlying ideological fantasy is that, once the scapegoat is removed or eliminated, the nation will recover its (impossible) harmony. Note that Žižek’s position on ideology differs from the Marxist one, which implies a privileged, neutral point from which one can distinguish between ‘objective reality’ and ‘false consciousness’. For Žižek we are all ideologically produced, so there is no question of being outside ideology. Rather, what we can do in terms of ideology critique is to try and detect, in the manner of the psychoanalyst, the gaps in ideologically constructed reality, gaps which, as we have seen, show up as slips, blind spots, symptoms, irrationalities. Ideology critique is therefore possible only from within the belly of the beast, so to speak. Third World Quarterly 1133 Downloaded by [York University Libraries] at 10:45 02 October 2014 Note as well that ideological fantasies secure our consent and compliance through desire (and enjoyment).56 In fact, as Žižek points out, fantasy is the mise-en-scène for desire: it helps make reality smooth, coherent and harmonious, protecting us from trauma or lack, gentrifying turbulence or negativity, and promising a world that is more bearable, attractive and enjoyable. Fantasy thus animates and manages desire; it teaches us how to desire.57 But just as fantasy can never live up to its promises (because no fullness exists), so desire is never satiated; it is condemned to repetition and failure in search of the missing object. Let me illustrate by examining a couple of development’s ideological fantasies. To begin, the very discourse of ‘poverty’, upon which development centres, is ideological. Indeed, poverty discourse typically constructs the Third World as underdeveloped and backward, as though such ‘underdevelopment’ is a fait accompli. By so isolating underdevelopment and poverty, the discourse mystifies the close relationship between surplus extraction and impoverishment, wherein wealth in some parts of the world (ie the affluent centres of the global North and South) is the historical result of the pauperisation of others.58 Hence poverty discourse simplifies and de-historicises inequality by privileging the ‘now’ of poverty, thus eliding the Real – in this case, continuing forms of elite domination, particularly the West’s (neo)colonial immiseration of the Third World. (Note that this is the same traumatic Real that, as pointed out earlier, modernisation tries to escape by disavowing Western colonial history.) It is worth reflecting on the desires elicited by such an ideological fantasy. A typical response to the mis-en-scène of (Third World) poverty is to blame this ‘backwardness’ on individuals and values – rogue civil servants, corrupt leaders, uneducated or irresponsible mothers, ‘ethnic’ or ‘traditional’ practices – so that the solution becomes the need/desire for better (ie modern, Western-style) leadership, norms and codes of conduct. A distinct moral righteousness pervades such a discourse, with experts and elites standing as arbiters of the ‘right’ values and ‘good’ governance. Ideologies and moralising discourses such as that of poverty are most successful when they are able to depoliticise desires, precisely in order to avoid coming too close to the Real. It would be much too risky – and traumatic – for the discourse of poverty to be staged in terms of inequality, for this would doutbless animate the desire to problematise (if not eliminate) the relationship between wealth accumulation and pauperisation. This is no doubt why it is the discourse of poverty, not inequality, that is so hegemonic in development, reflecting elites’ desires to maintain the status quo. A second prevalent ideological fantasy is neoliberalism, with which, for all intents and purposes, mainstream capitalist development is closely associated these days. Neoliberalism proposes that market mechanisms maximise human well-being and are ideal for addressing social and political problems. It promises that everyone wins, and anyone can ‘make it’. 59 We have already seen how such an ideological system binds people to it by seducing them (through jouissance); it creates a series of lacks, and through a cycle of satisfaction–disappointment (and hence postponement) is able to endlessly stimulate and redirect our desires (for consumption, wealth, jobs, etc). But in pledging to eliminate our ontological loss, in vowing to make us whole, the neoliberal fantasy conceals a lot. It hides the rapaciousness of 1134 I. Kapoor Downloaded by [York University Libraries] at 10:45 02 October 2014 markets, which have led to global ecological crisis and growing inequalities and unevenness.60 It disavows the large reserve army of (sweatshop) labour upon which the smooth functioning of global capital depends. And it ignores how the neoliberal gutting of state social programmes has hit hardest those most in need (women, the unemployed, migrants, racialised minorities). Neoliberal capitalism is founded on the gentrification of, and inability to acknowledge, its contradictions and deficiencies. What can be gleaned from the above is that Žižekian ideology critique involves two complementary steps.61 The first is about examining how an ideological fantasy is constructed and what it is trying to hide or disavow. Often this means identifying the fantasy’s master signifiers, taken-for-granteds or ‘sublime objects’ (in the above two examples: ‘poverty’, ‘corruption’, ‘free market’, ‘growth’). Moreover, this means locating the ideology’s Real, that is, what it is trying to render invisible or unutterable (eg inequality, the relationship between poverty and wealth accumulation, sweatshop labour). But detecting the holes and traumas within our knowledge systems is not nearly enough. This is because of what Žižek calls the ‘fetishistic disavowal’, according to which we can know, but still continue to do.62 The problem is evident in, say, global hedge fund managers guiltily regretting the industrial layoffs caused by their own financial speculation, yet continuing their business as usual; or critical TV audience members decrying product advertising but still engaging in consumerism and shopping. The strength of ideology, according to Žižek, lies in allowing us a certain ironic distance, which makes us think we know better and can rise above ideology. In contrast to those who maintain that having the information and ‘exposing the facts’ are sufficient to undermine power, Žižek argues emphatically that, most often, it is not a lack of knowledge that is the problem, but our unconscious commands and passions that bind us to ideology despite critical distance. Acknowledging and tracking the desires and enjoyment we invest in ideology, then, is a crucial second procedure for ideology critique. It means ‘articulating the way in which...an ideology implies, manipulates, produces a pre-ideological enjoyment structured in fantasy’. 63 This is precisely why I have been arguing for the importance of psychoanalysis in development: to better identify and come to terms with our libidinal attachments and the lure of development’s many sublime objects and fantasies. Psychoanalysis tells those of us who work in this field that we do not necessarily know our interests. Our libidinal attachments so often circumscribe our thinking and actions. This is why, despite the fact that we may be critical of or despondent about development, we buy into such development fantasies as ‘doing good’ or ‘free markets’, which often screen our lacks and anxieties (about social injustice, inequality, or our own complicities as Westernised elites) and set off our desires (eg to help, to save the Other, to donate money to charity, or to call for the privatisation of public services).

#### Psychoanalysis better explains settler colonialism – erasure is only tenable through the naturalization of settler desire which their theory doesn’t account for

Jafri 13 Beenesh Jafri, 2013, “Desire, Settler Colonialism, and the Racialized Cowboy,” American Indian Culture and Research Journal 37:2, SJBE

Much of the scholarship on race, racialization, and settler colonialism has framed the relationship between racialized subjects and settler colonialism in legal or political terms.20 This move makes sense, considering that settler colonialism is, at base, a political project concerned with governance. For example, when Patrick Wolfe critically asserts that settler-colonial invasion is not an event, but a structure, he argues that the “event” of invasion is made permanent through technologies of governance, such as settler laws, policies, and institutions.21 Similarly, Lorenzo Veracini, when distinguishing settlerhood from migration, makes this distinction by suggesting that “settlers are founders of political orders, and carry their sovereignty with them.”22 Like Wolfe, Veracini identifies sovereignty and political governance as the feature that distinguishes settler invasion from migration. Still underexamined in the literature on settler colonialism are the kinds of emotive investments that settler subjects may have in settler coloniality. To be clear, I am not denying that settler colonialism is a political project. However, I do wish to emphasize the significance of desire, which I would argue enables settler-colonial governance and vice versa. This notion that settler colonialism is as much a project of desire as it is a purely political or legal project is certainly clear within the emergent literature on Queer Indigenous studies, which has shown how alternative models of kinship, through figures such as the berdache or two-spirit person, become objects of desire for Queer subjects searching for true or authentic selves and communities.23 For example, in his research on Queer settler subjectivities, Scott Morgensen discusses how Queer Indigenous identities are appropriated by White LGBTQ activists to serve their own goals of building Queer movements without simultaneously challenging the logics of settler colonialism.24 Similarly, in When Did Indians Become Straight? Mark Rifkin underlines how the fetishization of Native social structures by Queer settlers, or liberals more generally, is as complicit with the settler-colonial project as is the repudiation of these social structures by US imperialist politics.25 In each case, argues Rifkin, Native social practices are framed strictly through the lens of cultural difference rather than as integral to processes of governance, and Native sovereignty is undermined.26 The work of both Morgensen and Rifkin points to the ways that relations of desire sustain and reassert colonial power in settler states. For the Queer settlers discussed by Morgensen and Rifkin, it is indigeneity (or a commodified form of indigeneity) which is the object of desire.27 However, I would argue that settlerhood is also an object of desire, and settler-desires also do the work of sustaining colonial power. This is especially true in the case of the racialized subject seeking belonging in settler society or seeking access to the benefits and privileges of the settler society. Moreover, settlerhood is not only an object of desire in and of itself, but desires that are construed as natural or innate—such as “settling down” and starting a family—do the work of constituting settlerhood as natural and happenstance. It is this naturalization in particular which makes settler colonialism so tenacious. More specifically, the political relationship between “Natives” and “settlers” is sustained through the cultivation of settler subjectivities invested not only in asserting settler identity (for example, American, Canadian or Australian), but with seemingly abstract or “universal” aims, objectives, and ideals, such as settling down, heterosexual (heteronormative) love, property ownership, the nuclear family, the separation of public/private spheres, and so on. Incidentally, these are values that dovetail with other political projects. As indicated by Oxford English Dictionary definitions of the word, desire is generally associated with sexual desire, and it is almost always presumed to operate at the level of the individual rather than the collective. As suggested by the literature on critical psychoanalysis, however, the spaces of the psychic and social/cultural/structural are intimately intertwined. The desire I speak of in this paper is a settler/colonial desire, which manifests itself at the collective level even as it expresses itself at the individual level. When settler desire installs itself as individual desire, it makes invisible its structural dimensions. For example, the desire to “settle down” appears to be a neutral, arbitrary, personal desire, delinked from history or politics. In some ways, settler desire is analogous to the construction of race difference that Kalpana Seshadri-Crooks describes in Desiring Whiteness.28 Though she is engaged in a different conceptual task than I am in this paper, there are nonetheless some useful insights to be gleaned from Desiring Whiteness. In it, Seshadri-Crooks draws upon Lacan’s theory of subject constitution to develop a framework for understanding the logic through which race difference is organized. 29 She argues that while the origins of race difference can be historically situated, its effects exceed language.30 However, racial difference assumes the appearance of naturalness and ahistoricity. To do this, racial difference relies upon the order of sexual difference, where sexual difference (via Lacan) is that which cannot be fully articulated by language.31 Racial difference acquires its tenacity and pervasiveness by assuming naturalness and ahistoricity. One could ask a similar question about settler/colonial desire: How do settler desires become naturalized to the point that their violence is erased, their history disappeared? Even as there is recognition that settler colonialism (or its euphemism, “discovery”) has a clear history, and even as there is recognition of First Peoples, the process of settlement itself continues to be construed as benign. Like race, settler coloniality becomes naturalized or made “normal” by relying upon the order of sexual difference, such that the calls to own property or start a (nuclear) family become delinked from their historical contexts and reconfigured as natural, innate, ahistorical desires. At the same time, it should be noted that while settler desires are constructed as innate, settlerhood itself is not marked on the body in the same way as race or sex difference. Rather, the settler/Native distinction is imprinted on the body through race. That is, there is no inherent recognition of settler-ness except through some sense of racial difference, which is often ambiguous. Outside of this, claims to settler status are recognized only through political and legal technologies, such as birth certificates, passports, status cards, and so on. It is perhaps due to this lack of embodied recognition that settler desire is so significant to sustaining colonial power. Indeed, settler/colonial desire is integral to the construction of settler subjectivities, to settler narratives, and to the project of erasure underlying the indigenizing efforts of settler projects. Settler colonialism is able to sustain itself because settler subjects are invested in its project. Because they are framed as belonging to the space of the psychic settler, desires are able to do the work of naturalizing settler imperatives. In other words, they are able to do this work because they are framed as universal human desires. As Scott Morgensen notes in relation to gender difference, “Any naturalisation of Western heteropatriarchy or binary sex/gender also naturalises settler colonialism. . . . Settler colonisation performs the West’s potential universality, by transporting and indigenising Western governance upon territories far from Europe: in settler states that then may appear not to be perpetual colonisers, but rather to be natural sites of Western law.”32 As a key aspect of this naturalization process, desire links settlerhood to the category of the human—with the implication that the binary counterpart to the settler, the “Native,” belongs to the category of the nonhuman. Such was the dilemma that Frantz Fanon described in Black Skin, White Masks. 33 The process of colonization, argued Fanon, institutes the binary of the colonizer/colonized, which seizes the subjectivity of the colonized, denying the ability of the colonized ever to be recognized except through the logic of racial difference.34 For Fanon, only anticolonial struggle held the promise of recapturing the humanity stolen by colonization. Yet, as Denise Ferreira da Silva has argued, the category of the human is always already embedded in the politics of racialization, emerging from historical-material contexts, even as it has the appearance of being natural.35 Claims to humanity rely on the figure of the “Other,” without which humanness cannot be recognized. Da Silva’s analysis thus problematizes the modernist quest for humanity itself. The evocation of humanity, signaled through naturalized desire, is also what facilitates a project of indigenization—wherein it appears natural and inconsequential that settlers belong to, and are legitimate occupants of, land that was acquired through deceptive treaty processes and through policies of genocide and assimilation.36 For example, in Indian Cowboy, love, marriage, and “settling down” are central themes. The film evokes the “American Dream”—the fantasy of marriage, nuclear family, property ownership, and success within a capitalist economy—while simultaneously making invisible the Indigenous histories and claims to land which make the American Dream possible. Because these erasures are enacted through desire—desire constructed as that which is natural, benign, and essentially human—the erasures are neutralized; the effects of their violence are rendered void.

#### The forwarding of the resolution is a call for recognition---instead of changing violent policies, the 1AC becomes obsessed and dependent on them.

Lundberg 12 – Dr. Christian Lundberg, Co-Director of the University Program in Cultural Studies and Professor of Rhetoric at the University of North Carolina, PhD in Communication Studies from Northwestern University, MA in Divinity from Emory University, BA from the University of Redlands, Lacan in Public: Psychoanalysis and the Science of Rhetoric, p. 174-177 // Re-Cut Justin

Thus, "as hysterics you demand a new master: you will get it!" At the register of manifest content, demands are claims for action and seemingly powerful, but at the level of the rhetorical form of the demand or in the register of enjoyment, demand is a kind of surrender. As a *relation of address* the hysterical demand is more a demand for recognition and love from an ostensibly repressive order than a claim for change. The limitation of the students' call on Lacan does not lie in the end they sought but in the fact that the hysterical address never quite breaks free from its framing of the master. The fundamental problem of democracy is not articulating resistance over and against hegemony but rather the practices of enjoyment that sustain an addiction to mastery and a deferral of desire.

Hysteria is a politically effective subject position in some ways, but it is politically constraining from the perspective of organized political dissent. If not a unidirectional practice of resistance, hysteria is at best a politics of interruption. Imagine a world where the state was the perfect and complete embodiment of a hegemonic order, without interruption or remainder, and the discursive system was hermetically closed. Politics would be an impossibility: with no site for contest or reappropriation, politics would simply be the automatic extension of structure. Hysteria is a site of interruption, in that hysteria represents a challenge to our hypothetical system, refusing straightforward incorporation by its symbolic logic. But, stepping outside this hypothetical non-polity, on balance, hysteria is politically constraining because the form of the demand, as a way of organizing the field of political enjoyment, requires that the system continue to act in certain ways to sustain its logic. Though on the surface it is an act of symbolic dissent, hysteria represents an affirmation of a hegemonic order and is therefore a particularly fraught form of political subjectivization.

The case of the hysteric produces an additional problem in defining jouissance as equivalent with hegemony. One way of defining hysteria is to say that it is a form of enjoyment that is defined by its very disorganization. As Gerard Wajcman frames it, the fundamental analytical problem in defining hysteria is precisely that it is a paradoxical refusal of organized enjoyment by a constant act of deferral. This deferral functions by asserting a form of agency over the Other while simultaneously demanding that the Other provide an organizing principle for hysterical enjoyment, something the Other cannot provide. Hysteria never moves beyond the question or the riddle, as Wajcman argues: the "hysteric ... cannot be mastered by knowledge and therefore remains outside of history, even outside its own .... [I]f hysteria is a set of statements about the hysteric, then the hysteric is what eludes those statements, escapes this knowledge .... [T]he history of hysteria bears witness to something fundamental in the human condition-being put under pressure to answer a question.T'" Thus, a difficulty for a relatively formal/ structural account of hegemony as a substitute for jouissance without reduction: where is the place for a practice of enjoyment that by its nature eludes nanling in the order of knowledge? This account of hysteria provides a significant test case for the equation betweenjouissance and hegemony, for the political promise and peril of demands and ultimately for the efficacy of a hysterical politics. But the results of such a test can only be born out in the realm of everyday politics.

*On Resistance: The Dangers of Enjoying One's Demands*

The demands of student revolutionaries and antiglobalization protestors provide a set of opportunities for interrogating hysteria as a political practice. For the antiglobalization protestors cited earlier, demands to be added to a list of dangerous globophobes uncannily condense a dynamic inherent to all demands for recognition. But the demands of the Mexico Solidarity Network and the Seattle Independent Media project demand more than recognition: they also demand danger as a specific mode of representation. "Danger" functions as a sign of something more than inclusion, a way of reaffirming the protestors' imaginary agency over processes of globalization. If danger represents an assertion of agency, and the assertion of agency is proportional to the deferral of desire to the master upon whom the demand is placed, then demands to be recognized as dangerous are doubly hysterical. Such demands are also demands for a certain kind of love, namely, the state might extend its love by recognizing the dangerousness of the one who makes the demand. At the level the demand's rhetorical function, dangerousness is metonymically connected with the idea that average citizens can effect change in the prevailing order, or that they might be recognized as agents who, in the instance of the list of globalophobic leaders, can command the Mexican state to reaffirm their agency by recognizing their dangerousness. The rhetorical structure of danger implies the continuing existence of the state or governing apparatus's interests, and these interests become a nodal point at which the hysterical demand is discharged. This structure generates enjoyment of the existence of oppressive state policies as a point for the articulation of identity. The addiction to the state and the demands for the state's love is also bound up with a fundamental dependency on the oppression of the state: otherwise the identity would collapse. Such demands constitute a reaffirmation of a hysterical subject position: they reaffirm not only the subject's marginality in the global system but the danger that protestors present to the global system. There are three practical implications for this formation.

First, for the hysteric the simple discharge of the demand is both the beginning and satisfaction of the political project. Although there is always a nascent political potential in performance, in this case the performance of demand comes to fully eclipse the desires that animate content of the demand. Second, demand allows institutions that stand in for the global order to dictate the direction of politics. This is not to say that engaging such institutions is a bad thing; rather, it is to say that when antagonistic engagement with certain institutions is read as the end point of politics, the field of political options is relatively constrained. Demands to be recognized as dangerous by the Mexican government or as a powerful antiglobalization force by the WTO often function at the cost of addressing how practices of globalization are reaffirmed at the level of consumption, of identity, and so on or in thinking through alternative political strategies for engaging globalization that do not hinge on the state and the state's actions.

Paradoxically, the third danger is that an addiction to the refusal of demands creates a paralyzing disposition toward institutional politics. Grossberg has identified a tendency in left politics to retreat from the "politics of policy and public debate.":" Although Grossberg identifies the problem as a specific coordination of "theory" and its relation to left politics, perhaps a hysterical commitment to marginality informs the impulse in some sectors to eschew engagements with institutions and institutional debate. An addiction to the state's refusal often makes the perfect the enemy of the good, implying a stifling commitment to political purity as a pretext for sustaining a structure of enjoyment dependent on refusal, dependent on a kind of paternal "no." Instead of seeing institutions and policy making as one part of the political field that might be pressured for contingent or relative goods, a hysterical politics is in the incredibly difficult position of taking an addressee (such as the state) that it assumes represents the totality of the political field; simultaneously it understands its addressee as constitutively and necessarily only a locus of prohibition.

These paradoxes become nearly insufferable when one makes an analytical cut between the content of a demand and its rhetorical functionality. At the level of the content of the demand, the state or institutions that represent globalization are figured as illegitimate, as morally and politically compromised because of their misdeeds, Here there is an assertion of agency, but because the assertion of agency is simultaneously a deferral of desire, the identity produced in the hysterical demand is not only intimately tied to but is ultimately dependent on the continuing existence of the state, hegemonic order, or institution. At the level of affective investment, the state or institution is automatically figured as the legitimate authority over its domain. As Lacan puts it: "demand in itself ... is demand of a presence or of an absence ... pregnant with that Other to be situated within the needs that it can satisfy. Demand constitutes the Other as already possessing the 'privilege' of satisfying needs, that it is to say, the power of depriving them of that alone by which they are satisfied."46

#### Their framework destroys the possibility for politics, thinking and the value of life, and their defense will prove my point—absent an engagement with affect, fantasy and desire, we lose the very things that give us meaning – controls the internal link to all other impacts

Ruti ‘14 (mari, English, Toronto, Psychoanalysis, Culture & Society (2014) 19, 297–314) SJBE, recut from Harvard BoSu

On the other hand, Lacan – again like Marcuse – recognizes that the symbolic order is repressive beyond the demands of subject formation, that it includes forms of violence that exceed the ubiquitous violence of the signifier. Indeed, even the violence of the signifier is not equally distributed, so that some of us are much more vulnerable to its injurious effects than others (consider, for instance, hate speech). Lacan does not necessarily talk about the unequal distribution of resources in the manner Marcuse does, but there is no doubt that his analysis of symbolic law as the Law of the Father elucidates a historically specific, deeply heteropatriarchal and hierarchical organization of social life. In point of fact, one reason I have taken a detour through Marcuse is to illustrate the obvious ways in which Lacan’s portraiture of the symbolic mirrors that of Marcuse’s explicitly historical account: what Marcuse calls “the performance principle,” Lacan calls the “service of goods.” Both thinkers identify the underpinnings of a social order dominated by the ideal of productivity – an ideal that is, moreover, placed in direct opposition to the pleasure principle. Both emphasize that the dominant morality of this symbolic – what Lacan calls “the morality of the master” – measures the merit of lives based on largely pragmatic criteria. And both acknowledge that the model citizen of this symbolic is a subject who shows up at work reliably every morning, performs its duties with a degree of diligence, does not let its desires get the better of its productivity, and seeks satisfaction (“enjoys”) in moderate, socially sanctioned ways. “Part of the world has resolutely turned in the directions of the service of goods,” Lacan writes, “thereby rejecting everything that has to do with the relationship of man to desire” (318). This, he adds, “is what is known as the postrevolutionary perspective” (318). In other words, the service of goods reflects the mindset of the levelheaded utilitarian subject who has deemed revolutionary change to be unrealistic. Lacan is here referring to the kind of depoliticization that is arguably the hallmark of Western subjectivity under capitalism. Lacan’s point is by no means, as critics such as Butler have suggested, that a different kind of symbolic is intrinsically impossible but rather that the configuration of subjectivity that Western modernity has produced – a subjectivity that has been subjected to a particular form of surplus-repression (the performance principle, the service of goods) – makes it virtually impossible for us to entertain the idea that the symbolic could be organized differently, that it could be centered around a different version of the reality principle. As Marcuse remarks, one reason the performance principle is so powerful is that it has managed to convince us that all alternatives to it are either utopian or otherwise unpalatable. Yet, for Marcuse, the fact that this principle has been so successful also points to the possibility of transcending it. As he states, “The very progress of civilization under the performance principle has attained a level of productivity at which the social demands upon instinctual energy to be spent in alienated labor could be considerably reduced. Consequently, the continued repressive organization of the instincts seems to be necessitated less by the ‘struggle for existence’ than by the interest in prolonging this struggle – by the interest in domination” (pp. 129–130). This is to say that there is really nothing besides social power that keeps us invested in the notion that our welfare demands relentless toil. The performance principle has outlived its usefulness in the sense that our collective productivity these days surpasses what is necessary for the provision of food, clothing, housing, and other basic amenities. The fact that these amenities have not yet reached all corners of the world, or even all corners of our own society (the homeless, innercity dwellers, etc.), is a function of domination (the unequal distribution of resources) rather than of any deficiencies of productivity. As a result, in Marcuse’s view, all we would need to do to bring about a more “non-repressive civilization” (p. 134) would be to refuse the parameters of the current symbolic; even something as simple as reducing the length of the working day would immediately realign our priorities, perhaps even impacting the very organization of our psychic lives. Our standard of living might drop somewhat, but we might also learn to assess the value of our lives according to other, less performance-oriented, measurements. Psychoanalysis, particularly Lacanian analysis, does not have a normative goal; it does not seek to tell us how we should desire but merely to explore the idiosyncratic contours of our desire. But this does not change the fact that Lacan, at least as a theorist, was exasperated by people’s inability to make their way out of the maze of the master’s morality, including its performance principle; he was frustrated by individuals who were so out of touch with the truth of their desire that they were willing to sacrifice this desire for the sake of social conformity and that they were, furthermore, willing to do so to the point of self-betrayal. As he explains, “What I call ‘giving ground relative to one’s desire’ is always accompanied in the destiny of the subject by some betrayal – you will observe it in every case and should note its importance. Either the subject betrays his own way, betrays himself, and the result is significant for him, or, more simply, he tolerates the fact that someone with whom he has more or less vowed to do something betrays his hope and doesn’t do for him what their pact entailed” (p. 321). Such a betrayal invariably results in the reassertion of the status quo, sending the subject back to the service of goods, what Lacan in this context calls “the common path” (p. 321). And given that desire, for Lacan, is “the metonymy of our being” (p. 321), betraying it in this way leads to the kind of psychic death that extinguishes the subject’s sense of agency. To use Lacan’s wording, “Doing things in the name of the good, and even more in the name of the good of the other, is something that is far from protecting us not only from guilt but also from all kinds of inner catastrophes” (p. 319). It is precisely such inner catastrophes that Lacanian clinical practice was designed to counter, though it may be Julia Kristeva – rather than Lacan himself – who has most clearly developed this interpretation of analytic work. Kristeva depicts psychoanalysis as a means of restoring the subject’s psychic aliveness, as an explicit revolt against the numbing impact of what she calls “the society of the spectacle” (2002, p. 4). This society of the spectacle – of technology, image, and speed – shares many parallels with Adorno’s “culture industry”: a flattened surface of the life world, a constriction of psychic space, a death of critical thought, the worship of efficiency over intellectual curiosity, and the incapacity to revolt. Against this backdrop, psychoanalysis – along with art, writing, and some forms of religious experience – offers, for Kristeva, a gateway to revolt, a way of resurrecting “the life of the mind” (a phrase Kristeva borrows from Hannah Arendt) through ongoing questioning, interrogation, and psychic recreation. “Freud founded psychoanalysis as an invitation to anamnesis in the goal of a rebirth, that is, a psychical restructuring,” Kristeva writes: “Through a narrative of free association and in the regenerative revolt against the old law (familial taboos, superego, ideals, oedipal or narcissistic limits, etc.) comes the singular autonomy of each, as well as a renewed link with the other” (2002, p. 8). In the context of my overall argument in this essay, it is worth stressing that it is “the desire of the subject” that, in Kristeva’s view, reserves a place “for initiative, autonomy” (2002, p. 11). This is in part because the “Freudian journey into the night of desire was followed by attention to the capacity to think: never one without the other” (2010, p. 41). In other words, the exploration of desire, in psychoanalysis, is akin to the critical (or at least curious) movement of thought – the very movement that Arendt also saw as vital to the life of the mind. This is why psychoanalysis has, Kristeva asserts, “the (unique?) privilege today of accompanying the emergence of new capacities of thinking/representing/thinking, beyond the frequent and increasingly noticeable disasters of psychosomatic space – capacities that are so many new bodies and new lives” (2010, pp. 41–42). Kristeva therefore draws the same link between desire and autonomy (in this instance, the capacity for critical thought) as Lacan does. Furthermore, to translate Kristeva’s point into Marcuse’s terminology, one might say that psychoanalysis, at least the kind of analysis that refuses to uphold social adaptation as a therapeutic goal, presents the possibility of sidestepping, or at the very least diminishing, the effects of surplus-repression. This, in turn, creates space for the truth of the subject’s desire in the Lacanian sense. This does not mean that repression as such is defeated. Quite the contrary, as we will see shortly, the truth of the subject’s desire is inextricable from the primary (constitutive) repression that accompanies subject formation. But as I have already suggested, the lifting of surplus-repression renders the imprint of primary repression more clearly discernable, for when surplus-repression is removed, what remains are the always highly singular outlines of primary repression. And if Lacan – like Marcuse – sought to remove surplus-repression, it was because he understood that it was on the level of primary repression (fundamental fantasies) that one could find the most basic building blocks of the subject’s psychic destiny; primary repression was the layer of psychic life that expressed something essential about the distinctive ways in which the pleasure principle, in the subject’s life, had become bound up with the repetition compulsion. This is why Lacan states, “If analysis has a meaning, desire is nothing other than that which supports an unconscious theme, the very articulation of that which roots us in a particular destiny, and that destiny demands insistently that the debt be paid, and desire keeps coming back, keeps returning, and situates us once again in a given track, the track of something that is specifically our business” (p. 319).According to Lacan, analysis aims to enable us to understand something about the eccentric specificity (or truth) of our most fundamental desire as well as about the track of destiny that this desire carves out for us (and that is therefore “specifically our business”). If it is indeed the case, as I have conceded, that most of us tend to be alienated from our desire, Lacanian analysis strives to undo this alienation by familiarizing us with the truth of this desire. This process entails, among other things, recognizing that the destiny we owe to this desire can never be definitively overcome, that the debt of desire can never be fully redeemed (for how are we to compensate the signifier for having brought us into being as subjects of desire?). Our destiny – which might initially coincide quite seamlessly with our repetition compulsion – consists of recurring efforts to pay off this debt, which is why it keeps ushering us to the same track of desire, the same nexus of psychic conundrums, our unconscious hope being that if we wear out the track of our desire by incessant reiteration, one day we might be able to absolve ourselves of our debt. But since we cannot, the only thing to be done is to “own” our destiny even as we might seek to mitigate its more painful dimensions. That is, the only way to arrive at the kind of psychic rebirth Kristeva is talking about is to take full responsibility for our (unconsciously generated) destiny. In the ethical act, our impulse is to embrace this destiny wholesale regardless of consequences (this is one way to understand what it means to plunge into the jouissance of the real). In analysis, the exploration of our destiny is more gradual, more self-reflexive. But in both cases, the point is not to obliterate our foundational destiny (or fundamental fantasies) but merely to elaborate it in more satisfying directions, away from the incapacitating effects of the repetition compulsion and toward the rewards of subjective autonomy. And, if we are to achieve this goal, nothing is more important than staying faithful to the truth of desire that, on the most elementary level, determines our destiny.

#### Vote negative to embrace the lack – this requires being open to the anxiety that occurs from an encounter with the real of the other and breaks down fantasy and drives.

McGowan 13 [Todd; Associate Professor of Film Studies at the UVermont; “Enjoying What We Don't Have: The Political Project of Psychoanalysis,” Pg. 26-29; 2013; University of Nebraska Press / Lincoln and London] SJBE Re-Highlighted Justin

The alternative — the ethical path that psychoanalysis identifies — demands an embrace of the anxiety that stems from the encounter with the enjoying other. If there is a certain ethical dimension to anxiety, it lies in the rela- tionship that exists between anxiety and enjoyment. Contra Heidegger, the ethics of anxiety does not stem from anxiety’s relation to absence but from its relation to presence — to the overwhelming presence of the other’s enjoyment. In some sense, the encounter with absence or nothing is easier than the encounter with presence. Even though it traumatizes us, absence allows us to constitute ourselves as desiring subjects. Rather than producing anxiety, absence leads the subject out of anxiety into desire. Confronted with the lost object as a structuring absence, the subject is able to embark on the pursuit of the enjoyment embodied by this object, and this pursuit provides the subject with a clear sense of direction and even meaning. This is precisely what the subject lacks when it does not encounter a lack in the symbolic structure. When the subject encounters enjoyment at the point where it should encounter the absence of enjoyment, anxiety overwhelms the subject.

In this situation, the subject cannot constitute itself along the path of desire. It lacks the lack — the absence — that would provide the space through which desire could develop. Consequently, this subject confronts the enjoying other and experiences anxiety. Unlike the subject of desire — or the subject of Heideggerean anxiety — the subject who suffers this sort of anxiety actually experiences the other in its real dimension.¶

The real other is the other caught up in its obscene enjoyment, caught up in this enjoyment in a way that intrudes on the subject. There is no safe distance from this enjoyment, and one cannot simply avoid it. There is nowhere in the contemporary world to hide from it. As a result, the contem- porary subject is necessarily a subject haunted by anxiety triggered by the omnipresent enjoyment of the other. And yet, this enjoyment offers us an ethical possibility. As Slavoj Žižek puts it, “It is this excessive and intrusive jouissance that we should learn to tolerate.”27 When we tolerate the other’s “excessive and intrusive jouissance” and when we endure the anxiety that it produces, we acknowledge and sustain the other in its real dimension.¶

Tolerance is the ethical watchword of our epoch. However, the problem with contemporary tolerance is its insistence on tolerating the other only insofar as the other cedes its enjoyment and accepts the prevailing symbolic structure. That is to say, we readily tolerate the other in its symbolic dimen- sion, the other that plays by the rules of our game. This type of tolerance allows the subject to feel good about itself and to sustain its symbolic identity. The problem is that, at the same time, it destroys what is in the other more than the other — the particular way that the other enjoys.¶

It is only the encounter with the other in its real dimension — the encounter that produces anxiety in the subject — that sustains that which defines the other as such. Authentic tolerance tolerates the real other, not simply the other as mediated through a symbolic structure. In this sense, it involves the experience of anxiety on the part of the subject. This is a difficult posi- tion to sustain, as it involves enduring the “whole opaque weight of alien enjoyment on your chest.”The obscene enjoyment of the other bombards the authentically tolerant subject, but this subject does not retreat from the anxiety that this enjoyment produces.

If the embrace of the anxiety that accompanies the other’s proximate enjoyment represents the ethical position today, this does not necessarily provide us with an incentive for occupying it. Who wants to be ethical when it involves enduring anxiety rather than finding a way — a drug, a new authority, or something — to alleviate it? What good does it do to sustain oneself in anxiety? In fact, anxiety does the subject no good at all, which is why it offers the subject the possibility of enjoyment. When the subject encounters the other’s enjoyment, this is the form that its own enjoyment takes as well. To endure the anxiety caused by the other’s enjoyment is to experience one’s own simultaneously. As Lacan points out, when it comes to the enjoyment of the other and my own enjoyment, “nothing indicates they are distinct.” Thus, not only is anxiety an ethical position, it is also the key to embracing the experience of enjoyment. To reject the experience of anxiety is to flee one’s own enjoyment.¶

The notion that the other’s enjoyment is also our own enjoyment seems at first glance difficult to accept. Few people enjoy themselves when they hear someone else screaming profanities in the workplace or when they see a couple passionately kissing in public, to take just two examples. In these instances, we tend to recoil at the inappropriateness of the activity rather than enjoy it, and this reaction seems completely justified. The public display of enjoyment violates the social pact with its intrusiveness; it doesn’t let us alone but assaults our senses. It violates the implicit agreement of the public sphere constituted as an enjoyment-free zone. And yet, recoiling from the other’s enjoyment deprives us of our own.¶

How we comport ourselves in relation to the other’s enjoyment indi- cates our relationship to our own. What bothers us about the other — the disturbance that the other’s enjoyment creates in our existence — is our own mode of enjoying. If we did not derive enjoyment from the other’s enjoyment, witnessing it would not bother us psychically. We would sim- ply be indifferent to it and focused on our own concerns. Of course, we might ask an offending car radio listener to turn the radio down so that we wouldn’t have to hear the unwanted music, but we would not experience the mere exhibition of alien enjoyment through the playing of that music as an affront. The very fact that the other’s enjoyment captures our attention demonstrates our intimate — or extimate — relation to it.

This relation becomes even clearer when we consider the epistemo- logical status of the enjoying other. Because the real or enjoying other is irreducible to any observable identity, we have no way of knowing whether or not the other really is enjoying. A stream of profanity may be the result of someone hurting a toe. The person playing the car radio too loud while sitting at the traffic light may have simply forgotten to turn down the radio after driving on the highway. Or the person may have difficulty hearing. The couple’s amorous behavior in public may reflect an absence of enjoyment in their relationship that they are trying to hide from both themselves and the public.¶

Considering the enjoyment of the other, we never know whether it is there or not. If we experience it, we do so through the lens of our own fantasy. We fantasize that the person blasting the radio is caught up in the enjoyment of the music to the exclusion of everything else; we fantasize that the public kisses of the couple suggest an enjoyment that has no concern for the outside world. Without the fantasy frame, the enjoying other would never appear within our experience.¶

The role of the fantasy frame for accessing the enjoying other becomes apparent within Fascist ideology. Fascism posits an internal enemy — the figure of the Jew or some analogue — that enjoys illicitly at the expense of the social body as a whole. By attempting to eliminate the enjoying other, Fascism hopes to create a pure social body bereft of any stain of enjoy- ment. This purity would allow for the ultimate enjoyment, but it would be completely licit. This hope for a future society free of any stain is not where Fascism’s true enjoyment lies, however. Fascists experience their own enjoyment through the enjoying other that they persecute. The enjoy- ment that the figure of the Jew embodies is the Fascists’ own enjoyment, though they cannot avow it as their own. More than any other social form, Fascism is founded on the disavowal of enjoyment — the attempt to enjoy while keeping enjoyment at arm’s length. But this effort is not confined to Fascism; it predominates everywhere, because no subjects anywhere can simply feel comfortable with their own mode of enjoying.¶

The very structure of enjoyment is such that we cannot experience it directly: when we experience enjoyment, we don’t have it; it has us. We experience our own enjoyment as an assault coming from the outside that dominates our conscious intentions. This is why we must fantasize our own enjoyment through the enjoying other. Compelled by our enjoyment, we can’t do otherwise; we act against our self-interest and against our own good. Enjoyment overwhelms the subject, even though the subject’s mode of enjoying marks what is most singular about the subject.¶

Even though the encounter with the enjoying other apprehends the real other through the apparatus of fantasy, this encounter is nonetheless genuine and has an ethical status. Unlike the experience of the nonexistent symbolic identity, which closes down the space in which the real other might appear, the fantasized encounter with the enjoying other leaves this space open. By allowing itself to be disturbed by the other on the level of fantasy, the subject acknowledges the singularity of the real other — its mode of enjoying — without confining this singularity to a prescribed identity.¶

The implications of privileging the encounter with the disturbing enjoy- ment of the real other over the assimilable symbolic identity are themselves disturbing. The tolerant attitude that never allows itself to be jarred by the enjoying other becomes, according to this way of seeing things, further from really encountering the real other than the attitude of hate and mis- trust. The liberal subject who welcomes illegal immigrants as fellow citizens completely shuts down the space for the other in the real. The immigrant as fellow citizen is not the real other. The xenophobic conservative, on the other hand, constructs a fantasy that envisions the illegal immigrant awash in a linguistic and cultural enjoyment that excludes natives. This fantasy, paradoxically, permits an encounter with the real other that liberal tolerance forecloses. Of course, xenophobes retreat from this encounter and from their own enjoyment, but they do have an experience of it that liberals do not. The tolerant liberal is open to the other but eliminates the otherness, while the xenophobic conservative is closed to the other but allows for the otherness. The ethical position thus involves sustaining the liberal’s toler- ance within the conservative’s encounter with the real other.

#### Best brain studies verify psychoanalysis!

Guterl 2 [Fred; “What Freud Got Right,” Newsweek; 11/10/02; <https://www.newsweek.com/what-freud-got-right-142575>] Justin

But a funny thing happened to Freud on the way to becoming a trivia question: as researchers looked deeper into the physical structure of the brain, they began to find support for some of his theories. Now a small but influential group of researchers are using his insights as a guide to future research; they even have a journal, Neuropsychoanalysis, founded three years ago. "Freud's insights on the nature of consciousness are consonant with the most advanced contemporary neuroscience views," wrote Antonio Damasio, head of neurology at the University of Iowa College of Medicine. Note that Damasio did not refer to psychoanalysis or the Oedipus complex. Instead the work is going on at the fundamental level where emotions are born and primitive passions lurk in the shadows of dreams.

Beyond the basic animal instincts to seek food and avoid pain, Freud identified two sources of psychic energy, which he called "drives": aggression and libido (the latter encompasses sexuality but also had a more expansive meaning, involving the desire for stimulation and achievement). The key to his theory is that these were unconscious drives, shaping our behavior without the mediation of our waking minds; they surface, heavily disguised, only in our dreams. The work of the past half-century in psychology and neuroscience has been to downplay the role of unconscious universal drives, focusing instead on rational processes in conscious life. Meanwhile, dreams were downgraded to a kind of mental static, random scraps of memory flickering through the sleeping brain. But researchers have found evidence that Freud's drives really do exist, and they have their roots in the limbic system, a primitive part of the brain that operates mostly below the horizon of consciousness. Now more commonly referred to as emotions, the modern suite of drives comprises five: rage, panic, separation distress, lust and a variation on libido sometimes called seeking. Freud presaged this finding in 1915, when he wrote that drives originate "from within the organism" in response to demands placed on the mind "in consequence of its connection with the body." Drives, in other words, are primitive brain circuits that control how we respond to our environment--foraging when we're hungry, running when we're scared and lusting for a mate.

The seeking drive is proving a particularly fruitful subject for researchers. Although like the others it originates in the limbic system, it also involves parts of the forebrain, the seat of higher mental functions. In the 1980s, Jaak Panksepp, a neurobiologist at Bowling Green State University in Ohio, became interested in a place near the cortex known as the ventraltegmental area, which in humans lies just above the hairline. When Panksepp stimulated the corresponding region in a mouse, the animal would sniff the air and walk around, as though it were looking for something. Was it hunger? No. The mouse would walk right by a plate of food, or for that matter any other object Panksepp could think of. This brain tissue seemed to cause a general desire for something new. "What I was seeing," he says, "was the urge to do stuff." Panksepp called this seeking.

To neuropsychologist Mark Solms of University College in London, that sounds very much like libido. "Freud needed some sort of general, appetitive desire to seek pleasure in the world of objects," says Solms. "Panksepp discovered as a neuroscientist what Freud discovered psychologically." Solms studied the same region of the brain for his work on dreams. Since the 1970s, neurologists have known that dreaming takes place during a particular form of sleep known as REM--rapid eye movement--which is associated with a primitive part of the brain known as the pons. Accordingly, they regarded dreaming as a low-level phenomenon of no great psychological interest. When Solms looked into it, though, it turned out that the key structure involved in dreaming was actually the ventral tegmental, the same structure that Panksepp had identified as the seat of the "seeking" emotion. Dreams, it seemed, originate with the libido--which is just what Freud had believed.

Freud's psychological map may have been flawed in many ways, but it also happens to be the most coherent and, from the standpoint of individual experience, meaningful theory of the mind there is. "Freud should be placed in the same category as Darwin, who lived before the discovery of genes," says Panksepp. "Freud gave us a vision of a mental apparatus. We need to talk about it, develop it, test it." Perhaps it's not a matter of proving Freud wrong or right, but of finishing the job.

## 3

### DA

#### Infrastructure is passing now and is at the top of Bidens agenda---Biden has enough PC but continuation is critical.

Nomikos 9/1 [William; 9/1/21; Assistant professor of political science at Washington University in St. Louis and director of the Data-driven Analysis of Peace Project; "*Everyone has an opinion on Afghanistan — Do voters care?*" The Hill, <https://thehill.com/blogs/congress-blog/politics/570422-everyone-has-an-opinion-on-afghanistan-do-voters-care>] Justin

On Aug. 15, Taliban fighters rolled into Kabul, the capital of Afghanistan. They faced little resistance. Within hours, the Taliban had seized control of the city. The airport plunged into chaos as thousands of Afghans sought refuge among departing American personnel. In February 2020, the Trump administration signed a peace agreement calling for the withdraw of American troops, but it is President Biden who ultimately pushed ahead and ended what he called “America’s longest war.” Even now, with the Taliban in Kabul, Biden remains defiant and defends his decision. Democrats worry this will hurt Biden politically, and Republicans are doing their best to make sure it does. But existing research suggests otherwise. Americans don’t prioritize foreign policy when voting International relations scholars long have argued that voters punish presidents who back down from confrontations with foreign adversaries, because doing so could tarnish the U.S.’s reputation abroad. But the magnitude of the effect on presidential approval varies depending on whether Democrats or Republicans are in power, the composition of the president’s constituency, and the persuasiveness of the justification for backing down. Indeed, as my own research has shown, the actual behavior of the president in crises may not matter at all. Ultimately, voters care about whether a president makes the right policy decisions, not whether American forces remain deployed abroad to maintain their reputation. What’s more, Americans are far more likely care about domestic issues such as health care or the economy than foreign policy. For example, even as Barack Obama rode opposition to the war in Iraq to electoral victory in 2008, more than five times as many respondents to the American National Elections Survey (ANES) listed the economy as the most important problem facing the nation compared to the war. Military interventions are unpopular with voters We tend to associate wars with “rally-around-the-flag” effects, in which conflicts lead to popularity bumps for presidents and their parties. Such effects may have been true during WWII, but 21st century military interventions are long, drawn out affairs — and political losers. This is due to what I’ve identified in past research as the time inconsistency between costs and benefits of military interventions. While the costs of intervention accrue immediately, both in terms of actual money as well as human lives, the best-case scenario benefits of intervention take decades, sometimes generations to bear fruit. For politicians facing election campaigns, this means that there is just no incentive to pay the costs of war up front when you might never see the benefits. In research I conducted on troop contributions to the war in Afghanistan, I found that contributors to the war effort — including the United States — withdrew around 10 percent of their forces whenever they were up for reelection. The politics of U.S. casualties Voters do care deeply about the loss of American lives. While images from Kabul evoke memories of Saigon and withdrawal from Vietnam, the more apt comparisons are the capture and failed rescue of U.S. hostages in Teheran following the Iranian revolution in 1979 or the Benghazi embassy attacks in Libya in 2011. Both the Iran hostage crisis and Benghazi negatively affected perception of two presidential candidates, Jimmy Carter and Hillary Clinton, respectively. Biden’s ability to avoid the political fallout might hinge on whether all Americans are evacuated safely. Sadly, this political calculus suggests there may be little room for humanitarian evacuations and refugee resettlements. While Biden has pledged to bring any trapped Americans home, there simply may not be much political incentive to evacuate Afghan refugees – especially if doing so endangers American lives. Moreover, accepting refugees means finding areas in the U.S. willing to resettle them. Conservative media commentators have already seized upon this issue, with one prominent pundit warning his viewers that they will be “invaded” by Afghan refugees. Biden’s political calculation Voters are not closely engaged with current events, often seeking to avoid politics altogether. Humanitarian disasters quickly disappear from headlines. Consider that less than a week after the Taliban overtook Kabul, news from Afghanistan did not make the front page of newspapers is several major cities. On the flip said, the potential costs of staying in Afghanistan would be enormous. Currently, President Biden is focused on getting Congress to pass a $1 trillion infrastructure bill and a $3.5 trillion budget reconciliation bill that, together, would comprise much of his first term agenda. Given the importance of these domestic issues to voters relative to foreign policy, passing the bills through Congress will be the most important politically for Biden. According to estimates, the war in Afghanistan alone has already cost American taxpayers more than $2.2 trillion. Concerns about the combined price tag of Democrats’ legislative agenda have triggered concerns about federal spending and inflation. More spending on Afghanistan would make Biden and his fellow Democrats even more vulnerable to such attacks. The slim margins in Congress suggests that Biden must reserve his political capital to maintain the existing coalitions to pass these two bills, not a new war effort. Doing so would also offer the Democrats the best chance for retaining control of Congress in the 2022 midterm elections.

#### Aff doesn’t solve but requires negotiations that saps PC.

Pooley 21 [James; Former deputy director general of the United Nations’ World Intellectual Property Organization and a member of the Center for Intellectual Property Understanding; “Drawn-Out Negotiations Over Covid IP Will Blow Back on Biden,” Barron’s; 5/26/21; <https://www.barrons.com/articles/drawn-out-negotiations-over-covid-ip-will-blow-back-on-biden-51621973675>] Justin

The Biden administration recently announced its support for a proposal before the World Trade Organization that would suspend the intellectual property protections on Covid-19 vaccines as guaranteed by the landmark TRIPS Agreement, a global trade pact that took effect in 1995.

The decision has sparked furious debate, with supporters arguing that the decision will speed the vaccine rollout in developing countries. The reality, however, is that even if enacted, the IP waiver will have zero short-term impact—but could inflict serious, long-term harm on global economic growth. The myopic nature of the Biden administration’s announcement cannot be overstated.

Even if WTO officials decide to waive IP protections at their June meeting, it’ll simply kickstart months of legal negotiations over precisely which drug formulas and technical know-how are undeserving of IP protections. And it’s unthinkable that the Biden administration, or Congress for that matter, would actually force American companies to hand over their most cutting-edge—and closely guarded—secrets.

As a result, the inevitable foot-dragging will cause enormous resentment in developing countries. And that’s the real threat of the waiver—precisely because it won’t accomplish either of its short-term goals of improving vaccine access and facilitating tech transfers from rich countries to developing ones. It’ll strengthen calls for more extreme, anti-IP measures down the road.

Experts overwhelmingly agree that waiving IP protections alone won’t increase vaccine production. That’s because making a shot is far more complicated than just following a recipe, and two of the most effective vaccines are based on cutting-edge discoveries using messenger RNA.

As Moderna Chief Executive Stephane Bancel said on a recent earnings call, “This is a new technology. You cannot go hire people who know how to make the mRNA. Those people don’t exist. And then even if all those things were available, whoever wants to do mRNA vaccines will have to, you know, buy the machine, invent the manufacturing process, invent creation processes and ethical processes, and then they will have to go run a clinical trial, get the data, get the product approved and scale manufacturing. This doesn’t happen in six or 12 or 18 months.”

Anthony Fauci, the president’s chief medical adviser, has echoed that sentiment and emphasized the need for immediate solutions. “Going back and forth, consuming time and lawyers in a legal argument about waivers—that is not the endgame,” he said. “People are dying around the world and we have to get vaccines into their arms in the fastest and most efficient way possible.”

Those claiming the waiver poses an immediate, rather than long-term, threat to IP rights also misunderstand what the waiver will—and won’t—do.

The waiver petition itself is more akin to a statement of principle than an actual legal document. In fact, it’s only a few pages long.

As the Office of the United States Trade Representative has said, “Text-based negotiations at the WTO will take time given the consensus-based nature of the institution and the complexity of the issues involved.” The WTO director-general predicts negotiations will last until early December.

That’s a lot of wasted time and effort. The U.S. Trade Representative would be far better off spending the next six months breaking down real trade barriers and helping export our surplus vaccine doses and vaccine ingredients to countries in need.

#### That solves existential climate change.

Castillo 21 [Rhyma; 8/16/21; News and politics writer at Elite Daily, where she's passionate about advocating for underserved communities throughout the United States. She’s covered issues in politics, immigration, environmental racism, climate change, gun violence, and more. After graduating with an English degree from Texas A&M Unversity, Rhyma has worked as a technical writer and test author at Educational Testing Service (ETS), a copywriter for Mightier Content, and as a Creative Operations Specialist at GoDaddy. She also has bylines as a freelancer at the San Antonio Current, where her reporting on local news, politics, tech, and entertainment has been widely circulated; “*Experts Explain What You Can Do About Climate Change After That Scary IPCC Report*,” Elite Daily, <https://www.elitedaily.com/news/what-you-can-do-climate-change-after-ipcc-report>] Justin

I’ll be honest: climate change is something I have a daily existential crisis over — and with its effects quite literally showing up on people’s doorsteps in the form of floods, wildfires, record heatwaves, and more, I know I’m not alone. On Aug. 9, the Intergovernmental Panel on Climate Change (IPCC) released an alarming report that was characterized as a “code red for humanity,” which is terrifying, to say the least. But while it’s easy to surrender to fatalist feelings of doom and gloom, there’s still time to turn things around. So, according to experts, here’s what you can do about climate change after the IPCC report. While experts agree that reducing, reusing, and recycling on an individual level is important, they acknowledge it isn’t the main solution to climate change, which is a largely institutional problem. According to a 2017 report from the Carbon Disclosure Project (CDP), researchers found that just 100 companies were responsible for over 70% of greenhouse gas emissions since 1988, with the top 10 emitters being fossil-fuel based energy corporations. “I'm not suggesting that individual actions aren't good or important,” states Cara Horowitz, J.D., the co-executive director of the Emmett Institute on Climate Change and the Environment at UCLA School of Law. She adds that if you’re lucky enough to afford an electric vehicle, to select the green option on your energy bill, or to adopt an environmentally sustainable diet, you should absolutely do so. However, she notes that “[climate change] is not a problem that can be solved by individual lifestyle choices.” At least, not in place of widespread social, political, and institutional change. “There is an attempt, and in some ways it's often quite deliberate, to make individuals think it's their fault climate change is happening — if only they made different lifestyle choices, if only they recycled more or ate less meat, we [could] solve this problem,” Horowitz says. But one of the most effective ways to address the climate crisis head-on, she states, is to push for institutional change. Lesley Ott, Ph.D., meteorological researcher at NASA’s Global Modeling and Assimilation Office at Goddard Space Flight Center, agrees. “There’s a limit on how much good or bad any one person can do,” to combat climate change, she states. “This is a situation that’s come from billions of people over decades and decades,” she adds. While she notes that its still important to limit your energy consumption, she acknowledges that large corporations, such as those involved in natural gas, animal agriculture, and product manufacturing, can do a much better job of reducing their emissions. “As climate change is affecting more and more of our infrastructure,” she states, “there are opportunities some companies [could seize] to say ‘hey, you know, I can probably do the right thing for the planet.’” Trained HazMat workers clean up miles oil-drench sand after an off-shore oil spill occurred, Februa... Ott also explains how the climate crisis is both a very difficult and a very simple issue. “It’s simple in that we know what’s causing it,” she says. “We know this is because of greenhouse gases, and we know where the greenhouse gases come from. But it's tricky because those things [that cause greenhouse gases] are so fundamental to many aspects of our lives.” Across the United States and world, many people have no choice but to depend on large energy monopolies for light, gas, and heat. And many people simply cannot afford to purchase electric vehicles, adopt environmentally sustainable diets, or live in neighborhoods where green energy options are available. So, what’s the solution? According to Ott, the answer is clear: “We need to change the way we consume energy,” she states. “We know the path that we need to go down to combat climate change. And it's really up to our political leaders in our country and others to marshal the response, and really put the procedures in place to do just that, to reduce our emissions,” she adds. If it were up to Gavin Schmidt, Ph.D., director of GISS and Principal Investigator for the GISS ModelE Earth System Model at NASA, he’d combat the climate crisis using several strategies: shutting down coal power stations, phasing out natural gas, electrifying transportation systems, investing in infrastructure for more walk-able and bike-able cities, building a more unified power grid, and pushing for improved public transit. But while scientists have developed the technology and resources for these strategies, Schmidt notes many places — including the United States — simply haven’t invested in the infrastructure necessary to adopt these strategies. “The infrastructure is not all there,” he states. So while we certainly have the concepts and resources available, “we're still missing some practical application [for] those things,” he adds. “We have to make the investments, [and] those investments take a while to come to fruition.”

# Case

## 1NC – Circumvention

### 1NC – General

#### Aff gets circumvented- powerful countries use bilateral agreements to force other countries to accept their IPR protections- its empirically proven

DC = developing country

NIT = Net Importers of Technology (this references developing countries)

NET = Net Exporters of Technology (countries with advanced economies)

Marcellin 16 Marcellin, Sherry (Professor, London School of Economics). The political economy of pharmaceutical patents: US sectional interests and the African Group at the WTO. Routledge, 2016./SJKS

In July 1988, prior to the Montreal Mid-Term Review, DCs had sensed that the approach being proposed by industrialised countries was desirable on the grounds that the alternative would be a proliferation of unilateral or bilateral actions (MTN.GNG/NG11/8: 31). These NITs maintained that acceptance of such an approach would be tantamount to creating a licence to force, in the name of trade, modifications in standards for the protection of IP in a way that had not been found acceptable or possible so far in WIPO (ibid). Brazil subsequently informed the Group that on October 20, 1988, unilateral restrictions had been applied by the US to Brazilian exports as a retaliatory measure in connection with an IP issue; that this type of action seriously inhibited Brazil’s participation in the work of the Group, since ‘no country could be expected to participate in negotiations while experiencing pressures on the substance of its position’ (MTN.GNG/NG11/10: 27). The Brazilian delegate maintained that such action by the US constituted a blatant infringement of GATT rules and was contrary to the Standstill commitment of the Punta del Este Declaration. ‘The United States action was an attempt to coerce Brazil to change its intellectual property legislation, and furthermore represented an attempt by the United States to improve its negotiating position in the Uruguay Round’ (ibid). A US delegate countered that the measures had been taken with regret and as a last resort after all alternative ways of defending legitimate US interests had been exhausted, and that the US further believed that the adoption of effective patent protection was in Brazil’s own interest (ibid: 28). The US had therefore applied its strategy of coercive unilateralism against one of the two most important players championing the cause of the South in the TRIPS negotiations, the other being India. Apprehensive about the resistance of this dominant Southern duo, the United States sought to utilise its market size as a bargaining tool to secure changes to national IP regimes. It therefore decided to impact the more powerful of the two at the time, thereby indirectly admonishing India and the entire coalition against strengthened IP rules, as well as their domestic export constituencies who would be affected by US decisions to restrict imports. Moreover, because Brazil and India appeared to be collaborating extensively in maintaining a united front, a resulting strain on Brazil’s economy would likely affect their co-operation. However, since market opening and closure have been treated as the currency of trade negotiations in the post-war period (Steinberg 2002: 347), the move to place restrictions on Brazilian exports by the largest consumer market in the GPE should not have been entirely unanticipated. Brazil was also the regional leader in South America and disciplining it would send an unequivocal warning to other South American countries (Drahos and Braithwaite 2002: 136), including Argentina, Chile and Peru who were also active participants in the negotiations. This would mark the start of a series of coercive strategies aimed at compliance with the US private-sector envisioned GATT IPP.

### 1NC – WTO Jurisdiction

#### The WTO can’t enforce the aff- causes circumvention.

Lamp 19 [Nicholas; Assistant Professor of Law at Queen’s University; “What Just Happened at the WTO? Everything You Need to Know, Brink News,” 12/16/19; <https://www.brinknews.com/what-just-happened-at-the-wto-everything-you-need-to-know/>] Justin

Nicolas Lamp: For the first time since the establishment of the WTO in 1995, the Appellate Body cannot accept any new appeals, and that has knock-on effects on the whole global trade dispute settlement system. When a member appeals a WTO panel report, it goes to the Appellate Body, but if there is no Appellate Body, it means that that panel report will not become binding and will not attain legal force.

The absence of the Appellate Body means that members can now effectively block the dispute settlement proceedings by what has been called appealing panel reports “into the void.”

The WTO panels will continue to function as normal. When a panel issues a report, it will normally be automatically adopted — unless it is appealed. And so, even though the panel is working, the respondent in a dispute now has the option of blocking the adoption of the panel’s report. It can, thereby, shield itself from the legal consequences of a report that finds that the member has acted inconsistently with its WTO obligations.

#### Recent evidence confirms

Hillman and Tippett 21 [Jennifer A; Senior fellow for trade and international political economy; Alex; Research associate for international economics, at the Council on Foreign Relations; “Europe and the Prospects for WTO Reform,” CFR; 3/10/21; <https://www.cfr.org/blog/europe-and-prospects-wto-reform>] Justin

The WTO has been in the clutches of a slow-moving crisis for years. At its heart are a series of disputes about the role of the WTO’s Appellate Body, the final arbiter in the WTO’s Dispute Settlement System. Today, the Appellate Body sits empty, severely undermining the capacity of the WTO to resolve trade disputes.

Since the start of the Trump administration, the United States has refused to appoint any new members to the body, effectively allowing countries to avoid compliance with WTO rulings. The primary driver of this drastic action has been American frustration at perceived judicial overreach. U.S. policymakers, starting with the George W. Bush administration, have repeatedly voiced their displeasure with Appellate Body decisions, contending that certain decisions have reached beyond the text of existing WTO agreements.

## 1NC – Contention

### 1NC – State

#### The affirmative greenlights themselves as the moral savior but hides a history of imperialism – the 1ACs reform is empty and coopted by capitalist imperialist logic which justifies colonialism and reinforces racial difference.

Twailr 21 [Third World Approaches to International Law Review; “On Intellectual Property Rights, Access to Medicines and Vaccine Imperialism,” Twail Review; 3/23/21; <https://twailr.com/on-intellectual-property-rights-access-to-medicines-and-vaccine-imperialism/>] Justin

Supporters and opponents of a TRIPS waiver for the COVID-19 vaccines (February 2021) Despite calls to make COVID-19 vaccines and related technologies a global public good, western pharmaceutical companies have declined to loosen or temporarily suspend IP protections and transfer technology to generic manufacturers. Such transfer would enable the scale-up of production and supply of lifesaving COVID-19 medical tools across the world. Furthermore, these countries are also blocking the TRIPS waiver proposal put forward by South Africa and India at the WTO despite being supported by 57 mostly developing countries. The waiver proposal seeks to temporarily postpone certain provisions of the TRIPS Agreement for treating, containing and preventing the coronavirus, but only until widespread vaccination and immunity are achieved. This means that countries will not be required to provide any form of IP protection on all COVID-19 related therapeutics, diagnostics and other technologies for the duration of the pandemic. It is important to reiterate the waiver proposal is time-limited and is different from TRIPS flexibilities, which are safeguards within the Agreement to mitigate the negative impact of patents such as high price of patented medicines. These safeguards include compulsory licenses and parallel importation. However, because of the onerous process of initiating these flexibilities as well as the threat of possible trade penalties by the US through the United States Trade Representative (USTR) “Special 301” Report targeting countries even in the absence of illegality, many developing countries are reluctant to invoke TRIPS flexibilities for public health purposes. For example, in the past, countries such as Colombia, India, Thailand and recently Malaysia have all featured in the Special 301 Report for using compulsory licenses to increase access to cancer medications. It is these challenges that the TRIPS waiver seeks to alleviate and, if approved, would also provide countries the space, without fear of retaliation from developed countries, to collaborate with competent developers in the R&D, manufacturing, scaling-up, and supply of COVID-19 tools. However, because this waiver is being opposed by a group of developed countries, we are grappling with the problem of artificially-created vaccine scarcity. The effect of this scarcity will further prolong and deepen the financial impact of this pandemic currently estimated to cost USD 9.2 trillion, half of which will be borne by advanced economies. Thus, in opposing the TRIPS waiver with the hopes of reaping huge financial rewards, developed countries are worsening pandemic woes in the long term. Perhaps it is time to reorient our sight and call the ongoing practices of buying up global supply of vaccine what it truly is – vaccine imperialism. Another kind of scarcity caused by vaccine nationalism has also reduced equitable access. Vaccine nationalism is a phenomenon where rich countries buy up global supply of vaccines through advance purchase agreements (APA) with pharmaceutical companies for their own populations at the expense of other countries. But perhaps it is time to reorient our sight and call the ongoing practices of buying up global supply of vaccine what it truly is – vaccine imperialism. If we take seriously the argument put forward by Antony Anghie on the colonial origins of international law, particularly how these origins create a set of structures that continually repeat themselves at various stages, we will begin to see COVID-19 vaccine accumulation not only as political, but also as imperial continuities manifesting in the present. Take, for instance, the report released by the Duke Global Health Innovation Center that shows that high-income countries have already purchased nearly 3.8 billion COVID-19 vaccine doses. Specifically, the United States has secured 400 million doses of the Pfizer-BioNTech and Moderna vaccines, and has APAs for more than 1 billion doses from four other companies yet to secure US regulatory approval. The European Union has similarly negotiated nearly 2.3 billion doses under contract and is negotiating for about 300 million more. With these purchases, these countries will be able to vaccinate their populations twice over, while many developing states, especially in Africa, are left behind. In hoarding vaccines whilst protecting the IP interests of their pharmaceutical multinational corporations, the afterlife of imperialism is playing out in this pandemic. Moreover, these bilateral deals are hampering initiatives such as the COVID-19 Vaccine Global Access Facility (COVAX) – a pooled procurement mechanism for COVID-19 vaccine – aimed at equitable and science-led global vaccine distribution. By engaging in bilateral deals, wealthy countries impede the possibility of effective mass-inoculation campaigns. While the usefulness of the COVAX initiative cannot be denied, it is not enough. It will cover only the most vulnerable 20 per cent of a country’s population, it is severely underfunded and there are lingering questions regarding the contractual obligations of pharmaceutical companies involved in the initiative. For instance, it is not clear whether the COVAX contract includes IP-related clauses such as sharing of technological know-how. Still, even with all its faults, without a global ramping-up of production, distribution and vaccination campaigns via COVAX, the world will not be able to combat the COVID-19 pandemic and its growing variants. Health inequity and inequalities in vaccine access are not unfortunate outcomes of the global IP regime; they are part of its central architecture. The system is functioning exactly as it is set up to do. These events – the corporate capture of the global pharmaceutical IP regime, state complicity and vaccine imperialism – are not new. Recall Article 7 of TRIPS, which states that the objective of the Agreement is the ‘protection and enforcement of intellectual property rights [to] contribute to the promotion of technological innovation and to the transfer and dissemination of technology’. In similar vein, Article 66(2) of TRIPS further calls on developed countries to ‘provide incentives to enterprises and institutions within their territories to promote and encourage technology transfer to least-developed country’. While the language of ‘transfer of technology’ might seem beneficial or benign, in actuality it is not. As I discussed in my book, and as Carmen Gonzalez has also shown, when development objectives are incorporated into international legal instruments and institutions, they become embedded in structures that may constrain their transformative potential and reproduce North-South power imbalances. This is because these development objectives are circumscribed by capitalist imperialist structures, adapted to justify colonial practices and mobilized through racial differences. These structures are the essence of international law and its institutions even in the twenty-first century. They continue to animate broader socio-economic engagement with the global economy even in the present as well as in the legal and regulatory codes that support them. Thus, it is not surprising that even in current global health crisis, calls for this same transfer of technology in the form of a TRIPS waiver to scale up global vaccine production is being thwarted by the hegemony of developed states inevitably influenced by their respective pharmaceutical companies. The ‘emancipatory potential’ of TRIPS cannot be achieved if it was not created to be emancipatory in the first place. It also makes obvious the ways international IP law is not only unsuited to promote structural reform to enable the self-sufficiency and self-determination of the countries in the global south, but also produces asymmetries that perpetuate inequalities. Concluding Remarks What this pandemic makes clear is that the development discourse often touted by developed nations to help countries in the Global South ‘catch up’ is empty when the essential medicines needed to stay alive are deliberately denied and weaponised. Like the free-market reforms designed to produce ‘development’, IP deployed to incentivise innovation is yet another tool in the service of private profits. As this pandemic has shown, the reality of contemporary capitalism – including the IP regime that underpins it – is competition among corporate giants driven by profit and not by human need. The needs of the poor weigh much less than the profits of big business and their home states. However, it is not all doom and gloom. Countries such as India, China and Russia have stepped up in the distribution of vaccines or what many call ‘vaccine diplomacy.’ Further, Cuba’s vaccine candidate Soberana 02, which is currently in final clinical trial stages and does not require extra refrigeration, promises to be a suitable option for many countries in the global South with infrastructural and logistical challenges. Importantly, Cuba’s history of medical diplomacy in other global South countries raises hope that the country will be willing to share the know-how with other manufactures in various non-western countries, which could help address artificial supply problems and control over distribution. In sum, this pandemic provides an opportune moment to overhaul this dysfunctional global IP system. We need not wait for the next crisis to learn the lessons from this crisis.