

# **The Structures of Violence: A Feminist Analysis of Patents and Free Trade**

Susan Hawthorne

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## **Introduction**

Globalisation is misogynist, racist and against the interests of the poor and anyone marginalised under it.

Globalisation is violence against women

Globalisation is violence against indigenous peoples

Globalisation is violence against poor people

Globalisation is violence against people of colour everywhere

Globalisation is violence against the disabled

Globalisation is violence against lesbians

Globalisation is violence against the dispossessed wherever they are

This paper explores the way in which violence is structured into Western-dominated international institutions. Under globalisation, patents are used to dispossess the least powerful people – those in the diversity matrix – of their last possessions namely, knowledge of natural medicinal substances, sacred knowledge and bodily integrity.

## **HISTORY – colonisation and globalisation**

Through patents public ownership is privatised, incorporated, standardised and commodified. Patents privatise common knowledge and structured into patents system is the right to theft of knowledge not written down. *Letters patentes* were sent out with the colonisers to colonise lands – so patents are inextricably linked with colonisation – allied with notions of privatisation, disconnection and universalism (not of rights but of capital over people). Patents also represent the latest form of colonisation of the immaterial.

Free Trade then makes universal access to the privatised commodities easier for the rich in the transnational sector, while dislocating it from the members of the diversity matrix.

As Theresa Wolfwood has said, “Violence is elitist”. This analysis shows how elitist violence is structured into global economic and legal structures. Systems of “elitist violence” determine western concepts of land ownership, international economic systems and the ways in which we are encouraged to disconnect from one another. Examples include the development of genetically modified organisms, new intellectual property rules and molecular colonisation. And the structure and language of the multilateral trade rules. Such systems encourage a utilitarian view of the world in which means and ends are disconnected.

I want to suggest a different kind of world, a world of “wild politics” inspired by biodiversity, in which relationship, responsibility and connection are important.

### **Human Genome Diversity Project (HGDP)**

Two projects, the Human Genome Project (HGP)<sup>1</sup> and the Human Genome Diversity Project (HGDP), nicknamed the vampire project by some indigenous groups (Horvitz 1996; Posey 1996: 8; Rifkin 1998: 57) were initiated during the 1990s. Trillions of dollars have already been expended on the HGP alone but the cost is justified on the grounds of finding cures for both rare and common diseases, or at the very least of increasing our understanding of human genetics. Laudable as these goals may seem, both projects have been plagued by criticism, in particular with regard to the patenting of human genetic material without the permission from the (supposed) donor.

The theft of land and knowledge on the material and cultural levels is now being paralleled by the theft of body parts and genetic material. Through the collection of individuals’ cells (via blood samples, cheek scrapings and specimens taken during surgery) pharmaceutical companies are creating cell lines and then patenting them as products. In 1993, when the first draft of the proposal for the HGDP appeared, the response of indigenous peoples was “silence and sadness” (Burrows 2001: 244).

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<sup>1</sup> I find it strange that in 2001 Oxfam appears to support the HGP, its Briefing Paper on the World Trade Organisation is prefaced by Sir John Sulston, co-founder of the HGP (Oxfam 2001: 2).

John Moore, an oil worker on an Alaskan pipeline, became an early unwilling participant in the HGP. He was treated for hairy-celled leukemia in 1976 and his enlarged spleen was “harvested” for white blood cells. His doctor then cultivated these cells into a continuing cell line and found that it was capable of producing blood proteins which could be used to treat immuno-suppressive diseases (Vidal and Carvel 1994: 13). Moore later discovered that his doctor and the University of California had obtained a US patent on this “invention”, US Patent No. 4,438,032, and then sold the cell line to pharmaceutical company, Sandoz, in 1984 (Shiva 2001: 8). At no time was Moore asked for permission to remove sample cells from his spleen, nor was he informed that these cells were being developed into a cell line. It was not until 1991 that he became aware that a patent had been granted on his own cells. Moore asked some pertinent questions, such as: “How has life become a commodity?” and stated “I believe that all genetic material extracted from human beings should belong to society as a whole, and not be patentable” (in Vidal and Carvel 1994: 13). By 1994 Moore's cell line had earned around US\$3 billion for its owners. Moore received nothing but a small damages settlement out of court. More importantly, the court ruled that Moore did not own the cells which were taken from his body (*Moore v. Regents of the University of California: 1990*). Nor did the court recognise the emotional pain caused to Moore by the experience, his sense of “the dehumanisation of having one's cells conveyed to places and for purposes one does not know of” (in Burrows 2001: 246).<sup>2</sup>

The HGDP, which aims to collect material from isolated populations (for example, the Basque people) and indigenous peoples, is facing similar problems. In 1995 the US government “issued itself a patent on a foreign citizen” (Horvitz 1996: 34). The foreign citizen in this case was a Hagahai man from Papua New Guinea whose blood was being used without consent to develop new drugs. The patent – US Patent No. 5,397,696 – was withdrawn after massive protests by indigenous peoples in December 1996 (Shand 1998). Similar cases have been reported concerning cell lines from Solomon Islanders. A twenty-six-year-old Guaymi Indian woman from

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<sup>2</sup> There is perhaps an interesting parallel here between the person whose cells are removed without his or her knowledge, and without his or her consent, and the rape of a woman who is unconscious at the time of rape. In each case there is no conscious knowledge, but what remains is a sense of utter betrayal and violation.

Panama had her T-cells appropriated, and an application was made: patent claim number WO9208784 (Awang 2000: 131). Debra Harry, an advocate for the Nevada-based Indigenous People's Coalition on Biodiversity, says, "Now it's colonialism on a molecular level. . . For us, genes are our ancestry, our heredity and our future generations. They are not to be tampered with" (in Horvitz 1996: 34). Under international pressure from non-government organisations and indigenous peoples' organisations, the applications for patents on the samples taken from the Hagahai and the Guaymi peoples were withdrawn (Tauli-Corpuz 2001: 264) in November 1993, but the cell line has neither been destroyed nor returned to its rightful owner (Awang 2000: 131).

At issue, among other things, are two competing world views. The Guaymi of Panama view such commodification as violating "the integrity of life itself, and our deepest sense of morality" (Shand 1994: 11). Like Ani (2000), the Guaymi see themselves as connected to the whole, not separable into parts, cells, or genes. There is no remedy for the degree of violation they experienced through these western techniques. On the other hand, the US patent laws specify precisely how life can be owned, patented, and "invented" by scientists and corporations.

Like the concept of *terra nullius* enshrined in Australian law until 1992, "The vacancy of targeted lands has been replaced by the vacancy of targeted life forms and species manipulated by the new technologies" (Shiva 1997: 2). And as Victoria Tauli-Corpuz (2001: 263) argues, the HGDP perpetuates an outmoded view of race, and is likely to have racist outcomes. Jeanette Armstrong, an indigenous woman from Canada, on first hearing of the HGDP said:

You people. We thought you folks had taken everything you could. You took our land, you took our homes. You stole our pottery and our songs and our blankets and our designs. You took our language and in some places you even took our children. You snatched at our religion and at our women. You destroyed our history and now, now it seems you come to suck the marrow from our bones (in Burrows 2001: 244).

Darrell Posey points to the inherent conflict between indigenous and western systems of knowledge within the structure of international multilateral agreements. He provides a warning on what are perceived by some as very positive and generous agreements, among them the Rio Declaration, the Convention on Biological Diversity, Agenda 21 and Forest Principles:

Despite what are generous words, indigenous and traditional peoples are faced with a difficult conundrum. On the one hand, their contribution of a central role in sustainable development and conservation and rights as decision-makers and beneficiaries are recognised far beyond any previous international binding conventions. On the other hand, by accepting the terms of these agreements, indigenous peoples must accept that ultimate control over resources lies with nation states (Posey 1997: 228).

Sandra Awang (2000) also points out (like Shiva 1993) that IPRs are promoted as new ways of looking at knowledge, when in fact they represent the “institutionalisation of *Western orientation toward information as a world system of thinking*” (Awang 2000: 125; emphasis in original). The pretence that enclosing knowledge systems through patents is going to benefit indigenous and traditional peoples is as morally corrupt as the pretence that colonisation makes underdeveloped countries rich through catch-up development (Mies 1986; 1994).

Companies such as Monsanto are very clear about what they want in terms of IPRs. Richard Shear declares Monsanto’s view:

Monsanto, like many companies, looks forward to investing in the development of agriculture throughout the world. When intellectual property laws are improved, like those in Brazil, companies such as Monsanto will invest in biotech, manufacturing and technology transfer (2000: 37).

What Richard Shear means here by “improved” is that indigenous and traditional peoples allow the corporations to use their knowledge base in any way the companies like, and without any reciprocation to the community. Monsanto, like other companies of its ilk in the transnational sector, does not see that there is a competing knowledge system in place, nor acknowledge the need to take seriously the claims of indigenous ownership, in much the same way that liberal, utilitarian economics does not see the need to take seriously the claims of women, children or poor people (Plumwood 1996: 157; Kappeler 1995: 5).

Both Jeremy Rifkin and Vandana Shiva use the metaphor of “enclosures” in discussing the series of shifts which have occurred over the last 500 years of western culture in relation to land, and to the privatisation of other areas of public activity. The same metaphor can be readily used in relation to the enclosure of knowledge

through privatisation and, in particular through the biocolonisation of the bodies of indigenous peoples and of women.

With enclosure of cell lines, and the subsequent patenting of their products, the body is fragmented; money is paid not to the original self from whom the cell came, but to the new “owners” of the patent. Bodies, and parts of bodies, become saleable items.<sup>3</sup> With cell lines removed from individuals as in the case of John Moore, and individuals as representatives of a group or population as in the cases of the Hagahai and Guaymi, the trade in life has entered a new era. As indicated above, the impact on the people affected by the theft is deep, and threatens their personal and communal integrity. The “enclosure” of people’s bodies – which I perceive as the fragmentation<sup>4</sup> of self – is a new form of dispossession and colonisation. Patenting of cell lines is effectively an enslavement, for profit, of the bodies of people who have already suffered massive dispossession. The Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples calls for a “moratorium on any further commercialization of indigenous medicinal plants and human genetic materials . . . until indigenous communities have developed appropriate protection mechanisms” (Paragraph 2.8, Posey and Dutfield 1996: 207).

The new possessors are the already rich and powerful, the elites of nations, and predominantly the elites of the capitalist developed world, the transnationals. By contrast, the dispossessed are mostly the colonised, sometimes the landless; they are poor, they are most often Black, they do not have access to transnational power, their only power is local. Just as colonisers of previous centuries sent their missionaries, their entrepreneurs, their farmers, their military to take possession of the “uncivilised” lands, so now the transnationals and governments of powerful nations send their scientists into the field to reap the harvest of biocolonialism. And like the pirates of previous centuries, they rarely ask permission, or pay for their contraband. The history books tell us that Columbus “discovered” the Americas, that Cook “discovered” Australia, when, in reality, indigenous cultures already long thrived in these lands. The corporate scientists, like the colonisers of an earlier era, are removing cell lines in ways similar to those used to remove from the hands of the colonised the most productive and fertile lands. And through bioprospecting, the biocolonisers are

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<sup>3</sup> The sale of body parts is not new. For a discussion see Raymond (1995); Chattakar-Aitkins (2001).

appropriating and enclosing the knowledge of peoples who have long used certain plants and animals for ritual and medicinal purposes. How seriously, then, can we take the claims of “discovery” by corporate scientists of new drugs, of methods of isolating certain compounds and active ingredients?

The Amazon, Africa, Australasia and India have all been explored by corporations in their search for the new “gold”:<sup>5</sup> new compounds and active ingredients. This knowledge is not just stumbled on. Discussion with local peoples with knowledge of the area is a critical part of the process. Ironically, under the pretence of “fairness”, this “discovery” is then followed by the application of homogenised intellectual property rights (GATT and TRIPs). Trade regulations of course prevent so-called “discrimination” against foreign-owned companies, as it is modelled in the MAI. Theft and travesty are words that may better describe such biocolonialism.

The pattern of disconnection is found in the forms of international agreements and trade rules which are being institutionalised through the World Trade Organisation and through intellectual property rights which valorise disconnection. Knowledge, in the form of intellectual property rights, is being displaced from its origins, and through a process akin to theft, the originators of the knowledge are dispossessed of their rights to use their knowledge in ways which accord with their cultural priorities. Further dispossession occurs as the corporations make profits without any accountability or return to the original community. The issue here is not simply a matter of royalties, but also of cultural respect and integrity. Patents privatise, commodify and universalise what were often free, common resources. They disconnect knowledge from place, and turn it into profit. The World Trade Organisation and its associated institutions, agreements, protocols and instruments seeks to further universalise western property systems; the result is the progressive intensification of poverty among the world’s poorest peoples. Under the rubric of equality of treatment, greater inequality is put in place.

The multilateral system relies on a disconnected neoliberal utilitarian philosophy which is grounded in an ethic developed throughout the period of European colonisation, itself an inherently disconnecting process. Utilitarianism

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<sup>4</sup> For informative critiques of theoretical and bodily fragmentation see Klein (1996, 1999, 2001).

depends on a separation of means and ends, the personal from the political. The natural world, animals, plants, human beings are simply cogs whose purpose is to serve corporate profit and those who control the corporations.

Universalism based on sameness produced a reaction that brought state communism to its knees. Universalism based on homogenised commodification is in the process of bringing capitalism to its knees, because it fails to take account of ecological limits. The global system is using people for profit, making them a part of a utilitarian scheme of efficiency where difference is flattened and profit comes at the cost of human dignity.

I propose, instead, a system which depends on connection, on sustainability over a very long period of time, and one which recognises that each person, just like each plant or animal or micro-organism in an ecosystem, is an integral part of a web of relationships. I propose a system with biodiversity at the centre; one in which epistemological multiversity recognises the specialness of everyone wherever they come from; one which encourages the wild types to thrive, the wild child to laugh.

### **Wild Politics: A vision for the next 40,000 years**

I have in mind a wild politics, a vision which I hope could be sustained for at least 40,000 years. This idea comes from a talk originally given in Australia by Lilla Watson in 1984 on “Aboriginal Women and Feminism”. Watson commented that to Aboriginal people in Australia the future extends as far forward as the past. In that case, she said, we have a 40,000-year plan. In a similar vein the Kari-Oca Declaration and the Indigenous Peoples’ Earth Charter begins with the following statement in its preamble: “We, the Indigenous Peoples, walk to the future in the footprints of our ancestors” (in Posey and Dutfield 1996: 189<sup>6</sup>). Wild politics is the view that diversity is central to the existence of life, to the sustenance of the planet, and to the health of human society. I attempt to outline some principles which will assist humanity to continue to live. Some cultures around the world already live by these principles; some individuals are fighting to make people more aware of the possibilities; and some groups are beginning to move in the direction of wild politics (Bennholdt-

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<sup>5</sup> Australian Aboriginal people refer to gold as “white man’s dreaming” (Joy Smith 1986: pers. comm.).

<sup>6</sup> In eleven Appendices to their book, Dutfield and Posey reproduce important charters and declarations from UN and Indigenous Organisations regarding rights of Indigenous Peoples.

Thomsen *et al.* 2001). Where we are now is at the other end of the continuum, dominated by technoglobal corporatisation.

Central to this paper is the concept and practice of biodiversity. Marimba Ani (2000) in her discussion of western culture undertakes to expose its inspiration, which she names as domination. I extend her analysis to name profit as the inspiration for globalisation. My proposal is to signal a culture whose inspiration is biodiversity. I choose biodiversity over diversity because diversity, can easily be appropriated. It has already been appropriated by global companies as part of advertising programs appealing to young people in a global market. Biodiversity as inspiration, however, is not easily appropriated.<sup>7</sup> It “just is”. When I say biodiversity “just is”, what I mean is that an appreciation of biodiversity is part of its philosophy; that is, it does not exist (unlike shopping malls) for anyone's profit. Biodiversity is an integral part of the existence of life on Earth. It is people as much as anything else. We live in the midst of biodiversity, and if it goes, so will we. Certainly, under the current transnational profit regime, biodiversity is being appropriated through corporate biopiracy.

An appeal to biodiversity implies activity and participation as opposed to disconnected domination. I am thinking here of something like the difference between the wild in the sense of wild type on the one hand, and on the other of wild as in National Park wilderness separated out from the real world because it might prove useful at a later time, or because it is nice to have a place to go to relax for those with the time and the means to get there. The wild type cannot be genetically modified, since at the moment when this happens it is no longer a wild type. Resistance to appropriation is important in developing a wild politics.

Knowledge is an ever-changing and developing system which encapsulates the experiences of generation after generation of people living in communities. Relationship is essential to the development of knowledge. Knowledge also arises in response to the environment. Indigenous peoples' knowledge is a distillation of a

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<sup>7</sup> I note with sadness, however, that the World Bank is making appropriative moves on biodiversity. In 2001 I visited the World Bank headquarters in Washington. At the time of my visit there was a huge display entitled “Biodiversity in the World Bank's Work”. The display told of the many projects the World Bank is associated with in countries around the world. It stated that 226 projects had received US\$1 billion in the past ten years, as well as US\$1.2 billion in co-funding. Another interesting convergence was occurring in the foyer where four women were putting up a display of indigenous artefacts from around the world, entitled “Biodiversity and its Products”. These are just the latest means of drawing traditional and indigenous communities into the homogenising ambit of the World Bank and global capital. Note that women are used as the World Bank's “messengers”.

history of local conditions, careful observation framed, as with all knowledge, within a particular cultural tradition. And as the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples makes clear, “Indigenous flora and fauna are inextricably bound to the territories of indigenous communities and any property right claims must recognize their traditional guardianship” (in Posey and Dutfield 1996: 207, Paragraph 2.6). Overriding such knowledge with an imposed, disconnected, and displaced system means losing valuable insights into how a particular place and space can best be sustained over millennia.

Women’s insights into how their bodies work have been displaced through so-called objective science and disconnected medicalisation. Feminists have challenged this view in recent decades (as in past eras), and a more complex understanding of women’s bodies is now emerging. The corporatisation of knowledge is a relatively recent development. In a system where biodiversity is central, and an epistemological multiversity is respected, the integrity of knowledge systems will also be respected.<sup>8</sup>

If the wild were the driving force of the culture, the *asili* (Ani 2000), the seed (Shiva 1993), life (Bennholdt-Thomsen and Mies 1999), *jukurrpa* (as the Warlpiri of Central Australia would say; see Bell 1983/2002), the world would function in very different ways. In this new world biodiversity would become the inspiration for the culture, the defining spirit, or what Ani calls *utamaroho*. This spirit would result in very different behaviours and institutions, at both local and global levels, and the creation of a particular kind of thought or *utamawazo*. It would result in a very different relationship to the biophysical world, one which would make it difficult to destroy land by mining, bombing, industrial farming or commercial development, all of which are predicated on profit and disrespect. With a relationship of connection between people and the land, there would be great reluctance to do things solely for short-term profit, when the long-term consequences are destructive. In a world of wild politics it would be impossible to imagine terminator seeds, GMOs, molecular colonisation, biotechnologies and reproductive technologies which violate women’s bodies, since these would be perceived as deeply destructive. The vicious cycle of technological failure followed by business opportunity followed by yet another

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<sup>8</sup> This does assume that a knowledge system which promotes profit and violence would not easily arise, and that if it were to arise at all, its people through discussion and developing understanding would see that such a path would result in their own deprivation. Put differently, its people would change their minds. I realise that this is rather optimistic view of human society, but for the purpose of this thought experiment I will run with it.

technological failure would be broken. These and other cycles of violence could be replaced by a system which focuses instead on life-oriented outcomes, on systems which are premised on a germinating matrix, *asili*, seed, wild type. Within such a system it would not be possible to separate out the wild as a place far removed from human life, and the eradication of cultural diversity would be unimaginable. Educational, health, commercial and artistic endeavours would flourish in an environment enriched by epistemological multiversity. In a world enlivened by wild politics, members of the diversity matrix are the hope for the future. Within wild politics are new ways of thinking, and in this quest for new behaviours and institutions are also the seeds of a future which will hold dear to the driving force of wildness, and a politics which grows out of this longing.

What I hope for is a world filled with richness, texture, depth and meaning. I want diversity with all its surprises and variety. I want an epistemological multiversity which values the context and real-life experiences of people. I want a world in which relationship is important, and reciprocity is central to social interaction. I want a world which can survive sustainably for at least 40,000 years. I want a wild politics.

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