

## RALPH NADER RADIO HOUR EP 270 TRANSCRIPT

**Steve Skrovan:** Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan along with my co-host David Feldman. Hello, David?

**David Feldman:** Hello, everybody, Happy Mother's Day.

**Steve Skrovan:** Yes, and we have the man of the hour, Ralph Nader. Ralph, you wanted to say something about Mother's Day in relation to your book, *The Seventeen Traditions*.

**Ralph Nader:** Yes. Every time Mother's Day comes around, I think of this book that I put together of the way my parents raised their four children in a factory town in New England, and it's the only book I've ever written, Steve, that everybody loves. And I thought it would be good just to remind people that it's a wonderful Mother's Day and Father's Day upcoming in June gift. We've found a lot of young parents who use the stories as a way to raise their kids in traditions that will make them proud of their progeny.

**Steve Skrovan:** And if anybody wants to get a hold of that book, you can either go to Ralph's own website, [nader.org](http://nader.org) or go [ralphnaderradiohour.com](http://ralphnaderradiohour.com) and we have links to send you to all of Ralph's work there. And as far as today show goes . . .

**David Feldman:** Can I just mention that I've written a book about how I was raised? It's called "How The Rats Reformed David." I'm kidding.

**Steve Skrovan:** You're kidding? Really?

**David Feldman:** Yeah, I'm kidding.

**Steve Skrovan:** Oh, that wasn't real?

**David Feldman:** That's Ralph's other book, *How The Rats Re-Formed the Congress*.

**Steve Skrovan:** Well, let's get to our show today, which I'm calling the Jamie Show. Today we have Maryland Congressman Jamie Raskin, who is returning to give us his Inside the Beltway view of all sorts of topics--progress on the minimum wage, the environment, corporate power, Medicare for All, and the possibility of impeaching Donald Trump. That's our first Jamie. Our next Jamie is returning as Jamie Love who started his career working for Ralph at The Center for the Study of Responsive Law where in the late '90s, he was instrumental in using patent and copyright laws to drastically reduce the price of AIDS drugs.

He is now the Director of Knowledge Ecology International, which continues much of that same kind of work over a wide array of industries. So today, we're going to talk, among other things, about a story reported at CNN.com where the pharmaceutical company, Questcor raised the price of a drug to a rare infant seizure disorder from \$40 a vial to \$39,000 a vial. That's an increase of 97,000%. I didn't know that number actually existed, 97,000%.

**David Feldman:** That *is* vile.

**Steve Skrovan:** Yes. And in between, as always, we will take time to check in with our *Corporate Crime Reporter*, Russell Mokhiber. But first, David, let's start the Jamie Show.

**David Feldman:** Congressman Jamie Raskin is a returning Member of the House Judiciary Committee, the Committee on Oversight & Reform, and the Committee on House Administration. He's a new Member of the House Committee on Rules. For more than 25 years, Congressman Raskin has been a Professor of Constitutional Law at American University's Washington College of Law and has authored several books including the bestseller, *Overruling Democracy: The Supreme Court Versus the American People*, and the highly acclaimed, *We The Students: Supreme Court Cases for and About America's Students*. Welcome back to the *Ralph Nader Radio Hour*, Congressman Jamie Raskin.

**Jamie Raskin:** Well, I'm glad to be with you guys.

**Ralph Nader:** Welcome indeed, Jamie. Let's start with the minimum-wage issue among the Democrats. I've met over the years with leading Democrats and expressed my puzzlement as to why they haven't made this a major front-burner issue in election after election. In fact, looking even at the Senate election in 2016 and 2018, they were close wins by Republicans in states like North Dakota, Indiana, Florida, and other states that I think could have been reversed had there been a really front-burner "go vote for a raise" drive and it would have turned up the vote, could've brought more voters up. People often say what does the Democratic Party stand for. Gary Hart once told me he was in Denver and wants to know why the Democrats don't stand for these things and there are, of course, exceptions among democratic legislators. But imagine if they won the Senate, there'd be different kinds of Supreme Court nominees and everything would be quite different. So, try to explain to our listeners why, other than SEIU and the workers who picketed McDonald's and others in the "Fight for 15" dollars an hour, why the main Democratic Party has been so reluctant up until now, and what the situation is with the minimum-wage legislation in the House of Representatives.

**Jamie Raskin:** Thanks, Ralph, thanks so much for having me. It was good thing you're earlier this week. I believe that the center of gravity in the Democratic Party now is very much for the Raise The Wage Act of 2019. I mean this really should be Heartland's democratic values. It would raise wages for 40 million people in the country, a disproportionate number of whom are women and workers of color. It'll be a stimulus to the economy and it's basically what the Democratic Party was built on in the 20<sup>th</sup>-century labor legislation like the Fair Labor Standards Act and the National Labor Relations Act, the Wagner Act--the minimum wage and maximum hours and so on. I think when you ask about what's been the political hesitancy about it, Americans know the Republicans are the party of big business, that their tax scam from two years ago opened up this gigantic hole in the deficit in order to give money away to the wealthiest corporations and the wealthiest people in the country. I mean, that's whose looking out for big business. So, Democrats, we like to look out for small business and to the extent that there's any pinch felt with an increase in minimum wage, it's the smaller businesses that are just starting out that have an issue with it. And I think that is the only reluctance, but there are ways of dealing with that and it should not stop us from raising wages for tens of millions of Americans.

**Ralph Nader:** Well, the \$15 an hour is supported now by a majority of the people, a growing majority in the polls, number one. And number two, the Democrats are facing some pause by about a dozen of their Members in the House of Representatives and so they're a little hesitant in pushing forward the raise-the-wage legislation, which takes the minimum wage, which is now at \$7.25 federal. Other states, 29 states have passed minimum wages, some are higher than that and some

of them have gone to \$12 to \$15 an hour such as in Washington State and parts of California, etcetera. But there are, according to *Politico*, about a dozen Members of the Democratic Party in the House that are pausing; they're hesitant. And Speaker Nancy Pelosi doesn't want to push this bill until it's guaranteed that the Democrats will win in the House of Representatives quite apart from the Senate. What's the problem with them? This bill is a very gradual bill. It raises the minimum wage gradually until it reaches \$15 an hour in 2024. So, what's the problem with getting all the Democrats behind it in the House, so it can move to enactment and become a front-burner issue between the Democrats and Republicans in the coming election?

**Jamie Raskin:** Well, I think it will be a unifying thing and I think it should be. The Republicans, of course, are philosophically opposed to it. They never liked the minimum wage in the first place and they don't mind at all a minimum wage that's been completely eroded by inflation. I mean if there are people in parts of the country who are making \$7.50 an hour, that is the sub-living wage. If you've got kids, you cannot support a family on those kinds of wages. And so we're talking about people who are bank tellers, and childcare workers, and waiters, and waitresses, and people who are doing landscaping and certain parts of the construction industry. So, I think it is, that you're suggesting, a totally unifying thing that will be very politically popular. I think the counter proposal that is keeping a few members hanging back is that this should be tied to regional wages so that there would be different minimum wages in different parts of the country and, of course, it's never been like that and that does create a real problem. And I think that this is staged in such a way over the next five years that it's going to be perfectly manageable for all of the businesses to incorporate it in their planning.

**Ralph Nader:** Well certainly long overdue. Just a couple years ago, there were 30 million workers in this country making less in inflation-adjusted wages than workers made in 1968. So, if you take the 1968 base and adjust it for inflation, the minimum wage should be \$11.20 an hour. And as you said, if it goes to 15 dollars an hour, 40 million or more workers will get a pay raise and that's about 30% of all workers in the United States. I think because it's so overdue and because people have been so cheated by a frozen federal minimum wage, I think waiting until 2024, is quite leisurely. One other thing, Jamie, Professor Desmond of Princeton, sociologist, has really broadened the argument for it. It isn't just that people have more money to live on, people have more money to spend, more money spent will invigorate the economy, it will create jobs and so on, but he says that the non-living wage has enormous psychological effects on workers. There's more depression, there's more addiction, a whole raft of intangible factors that make the quality of life so low for minimum-wage workers. And I think that ought to be cranked in in the debate in Congress, so it isn't just 10 economists saying it's needed, 10 other economists saying it's bad for business.

**Jamie Raskin:** In the exact same vein, it's bad for children. I mean, if you want to make life better for children, if you want them to have more time with their parents, if you want to improve the quality of family life, give people an increase in the minimum wage. If you raise tens of millions of people's wages, they'll be able to spend more time with their kids. They're not going to have to go out and get two or three jobs just to survive, so I'm totally with you on that. We've got to translate the numbers into the quality-of-life experience for people. And on the other end of things, we've allowed wealth inequality to become so vast in gaping and sharp that you've got people who, are no longer satisfied with just buying the biggest house, and the biggest yacht, and their own helicopter. They've got so much money they want to buy governorship; they want to buy the

presidency of the United States. They want to use their money to purchase public office and public things. That was one of the reasons that the founders of the country were totally in favor estate taxes and not allowing huge fortunes to accumulate over time because they knew you would create our own domestic aristocracy that would live apart from and separate from everybody else. Then it's a threat to political equality in the country. So, I think the minimum-wage issue is absolutely essential. I think that all Democrats need to get aboard. We've got a completely reasonable proposal on the table. If anything, it's too timid, but it is what it is. We should fight for it; we should get it through and give people a wage all across the country.

**Ralph Nader:** You know when I was in high school, the Fortune 500 CEOs were making about 20 times more the average wage of a worker in their company and they seemed to be satisfied with that. It's now about 350 times and some of it is 500 times that these CEOs are making. For example, the CEO of Walmart is making about \$12,000 an hour on an eight-hour day, 40-hour week, not counting benefits. And of course, there's a million workers in Walmart who are making less than \$11 an hour. Have you ever contemplated, because you come from a family of philosophers, the great Marc[us] Raskin who wrote this book, *Being and Doing*, and made so many reflections on the political economy, have you ever reflected on why greed is infinite among these people? I mean enough is never enough whether it's military contracts for Lockheed Martin, nuclear subs for General Dynamics, or unbelievable executive pay that has led to \$7 trillion of stock buybacks among American corporations in the last 10 years that don't create a single job and increase the metrics for executive compensation surges at the top of these companies. Sometimes we need a debate on these kinds of values. Is there any way we can limit greed?

**Jamie Raskin:** Well I don't know you can limit the greed, but we certainly can put laws in place that limit people's conduct. I would, just to add to your question, by directing it at Big Oil, and Big Gas, and Big Coal. I mean there are oil companies that were perfectly well aware of climate change 50 or 60 years ago. They were doing the research that demonstrated what the increase in carbon pollutants would do to climate on earth and the kinds of effects. I mean, with remarkable they predicted what kind of effects it would have in terms of the glaciers, in terms of the oceans, in terms of the environmental devastation, and yet they suppressed it and decided instead to put money into the denialism and manufacturing all of this propaganda to keep us from addressing it. So, this is one of the things that I am hell bent on seeing in Congress calling in the CEOs of those companies to have them account for their conduct in suppressing the truth about climate change. Is their greed so overwhelming? Do they really not live well enough that they could have participated in the solution rather than denying the existence of the problem. But your point is right, I mean, we've got this kind of inequality in the country which is produced an aristocracy that now think correctly that it can buy anything. And so, you pick up the newspaper, Ralph, and you see that people are spending \$500,000 or \$5 million to buy a place for their kids to go to Stanford College or USC or whatever. Maybe their kid doesn't even want to go there; it doesn't make any difference. The family goes out and buys it and there are the financial channels for them to do that. Donald Trump has ushered in a society where literally everything is for sale now.

**Ralph Nader:** Everything is for sale means that all non-commercial values are subordinated to commercial pursuits and the almighty dollar and societies decay when civic values, humane values are subordinated to the supremacy of commercial imperatives.

**Jamie Raskin:** And somebody who understood that perfectly was Adam Smith who is not only the author of *The Wealth of Nations*, but *The Theory of Moral Sentiments* and he basically said the

market has a place but you've got to discipline it according to the other values of society. And you've got to invest in education for young people, and you've got to invest in older people. You've got to put it in a neighborhood of values that makes a real community. But Donald Trump - I mean he's more of a reflection than the cause - but he is a reflection of a society where everything is for sale and market values trump everything else. And we've gone from having a market economy to having a market society.

**Ralph Nader:** You know Amory Lovins, who's a great energy analyst, once said markets make good servants but bad masters. And that basically is a principle in all major religions that urge their adherents not to give too much power to the merchant class simply because it's so monastically driven and will depreciate, destroy, co-opt, turn away far more important values in a civilized society. You mentioned a few moments ago, Congress; I've always talked to our listeners that it takes 1% or less of the citizens in congressional districts to turn Congress around no matter how powerful the lobbies are as long as they represent public opinion, the majority opinion, they know what they're doing, and they organize on their senators and representatives. Now you're an advocate of legislation to modernize Congress because if we're going to use Congress to turn the country around, people have to access to Congress. Congress has to be more open; Congress has to have more staff. And the Gingrich Devolution in 1995, when Gingrich took over as speaker of the House, Newt Gingrich from Georgia, he cut the staff of congressional committees. He cut the staff of the Congressional Research Service, the Government Accountability Office--the GAO. And are we entitled to expect that the Democrats, at least, in the House are going to restore those cuts so Congress can be more capable of dealing with the great challenges of our era? And here's a technical question, can the House actually increase its staff and budget without having to go through the Senate?

**Jamie Raskin:** Yes, we would control our own budgets on each side. Each house would be able to control the budgets.

**Ralph Nader:** Tell us about The Modernization Act.

**Jamie Raskin:** Well essentially what we're trying to do is to invest, as you're saying, in beefing up the legislative operation, so we have better and more qualified legislative staff, but also make sure that we're using all of the most up-to-date technology to be in touch with our constituents so people can contact their members, so people are aware of what are the committee and subcommittee hearings going on. There's really a great appetite in the public to know what's happening in Congress. We had a Medicare for All hearing, Ralph, this week on Tuesday in their Rules Committee and we just had hundreds of thousands, maybe millions of people tuning in, and lots of stuff went viral. There was intense public interest in it. The same day we had a hearing about the Equal Rights Amendment, which has also been sidelined by the Republicans. But we're bringing it forward and we're going to advance it, so there's a lot going on. But what we need to do is make sure that we're using all of the technology we've got in a positive way to make sure that the public can stay engaged with it.

**Ralph Nader:** Do you think the Office of Technology Assessment can be re-funded so the Congress has technical advice by professionals on things like weapon systems, medical devices, and climate disruption? Is there a chance of doing that even if the Senate opposes it; can the House get its own Office of Technology Assessment?

**Jamie Raskin:** I don't know of a proposal to have a separate single branch Office of Technology Assessment [OTA]. I know generally restoring the funding and reinvesting in OTA is very much on the agenda and that's part generally of our attempt to defend science against efforts to attack it. Obviously, that's kind of heart of the fight over climate change where the industry denialists have been paying for all of this phony scientific or pseudo-scientific garbage to maintain that we're not going through a climate change right now. They do that across the board. There are a whole series of issues where they are putting out a cloud of pseudo-scientific propaganda instead of allowing science to operate in a fair way with real integrity.

**Ralph Nader:** Let's talk about Donald Trump and the debate on the impeachment in the House of Representatives. I just wrote a column saying that he is *the* most impeachable president in American history. And I broadened out the articles of impeachment, not just what obstruction of justice documented in the Mueller Report. But to me, one of his worst impeachable offenses is he has systematically, brazenly, an openly refused to faithfully execute the laws of the land by appointing people to head the health and safety agencies--the Food and Drug Administration, Auto Safety Agency, OSHA, Environmental Protection Agency, Department of the Interior--whose only qualification has been that they wanted to destroy or deregulate the agencies. In other words, pull back enforcement, push for cutting budgets, harass civil servants into quitting who wanted to do their job, and exposing the American people to more deadly cancer-causing chemicals, particulates, and not protecting their economic rights with the Consumer Protection Financial Bureau being dismantled. I think I agree with you, Jamie, that there ought to be six major committee investigations laying the groundwork and then let the evidence point to the impeachment move.

**Jamie Raskin:** You've got it. I think that's exactly right. We know they've appointed a fox to guard every henhouse in Washington and in most of them, it has gotten to the point where you can say that far from taking care that laws are faithfully executed, the president is taking care that laws are systematically frustrated, thwarted, and violated in many cases. I mean, the Affordable Care Act is a great example of it. I mean not only were they trying to repeal it, which of course is their right. They can differ with the Congress as to policy, but then to systematically thwart and try to sabotage the delivery of health services to the American people, that is like what Andrew Johnson did. And one of the articles of impeachment against Andrew Johnson was that he defeated the implementation of the laws. I mean he was trying to undo Reconstruction, which was the congressional policy. And so, your point is important because it restores Congress to its pre-eminent place in our Constitutional firmament, right? Congress is the lawmaking branch of government. We are the representatives of the people. The core job of the president of the United States is to take care that the laws are faithfully executed. He implements what we pass. And this president has turned everything upside down. He thinks that the law is whatever he tells the secretaries in the cabinet to do, and it's whatever they dictate to the point where the president now says they're not cooperating with any legitimate demands of Congress for information--no documents, no witnesses, no testimony--they're saying, oh, no, we're not going to participate in that anymore. I mean it's an absolute scandal and constitutionally, it also puts us right back in the realm of impeachment, because obstruction of justice is not only obstructing an ongoing law-enforcement investigation, it's also obstructing Congress's efforts to obtain information. The Supreme Court has said that the central legislative function is to get knowledge for the American people.

**Ralph Nader:** And by massively stonewalling Congressional investigations day by day, isn't Trump creating another article of impeachment? Isn't that an impeachable offense itself?

**Jamie Raskin:** It is. That's what Article III of the Nixon Impeachment was about that he obstructed legislative inquiry and process in Congress. So, it goes right to past articles of impeachment. Just like Andrew Johnson's article about thwarting the rule of law and frustrating the will of Congress.

**Ralph Nader:** But I don't think Trump actually has read the Constitution. I'm willing to bet on that because he said the other day if Congress tries to impeach him and convict him, he'll overturn it by going to his Supreme Court. Can you explain that, please?

**Jamie Raskin:** Well, the Federalist Society has convinced him pretty successfully so far that all of his problems, whether it's suborning perjury, obstructing justice, campaign finance violations, paying off mistresses, whatever it might be, can be solved by a great lawyer. Now he's got his Roy Cohn and Bill Barr or by the Supreme Court, which of course they successfully packed by preventing the nomination . . . preventing rather the confirmation hearings and preventing the seating of President Obama's nominee and instead installing Kavanaugh. So he believes that the Supreme Court can get him out of everything even though that's not in the Constitution. I mean the sole role the Supreme Court has is the Chief Justice will preside over the trial in the Senate. At least up until now, that has not been a substantive roll, but of course, I wouldn't put it past Bill Barr to try to cook something up with Chief Justice Roberts there. But in any event, your point is right. I think I'd go one step further. I'd say not only has the President not read the Constitution, I think that he has brought us into a kind of post-literate body politic. He doesn't read books, clearly. I don't read he reads the newspaper or magazines. Everything is what's on TV and then what he puts out into the world in Twitter. So, he does prefigure society where there's no historical memory and you can pursue completely Orwellian policies.

**Ralph Nader:** The people need to understand that every time the Congress asks, even before subpoenas, the executive branch in the White House to deliver documents and witnesses, and the President says executive privilege; he doesn't have to do that. The Supreme Court has never ruled on executive privilege and there are constitutional law specialists who say there really is no such thing as executive privilege against Congress by the White House. Can you elaborate that?

**Jamie Raskin:** Well certainly, somebody who believes in textualism and originalism as they claim to, would have to concede that there's nothing in the text of the Constitution which says that the president is not subject to the legislative oversight authority of Congress. And there's certainly nothing in the original intent. You can't find anything in the Federalist Papers about that, so that just doesn't exist. I mean the stork brought that one. I mean that's a made-up doctrine. There might be certain very limited, discrete exceptions that have been recognized, but nothing like what they're saying today. I mean the President is in sweeping bad faith defiance of Congress in not turning over materials about their corruption of the White House Personnel Office and the security clearance process where they overrode the professional staff 25 different times to grant security clearances to people who the professional staff thought presented a national security danger or a conflict of interest that preempted their ability to get a security clearance. They're not turning anything over there. They're not turning over the President's taxes despite the fact that we have clear statutory authority to receive the president's taxes and decades of prior presidents, republicans and democrats alike, who've turned over their tax returns. And now this President is basically

saying he's pulling a curtain over the entire executive branch of government and is not cooperating in any further investigation because he feels it was enough, for example, when Don McGahn went and spoke to the special counsel. Of course when he spoke to the special counsel, whatever executive privilege they may have been able to argue was completely waved, and so we have the right to obtain them. The fact that the President is tired of it, whatever, that means is completely irrelevant from a constitutional perspective.

**Ralph Nader:** We're talking with Congressman Jamie Raskin, who is the preeminent constitutional law specialist in the House of Representatives. Would you say that there's a major constitutional crisis coming in the next few weeks and months between the House of Representatives and the White House?

**Jamie Raskin:** Yes. Forgive me, Ralph, I'm afraid I'm going to have to go after this. But let me say this, I think, we've been obviously in a profound political crisis for a long time. It's had constitutional dimensions and implications from the very beginning, but I think that we are on a huge collision course about this question of whether or not Congress continues to have its power of inquiry. The Republicans had no problem with it when they were investigating Hillary Clinton's emails. There were more than 880,000 documents turned over. Think about the Benghazi investigation, which went on for two and a half years, again with hundreds of thousands of documents turned over to Congress. I mean this is an established principle and way of doing business. The executive branch never likes it, but they simply accept that it is Congress's power in a democracy to ask for information for the people and we are in a democracy. So, when Donald Trump says, no, he's not turning anything else over, that in itself provokes the kind of crisis that was reflected and embodied in the third article of the Nixon Impeachment articles.

**Ralph Nader:** Before we close, Jamie Raskin, I want to talk about the Marc [Marcus] Raskin Award for Intellectual and Moral Courage, which was given for the first time to the Reverend William Barber from North Carolina--the great civil rights, human rights advocate. And there was a ceremony in the Library of Congress, which some of us attended, that you sponsored. Could you describe briefly what this award is designed to encourage?

**Jamie Raskin:** Yes, thanks, Ralph, for asking that. My dad died two Christmases ago and our family decided with the Institute For Policy Studies and the encouragement of some close friends of our family, to set up an award in my dad's honor and it's called the Marcus Raskin Award for Intellectual and Civil Courage for people who take bold and aggressive stands to pursue the kind of values that my dad believed in. And so, the first winner is Reverend Barber from North Carolina who started the Moral Mondays Movement down there and is now heading up a New Poor People's movement to continue the work that was cut short when Dr. King was assassinated in 1968.

**Ralph Nader:** And he gave the best advice to the Democratic Party in one sentence. He said, "If the Democrats want to win the next election, they better not just talk about the middle class, they better talk about the poor."

**Jamie Raskin:** Yeah, and there are tens of millions of people who are living at the poverty line because of the minimum wage we've got because of the war on labor unions in the country. And Reverend Barber made a very powerful and eloquent speech where he said, "Don't talk about the middle class unless you're talking about everybody who's suffering in the country--the poor and the working people who want to be part of the middle class." But we also have to talk about that

vast inequalities that have grown up in the country now. And I'm glad that Elizabeth Warren, in her campaign, has begun to talk about the idea of a wealth tax beginning at people who have \$50 million. She says, tax two cents on the dollar after 50 million dollars and we can fund universal Pre-K in America; we can pay back college loans for the people who are hard up, and so on. So, yeah, I think that our side of the aisle is beginning to talk about this problem of political and economic inequality.

**Ralph Nader:** And has Reverend Barber's speech been streamed? Can people access it?

**Jamie Raskin:** Yeah, we streamed it and I think you can find it at the website of the Institute for Policy Studies.

**Ralph Nader:** Institute for Policy Studies. Thank you. We've been talking with Congressman Jamie Raskin from Maryland, a rising star in the House of Representatives, based on his policies and his brains. Thanks very much, Jamie.

**Jamie Raskin:** Thanks for having me, Ralph. I really appreciate it.

**Steve Skrovan:** We've been speaking with Congressman Jamie Raskin of Maryland. We will link to his work at [ralphnaderradiohour.com](http://ralphnaderradiohour.com). When we return, we will talk about how a pharma company raised the price of the drug 97,000%. But first, let's check in with our *Corporate Crime Reporter*, Russell Mokhiber. Take it away, Russell.

**Russell Mokhiber:** From the National Press Building in Washington, D.C., this is your *Corporate Crime Reporter* "Morning Minute" for Friday, May 10, 2019. I'm Russell Mokhiber. In the past decade, nearly two million injuries and more than 80,000 deaths have been linked to faulty medical devices, many approved with little or no clinical testing, that's according to our report in *The New York Times*. There have been metal hips that released poisonous debris into the body, implantable defibrillators that shock people at random and artificial heart valves with questionable shelf lives. In operating rooms, there have been staplers that misfire; temperature control machines that spray bacteria into open chest cavities; and robotic surgeons that slap, burn and, in some cases, maim patients. According to *The New York Times* report, in every one of these cases, a combination of dubious regulatory approvals, skimpy post-market surveillance, and faltering responses from regulators caused irrevocable harm that might have been avoided. For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

**Steve Skrovan:** Thank you, Russell. David, introduce us to our next Jamie.

**David Feldman:** James Love is Director of Knowledge Ecology International. The current focus of Knowledge Ecology International is on the financing of research and development, intellectual property rights, prices for and access to new drugs, vaccines, and other medical technologies. Mr. Love also advises UN agencies, national governments, international and regional inter-governmental organizations, and public health NGOs. Welcome back to the *Ralph Nader Radio Hour*, Jamie Love.

**Jamie Love:** Well, thank you very much. It's great to talk to Ralph and this is an important topic.

**Ralph Nader:** Okay, Jamie, let's roll with it because people are going to learn a lot in this section. And David, you underestimated Jamie Love's impact. He, probably more than any of other single person, worked relentlessly around half the world to break the price of the AIDS drugs from

\$10,000 per patient in Africa, per year, to \$300 per year because he found an Indian drug company that said, "Sure, we can do it for a lot cheaper than the gouging U.S. drug companies." And it's part of our culture that we don't recognize such heroic achievements.

**David Feldman:** Did he work with the current head of Public Citizen on that?

**Ralph Nader:** He worked out of our Center in Washington and then he started his own group. But Jamie Love, in my book, has done the greatest work in advancing public health and gotten the least credit of anybody I know in the United States. He's relentless and indefatigable. He's so smart that when you graduated from high school in the State of Washington and went to Alaska, wrote some brilliant memos on the oil industry, they let him into graduate work at the Kennedy Center at Harvard University; he skipped the undergraduate level. With all that background, I want to start not with the gouging prices, which should be basically a crime after a point. But these gouging prices are made possible by one, the US government's patent monopoly grant to these corporations, and often free research from the National Institutes of Health--given free to selected drug companies without any reasonable price cap and allowing them to charge whatever they can get away with. So I want you to inform our public, Jamie, first of all, how large is the government research and development transfer to corporations in matters like anti-cancer drugs, hepatitis drugs, and then I want to get to your very creative way of stopping the present US patent monopoly system from giving so many years of cover for these viciously spiraling prices that basically say to the American people, "Pay or die." Start with the National Institutes of Health, Jamie.

**Jamie Love:** Well, as you know, the National Institutes of Health has a budget of well over \$30 billion a year in order to do health care research. Not all of it is on drug development or the development of new therapies like CAR-T treatments for cancer, but a significant amount of what it is. In addition, though to the National Institutes of Health, the federal government spends a fair amount of research in other parts of the government. BARDA [Biomedical Advanced Research and Development Authority], for example, is part of the Department of Health and Human Services and it does a lot of work on drug development particularly for infectious diseases and antibiotics. Then you have research being done at the Department of Veterans Affairs, in the Navy, in the Army, the National Science Foundation. Even NASA is funded for a development project. So, throughout the federal government, there's a variety of different programs which go into play. There's sort of two aspects to this. One is just moving the science forward, which really opens up these whole areas of drug development. And then sometimes you can actually relate the government's investments to very specific products that are worth quite a bit of money. For example, in this new cancer treatment therapy, CAR-T treatments where they take blood from a patient that has cancer, isolate your T-cells, and then modify those T-cells, which are part of your immune system with a virus so it's more effective in fighting cancer, and then reinject it back into your body. The first two such technologies that were approved in the US were really valuable technologies. Gilead bought one of the technologies from Kite Pharma for about \$12 billion. And they purchased what was essentially technology licensed directly from the NIH [National Institutes of Health] service that was put on the market by Novartis was something that was a licensed directly from the University of Pennsylvania. Also that work had been funded by the government. The US government recently is just giving away a license to Gilead for a very similar technology to what they paid \$12 billion for before. And Celgene just paid \$9 billion to acquire Juno, a company which was also based on NIH-funded research in these CAR-T therapies. So that's an example of not just drugs, but these new therapies that really could be described as services as

opposed to drugs, but are really effective, when they work, for fighting cancer. And they're worth billions of dollars and they all came out of government grants.

**Ralph Nader:** All comes out of taxpayers, a great giveaway. And the drug companies take these, in effect research and development findings, sometimes clinically tested drugs from the National Institute of Health like AZT, and then they convert it into huge profits and gouging prices. And they get away with it. So one of the reasons they do so is the patent system. Now tell our listeners both your proposal to meet the purpose of the patent system by encouraging innovation and rewarding it without having the negatives of the long-term, patent-monopoly system. And second, does the US government and the World Health Organization have authority to break a patent if a company, in the middle of an epidemic, refuses to sell drugs unless the public meets its gouging price?

**Jamie Love:** I'll answer the second question first and I would say that patents are granted by national governments. And any government that grants a patent can also break the patent monopoly. The law is different from country to country. So if the US grants a patent, that patent only applies in the United States. It doesn't apply in Germany or Canada or any other country. But each of those countries, whether it's South Africa or whether it's Germany, has the ability to grant a compulsory license on the patent, which would force the patent owner to license the patent to a generic company or a competitor. Those are laws which are on the books that are occasionally implemented, but not as frequently as we think they should. And one of the reasons for that is because right now, the whole innovation system for a new drug development really relies upon this grant in a temporary monopoly. So, the current situation, there's a tradeoff between innovation and affordability or innovation and access. If you bring prices down, through price controls, shorter patent terms, negotiations, whatever mechanism you might put into play, that has the effect of decreasing the profits on the drug and that is the criticism of all those measures and so always it's going to hurt innovation. And if you think about it, you have really a bad tradeoff. You have to choose between, do you want more innovation or do you want more affordability or however you compromise that you're ending up in a position you really don't want to be, because you should have the ability to pursue both objectives at the same time. You should really want things to be affordable to people. You should want to have equal access, but you should also do whatever it takes to move forward on innovation. So, the de-linkage campaign is the idea that you begin to progressively over time, delink the incentives for research and development from the monopoly or from the high price. In the de-linkage scenario, you substitute the grant of monopoly with the idea that there'd be these large market-entry rewards for people who are successful drug developers as well as doing other things that influence innovation such as deepening the subsidies that are available, or conducting research on clinical trials, for example, or increasing the number of and the size of the grants that are given out directly to fund research. So, in the de-linkage idea, you delink the incentives to invest in the price and from the monopoly and replace some of these large cash rewards. How much you put into the market-entry rewards depends on how much money you want to put into the upstream subsidies. And the more you put in the upstream subsidies, the less you actually have to put into this market-entry rewards.

**Ralph Nader:** And how long is this patent monopoly and before the corporate lawyers for Pfizer and Eli Lilly and others extend it even further? How long is the present monopoly, 18 years?

**Jamie Love:** The legal monopoly for a patent is supposed to be, in theory, is supposed to be the initial starting point is 20 years at a very minimum. It's 20 years when you first file for the patent.

But in the area of pharmaceuticals, it's often the case that you can get an extension for up to five years on your initial patent depending on when the product actually reaches the market, so that 20-year can end up being 25 years. But on top of that, their ability to get additional patents on the same product or the same drug, sometimes the new patents will relate to the way the product is manufactured or delivered. In other cases, it may be like a new use like you mentioned AZT earlier. AZT was an older drug that was not under patent anymore to treat its initial indication, which was cancer, but was then re-patented for the treatment of HIV. And so if you take a product like Humira, which is currently the biggest selling drug in the world, over \$20 billion a year, recently, there was a report that AbbVie, the company that sells Humira, that's the drug you see on television more than any other drug, that AbbVie was claiming that they had over 250 patents on Humira. So you might ask yourself, how was Humira invented 250 times. I mean, can't you just invent something once? And the patent system is gamed consistently by companies. So, in addition to the initial patent, they're able to get all these follow-on patents on new indications, new formulations of those patents and things like that. And sometimes these patents are very weak and they can be overcome with litigation. But litigation is expensive and it takes time. And so the companies have an incentive to file for patents even if the patents won't hold up in court because it just buys some time and extends the life of the monopoly.

**Ralph Nader:** Before we get to 97,000% price increase, the latest gouging story in the nation's media by a drug company, your idea essentially of cash rewards to stimulate innovation, I remember Napoleon had a cash reward for anyone who could invent canned food so he could keep soldiers going all the way to Moscow. And the US government has had examples in non-drug or pharmaceutical areas where they've had cash awards, haven't they?

**Jamie Love:** Yes. If you go back to the Lincoln period, there was a time when the notion that you put out large, sometimes referred to as prizes or premiums, they have different terms in the literature over the years, but the idea that cash prizes or cash-market entry awards would be a substitute for patents or a competitor of the patent system has come up again and again. At one point, the British Parliament debated whether they should abolish the patent system in favor of prizes. And right around the time of the Civil War, *The New York Times* wrote an editorial saying that the U.S. should do the same thing in the United States. The French had a significant amount of success in using cash prizes to motivate discoveries in progress in science in the whole range of areas including the one that you just mentioned. I think that the modern thinking on pharmaceuticals is advanced quite a bit. And like Senator Sanders has introduced a legislation to introduce price fund type models in the United States Congress and there's been about 13, 14 U.S. senators that have supported the study at the National Academies to see if that's a superior system to what we currently have. What actually happened on Tuesday of this week is, there's a proposal in the World Health Organization [WHO] that will be debated starting the 20th of May, this month, in Geneva, Switzerland at the World Health Assembly. In one clause in this resolution would ask the WHO to create a forum to look at alternative incentives that are alternatives to the patent monopoly for drug development. And the two countries that have proposed blocking that on Tuesday, were Germany and the United States.

**Ralph Nader:** Because of the power of the pharmaceutical industry and Mr. Trump in the White House, who hasn't done anything about drug prices although he promised all over the country in his campaign in 2016, that he was going to go get these drug companies. I think, people when they read these: drug company executives have just raised the price of their drug from \$20 a month to

\$2000 a month or this latest travesty, people say where is the government, why aren't they protecting us? How can they gouge us this way? Why do we have to go and beg on crowd funding to have the drugs to save our eight-year-old child who has leukemia? How do you answer this outrage? But it's not outrage that leads to organization--to pressure on Congress. Congress can change this situation. It's all about Congress. But I don't understand how can families who have to beg for money, when right over the border, they can get more reasonably priced drugs or in other countries, how is it that they haven't mobilized and organized, Jamie? How do they get away with these thousand percent increases suddenly in the price of their drugs when they're making profit at the much lower level before they raised it?

**Jamie Love:** Well the product you're referring to is an outrageous example because it's not a new product. It's a really, really old drug. And the ability to raise prices on really old drugs like that is really a shame. I mean in most countries, you're not allowed to raise the price of drugs beyond the rate of general inflation without some special justification. U.S. is really an outlier in the ability to just allow companies to do whatever they want in terms of raising prices. There are problems everywhere on drug pricing, but U.S. has the unique distinction of having the worst system in the world or the distinction of having the worst system in the world. And we don't do . . . there's like a hundred things that we do not do that we could do in the U.S. to make things better, one of which is to prevent companies from raising the price of products which are already on the market. If you take a drug that's already in the market right now, and it has a limited number of suppliers such as the, sort of, so called Pharma Bro story or something like that. Sometimes you'll have like an ordinary drug where there's just one supplier and that some investor group will sweep in and take control of the product and jack the price up. Well, the government could, in those cases, they could import versions of the drug from other companies where they have multiple suppliers. I mean, if that was the case, in some cases, there's more than one supplier around the world, but there's only one supplier registered in the United States, the U.S. could recognize a supplier in a different jurisdiction that had a competent authority.

**Ralph Nader:** Like Canada.

**Jamie Love:** Like Canada, like the U.K., like Germany, like France, like countries that have a good regulatory system. And then we can permit the company that sells in that market to also sell here. That should really be an easy thing to do if the drug is off patent. It becomes more controversial if the product is still under patent, but in a lot of cases that have these astronomical price increases, those are old drugs and the patent monopoly is long since behind it.

**Ralph Nader:** What do you tell people who desperately need these drugs in a pay or die situation where they're told they have to fork over 20, 30 thousand dollars a month, what should they do?

**Jamie Love:** Well, it really depends on the product. So if it's a biological drug that has to be administered in a sort of a quasi-hospital type setting, maybe it requires special storage requirements and things like that. It's going to be more difficult than if it's pills you can just put it in your coat pocket and get in an airplane. I advised someone recently that needed a product that was really expensive in the United States that was much cheaper in Japan, to consider just flying to Japan and getting a prescription there and flying back, which is far cheaper than trying to pay the U.S. price for the drug. In some cases, that's not as easy as you might think. One of my brothers was diagnosed with cancer at one point and his insurance wasn't very good. This was before the Affordable Care Act. It is a policy which was really crap in terms of the coverage. And the price

of the drug was far cheaper in Canada for this cancer drug. He was working as a plumber, so I called around to doctors in Canada to see if I can get a prescription for him. And for example, if a doctor was in Ontario, they couldn't give a prescription for him to pick up a drug in a pharmacy in British Columbia. They'd have to physically meet with the patient and then they'd have to give a prescription there, so it was really difficult. But sometimes you can actually become engaged in medical tourism. You can go to a country where drugs are cheaper. I mean, I think that all of these things are just . . . it shouldn't be a concern of people. We should not have a policy where people are being ruthlessly exploited by companies when they're in a very vulnerable stage in their life with they're sick.

**Ralph Nader:** Well, that's a given and you know, every politician running for president now is condemning high drug prices.

**Jamie Love:** Yeah, right.

**Ralph Nader:** But nothing gets done. How do you get into . . . I'm sure our listeners are saying, Jamie Love, how do things get changed here and who is the instrument; is it Congress?

**Jamie Love:** Well, I think in terms of the U.S. debate, it's the lack of leadership in the Congress at the high end, like for example, I think Nancy Pelosi right now - although I think she's pretty skilled as a politician and has done some good things - on the area of drug pricing, I think she perceives right now that the drug companies are a constituent she doesn't really want to alienate too much. And so she's trying to prevent Congressman Doggett, Congressman Ro Khanna, and people like Jan Schakowsky who are pushing for more transformative changes. They're trying to kind of hold them back so they can have smaller more incremental reforms. I think the typical politician, and it's something you taught me when I worked with you, you once explained to me that for a lot of politicians, what they're really looking for is something that gets their name in the press and advertises them as if they're a friend of the constituents and as if they're really trying to protect consumers on some issues. But they're not really committed to actually solving the problem. They're just committed to getting good publicity to make it appear like they're trying to solve the problem. So, you see this grandstanding in Congressional hearings where people are shedding big crocodile tears for their concern over high drug prices, but they're not really moving forward legislation that would change things in a significant way. The ideal legislation for a congressperson is a bill that does almost nothing for most people or nothing for most people in just solves some tiny little incremental problem in the system so they can take credit for having done something that actually succeeded, but doesn't fundamentally change the overall profit structure for the industry.

**Ralph Nader:** Some listener may say well, isn't that what the generic drug industry is supposed to do, basically drive prices down once the patent expires? But the other older drug companies, the non-generics, there's buying up these generic companies in recent decades, right?

**Jamie Love:** Under the Obama Administration and its continued, but particularly under the Obama Administration, there was a wave of mergers in the generics sector which were unhelpful. There's now too much concentration in the generic sector, so that's a problem. The other thing though, I think in some cases, the government should be able to import from a foreign market. I mean, you may have a generic drug that's sold by one company in the U.K., a different company in Canada, and a third company in the United States. And you may have a lack of competition in

all of those markets. But if you were to allow the sales to . . . if people talk about free trade and things like this, one thing that there certainly is not enough free trade in, are generic products that have passed a decent regulatory review in a country whose regulatory authorities are up to speed. You should really be able to take advantage of the fact that there's multiple suppliers for a lot of the generic drugs in other high income countries that have good regulatory systems.

**Ralph Nader:** Yeah, we had a program by the author of the book, *China RX*, which reported large percentages of finished pharmaceuticals coming in from China. The drug companies love that. They go over there manufactured, and they bring them here. So, it's okay to have that kind of free trade, but not from Canada to cut the price in a competitive way of what the drug companies in New Jersey and elsewhere are overcharging Americans. Imagine, they get tax subsidies, research and development credits, no price controls, reporting huge profits, they're US-based chartered companies, and they charge the American people the highest prices for drugs that they charge anyone else in the world because they can't get away with it anywhere else in the world the way they can in the U.S. So much for the home of the brave/land of the free, huh?

Well, thank you very much. We've been talking with Jamie Love, fearless, brilliant advocate for the public health worldwide, and founder of Knowledge Ecology International. To be continued, Jamie, because the presidential campaign is going to be pushed to make this not just a rhetorical matter, but one of action in Congress. And for listeners, bring some of these up when the senators and representatives come back and ask for your vote. Tell them to stop talking and get down to acting and end this system, unique in United States, where drug prices are so high; they're telling the American people and their children, "You either pay or you die."

**Jamie Love:** Thank you for all the work that you've done on these issues over the years.

**Ralph Nader:** You're very welcome. Thank you, Jamie. To be continued.

**Steve Skrovan:** We have been speaking with the Director of Knowledge Ecology International, Jamie Love. We will link to his work at [ralphnaderradiohour.com](http://ralphnaderradiohour.com). I want to thank both our guests again, Jamie Raskin and Jamie Love. For those of you listening on the radio, that's our show. For you podcast listeners, stay tuned for some bonus material we call the "Wrap Up". A transcript of the show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted.

**David Feldman:** For Ralph's weekly column, it's free, go to [nader.org](http://nader.org). For more from Russell Mokhiber, go to [corporatecrimereporter.com](http://corporatecrimereporter.com). Join us next week on the *Ralph Nader Radio Hour* when we speak to Professor Ruth Wilson Gilmore about abolishing prisons. Thank you, Ralph.

**Ralph Nader:** Thank you, everybody. If you think you're paying too high prices for your medicines, get your doctor to ask your senators and representative to come to a town meeting. They often listen to doctors.