## UV

#### [1] Interpretation – The negative must concede the affirmative framework or contention level offense.

#### It’s preemptive, you violate by reading turns or defense to my offense and reading an alternative framework.

#### Prefer –

#### 1. Strat skew – A) It’s impossible for the 1AR to win both layers of framing and offense when you can frame me out and read a bunch of turns to the aff making the round impossible in 4min – especially since the 2n can collapse on either the framework or the contention for 6 minutes B) Neg reactivity advantage, aff disclosure, and 1n time allocation means they can craft a perfect 1nc – conceding one layer of substance solves since it gives me weighing recourse and strategic 1ar maneuvers without having to brute force both.

#### 2. Depth of Clash – We pick and choose whether to debate offense or framework and when, which means we have more discussion of each one every round. Depth o/w since reading 1 page of 100 different books is useless and superficial. Breadth is solved across multiple rounds when people choose a different layer in each. And, hijacks solve all your offense since they contest both the framework and the offense, while maintaining the 1ar ability to win substance.

#### AFF theory is no RVI, Drop the debater, competing interps, under an interp that aff theory is legit A) infinite abuse since otherwise it would be impossible to check NC abuse B) the 2n can dump on a script to a CI and go for RVI’s making it impossible to check abuse C) The 1ar is too short to win theory and substance D) The 2n can always create infinite reasonability arguments the 2ar can’t get through E) New 2ar weighing is legit otherwise the 2n can collapse and sandbag one issue for 6 min and I’ll always lose.

#### [2] The neg must only defend the converse of the resolution. violation would be reading an alt advocacy that’s not the squo. since a. Reciprocity – granting you access to anything else skews the structural burden in your favor b. Topic ed – the core discussion should be the aff versus the converse since that is a direct comparison of the resolutional question.

## Fwk

#### The ROB is consistency with the correct metaphysical truths.

Landauer & Rowlands No Date - Jeff Landauer and Joseph Rowlands on their blog: The Importance of Philosophy, No Date “Metaphysics” [http://www.importanceofphilosophy.com/Metaphysics\_Main.html] Accessed 8/31/21 SAO

What is Metaphysics? Metaphysics is the branch of philosophy responsible for the study of existence. It is the foundation of a worldview. It answers the question "What is?" It encompasses everything that exists, as well as the nature of existence itself. It says whether the world is real, or merely an illusion. It is a fundamental view of the world around us. Why is Metaphysics important? Metaphysics is the foundation of philosophy. Without an explanation or an interpretation of the world around us, we would be helpless to deal with reality. We could not feed ourselves, or act to preserve our lives. The degree to which our metaphysical worldview is correct is the degree to which we are able to comprehend the world, and act accordingly. Without this firm foundation, all knowledge becomes suspect. Any flaw in our view of reality will make it more difficult to live.

#### Prefer:

**1. Consistency with reality is a prior question – even if it is morally better for us to act in a certain way, if something is inconsistent with reality it can never be desireable since it incorrectly explains the world around us. It is always net better to be consistent with reality, even if that reality is disagreeable since any other path would be deceiving and ultimately worse for humanity.**

**2. Phil ed – Metaphysics is a necessary branch of philosophy that is under-discussed specifically in the context of debate since it is always a question of ethical deliberations. Metaphysics informs the decisions we make at the ethical level which makes its discussion fundamental to understanding the context of discussions in other rounds.**

#### The meta-ethic is consistency with transcendental form of subjects.

#### Moral Realism is true – there is an ethical truth that exists metaphysically: a) otherwise we could not make moral claims since we would merely claim disagreement rather than an absolute wrong, justifying any ethical statement b) relativism is circular since asserting relativism assumes its own universal truth, which concedes the authority of realism c) regressive moral debates always terminate in an endpoint of agreement, we just compare different values in an attempt to find the ultimate one.

#### And, that’s only accessible through procedural transcendental idealism – a) Is/ought gap – appeals to the empirical world merely explain how the world is rather than what it ought to be b) Absent universal ethics morality becomes arbitrary since it can be meaninglessly applied in different ways without reason. Non-arbitrariness is a side constraint – only non-arbitrary principles can hold agent culpable for their actions since otherwise we could make up ethical rules for different situations to punish people. c) Motivation – empirical circumstances change based one each individual, only transcendent moral truths can motivate all agents absent those features. Jindal 99, Jindal, Bobby. Louisiana Law Review, 1999. Web. <http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=5780&context=lalrev>.//Scopa Modem political philosophers ranging from Robert Nozick to John Rawls have attempted to discern the principles of justice that should guide societal arrangements. This project is of vital importance since it informs society of its obligations to its weakest and most vulnerable members. Yet, the question of why one should be just is an intelligible one to ask and deserves some response. This paper argues that the political-legal obligation to be just is derivative from man's more general duty to be moral, a commitment grounded in intuitions which are themselves based on transcendental values, i.e., values that exist apart from a particular society. Those political theories that lack a transcendental notion of morality lack binding force; the theorist who persuades without asserting truth is helpless to convince or judge those committed to different principles. Modem liberalism, with its explicit commitment to neutrality, has nothing to say to individuals who do not share its values; similarly, communitarianism, with its cultural relativism, cannot critique an unjust society from the outside. Many liberals and communitarians underpin principles of justice, which require an individual to sacrifice his interests to secure the welfare of others, with that justification available to convince one that his preference for vanilla ice cream is mistaken; yet, justice, unlike ice cream, is not merely a matter of taste. Principles of justice not based on objective moral principles are arbitrary at best and prejudicial at worst, without binding authority or persuasive moral force. Though Rawls claims the "conception of justice is a practical social task rather than an epistemological or metaphysical problem,"1 there must be some a priori, non-subjective commitment to justice, as well as positive laws, that compels individuals to sacrifice their self-interest. Transcendental morality alone provides a substantial answer to those-anarchists, narcissists, libertarians, individualists, racists, isolationists, and others-who question the obligation to serve the common good, i.e., sacrifice one's interests for others. Merely discerning the claims of justice is not enough; these claims must be legitimized. The gap between "is" and "ought" reflects the distance between factual claims and moral ones, between truth and motivation, between description and obligation.

#### That transcendental truth is the forms – they are the essence of the world that transcend space and time. The material world inherently lacks a capability to manifest the form and cannot generate true reality, only the forms themselves understood by reason allow for true moral and epistemic knowledge. Heyüman 15, <http://ftp.oxfordphilsoc.org/Documents/StudentPrize/2015_H1b.pdf> //scopa

**Forms** can be thought of **as abstract entities** or qualities that **are the essence of sensible things**. Take, **for example, an apple: Roundness, color and weight of the apple are all the properties that make up that apple, each of which is a separate form in itself**. According to Plato, two apples are “round” because they both partake in the form of “roundness”. This “partaking” in any form is what makes things share similar attributes. **All material objects owe their existence to these forms; whereas each form exists by itself, independently of the object that exemplifies the particular form**. In Phaedo, which is widely agreed to be the first dialogue Plato introduced the forms, forms are “marked as auto kath auto beings, beings that are what they are in virtue of themselves1 .” **Forms are transcendent to our material world in that they exist beyond space and time, whereas material objects occupy a specific place at a specific time**. Atemporal and aspatial features of forms have very important implications. First, this explains why **the form of F does not change**, and remains stable beyond a spatio-temporal world while particulars are subject to continuous change. Second, **since F does not exist in space, it can be instantiated in many particulars at once or need not even be instantiated to exist**. The forms are also pure. The roundness of an apple is one of its properties and roundness is only “roundness” in its pure and perfect form. Unlike forms, **material objects are impure, imperfect**, and are complex combinations of several forms. **Being is the ontological relation that ties the form of F to its essence, and each form of F is of one essence** (monoeides). It follows from these principles that each form self-predicates; each form of F is itself F. The form of beauty is itself beautiful, and Helen would not be beautiful if the form of Beauty were not beautiful itself. **The forms are real, sublime entities that belong to an intelligible realm that can only be grasped by reason. They are not subject to change; are stable and enduring, while particulars/material objects belong to this material world of change**, becoming and perishing in a Heraclitean flux. The Idea Behind Platonic Forms As can be seen from his early and middle period dialogues, Plato both explored ethical concepts such as “virtue” and “justice” just like his mentor, Socrates, and he also elaborated upon the essence of the 1 Silverman, A., Fall 2014 Edition, ‘Plato’s Middle Period Metaphysics and Epistemology’, Stanford Encyclopedia of Philosophy, p. 10 1 Hilary 2015 Joint 1st Prize: Sinem Hümeydan universe by questioning what there really is in this world of appearances. Plato’s theory of forms, then, can be thought to explicate basically two vital concerns of philosophical inquiry. First, the theory explores the question of how everything seems both to be changing and permanent at the same time. We know that the physical world we perceive through our senses is exposed to continuous change by “becoming” and “ceasing to be2 ”. Nonetheless, there is also permanence beyond what seems to be changing and that can only be grasped by reasoning. Second, the theory of forms is an attempt to find the answer to the question of how people can live a happy and fulfilling life in a world that is ultimately defined with beginnings and endings, and is exposed to change in every possible respect. In the Republic, Plato poses questions about moral concepts in an effort to demonstrate that the life committed to knowledge and virtue will result in happiness and self-fulfillment. To achieve happiness, one should render himself immune to changes in the material world and strive to gain the knowledge of the eternal, immutable forms that reside in the intelligible realm. Indeed, Plato splits the existence into two realms: the visible realm and the transcendent realm (intelligible realm) of forms. **The visible realm is the physical world that is perceived through senses, and is susceptible to “becoming” and “ceasing to be”. On the contrary, the intelligible realm represents the ultimate reality, is enduring, and is accessible only via reasoning** or intellect. Furthermore, Plato believes that this visible world is an imperfect model of the transcendent realm of forms. As is depicted in his famous Allegory of Cave, he thinks that everything perceptible through senses is like the shadows on the Cave Wall, or merely imperfect representations of the reality. Since **what we perceive through our deceptive senses in this world of appearence are merely shadows of reality, one cannot have any genuine knowledge of these things, but can only have beliefs/opinions** about these objects. In other words, Plato thinks that one can only have “knowledge of forms and of Forms one can only have knowledge3 .” Because forms are the only objects of knowledge, individuals should endeavour to reach the intelligible realm and endow themselves with the knowledge of forms in order to achieve a happy and fulfilling life. Plato employs the Sun metaphor, which represents the form of “Good” to compare intelligible and visible realms. As the Sun provides the light to see the physical world, the “Good” provides the power to “know”, and is not only the ultimate cause of knowledge, but it is also the object of truth and knowledge. Being virtuous or pursuing good relies on having the knowledge of the Good, and because forms are the only objects of knowledge, one can only live a fulfilling life and pursue good if one knows the Form of Good. Plato’s Arguments for the Forms and Concluding Remarks According to Plato, reality is very much associated with objectivity. His argument from objectivity asserts that the more objective concepts are of higher reality, and that because **what we perceive via our senses is usually deceitful, the objects of experience cannot be real entities**. Besides, **it is possible to form different subjective views of the same objects; depending on the perceptual or mental states of the observer**. However, forms represent a higher objectivity, and thereby reality through a dialectic process, which is illustrated in the hierarchical system of forms and physical objects, “good” being first among others. Plato appeals to mathematical examples to further his arguments and states that the most definite knowledge is the knowledge of mathematics, and that this knowledge cannot be gained via senses or experience, but only by reasoning. For example, we know for certain that the sum of the interior angles of a triangle is 180 degrees, yet we also acknowledge that no such perfect triangle exists in the world. Then, he concludes, if these abstract entities do not reside in this world, there must a different realm of such perfect forms outside this world of experience that is ultimately real.

#### Prefer –

#### 1. Infinite regress – any question of empirical morality begs the question of a higher understanding which is the form of that object, otherwise we could always ask how to measure the good infinitely. At worst form is always a prior question since it’s what we refer a good material object to when we attempt to articulate its goodness.

#### 2. Performativity - thoughts and ideas can only exist insofar as the theory of the form is true since it is what defines our ability to generate those thoughts in the first place.

4- Ideal theory is good and outweighs – A) Measurement – it’s the only way to measure moral progress since we have a standard by which we can measure our actions in relation to the good that isn’t constantly changing B) Only ideal theory can justify the K. Shelby 13, Shelby, Tommie [Tadwell Titcomb Professor of African-American Studies and Philosophy, Harvard University]. “Racial Realities and Corrective Justice: A Reply to Charles Mills.” *Critical Philosophy of Race* 1.2 (2013): 145-162. The trouble with Mills’s view is that he regards nonideal theory as independent of ideal theory, indeed as an alternative to it. But nonideal theory—the study of the principles that should guide our responses to injustice—cannot succeed without knowing what the standards of justice are (and perhaps also what justifies these standards). It is not clear how we are to develop a philosophically adequate and complete theory of how to respond to social injustice without first knowing what makes a social scheme unjust. When dealing with gross injustices, such as slavery, we may of course be able to judge correctly that a social arrangement is unjust simply by observing it or having it described to us, relying exclusively on our pre-theoretic moral convictions. We don’t need a theory for that. But with less manifest injustices, or when our political values seem to conflict, or when we’re uncertain about what justice requires, or when there is great but honest disagreement about whether a practice is unjust, we won’t know which aspects of a society should be altered in the absence of a more systematic conception of justice. Without a set of principles that enables us to identify the injustice-making features of a social system, we could not be confident in the direction social change should take, at least not if our aim is to realize a fully just society. In light of these considerations, I have two questions about Mills’s project: If we abandon the framework for ideal theorizing, how do we determine which principles of justice should guide our reform or revolutionary efforts, and how do we justify these principles if we must rely exclusively on nonideal theory? Unless Mills is prepared to relinquish the goal of realizing a fully just society, he owes an answer to these questions.

#### Next, ethics are split between the deontic and the aretaic. Deontic theories guide ethics by looking at the actions of moral actors, whereas aretaic theories guide ethics by looking at the character of moral actors themselves.

#### Prefer the aretaic:

#### [1] Descriptively – The aretaic provides an infinitely richer vocabulary for evaluating actions that extends beyond goodness and badness. For example, deontic fwks can’t distinguish admirable vs praise worthy actions.

#### [2] Deontic theories collapse – If agents were conditioned properly, they would independently take the right actions, which proves there cannot be a net benefit to deontic theories.

#### [3] Motivation – A. The aretaic improves citizens’ moral standing. People can always opt-out of a deontic theory but by focusing on the aretaic we improve the moral character of citizens, causing them to act ethically out of their own volition. B. The aretaic allows people to understand the intrinsic nature behind their actions; they are no longer following an abstract theory but making the choice they think is correct.

#### Next, the only ethics consistent with the aretaic is a virtue paradigm: This does not presuppose descriptive normative claims; we rather focus on developing agents to make them virtuous. Reader.

[Reader 2k (Reader, Soren. Late Professor of Philosophy, Durham University “New Directions in Ethics: Naturalism, Reasons, and Virtue.” Ethical Theory and Moral Practice, Vol. 3, No. 4, Dec. 2000.)] SHS ZS  
**Virtue is a** free **disposition to act in certain ways under certain conditions**. Virtue ethics claims that **what is to count as a good action** or what is a good outcome **is** conceptually **dependent on claims about** **the virtue of an agent**. How is this dependence supposed to work? Where those after an explanatory account seek a conceptual connection with something like a normative 'in itself,’ **virtue ethicists** instead **explore the** concrete **dependence of moral activity on the possibility of learning from** already **virtuous agents**. They hold that **the key to moral rationality is** found **in moral education**. Ethics begins with the apprentice moral agent: the child, or the foreigner, or the damaged person in rehabilitation are all examples. These **beginner-agents learn from** the experienced, **wise moral agent by copying**, by mimicking in **their actions** the actions of the virtuous agent. This mimicking, or 'going on in the same way', does not presuppose that the learner agent acquires any representations of how the world is (i.e., beliefs), nor that they acquire the ability to report on or provide justifications for what they do. **Virtue is learned by cottoning on to virtuous ways of doing things**, going on to do the same, **then going on to do the same in new ways**, once they have mastered the skill.16 The way virtue and character is supposed to be basic here is simply displayed in the analogy: **there is and can be nothing 'behind' the expertise of** the phronimos **which can explain or justify it** (any more than there is anything 'behind' the expertise of the doctor or the navigator, to use Aristotle's examples at NE 1104b7-l 1). Of course, plenty more can be said about it, and shortcuts can be found to aid the learn ing of those who have already mastered other skills (so competent rule-fol lowers can learn from being given rules, just as competent grammarians can learn a new language from the grammar). But we should not confuse what it is possible to say about the skill of being moral, with what constitutes it.

#### Solipsism is true - We can only verify that our consciousness exists bc we can’t verify others experiences. Only virtue solves because even if only one subject exists, virtue resolves the problem of acting for another because it’s a question of developing the self to be good, otherwise we couldn’t generate obligations.

#### Thus, the standard is promoting virtue.

#### Impact Calc: 1) The framing evaluates offense based on whether or not an action allows for the procedural cultivation of virtues— takes out calc indicts since we don’t need to know what a virtue is, we just need to have humans making decisions. 2. Reject calc indicts – just proves being virtuous is hard but moral practice is the point, so it just proves the aff is necessary.

## Offense

#### I defend that the member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

#### [1] IP rights structurally prevent all people from accessing the same intellectual virtues and violates the virtue of empathy by not giving life-saving medication to poorer nations.

**Morabito 15** - “Essay: Pharmaceuticals and Global Justice: Balancing Public Health and Intellectual Property Rights” by Marisa Morabito [https://scholarship.shu.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1808&context=student\_scholarship] //ahs emi

The approach to IP rights and global pharmaceutical industry thus requires a different philosophical, ethical framework. I would like to suggest a virtue and human flourishing approach which is based on human good and well-being and helping others to also be able to flourish by living ethical lives which parallels Nussbaum's capabilities approach, a virtue ethics view.la Virtue ethics is an ethical system based upon adherence to a principle. Virtue ethicists believe that there are "certain ideals toward which we should strive...[to allow] for the full development of our humanity" by looking at what humans can become.ls The virtue ethicist focuses on humans achieving their maximum potential while having virtues of compassion, generosity and courage.l6 For instance, "a person who has developed virtues will be naturally disposed to act in ways consistent with moral principles.lT Virtue ethics emphasizes character formation and habits to foster positive improvements in the world.18 A virtuous person wants to behave well and looks at a circumstance and decides what is right and wishes to behave according to what is right.le This view aligns with Nussbaum who takes a capabilities view which is based on the idea that well-being is "of vital moral importance [and]... individuals must have real opportunities to live well and to flourish as human beings.20 Nussbaum's capabilities view looks at the important functions of a human being and looks at what institutions are doing for those capabilities.2r For example, functions and capabilities are set and then we observe whether intuitions are promoting human flourishing based on these principles.22 If the standards are not being met, we must try to change the institution's policies to allow for human flourishing.23 Nussbaum's capabilities approach explains what flourishing is and tries to achieve this flourishing worldwide.2a Based on this theory, IP rights "generate a material circumstance for a majority of the world in which we can't maximally exercise our intellectual capacities, and thus we fail as a species to maximally flourish."25 Therefore any further discussion of IP rights and the global pharmaceutical industry must proceed clearly focused on adherence to a moral principle; maximizing human flourishing. Successful efforts in South Africa were only achieved when the policy became virtue/principle based. In the Minister of Health v. Treatment Action Campaign, the court ruled that the government breached the people's right to have access to health care services when it prevented drug availability to pregnant women in order to stop mother-to-child HIV transmission.26 2.4 million people have received free anti-retroviral treatment in 2013 which was a 1.4 million increase from 2009 while over 20 million people have been tested for HIV since the government created counseling and testing programs in2010.27 South Africa's goal is to have an extra 4.6 million people receiving anti-retroviral treatment within the next five years.28 Furthermore, South Africa has reduced the prices of anti-retrovirals and there was a tender to make one ARV pill which can be used once instead of having to take three pills two times per day which means there will be fewer pills used and consumed.2e Although there have been successes, the South African population continues to have the highest number of HIV/AIDS infected people globally as millions still lack access to ARVs.30 The ongoing tension between the fight against poverty and IP rights continues to persist at the mercy of humans in poorer nations who are unable to afford medications to cure their illnesses and diseases which hinders maximum human flourishing and does not express good character. In her article "Common Ground: The Case for Collaboration Between Anti-Poverty Advocates and Public Interest Intellectual Property Advocates" Cantrell states that with intellectual property advocates, their focus is on the individuals rights to create, appropriate, and recreate.3l However, the tension between the fight against poverty and the protection of intellectual property rights is evident as the IP movement's success is frequently at the expense of the poor.32 Cantrell continues to state that Martha Nussbaum's virtue theory of human capabilities suggests that every person should have the ability to live a flourishing life yet the IP movement has placed limitations on what a person can do and be as a result of continued poverty.33

#### [2] Removing IPs fosters the social relationships needed to cultivate communal virtues.

**Grimmelmann 9** - “Ethical Visions of Copyright Law” by James Grimmelmann [https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4433&context=flr] // ahs emi

Another frequent trope is that of "community."' 172 There's a reason that "community site" is a web 2.0 buzzword for anything with communicative user-generated content features: people who create and share freely with each other aren't just taking part in arms-length transactions; they're building social institutions. 173 Yochai Benkler and Helen Nissenbaum give a virtue-ethics analysis of this phenomenon. For them, deeper principles of autonomy, democracy, and mutual respect are furthered by a culture of mutual sharing-and participation in such a culture teaches individuals how to be virtuous. 174 To summarize, then, "commons" and "sharing" rhetoric prizes voluntary authorial contributions to a pool on which anyone is free to draw. These tropes help tell a story about how people depend on the commons, so that placing material into the commons becomes an ethical act. It also helps create bonds of respect, honor, and enthusiasm between authors and grateful audiences-as well as fueling future repetitions of this exchange as audiences become authors themselves who, in turn, share with the commons, and so on. Like the default ethical vision, this view explains how authors and audiences can behave ethically toward each other-but it does so in a way perhaps less fraught with obligation.

#### [3] Communitarian open-source platforms for developing biotechnology cultivate charity-based virtues and intellectual virtues aimed at healing the world of ailments

Opderbeck 07, David W. Opderbeck, Maine Law Review Vol. 59 No.2 (2007) “A Virtue-Centered Approach to the Biotechnology Commons (Or, The Virtuous Penguin)” [https://digitalcommons.mainelaw.maine.edu/mlr/vol59/iss2/5/] Accessed 8/11/21 NPR

The virtue ethics notions of community and practices seem to map well onto the open source space. As Yochai Benkler has noted, open source communities require a system of "social-psychological" rewards in order to flourish. 75 Such rewards can include the sort of "internal goods" found in Maclntyrian "practices." 76 For example, a coder working on an open source software project might participate, at least in part, for the joy and satisfaction inherent in creating an elegant solution to a technical problem. 77 In addition, mature open source projects do not proceed aimlessly, but include standards of excellence established by the community and usually canonized by an influential individual or small group of individuals. 78 Finally, a pillar of open source production is the systematic extension of the project through the continuous feedback provided by numerous distributed workers. 79 A tension might arise, however, between Maclntyre's emphasis on a community's authoritative text or voice and the notion of open source production as an enterprise comprised of essentially self-actualizing individuals. In fact, Yochai Benkler and Helen Nissenbaum emphasize the virtue of "autonomy" as a core aspect of a virtue ethics approach to commons-based peer production. 80 Benkler in particular emphasizes the ways in which open source peer production contributes to justice by allowing space for individual autonomy.81 But open source communities should not be conceived of as fractiously individualistic. A successful, long term open source community requires an authoritative voice or voices that regulate exchange, lend status to social-psychological rewards, and canonize valuable contributions to the project. 82 Open source production can indeed sometimes provide more space for individual creativity and expression than traditional hierarchical production, but such creativity and expression should be conceived in terms of virtues that lend themselves to communal practices, with such practices embedded in the narrative tradition of the community. Once open source communities are conceived in Maclntyrian terms, it is possible to identify virtues that support the flourishing of such communities. Benkler and Nissenbaum identify three "clusters" of virtues that relate to peer production: (1) "autonomy, independence, liberation"; 83 (2) "creativity, productivity, industry"; 84 (3) "benevolence, charity, generosity, altruism"; 85 and "sociability, camaraderie, friendship, cooperation, civic virtue." 86 The first cluster seems difficult to relate to the communitarian axis of virtue ethics. As an example of the "virtue" of autonomy, Benkler and Nissenbaum propose "independence from the wide-ranging commercial entities influencing our actions and choices as well as from the typical array of institutional entities, whether employers, banks, agents of government, or whoever." 87 In his important book The Wealth of Networks, Benkler stresses autonomy as a fundamental value promoted by open source production, but not from a virtue ethics framework. 88 In The Wealth of Networks, Benkler seems to approach the question of autonomy from a Kantian perspective. 89 "Autonomy" seems better suited to the Kantian perspective Benkler takes in The Wealth of Networks than to the virtue ethics approach he takes with Nissenbaum. It may be true that commons-based production increases individual autonomy by providing alternatives to information flows produced by traditional commercial providers. But individual autonomy should not be conceived as a "virtue." Rather, some notion of autonomy may be a component of the eudemonia toward which the virtues direct human practices. And the virtues, as instantiated in practices and traditions, are never merely self-directed. Practices and traditions are by definition communal, not merely individual. A better approach to the question of autonomy within a virtue ethics framework of open source production would be to focus on the virtue of "respect" for the autonomy of others. If human flourishing requires that people have some capacity to make autonomous choices, then respecting the choices of others, and fostering communities in which such choices can be exercised, is an important virtue. 90 Viewed this way, it is possible to identify practices and traditions that embody this virtue. Benkler and Nissenbaum's focus on "creativity, productivity, [and] industry" seems closer to the heart of virtue ethics. 91 They helpfully note that creativity, productivity, and industry can be considered part ofa Maclntyrian "practice. "92 Peer production provides additional avenues for individuals to engage in creative and productive work, and thus can facilitate valuable practices. 93 In addition, Benkler and Nissenbaum note that peer production encourages the "other-regarding" virtues of "benevolence, charity, generosity, [and] altruism." 94 Participants in open source communities give time, resources, and talents to the project, ordinarily without direct financial remuneration. 95 As Benkler and Nissenbaum note, however, the literature concerning open source culture is ambiguous concerning whether participants offer their time, resources, and talents for altruistic reasons or as part of an essentially self-interested medium of exchange. 96 Finally, Benkler and Nissenbaum focus on the virtues of "sociability, camaraderie, friendship, cooperation[, and] civic virtue." 97 It is here that their link between virtue ethics and peer production is perhaps most salient. This cluster of virtues involves providing resources to a community engaged in a common project with a common goal. The concept is similar, Benkler and Nissenbaum note, to the American founders' notion of politics as contribution to the public good. 98 Whatever their psychological motives, the multifarious contributors to an open source project provide small inputs of time, resources, and talent, which cumulate to a much larger good. B. Virtue and Biotechnology as an Environmental and Public Health Community If virtue ethics concepts can apply generally to open source production, can they apply to biotechnology, and specifically to open source biotechnology? Benkler and Nissenbaum argue that the ethical implications of any technology include not only the uses to which a purportedly "neutral" technology is put, but also the manner in which the technology's architecture and functionality affect those uses. 99 Here they helpfully draw on technology and society theorists such as Marshall McLuhan and Lewis Mumford. 100 Open source production, Benkler and Nissenbaum suggest, structurally incorporates virtues that lead to greater human freedom. If we fail to encourage open source production, "[ w ]e might miss the chance to benefit from a distinctive sociotechnical system that promotes not only cultural and intellectual production but constitutes a venue for human character development." 101 In this vein, we can view biotechnology, like the communications networks with which Benkler usually is most directly concerned, as another medium of information exchange. It is tempting to draw direct parallels between computer information networks and biotechnology. Computer networks are controlled by computer code, such that control over the code equals control over the content delivered across the network. 102 A society that values the free exchange of ideas should therefore value an open code architecture across such computer information networks. Similarly, one could suggest that biological organisms are controlled at least to some extent by genetic code, and that those who are able to control genetic code through biotechnology will be able to control the organism, including people. The distribution of control over genetic code across peer production networks then could represent a means of democratizing control over life itself. I have previously noted a number of difficulties with this approach. 103 In particular, it is not so simple to tease out a "code layer" in a living organism that might be amenable to peer production. 104 Although DNA is a type of code, it is far more complex than a typical computer program, and the hardware and craft knowledge needed to isolate and manipulate genetic code is not widely available. 105 Nevertheless, there may be a role for open source production in biotechnology at the broad level of basic research and large-scale genomic databases and at the level of certain enabling technologies. 106 For example, the Cambia "BIOS" initiative and the HapMap project represent steps in this direction. And, it is at this level of basic "upstream" research that fears of a biotechnology anticommons are most tractable. The deadweight loss of patent protection in this arena can represent significant human suffering. The debates about biotechnology patents, then, are essentially debates about information-code-that concerns public health. We are concerned about access to biotechnology and biotechnology innovation because of the immense promise and perils of this technology as it relates to human health. Biotechnology could hold the key to a cure for AIDS or the safe disposal of the world's toxic waste. It also could generate vast waves of environmental and social disruption, for example, if non-fertile genetically modified crops hybridize with indigenous food supplies and render them sterile. In this regard, it should be clear that, from a virtue ethics perspective, it is not enough to treat biotechnology as simply a product in a market. Although the products of biotechnology practice can be commodified and traded in markets, and although such markets can be an important component in biotechnology policy, markets are not the raison d'etre of biotechnology. Biotechnology, then, is more than a set of products; it is a Maclntyrian practice that seeks to improve human health and wellbeing. In his keynote address at BIO's 2005 annual convention, BIO President and CEO James Greenwood told the conferees, "[Y]ou serve every man, woman and child on earth. And even more impressively, you serve the uncountable billions of humans who will inhabit this planet after we are gone." 107 Greenwood expressed the biotechnology community's vision, hyperbolically but no doubt sincerely, as follows: The convergence of systems biology, genomics, infomatics, proteomics, nanotechnology and personalized medicine bring us to the threshold of a new era: In the biotech century, using genetically enhanced crops, we will better feed an increasingly hungry world. In the biotech century, we will harness enzymes to convert plant waste to fuel and to biodegradable plastics, reducing our dependence on oil. In the biotech century, we will be able to outpace the tortures of[D]arwinian natural selection and its afflictions of disease. There is no more noble-and no more heroic-mission than this. 108 Greenwood's sentiments are echoed--even amplified-in a promotional video produced by BIO entitled "Biotechnology: Knowledge Serving Life." 109 The video adopts the elegiac tone of a science museum film or public television documentary and intercuts brief comments from cancer and cystic fibrosis patients, optimistic and earnest talking-head scientists projected against CS I-like blue-tinted backgrounds filled with wiggling microorganisms, and colorful images of Midwestern farms and Asian village weJls. The narration borders on messianic. At the video's close, the narrator tells us: Dreams begin with inspiration and flourish with determination and courage. Such are the dreams of today's biotechnology leaders. Their dream of improving the human condition offers hope to those who suffer, relief to those who are ill, and fullness of life to those we love. Within our reach is a future unimaginable a generation ago. Think of a world where starvation is replaced with healthful diets, where manufacturing products and energy are made with natural renewable resources, where our environment is preserved for tomorrow's generations. Biotechnology: furthered by faithfully exploring the unknown and boldly embracing the possible. The world's great new frontier is upon us. 110 The video includes similar teleological comments from industry leaders. For example, Dr. Leroy Hood, President of the Institute for Systems Biology, says: If the mission of man is to make suffering less, if the mission of man is to deal with hunger and starvation, and if the mission of man is to educate and to better the population, I would argue that the kinds of technologies that we're talking about here are going to be utterly key in the future for doing that. 111 Likewise, Robert Beach, Ph.D., President of the Donald Danforth Plant Science Center, says: I'm terribly optimistic of the science. If we do it all right, we will make a better world, a world that is cleaner in its environment, a world that uses less agricultural chemicals and that we really can pull this all together through integration of genetics and engineering and agriculture and manufacturing and politics and policy, and it all is gonna work. 112 Of course, these are public relations pieces as much as they are true reflections of sentiments in the biotechnology community, and one might be permitted a bit of cynicism about the motivation of altruism versus motivation derived from the prospect of cashing out stock options in a buy-out or public offering. These sentiments do, however, reflect a genuine sense of purpose in the biotechnology community, however attenuated or pinched il might be at times by other priorities. That real sense of purpose can form the basis of practices that extend the biotechnology narrative towards the ultimate goal of human flourishing. 113 Because of this linkage with healthcare and the environment, it is useful to examine how virtue ethics relates to those fields. Fortunately, virtue ethics concepts are well-developed both in relation to health care and the environment. In the next sections, I will sketch some relevant virtue ethics perspectives on heath care and environmental issues. I will then offer some suggestions for how those perspectives could relate to biotechnology intellectual property policy.

#### [4] Property rights are incoherent. Everything material intrinsically has a form that’s universally accessible to all people. That means individuals can’t claim ownership to something everyone has access to.

#### [5] Creationism: Property rights are based on the notion of an individual mixing a unique aspect of themselves with a physical property that justifies a deserving of ownership, but intellectual property is not created by individuals, but rather, is discovered. That means we’d be providing arbitrary ownership of an idea to an agent that didn’t create it.

## method

#### Patents on medicine create a hierarchy of cultural practices

Curbishley 15 - Liddy Scarlet Curbishley student Masters of Humanities in Gender Studies August 2015 “Destabilizing the Colonization of Indigenous Knowledge In the Case of Biopiracy” [https://dspace.library.uu.nl/bitstream/handle/1874/319612/Liddy%20Thesis.pdf] Accessed 8/13/21 SAO

The production of scientific and technological knowledge has a history of hierarchical oppression. From the inception of scientific experimentation those deemed suitable to produce knowledge and in which way was clearly defined. And so the modest witness (Haraway, 1997: 24) was born. For Donna Haraway, this Subject was able to sediment its position as the only self-invisible, objective knower by normalizing the idea that “his subjectivity is his objectivity” (24). Through performing an air of legitimate agency and distancing himself from any form of knowledge viewed as ‘feminine’ (anything subjective, embodied or alchemical, but not necessarily originating in a or from a female biological body) and excluding women, people of lower class and people of different ethnicities from the space of knowledge production, therefore making their voices dissident and eventually invisible, the modest witness claims the space of knowledge production (27-32). Haraway sees this evolution of the experimental life as responsible for marginalizing various groups from the scientific world and also permeating these oppressive views out into society. She states, “racial formation, gender-in-the-making, the forging of class, and the discursive production of sexuality [are created] through the constitutive practices of [knowledge production] themselves” (35). Discursive practice of knowledge production forge these same marginalized Subjectivites through constructing, re-presenting and positioning as less capable due to these categorizations. An intersectional (Crenshaw, 1989) indigenous identity, whereby an indigenous person suffers oppression along multiple lines; gender, race, ethnicity and class, leads to the entire marginalization and trivialization of knowledges produced by the indigenous Subject. Knowledges produced outside of the dominant paradigm becomes subjugated as they are: “either hidden behind more dominant knowledges but can be revealed by critique or have been explicitly disqualified as inadequate to their task or insufficiently elaborated: naive knowledges, located low down on the hierarchy, beneath the required level of cognition or scientificity” (Foucault, 1980: 82). Positivist accounts of Eurocentric masculinist knowledges are often in direct opposition to knowledges produced by subordinate groups, such as indigenous peoples, who have developed alternative standpoints and validation processes (Collins, 1991: 202). The former account is dominant and therefore subordinate knowledge is rarely recognized and those producing it even more rarely acknowledged (Smith, 2012: 121). This self-stated omnipotent embodied Subject defines its own reality as concrete experience (Spivak, 2010: 27) prioritizing its own in relation to all other experience. Knowledge and power intertwine to become a nexus of considerable force, continually constructing one another, capable of defining discourse. Foucault argues that knowledge and power cannot stand-alone, they are in a perpetual reliant construction of one another, “knowledge linked to power, not only assumes the authority of 'the truth' but has the power to make itself true. All knowledge, once applied in the real world, has effects, and in that sense at least, 'becomes true.' Knowledge, once used to regulate the conduct of others, entails constraint, regulation and the disciplining of practice. Thus, there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time, power relations” (Foucault, 1977: 27). This formidable force of power/knowledge constructs a referent figure for itself whilst simultaneously constructing the Other in opposition. The dominating power/knowledge nexus generates inequalities in the way knowledge is structured by legitimizing itself and delegitimizing alternatives (Shiva, 1993: 9). This is what leads Shiva to argue that modern knowledge systems, emerging from a colonizing culture, are themselves colonizing (9). As discussed previously, the concept of biopiracy has its epistemological roots in the colonial period. Otherwise framed as bioprospecting but termed biopiracy in this thesis due to its politically loaded associations with theft (Bender, 2003), biopiracy is “the practice of commercially exploiting naturally occurring biochemical or genetic material, especially by obtaining patents that restrict its future use, while failing to pay fair compensation to the community from which it originates” (Taylor, 2014). Ethnopharmacological studies have enticed many researchers and anthropologists to biodiverse areas of the Global South in search of ancient wisdom for contemporary healing (Lee and Balik, 2001).15 This type of ecoethno research is highly problematic for various reasons as has been discussed previously. When multinational pharmaceutical and agrichemical companies fund research with invested interests in exploiting indigenous knowledges for the exclusive economic enrichment of the Global North (Tamale, 2001: 28) the central knowledge producing role of the indigenous Other is obscured in Western discourse and the economic relation between indigenous peoples, resources and the Global North is denied or presented in a paternalistic frame (Plumwood, 1993: 49). Through the framing of indigenous peoples as devoid of scientific knowledge the role of indigenous peoples is constructed as being unrelated to the knowledge production process. Beyond these problematic issues also lies environmental degradation, habitat destruction and resource exploitation. Thus, in cases of biopiracy the appropriation of knowledge can be witnessed, and this denies the indigenous Subject the right to present and preserve one’s own scientific creativity, and the right to expression and self-determination. This theft can be viewed as double layered; first, it is the theft of intellectual and creative property nurtured by indigenous communities for generations, and second, the theft of potentially economically viable and life sustaining resources (Shiva cited in Shah, 2002). Shiva further comments on the central role racism has in the hierarchy of knowledge production and how this applies to biopiracy, “The knowledge of our ancestors […] is being claimed as an invention of US corporations and US scientists and being patented by them. The only reason something like that can work is because underlying it all is a racist framework that says the knowledge of the Third World and the knowledge of people of colour is not knowledge. When that knowledge is taken by white men who have capital, suddenly creativity begins… **Patents are a replay of colonialism**, which is now called globalization and free trade” (Shiva, cited in Mohanty, 2003: 232- 233, emphasis added). Indigenous knowledges are discounted when they emanate from a racialized indigenous Subject, yet that same knowledge is venerated when it emanates from a Global North Subject. Biopiracy operates as another mechanism of silencing the indigenous Subject, Those who do not fit within the neo-liberal capitalist regime and Global North’s narrow concept of modernity are disqualified, therefore reifying the Global North’s supremacy. **This act is authorized by** the subtle nuances of **international legislation** on the rights of indigenous peoples and trade and patent related laws that circumvent obstacles to the misappropriation of indigenous knowledges. Subject construction of the natural, inferior indigenous Other is created and sustained through these documents, as will be analysed in chapter four, enabling this discourse of exploitation. In the following chapter the postcolonial ecofeminist perspective used to frame this exploration will be detailed, accompanied by the critical discourse methodology that will be used to analyse the international legislation.