



# (Un)Free Trade

Why the WTO is not really about “free trade”



BY MARJORIE KELLY

**W**TO Strikes Down Santa Claus—in my three-inch-thick file of articles about the December WTO protests in Seattle, that ranks as my all-time favorite. As Geov Parrish wrote in the *Seattle Weekly*, the nightmare began early in the Christmas season, when “a secret Geneva panel of the World Trade Organization (WTO) ruled the Christmas Eve trade export policies of the North Pole to be ‘WTO-illegal.’” The problem, it seems, was that corporations couldn’t compete with price supports offered to Santa, so his delivery of free gifts would have to stop. Furthermore, Parrish wrote, “countries with fireplaces would need to amend their trespass laws to allow competitors an equal right to deliver goods by chimney.”

The WTO is nearly that ridiculous. What’s particularly absurd is that its bureaucratic rules—which, honest to Pete, would make even Santa illegal—are enacted in the name of “free trade.” The truth is, the WTO has very little to do with freedom.

Look up “freedom” in the *Oxford English Dictionary*, and you’ll find the first definition is about “release from slavery.” But the WTO doesn’t care a whit about slavery, and actively turns a blind eye to it. WTO rules say countries cannot discriminate against products based on production methods. Countries cannot, in other words,

refuse to import goods made with forced labor. The “free” in “free trade” does not apply to workers.

Nor does it apply to government policies. A second definition of “freedom” in the *Oxford English Dictionary* is “exemption from arbitrary, despotic, or autocratic control.” The WTO allows nations no such freedom. Instead, it offers arbitrary, despotic, and autocratic control over democratic decisions. Do states or cities want to create “buy local” preferences for government procurement? The WTO says they can’t. Do they want to promote investment in recycled material markets? The WTO says no-can-do. In California alone, a frightening total of 95 laws have been identified as potentially WTO-illegal, according to the Georgetown University Law Center.

If laws are *potentially* illegal in the U.S., many have been declared *actually* illegal elsewhere. Take patent law. Developing nations like India often seek to keep food and medicine in the public realm, to ensure broad access. India’s Patent Act, until recently, banned patents on substances “intended for use, or capable of being used, as food or as medicine or drug.” India, quite naturally, believed it had the freedom to set its own policies in such matters. The autocratic WTO disagreed.

In 1997, it ruled that India offered insufficient protection for corporate patents, and forced it to change its law. The Indian Parliament did so in March 1999. (The United Nations Development Program later criticized the WTO’s intellectual property policy, for undermining food security and public health in developing nations, and recommended the rules be revised.)

**P**atent law is an interesting example, for it unmasks the intentions behind the ostensibly pure pursuit of “free trade.” Note well: Protectionism, if it applies to public health, is bad. Protectionism, if it applies to corporate patents, is good. And then there’s the parallel contradiction at work with forced labor: Freedom, if it pertains to labor, is irrelevant. Freedom, if it pertains to corporate actions, is vital.

Can you find the corporate mitten hidden in the free trade tree? It’s so obvious, it’s downright blatant. The WTO is not about free trade, it’s about corporate protectionism.

What’s fascinating is how consistently the media misses this. In browsing through my clippings about the Seattle protests, I’m struck by how often the press sees free trade as representing openness and the future, while protesters represent “antiglobalization forces,” according to *Time*, or “a bunch of scruffy Luddites,” according to *Fortune*. Naomi Klein, in a *New York Times* op-ed, was one of the few in mainstream media to make the point, “This protest movement is really anti-corporate rather than anti-globalist.”

At work here is what John Kenneth Galbraith calls “innocent fraud.” It’s innocent, because it’s largely unconscious. But it’s fraudulent, because it conceals corporate power beneath a false label of “free trade.” A similar fraud is at work in talk of the “free market,” which is a point Galbraith made in his article “Free Market Fraud,” in *The Progressive* magazine. The word “capitalism” has largely gone out of fashion, he noted. “The approved reference now is to the market system,” a shift that “minimizes—indeed, deletes—the role of wealth.” Instead of capital-owners in control, “we have the admirably impersonal role of market forces,” he wrote. “It would be hard to think of a change in terminology more in the interest of those to whom money accords power. They have now a functional anonymity.”

In like manner, talk of “free trade” grants corporations a functional anonymity. Instead of corporations in control of the world economy, we have the admirably impersonal role of “free trade”—as supposedly guarded by the WTO. But even a cursory glance at the facts shows the truth. If freedom means exemption from despotic control, the WTO offers the opposite. It is, you might say, the grinch who stole freedom. ❧

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## Correction:

In “An Open Letter to McDonald’s” (*Millennium-End Double Issue 1999*), Business Ethics had several errors in its reporting on McDonald’s slaughterhouse policies—including an erroneous allegation that five in 100 cows were conscious while skinned. The policy referred to animals not killed on the first attempt with a stun gun. McDonald’s has taken significant steps to make slaughter conditions more humane. Watch the March/April issue for a full story.