



End Pharma Liability Shield Endangering Public Health and Human Rights

By Barbara Loe Fisher

Another sign that autonomy and civil liberties are being threatened in America is the recently proposed change to public health law published by the U.S. Centers for Disease Control (CDC) [1](#) that allows federal officials to use police power to apprehend, isolate and involuntarily quarantine travelers simply suspected of being at risk for getting measles or other infections until they sign a contract agreeing to application of “public health measures,” like vaccination. A big reason they can get away with it is that nobody is accountable in a civil court of law when people are harmed by public health laws.

Curbing civil liberties under the guise of protecting the public health and national security has become big business. In 1982, when the pharmaceutical industry threatened to stop producing government licensed and recommended vaccines for children unless vaccine manufacturers got a product liability shield, Congress gave Big Pharma most of what it wanted in the National Childhood Vaccine Injury Act of 1986. [2](#) It was tort reform legislation sold to parents and the American public on the backs of children legally required by states to get federally recommended vaccines to attend school. [3](#)

Even though by Nov. 1, 2016, \$3.5 billion had been awarded to more than 3,500 vaccine victims through the federal vaccine injury compensation program (VICP) created under the 1986 law, [4](#) two out of three claims have been denied throughout the entire history of the law’s implementation. [5](#) Most of the compensation awards today are for adults injured by flu vaccine - not for children required to get vaccines to go to school. [6](#) [7](#)

While the government denies compensation to many children, whose lives have been destroyed by state mandated vaccines, in the past five years liability free drug companies have joined forces with politically powerful medical trade groups to change state vaccine laws. They are lobbying state legislatures to severely restrict the medical exemption and eliminate the non-medical religious, philosophical and conscientious belief exemptions for children attending school. [8](#)

NVIC Calls for Vaccine Reaction Witnessing and Return to Civil Liability for Vaccine Manufacturers

On the 30th Anniversary of the enactment of the National Childhood Vaccine Injury Act on Nov. 15, 1986, the non-profit National Vaccine Information Center (NVIC) has renewed our call for a return to product liability for pharmaceutical companies, as well as a return to civil liability for doctors and other vaccine



administrators shielded by law from malpractice lawsuits when they negligently administer a vaccine.

Vaccine Awareness Week 2016

To highlight the fact that the Childhood Vaccine Injury Act has protected the pharmaceutical and medical trade industries but done nothing to protect the lives of children, during Vaccine Awareness Week (Nov. 13-19, 2016), NVIC has:

- Launched a video vaccine reaction reporting feature on NVIC's online International Memorial for Vaccine Victims called *Protect Life: Witness A Vaccine Reaction on NVIC.org*. Now you can post a two to six minute video describing how your life or the life of a loved one has been forever changed by a serious vaccine reaction [here](#), where it will be permanently archived and shared with the millions of visitors to NVIC's website for many years to come. Or you can search the database of photos and vaccine reaction descriptions on the Memorial for Vaccine Victims dedicated to remembering those for whom the risks of vaccination were 100 percent.
- Published a 90-page legislative policy analysis of scientific, economic, legal, ethical and political questions about proposed legislation in Virginia to eliminate medical and religious vaccine exemptions. View or download this fully referenced analysis from NVIC.org [here](#) and learn how to educate your own state legislators about protecting exemptions in vaccine laws.
- Translated NVIC's three most popular vaccine information brochures into Spanish, which you can view or download from NVIC.org [here](#).

VAW 2016, which is co-sponsored by Mercola.com and NVIC, will also feature a free viewing of the award winning documentary, *The Greater Good*, on Mercola.com starting Saturday, Nov. 19 through Friday, Nov. 25.

National and Global Public-Private Partnerships Capture Populations

The assault on health freedom in America has been fueled by a lucrative public-private partnership forged by government with the pharmaceutical industry that was expanded after 1986. [9](#) [10](#) Big Pharma spends more money lobbying on Capitol Hill influencing lawmakers than any other industry, [11](#) and growing the business of vaccination is part of the political agenda. [12](#)

This public-private business partnership was greatly strengthened after Sept. 11, 2001. [13](#) Congress passed legislation giving more power to the Executive Branch and billions of dollars to the Departments of Health and Human Services,



Defense and Homeland Security [14](#) [15](#) [16](#) following allegations that terrorist groups had weapons of mass destruction, specifically biological weapons, that required the development of many new vaccines to protect “national security.” More liability protection for companies making and selling vaccines was thrown in for good measure [17](#) to accelerate new vaccine development. [18](#) [19](#) [20](#) [21](#)

A lot of money is being spent to grow the business of vaccination in America and around the world. However, the threat to autonomy and civil liberties would not be as great today if multi-national pharmaceutical corporations, government agencies and individuals creating, producing, selling, licensing, recommending, mandating and giving vaccines could be held legally accountable in a civil court of law when vaccines injure and kill people.

Americans are not the only ones being subjected to the control and profit-making agenda of business partnerships between industry and government. As the recent Nov. 4, 2016 Presidential Executive Order on the Global Health Security Agenda reveals, the U.S. is one of many nations participating in global public-private partnerships. [22](#) Financial deals between governments, Big Pharma and Big Philanthropy are capturing populations in countries around the world where, like in the U.S., governments have let industry off the hook for vaccine injuries and deaths. [23](#) [24](#) This greases the skids for development of new vaccines to advance a global health agenda that often frames infectious diseases in military terms as a “security threat.” [25](#) [26](#)

[A David and Goliath Battle Then and Now](#)

The People v. Big Pharma has always been a David and Goliath battle. In the 1970s and early 80s, when children were only required to get DPT, oral polio and MMR vaccines to go to school, [27](#) vaccine injury lawsuits in the U.S. against wealthy drug companies dragged on for years and parents spent tens of thousands of dollars trying to get help for their vaccine damaged children. Back then, the vast majority of product liability lawsuits against vaccine manufacturers (and malpractice lawsuits against negligent pediatricians) did not end with multi-million dollar verdicts, but were settled at the last minute on the courthouse steps by plaintiff and defense attorneys for low amounts of money before the case could get to the jury. Most of the time, vaccine manufacturers insisted that one condition of settlement was that all court records and evidence found during discovery would be sealed from public view.

When the VICP was being developed in a series of proposed bills between 1983 and 1986, parents were told that - unlike a lengthy, expensive and traumatic lawsuit against rich and powerful pharmaceutical companies - the federal vaccine injury compensation process would be “non-adversarial.” Parents were



promised that the “administrative” alternative to a civil court lawsuit that Congress was proposing would be a “safety net” and provide compensation to vaccine injured children ‘quickly, easily, and with certainty and generosity.’ [28](#)

It turns out that was a lie. [29](#) Over the past 30 years, federal agencies and the US Court of Claims have been allowed to turn the process of obtaining federal compensation into a cruel imitation of a court trial without a jury. As a 2014 Government Accountability Report (GAO) report pointed out, VICP cases drag on for years while families suffer. [30](#)

Through federal tax dollars and fees to doctors giving children vaccines and insurance premiums, all U.S. citizens pay into the Vaccine Injury Trust Fund that is supposed to be there to provide financial support to human casualties of federal vaccine policies and state vaccine laws. Yet, today, when parents follow doctors’ orders and obey state vaccine mandates and their children are harmed, the majority of vaccine injured children and their families are left out in the cold with nothing, even though there is a \$3.6 billion surplus sitting in the Vaccine Injury Compensation Trust Fund. [31](#)

Vaccine Safety Provisions in 1986 Law Not Enforced

After Congressman Henry Waxman (D-CA), Senator Edward Kennedy (D-MS), Senator Orrin Hatch (R-UT) and other influential members of Congress informed parents they were going to pass tort reform legislation to protect the nation’s childhood vaccine supply, as one of NVIC’s co-founders I worked to help secure mandatory informing, reporting and recording safety provisions in the 1986 law. Little did we know that Congress would fail to make sure the safety provisions included in the National Childhood Vaccine Injury Act were enforced.

Today, pediatricians and other medical workers giving vaccines to children are free to ignore their duty to identify and help prevent vaccine reactions. In congressional testimony and public comments to federal agencies over the past two decades, NVIC has been highly critical of the VICP and the failure of government to enforce the law’s vaccine safety provisions. [32](#) [33](#) In contrast to sanctions placed on Americans when they do not comply with government vaccine recommendations and mandates, there are no legal sanctions for vaccinators who refuse to obey the 1986 law’s vaccine safety provisions to:

1. provide parents with written vaccine and disease information *before* children are vaccinated;
2. record serious health problems following vaccination in the permanent medical record;
3. report serious health problems, hospitalizations, injuries and deaths



following vaccination to the federal vaccine adverse events reporting system (VAERS).

All of the promises made by the 1986 Congress to parents have been broken. In large part, the law is a dismal failure because subsequent Congresses have not provided strong oversight on the law's implementation. The U.S. Department of Health and Human Services, Department of Justice and U.S. Court of Claims have had a free hand in gutting the Vaccine Injury Table [34](#) and restricting the ability of the vaccine injured to be compensated. [35](#) [36](#)

US Supreme Court Bans Vaccine Design Defect Lawsuits

Banning vaccine injury lawsuits has certainly guaranteed drug companies unlimited profit making in a stable, liability free market for old and new vaccines recommended and mandated by government. The U.S. Supreme Court majority sealed that sweet deal for Big Pharma in 2011 when, as dissenting justices Sotomayor and Ginsberg so accurately pointed out, it ignored the legislative history of the National Childhood Vaccine Injury Act in *Bruesewitz v. Wyeth*. [37](#) That legislative history clearly demonstrated that the 1986 Congress intended the federal vaccine injury compensation program (VICP) to be an administrative *alternative* to a civil lawsuit and not an "exclusive remedy" for children injured by government mandated vaccines. [38](#) Parents were supposed to be able to sue vaccine manufacturers on behalf of their injured children if their federal compensation claim was denied or if there was evidence the company could have made the vaccine less reactive.

Regardless, in a split 6-2 decision, the Supreme Court ruled in 2011 that FDA licensed vaccines are "unavoidably unsafe" and extended liability protection to design defect cases - even when there is evidence that a drug company could have made a vaccine less reactive. Ignoring the pleas of parent and consumer groups, who begged the justices to preserve at least some legal accountability for drug companies making and selling government mandated vaccines, [39](#) the Court majority instead sided with the U.S. Department of Health and Human Services and a host of medical trade groups allied with government and industry (American Academy of Pediatrics, American Academy of Family Physicians, American Medical Association, American Public Health Association, Pediatric Infectious Disease Society and more) that all urged the Supreme Court to absolve pharmaceutical companies of remaining liability for harm caused by vaccines. [40](#)

The Supreme Court ruling removed any remaining incentive for pharmaceutical companies to improve the safety of vaccines, as well as removed any incentive for the U.S. government to award federal vaccine injury compensation to prevent the filing of vaccine injury lawsuits.



Pharma and Medical Trade Lobby to Eliminate Vaccine Exemptions

Emboldened by the blank check given to them in 2011 by the Supreme Court, [41](#) drug companies joined with the same public health and medical trade groups that had lobbied Congress and the Supreme Court to ban vaccine injury lawsuits and descended on state legislatures to convince legislators to strip exemptions from US vaccine laws. [42](#) Their goal has been transparent all along: legally force all Americans, young and old alike, to purchase and use liability free vaccines or face societal sanctions such as loss of an education, medical care, health insurance and employment. [43](#)

In 2015, despite strong public opposition, California lost the personal belief vaccine exemption for religious and conscientiously held beliefs and Vermont lost the philosophical belief exemption. [44](#) In many other states in 2015-2016, parent and health freedom groups worked with NVIC through the NVIC Advocacy Portal to push back and defeat bills proposing to eliminate vaccine exemptions, including in Washington, Colorado, Texas, Hawaii, Oregon, Oklahoma, Maine, North Carolina, Maryland, Pennsylvania, and Rhode Island. [45](#)

Per Child Vaccine Costs Skyrocket Since 1986

Since the National Childhood Vaccine Injury Act was signed into law by President Reagan on Nov. 15, 1986, the U.S. has guaranteed unlimited profit-making for the pharmaceutical industry that is developing scores of new genetically engineered vaccines, [46](#) but it has not controlled wildly escalating costs to give children every dose of every federally recommended vaccine. When industry was blackmailing Congress to give them a liability shield in the early 1980s, they told Congress that if their litigation costs to fight vaccine injury lawsuits were eliminated, childhood vaccine prices would be significantly reduced and contained.

That was another lie.

In 1986, it cost \$80 for a child to receive all federally recommended childhood vaccines in a private pediatrician's office.[47](#) According to the CDC, the cost to vaccinate one child with every recommended vaccine at federal contract prices rose over 2,300 percent between 1990 and 2012 - from \$70 to \$1,700 per child.[48](#) By October 2016, the per-child vaccination cost at federal contract prices was \$2,130, and for a child to get every dose of every federally recommended vaccine in a private pediatricians office, it cost \$3,035. [49](#)

With no liability and federal recommendations and state mandates guaranteeing a predictable market, why does chickenpox vaccine cost up to \$115 per dose;



meningococcal vaccine up to \$120 per dose; pneumococcal vaccine up to \$160 per dose and HPV vaccine up to \$193 per dose? [50](#) In the past 30 years, depending upon the payer, there has been a staggering 2900 to 3700 percent increase in the cost to purchase all the federally recommended vaccines for a child in America. Administrative costs have to be added on top of that. These are costs borne by parents, federal taxpayers and the states.

Global Vaccine Market Worth to Double by 2021

The U.S. has the third largest population in the world – 320 million people – and ours is the number one purchaser of pharmaceutical products. [51](#) [52](#) [53](#) Partially removing product liability for vaccine injuries and deaths in 1986 and, essentially, completely removing liability in 2011, has helped to create a global preventive vaccine market of \$27.5 billion USD in 2015, which is projected to double to \$55 billion by 2021. Pfizer, Merck & Co, Sanofi, GlaxoSmithKline and Emergent Biosolutions dominate the business with close to 120 new human vaccines being developed and scheduled to enter the global market within five years. [54](#)

The explosive growth in the vaccine market is fueled in no small part by the fact that the public-private business partnership between federal agencies and Big Pharma means that vaccine manufacturers don't have to lobby very hard to get every new vaccine they develop (like hepatitis B, chickenpox, rotavirus, pneumococcal, HPV and meningococcal vaccines) recommended by the CDC for "universal" use by all children (code word for targeted state mandated use for school attendance) so drug companies won't be liable for any injuries and deaths caused by the new vaccine under the 1986 law. And when most states dutifully add the new vaccine to the school mandate list, it creates a permanent liability free market for companies.

Child Vaccinations Triple, Chronic Disease Epidemic Grows Since 1986

But what has happened to the health of children in America since the National Childhood Vaccine Injury Act was passed in 1986? After drug companies, pediatricians and all vaccine providers were shielded from accountability and liability for vaccine injuries and deaths, U.S. health officials tripled the numbers of vaccinations recommended for children – from 23 doses of seven vaccines in 1986 to 33 doses of nine vaccines by 1997, which has escalated to a current 69 doses of 16 vaccines. [55](#) [56](#) States also increased the numbers of vaccinations required for children to attend school and, by 1997, it was obvious that a growing number of highly vaccinated children in America were never well anymore. [57](#)

The new and unprecedented child chronic disease and disability epidemic that



has perfectly coincided with the expansion of the child vaccine schedule over the past 30 years is having a devastating effect on children, their families and our nation. Today, 1 child in 6 in the U.S. is learning disabled;⁵⁸ 1 in 9 has asthma;^{59 60} 1 in 10 has ADHD;⁶¹ 1 in 50 develops autism;⁶² and 1 in 400 has diabetes.⁶³ Millions more are suffering with severe allergies ^{64 65} epilepsy,⁶⁶ ⁶⁷ anxiety and depression,^{68 69 70} and other kinds of brain and immune disorders marked by chronic inflammation in the body.^{71 72 73 74 75}

Infant Mortality Rates High and Maternal Mortality Higher Than in 1986

The U.S. has maintained one of the world's highest child vaccination rates and lowest infectious disease rates,⁷⁶ even as public health officials have been unable to explain why so many of today's highly vaccinated children are so sick and disabled. Also unexplained, is why America has the worst infant mortality rate of all developed nations, with 6 out of 1,000 babies dying before their first birthday.^{77 78 79}

In addition, maternal mortality in the U.S. has also become one of the worst of all industrialized nations, with between 12 and 28 women in 100,000 dying within one year of giving birth, a maternal mortality rate that more than doubled between 1990 and 2013. According to the World Health Organization (WHO), annually an estimated 1,200 women in America suffer fatal complications during pregnancy and childbirth and another 60,000 suffer near-fatal complications.⁸⁰ Women having babies in the U.S. today, who represent the most vaccinated generations in our nation's history, are now also being given influenza, diphtheria, pertussis and tetanus vaccines during pregnancy, a federal maternal vaccination policy that was launched in 1997 with administration of influenza vaccine during any trimester ⁸¹ and was widened in 2011 with the addition of a pertussis containing Tdap shot after 20 weeks gestation.⁸² As of 2015, about half of the nation's pregnant women or nearly 2 million women,⁸³ were either vaccinated with Tdap vaccine during pregnancy (42 percent)^{84 85} or influenza vaccine before or during pregnancy (50 percent)⁸⁶ or received both vaccines.

Industries Making People Sick: The Perfect Storm

Obviously, the expansion of the childhood vaccine schedule and routine vaccination of pregnant women since 1986 cannot be the sole reason that America has a failing public health report card. GMO food, fluoridated drinking water, mercury amalgams, pesticides, abuse of drugs (legal and illegal) and other toxic environmental exposures are all contributing to the poor health of the U.S. population.



Many health problems can be traced back to chemical, pharmaceutical and medical trade industries, which profit from sickness but are rarely held accountable in a court of law for sickness they cause.

A Public Health Crisis and Human Rights Threat

There should be no liability shield for any industry making products that are used by humans, especially products mandated by government for use by everyone. There should be no liability shield for professions promoting and administering products that can injure and kill, especially when people are forced to use the product or lose the right to an education, medical care, health insurance and employment.

Without corporate, professional and personal accountability or liability for causing harm to others, medical policies and public health laws that lack informed consent protections and require people to risk their lives violate human rights and become a threat to the public health.

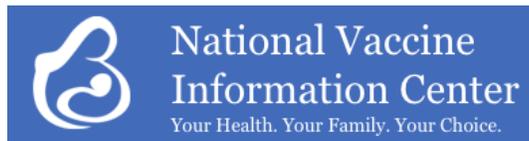
It's your health. Your family. Your choice.

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