#### Capitalism has enveloped the world and turned the impoverished people and their property into commodities with an “exchange value.” It justifies inexcusable oppression through slavery, wealth & social inequality, and social injustice for the benefit of the ruling class. The people and their work have been turned into property—a thing that can be taken as a means for the exploitation of workers.

#### Philosophical Inquiry shows that the conception of IPR is rooted in Capitalism. IPR is rooted in the capitalist state, but it is necessary to tear it down from within to actualize change.

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Research in recent history has neglected to address the moral foundations of particular kinds of public policy such as the protection of intellectual property rights (IPRs). On the one hand, nation-states have enforced a tightening of the IPR system. On the other, only recently have national government and international institutions recognised that the moral justification for stronger IPRs protection is far from being plausible and cannot be taken for granted. In this article, IPRs are examined as individual rights founded upon natural law, personality development, just reward and social utility. It is argued that these foundations cannot be philosophically sustained. IPRs constitute morally indefensible political developments which aim to reproduce the capitalist division of knowledge and labour at national, international and global levels. The need for such a critical approach to the moral foundations of IPRs has increased in importance as a consequence of their role in justifying corporate power, globalisation policies and harmonisation of such. Introduction In today’s globalising knowledge-based economies (Archibugi & Lundvall 2001; Rodrigues 2002), intangible forms of property such as intellectual property (IP) are increasingly becoming more important than traditional paradigms of tangible property such as land, houses and factories (Hughes 1988). Patents, copyrights, trademarks and trade secrets2 are considered by their proponents to be statutory ways (WIPO 1997) of increasing innovations and boosting economic growth (Gould & Gruben 1996). For this reason, a number of countries, including the United States (US) and the European Union (EU), require the strengthening of IP systems, signing agreements to: (a) integrate new areas of protection beyond science—for example, business methods patents (EU 2002; Andersen 2003a,b); (b) introduce exclusive rights on pure discoveries—for example, genetic codes (c) increase the period of IP protection; and (d) introduce the ‘submarine patents’ scheme in the United States (Andersen 2003b).3 Stronger protection of intellectual property rights (IPRs) is a political decision that results in particular measures and legislation on the part of government. Is this political decision plausible? Is it possible to justify further tightening of IP regimes on moral grounds? To answer these questions, we need to examine the moral foundations of IPRs. Certainly the inquiry about the justification of IP protection is not new; it goes back to the nineteenth century. According to Machlup and Penrose (1959), between 1850 and 1875, in Western Europe, there was a serious battle for the justification of patent protection. Although the old controversy has been revived in recent years between developed and developing countries (Helpman 1993; Sell & May 2001), the IPRs literature so far has focused almost exclusively on the role of IP protection in new technological development and free competition. Thus, a number of academic works limit their investigation to the linkages between patent, trademark and copyright laws and innovation and international trade. These works, however, fail to explain the moral foundations of IPRs. As a result, there is an inadequate understanding of the complex justification of IPRs and related agreements such as the US and EU (2002) implementation of business methods patents, the Agreement on Trade Related Aspects of Intellectual Property Section (TRIPS)4 of the World Trade Organisation (WTO) (1994), the Bay-Dole Act in the United States (1984) (Mazzoleni & Nelson 1998; Mowery et al. 1999), and so on. The objective of this article is to critically review the plausibility of the moral foundations of IPRs, providing the basis for examining whether stronger protection of such rights is morally defensible. It will be argued that patents, copyrights, trademarks and trade secrets cannot be justified on moral grounds. Philosophical inquiry into the very nature of IPRs reveals that their conception as moral rights is unsustainable. This implies that the moral foundations of IPRs fail to provide justificatory basis for further tightening of IP regimes. The article is structured as follows: first it examines the concept of IP and its differences from other concepts of private ownership; then it reviews the moral foundations of IPRs and investigates their philosophical plausibility; and finally, it concludes that the strengthening of IP regimes is morally indefensible. The Concept of Intellectual Property The Meaning of Property Any attempt to analyse the particular concept of IP presupposes adequate understanding of the general concept of property. The meaning of property is not given in abstraction from history. Rather, it changes through different historical moments of economic and social development. These moments are linked with the various stages of development of the division of labour. According to Harris (1996, p. 42), different conceptions of property arose, historically, in connection with tangible things. These things can be physically held and are either movables or immovables (Bouckaert 1990, p. 789). Movables mainly include what Marx (1975, p. 339) called ‘the miracles of industry and change’—for example, movable capital. Immovables mainly include land-based products—for example, immovable capital. The question that arises is what does it really mean today to have property to tangibles? Political theorists such as Macpherson (1978, p. 2) argue that the modern concept of property has a dual meaning: in common usage, property means things, but in law it means rights in or to things. Macpherson rejects the common usage of property as misusage and stresses that property both in law and in logic means rights, not things (ibid.). This implies that for him, property is not a direct relation between persons and things, as it seems to be for legal theorists such as Bouckaert (1990). The latter defines the notion of property as something that came to be owned by somebody in a legitimate way. Although Bouckaert recognises that this is a common-sense notion that is difficult to apply to particular issues, he understands property as a direct control of movables or immovables. By contrast, for Macherson, property is a historically and logically founded political relation between persons. In capitalist societies, this relation is often defined as an enforceable individual claim to some exclusive use or benefit of something. That is what is called private property right. My private property right to a thing exists to the extent that other persons are excluded from the determination of its use. Although Macpherson’s (1962) description of the politico-theoretical legitimation of capitalism faces serious problems of anachronism (Rayan 1984; Waldron 1988), his conception of modern property as rights is correctly linked with the birth and growth of capitalism. The origins of the modern notion of property go back to the twelfth-century Roman law. An historical study by Tuck (1979) indicates that the medieval lawyer always regarded property (dominium) as a right (ius) and he was prepared to talk about property rights. This became the basis of the thirteenth-century distinction between property rights of tenants (dominium utile) and property rights of landlords (dominium directum). The recognition of ‘dominium utile’ was a breakthrough in theories of rights. Property was viewed as any right to things. According to Tuck (ibid., p. 16) ‘any right which could be defended against all other men, and could be transferred or alienated by its possessor, was a property right, and not only right of total control. The process had begun whereby all of man’s rights, of whatever kind, were to come to be seen as his property’. This process emancipated tenants from landlords and undermined the feudal system. During the Renaissance, it provided the conceptual basis for the formation of the seventeenth-century theories of ‘possessive individualism’, including those of Hobbes and Locke (Macpherson 1962). The historical approach to property sheds light on the development of the modern concept of individual property rights. Nevertheless, it does not clarify the meaning of such rights. To achieve this clarification, a philosophical approach to the notion of property rights is required. To begin with the concept of right as such, probably the most innovative work in the logical analysis of its meaning is the theory of Hohfeld. Hohfeld provided an account of the logical ambiguities in the use of phrases such as ‘P has a right to X’.5 Specifically, he argued that what is commonly referred to as ‘right’ can be broken down into a scheme of ‘opposites’ and ‘correlatives’ as follows: (right privilege power immunity Jural Opposites ( (no-right duty disability liability (right privilege power immunity Jural Correlatives ( (duty no-right liability disability. (Hohfeld 2001, p. 12) Within this analytical scheme, the phrase ‘P has a right to X’ may mean any (combination) of the following: 1). . . P has no duty (to a particular person Q or to people in general) not to do X . . . 2) Talk of P’s right to do X may be meant to indicate that Q (or everyone) has a duty to let P do X . . . 3) The third sense of ‘right’ . . . involves the ability or power of an individual to alter existing legal arrangements . . . 4) Oddly, we sometimes use the term ‘right’ to describe not only a power but also the correlate of the lack of power—an immunity from legal change. (Waldron 1984, pp. 6–7) Hohfeld’s account refers to legal rights and does not explain the concept of duty. Other moral philosophers such as Hart (1984) and Lyons (1984) have proposed ‘choice’ and ‘interests’ theories of rights respectively, departing from the special Hohfeldian relation between duties and right-bearers. Nevertheless, if we apply Hohfeld’s account to property right, his famous phrase becomes: ‘P has a property right to X’. This may mean any (combination) of the following: 1) P has no duty (to a particular person Q or to people in general) not to acquire X. This implies that P is free to exercise his property right to X without interference from person Q or people in general. 2) Talk of P’s right to acquire X may be meant to indicate that Q (or everyone) has a duty to let P acquire X. This means that P has a claim-right against Q to acquire X.6 3) If P acquires X, P has a right to sell X to someone else. In doing so, P changes legal relations: someone else now acquires all the rights involved in ownership and P now acquires only duties to someone else. 4) If P has immunity with regard to the acquisition of X, then Q (or may be everyone) has no power to alter his legal position in regard to X (Waldron, 1984, p. 7).7 The conception of private property in terms of Hohfeld’s abstract account implies that the property rights and duties one has partly determine whether one is permitted to access and control tangible resources. This particular view of liberty (Wolff 1997)8 is crucial because tangible resources are scarce. In political philosophy, scarcity is a resupposition of all liberal theories of property. ‘If this assumption were ever to fail (as Marx believed it some day would) then the traditional problem of the nature and justification of rival types of property system would probably disappear’ (Waldron 1988, pp. 31–32). Given the current condition of scarcity, only some concrete arrangement of property rights in society can distribute power over scarce resources in order to secure social reproduction. Bouckaert here distinguishes between natural and artificial scarcity. According to him, ‘Scarcity is natural when it is possible to conceive of it before any human, institutional, contractual arrangement. Artificial scarcity, on the other hand, is the outcome of such arrangement’ (Bouckaert 1990, p. 798). Bouckaert correctly stresses that although natural scarcity provides justification to legal framework, artificial scarcity can hardly serve as a justification for institutional development. However, he also links the distinction between natural and artificial scarcity with a distinction between real rights and personal rights. The latter distinction has its origins in the medieval law that divided property into land and everything else (Penner 1997, p. 107). Real rights imply rights in rem—for example, complete physical control of tangibles. By contrast, personal rights imply rights in personam—for example, a specific obligation of some person(s) to transfer things under legitimate control, to perform a specific action or to refrain from a specific action (Bouckaert 1990, p. 794). Bouckaert argues that real rights are related to natural scarcity while personal rights are arranged to create artificial scarcity. This argument appears to be epistemologically problematical. Bouckaert relates reality with nature and connects personality with contract. The relationship between personality and reality is not clarified in his argument. Nevertheless, both real and personal rights are sustained as arrangements intended to resolve the problem of resource allocation. This problem is fundamental in political economy. However, a number of theorists such as Hayek (1948, 1960, 1967, 1978), Mises (1949, 1960) and Menger (1981), members of the so-called Austrian School of Economics, believe that the problem of resource allocation is resolved through the spontaneous and evolutionary process of the market and not through rational arrangements of property rights. It might be said that this position is theoretically and historically problematical. As Papaioannou (1998, 2003) points out, the Austrian School, and especially Hayek, lacks any theory of individual rights due to its epistemologically founded sceptical rationalism. Therefore, it fails to see private property rights as a historically developed political solution to the problem of resource allocation. Intellectual Property as a Right to Ideas If Macpherson’s conception of private property as a historically and philosophically founded political relation between persons is correct, then the question is whether it can be extended to intangible entities. Is it plausible to speak of IPRs in the same way we speak of private property rights to tangibles? What does it mean to have property in ideas? Legal theorists argue that the historical and philosophical development of IP is different from that of classical property. According to Bouckaert (1990), IP is rooted in the state intervention and not in the spontaneity of the continental legal tradition. This argument overemphasises the role of spontaneity in law without taking into account the political, social and economic context within which the continental legal tradition emerged. Law cannot be separated from [these] social, political and economic struggles which constitute the process of legislation (Hunt 1993).9 However, Bouckaert correctly stresses that in the case of the development of IPRs, the state had crucial involvement. Although there were some pre-legislative attempts to organise the control of valuable ideas (Sell & May 2001, p. 475), the decisive step was made with the formalisation of patents in the 1624 Statute of Monopolies and with copyrights in the Act Anne of 1709. England was the first country to follow the attempts of the (city) state of Venice in introducing legislation for the protection of IPRs (Prager 1952; Nance 1990). Sell and May explain the history of IPRs through the triangulation between technical change, ideas of knowledge and legal institutions. For them, the birth and growth of IPRs has been a battle between two antagonistic beliefs: that on the one hand individuals should benefit from their ideas and that on the other these ideas should benefit the public through their free dissemination (Sell & May 2001). Both beliefs are illustrated in the early debates about the justification of IPRs. For instance, several authors at the beginning of the nineteenth century, such as Renouard and Roguin in 1835,10 argued that IP has nothing in common with ordinary property. IP is an unacceptable legal privilege or a legally protected monopoly. By contrast, thinkers such as Picard in 1899 and Kohler in 190711 recognised IPRs as real rights, the object of which was the good produced by intellectual creation. Certainly, despite the theoretical disputes, patent systems and copyright laws began to spread in many countries, due to the expansion of international commerce (Sell & May 2001, p. 482). By the mid-nineteenth century, patent laws were enacted in almost all major countries of the European continent (Machlup & Penrose 1950, p. 3). The criticism of patent protection and copyright laws also spread. The reason for this was the contradiction between IPRs and classical property rights. Specifically, the historical birth of the latter was connected with the death of the feudal system of privileges and the growth of economic liberalism based on laissez-faire (Polanyi 1944). By contrast, the historical development of patent protection and copyright laws was linked with the re-emergence of privileges and monopolies, which were against the liberal spirit of free competition. This internal contradiction of capitalism was well reflected in the nineteenth century patent controversy (Machlup & Penrose 1950). In England and in Germany, the anti-patent movement advanced free-trade arguments in order to convince governments about the illiberal nature of IPR protection (ibid.). However, those arguments were rejected by patent advocators such as Mill (1909, p. 932), who stressed that inventions contribute to social welfare and therefore it is just for inventors to use their ideas exclusively for a limited period of time. Eventually, patent advocators won the battle through remarkable propaganda (Machlup & Penrose 1950, p. 5). It was the historical moment in which patent advocators began to introduce IPRs as natural rights. Their aim was none other than overcoming the internal contradiction between protectionism and economic liberalism. According to Machlup & Penrose (ibid., p. 9), ‘It was strategically essential for [the patent system] to separate as far as possible the idea of patent protection from the monopoly issue and from the free trade issue. This was attempted by presenting the case of patent protection as one of natural law and private property’. Whether IPRs can be plausibly justified as natural rights will be investigated in the next section. For the time being, let us move from historical account to philosophical inquiry, examining the relationship between IPRs and classical private property in analytical terms. IPRs constitute relations between persons concerning specific intangible resources.What these relations have in common with classical private property is the possibility of exclusivity of use (Richards 2002, p. 523). Thus, strictly following Hohfeld’s theory, someone might argue that the IPRs and related duties a person P has partly determine whether P is permitted to access and control ideas and inventions.

#### Everyday suffering is dictated by continued structures of power that puts minorities into a continuous cycle of violence. The result is sadistic violence occurring right now— structural violence, climate change, biodiversity loss, genocide, and even economic collapse. Collapse is inevitable—the brink is now.

Robinson 16 — William I. Robinson, Professor of Sociology, Global Studies and Latin American Studies at the University of California at Santa Barbara, PhD in Sociology, 2016 (“Sadistic Capitalism: Six Urgent Matters for Humanity in Global Crisis,” Truth-Out, April 12th, Available Online at <http://www.truth-out.org/opinion/item/35596-sadistic-capitalism-six-urgent-matters-for-humanity-in-global-crisis>)//RM

In these mean streets of **globalized capitalism in crisis**, it has become **profitable** to turn **poverty and inequality into a tourist attraction**. The South African Emoya Luxury Hotel and Spa company has made a glamorized spectacle of it. The resort recently advertised an opportunity for tourists to stay "in our unique Shanty Town ... and experience traditional township living within a safe private game reserve environment." A cluster of simulated shanties outside of Bloemfontein that the company has constructed "is ideal for team building, braais, bachelors [parties], theme parties and an experience of a lifetime," read the ad. The luxury accommodations, made to appear from the outside as shacks, featured paraffin lamps, candles, a battery-operated radio, an outside toilet, a drum and fireplace for cooking, as well as under-floor heating, air conditioning and wireless internet access. A well-dressed, young white couple is pictured embracing in a field with the corrugated tin shanties in the background. The only thing missing in this fantasy world of sanitized space and glamorized poverty was the people themselves living in poverty. The "luxury shanty town" in South Africa is a fitting metaphor for global capitalism as a whole. Faced with a **stagnant global economy**, elites have managed to turn **war**, **structural violence** and **inequality** into opportunities for **capital**, **pleasure** and **entertainment**. It is hard not to conclude that **unchecked capitalism** has become what I term "**sadistic capitalism**," in which the **suffering** and **deprivation** generated by capitalism become a source of **aesthetic pleasure**, leisure and entertainment for others. I recently had the opportunity to travel through several countries in Latin America, the Middle East, North Africa, East Asia and throughout North America. I was on sabbatical to research what the global crisis looks like on the ground around the world. Everywhere I went, **social polarization** and **political tensions** have reached **explosive dimensions**. Where is the crisis headed, what are the possible outcomes and what does it tell us about global capitalism and resistance? **This crisis is not like earlier structural crises of world capitalism**, such as in the 1930s or 1970s. **This one is fast becoming systemic**. The crisis of humanity shares aspects of earlier structural crises of world capitalism, but there are six novel, interrelated dimensions to the current moment that I highlight here, in broad strokes, as the "big picture" context in which countries and peoples around the world are experiencing a descent into chaos and uncertainty. 1) The **level** of global social polarization and inequality is **unprecedented** in the face of out-of-control, **over-accumulated capital**. In January 2016, the development agency Oxfam published a follow-up to its report on global inequality that had been released the previous year. According to the new report, now just 62 billionaires -- down from 80 identified by the agency in its January 2015 report -- control as much wealth as **one half of the world's population**, and the top **1%** owns more wealth than the **other 99% combined**. Beyond the transnational capitalist class and the upper echelons of the global power bloc, the richest 20 percent of humanity owns some 95 percent of the world's wealth, while the bottom 80 percent has to make do with just 5 percent. This 20-80 divide of global society into haves and the have-nots is the new **global social apartheid**. It is evident not just between rich and poor countries, but within each country, North and South, with the rise of new affluent high-consumption sectors alongside the downward mobility, "precariatization," destabilization and expulsion of majorities. Escalating inequalities **fuel capitalism's chronic problem** of over-accumulation: The transnational capitalist class **find productive outlets to unload the enormous amounts of surplus** it has accumulated, **leading to stagnation in the world economy**. The signs of an **impending depression are everywhere**. The front page of the February 20 issue of The Economist read, "**The World Economy: Out of Ammo?**" Extreme levels of social polarization present a challenge to dominant groups. They strive to purchase the loyalty of that 20 percent, while at the same time dividing the 80 percent, co-opting some into a hegemonic bloc and repressing the rest. Alongside the spread of frightening new systems of social control and repression is heightened dissemination through the culture industries and corporate marketing strategies that depoliticize through consumerist fantasies and the manipulation of desire. As "Trumpism" in the United States so well illustrates, another strategy of **co-optation** is the **manipulation of fear and insecurity** among the downwardly mobile so that social anxiety is channeled toward **scapegoated communities**. This psychosocial mechanism of displacing mass anxieties is not new, but it appears to be increasing around the world in the face of the structural destabilization of capitalist globalization. Scapegoated communities are under siege, such as the Rohingya in Myanmar, the Muslim minority in India, the Kurds in Turkey, southern African immigrants in South Africa, and Syrian and Iraqi refugees and other immigrants in Europe. As with its 20th century predecessor, 21st century fascism hinges on such manipulation of social anxiety at a time of acute capitalist crisis. **Extreme inequality requires extreme violence and repression** that lend to projects of 21st century fascism. 2) The system is **fast reaching the ecological limits to its reproduction**. We have reached several tipping points in what environmental scientists refer to as nine crucial "**planetary boundaries**." We have already exceeded these boundaries in three areas -- **climate change**, **the nitrogen cycle** and **diversity loss**. There have been five previous mass extinctions in earth's history. While all these were due to natural causes, for the first time ever, human conduct is intersecting with and fundamentally altering the earth system. If the capitalist system doesn’t **stop expanding** outward, it **enters crisis and faces collapse**. We have entered what Paul Crutzen, the Dutch environmental scientist and Nobel Prize winner, termed the Anthropocene -- a new age in which humans have transformed up to half of the world's surface. We are altering the composition of the atmosphere and acidifying the oceans at a rate that undermines the conditions for life. The ecological dimensions of global crisis cannot be understated. "We are deciding, without quite meaning to, which evolutionary pathways will remain open and which will forever be closed," observes Elizabeth Kolbert in her best seller, The Sixth Extinction. "No other creature has ever managed this ... The Sixth Extinction will continue to determine the course of life long after everything people have written and painted and built has been ground into dust." Capitalism cannot be held solely responsible. The human-nature contradiction has deep roots in civilization itself. The ancient Sumerian empires, for example, collapsed after the population over-salinated their crop soil. The Mayan city-state network collapsed about AD 900 due to deforestation. And the former Soviet Union wrecked havoc on the environment. However, given capital's implacable impulse to accumulate profit and its accelerated commodification of nature, **it is difficult to imagine that the environmental catastrophe can be resolved within the capitalist system**. "**Green capitalism**" appears as an oxymoron, as sadistic capitalism's attempt[s] to turn the **ecological crisis into a profit-making opportunity**, along with the conversion of poverty into a tourist attraction. **The sheer magnitude of the means of violence is unprecedented**, as is the concentrated control over the means of global communications and the production and circulation of knowledge, symbols and images. We have seen the spread of frightening new systems of social control and repression that have brought us into the panoptical surveillance society and the age of thought control. This real-life Orwellian world is in a sense more perturbing than that described by George Orwell in his iconic novel 1984. In that fictional world, people were compelled to give their obedience to the state ("Big Brother") in exchange for a quiet existence with guarantees of employment, housing and other social necessities. Now, however, the corporate and political powers that be force obedience even as the means of survival are denied to the vast majority. Global apartheid involves the creation of "green zones" that are cordoned off in each locale around the world where elites are insulated through new systems of spatial reorganization, social control and policing. "Green zone" refers to the nearly impenetrable area in central Baghdad that US occupation forces established in the wake of the 2003 invasion of Iraq. The command center of the occupation and select Iraqi elite inside that green zone were protected from the violence and chaos that engulfed the country. Urban areas around the world are now green zoned through gentrification, gated communities, surveillance systems, and state and private violence. Inside the world's green zones, privileged strata avail themselves of privatized social services, consumption and entertainment. They can work and communicate through internet and satellite sealed off under the protection of armies of soldiers, police and private security forces. What is required is a redistribution of power downward and transformation toward a system in which social need trumps private profit. Green zoning takes on distinct forms in each locality. In Palestine, I witnessed such zoning in the form of Israeli military checkpoints, Jewish settler-only roads and the apartheid wall. In Mexico City, the most exclusive residential areas in the upscale Santa Fe District are accessible only by helicopter and private gated roads. In Johannesburg, a surreal drive through the exclusive Sandton City area reveals rows of mansions that appear as military compounds, with private armed towers and electrical and barbed-wire fences. In Cairo, I toured satellite cities ringing the impoverished center and inner suburbs where the country's elite could live out their aspirations and fantasies. They sport gated residential complexes with spotless green lawns, private leisure and shopping centers and English-language international schools under the protection of military checkpoints and private security police. In other cities, green zoning is subtler but no less effective. In Los Angeles, where I live, the freeway system now has an express lane reserved for those that can pay an exorbitant toll. On this lane, the privileged speed by, while the rest remain one lane over, stuck in the city's notorious bumper-to-bumper traffic -- or even worse, in notoriously underfunded and underdeveloped public transportation, where it may take half a day to get to and from work. There is no barrier separating this express lane from the others. However, a near-invisible closed surveillance system monitors every movement. If a vehicle without authorization shifts into the exclusive lane, it is instantly recorded by this surveillance system and a heavy fine is imposed on the driver, under threat of impoundment, while freeway police patrols are ubiquitous. Outside of the global green zones, **warfare and police containment have become normalized** and sanitized for those not directly at the receiving end of armed aggression. "Militainment" -- portraying and even glamorizing war and violence as entertaining spectacles through Hollywood films and television police shows, computer games and corporate "news" channels -- may be the epitome of sadistic capitalism. It desensitizes, bringing about complacency and indifference. In between the green zones and outright warfare are prison industrial complexes, immigrant and refugee repression and control systems, the criminalization of outcast communities and capitalist schooling. The omnipresent media and cultural apparatuses of the corporate economy, in particular, aim to colonize the mind -- to undermine the ability to think critically and outside the dominant worldview. A neofascist culture emerges through militarism, extreme masculinization, racism and racist mobilizations against scapegoats. 4) We are reaching limits to the extensive expansion of capitalism. Capitalism is like riding a bicycle: When you stop pedaling the bicycle, you fall over. If the capitalist system stops expanding outward, it enters crisis and faces collapse. In each earlier structural crisis, the system went through a new round of extensive expansion -- from waves of colonial conquest in earlier centuries, to the integration in the late 20th and early 21st centuries of the former socialist countries, China, India and other areas that had been marginally outside the system. There are no longer any new territories to integrate into world capitalism. Meanwhile, the privatization of education, health care, utilities, basic services and public land are turning those spaces in global society that were outside of capital's control into "spaces of capital." Even poverty has been turned into a commodity. What is there left to commodify? Where can the system now expand? With the limits to expansion comes a turn toward militarized accumulation -- making wars of endless destruction and reconstruction and expanding the militarization of social and political institutions so as to continue to generate new opportunities for accumulation in the face of stagnation. 5) There is the rise of a vast surplus population inhabiting a "planet of slums," alienated from the productive economy, thrown into the margins and subject to these sophisticated systems of social control and destruction. Global capitalism has no direct use for surplus humanity. But indirectly, it holds wages down everywhere and makes new systems of 21st century slavery possible. These systems include prison labor, the forced recruitment of miners at gunpoint by warlords contracted by global corporations to dig up valuable minerals in the Congo, sweatshops and exploited immigrant communities (including the rising tide of immigrant female caregivers for affluent populations). Furthermore, the global working class is experiencing accelerated "precariatization." The "new precariat" refers to the proletariat that faces capital under today's unstable and precarious labor relations -- informalization, casualization, part-time, temp, immigrant and contract labor. As communities are uprooted everywhere, there is a rising reserve army of immigrant labor. The global working class is becoming divided into citizen and immigrant workers. The latter are particularly attractive to transnational capital, as the lack of citizenship rights makes them particularly vulnerable, and therefore, exploitable. The challenge for dominant groups is how to contain the real and potential rebellion of surplus humanity, the immigrant workforce and the precariat. How can they contain the explosive contradictions of this system? The 21st century megacities become the battlegrounds between mass resistance movements and the new systems of mass repression. Some populations in these cities (and also in abandoned countryside) **are at risk of genocide**, such as those in Gaza, zones in Somalia and Congo, and swaths of Iraq and Syria. 6) There is a disjuncture between a globalizing economy and a nation-state-based system of political authority. Transnational state apparatuses are incipient and do not wield enough power and authority to organize and stabilize the system, much less to impose regulations on runaway transnational capital. In the wake of the 2008 financial collapse, for instance, the governments of the G-8 and G-20 were unable to impose transnational regulation on the global financial system, despite a series of emergency summits to discuss such regulation. Elites historically have attempted to resolve the problems of over-accumulation by state policies that can regulate the anarchy of the market. However, in recent decades, transnational capital has broken free from the constraints imposed by the nation-state. The more "enlightened" elite representatives of the transnational capitalist class are now clamoring for transnational mechanisms of regulation that would allow the global ruling class to reign in the anarchy of the system in the interests of saving global capitalism from itself and from radical challenges from below. At the same time, the division of the world into some 200 competing nation-states is not the most propitious of circumstances for the global working class. Victories in popular struggles from below in any one country or region can (and often do) become diverted and even undone by the structural power of transnational capital and the direct political and military domination that this structural power affords the dominant groups. In Greece, for instance, the leftist Syriza party came to power in 2015 on the heels of militant worker struggles and a mass uprising. But the party abandoned its radical program as a result of the enormous pressure exerted on it from the European Central Bank and private international creditors. The Systemic Critique of Global Capitalism A growing number of transnational elites themselves now recognize that **any resolution** to the global crisis must involve **redistribution downward of income**. However, in the viewpoint of those from below, a neo-Keynesian redistribution within the prevailing corporate power structure is not enough. What is required is a **redistribution of power downward and transformation toward a system in which social need trumps private profit**. A **global rebellion against the transnational capitalist class** has **spread** since the financial collapse of 2008. Wherever one looks, there is popular, **grassroots and leftist struggle**, and the rise of new cultures of resistance: **the Arab Spring**; **the resurgence of leftist politics in Greece**, **Spain and elsewhere in Europe**; **the tenacious resistance of Mexican social movements following the Ayotzinapa massacre** of 2014; **the favela uprising in Brazil** against the government's World Cup and Olympic expulsion policies; **the student strikes in Chile**; **the remarkable surge in the Chinese workers' movement**; **the shack dwellers and other poor people's campaigns in South Africa**; **Occupy Wall Street**, the **immigrant rights movement**, **Black Lives Matter**, **fast food workers' struggle** and the mobilization around the Bernie Sanders presidential campaign in the United States. This global revolt is spread unevenly and faces many challenges. A number of these struggles, moreover, **have suffered setbacks**, such as the Greek working-class movement and, tragically, the Arab Spring. What type of a transformation is viable, and how do we achieve it? How we interpret the global crisis is itself a matter of vital importance as politics polarize worldwide between a neofascist and a popular response. **The systemic critique of global capitalism must strive to influence**, from this vantage point, **the discourse and practice of movements for a more just distribution of wealth and power**. **Our survival may depend on it**.

**The pandemic has revealed the power of the TRIPS IP regime to preserve imperial hegemony and sustain neoliberal accumulation. Reform to this system will always fail as it was never made to be “emancipatory” but rather is circumscribed by capitalist imperialist structures driven by profit and not human need.**

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From the onset, the TRIPS IP regime created imbalance between innovation, market monopoly, and medicines access, because it failed to take into consideration the health burden, development needs and local conditions of the various countries that make up the WTO. This has led to several issues. First, the market monopoly of IP rights, which allows the corporation to set the market for drugs, has created a privileged societal class with access to lifesaving medication distinguishing them from those excluded from access to available medications. This phenomenon is vividly illustrated in the HIV/AIDS crisis of the 1990s and early 2000s. While HIV/AIDS patients in developed countries were able to afford antiretroviral (ARVs) treatments, which had been developed, approved and patented as early as 1987, many patients in Africa and other parts of the developing world could not afford the approximately USD 12,000 per annum treatment at that time. By 2001, approximately 2.4 million people in the region had died of AIDS. The South African government intervened to reduce the cost of ARVs by amending its domestic patent laws to allow the authorization of parallel imports of patented pharmaceuticals and to encourage the use of generic drugs, but it was sued by the US industry group Pharmaceutical Research and Manufacturers of America (PhRMA). Though the lawsuit was eventually dropped, it highlights the measures pharmaceutical corporations, backed by some national governments, are willing to take to protect their profits at the cost of human lives. Significantly, we see how law (or the threat of legal action) is used not only to protect and expand the profitability of a certain kind of property but, as Anjali Vats and Deidré Keller have taught us, also reveals IP law’s racial investments in whiteness and its continuing implications for racial (in)equality, particularly in the way it informs systems of ownership, circulation, and distribution of knowledge. Similarly, Natsu Saito takes up the analysis of IP, race and capitalism by theorizing some of the ways in which ‘value’ in IP law concentrated in the hands of large corporations is calculated in terms of its profitability rather than what it contributes to the well-being of society. However, the proverbial chickens have come home to roost as even rich countries are beginning to feel the bite of the dysfunctional IP system. The issue of excessive pricing for medicines is a growing problem in developed countries as well and has now become the single biggest category of healthcare spending in these states, particularly the US. An empirical report by I-MAK reveals how excessive pharmaceutical patenting is extending monopolies and driving up drug prices. The report, for example, notes that over half of the top twelve drugs in the US have more than 100 attempted patents per drug. Specifically, the report revealed that Humira® by AbbVie (used in the treatment of Crohn’s disease and the US’s highest grossing drug) has been issued 130 patents. The drug costs USD 44,000 annually and generated more than USD 19.2 billion for the company in 2019 alone. The Report also notes that the first patent filed for Herceptin® – used in the treatment for certain breast and stomach cancers – was in 1985 but currently has pending patent applications that could extend its market monopoly for 48 more years. Meanwhile, Celgene has over 105 patents for its oral cancer drug Revlimid® (used in the treatment of multiple myeloma) extending its monopoly until the end of 2036 – a patent lifespan of 40 years. In addition to excessive patenting and pricing, we have also come to understand the power of data in this context. Health inequity and inequalities in vaccine access are not unfortunate outcomes of the global IP regime; they are part of its central architecture. The system is functioning exactly as it is set up to do. Second, regulatory agencies worldwide require drugs to undergo safety and efficacy testing to ensure they are harmless before approval. These tests, known as clinical trials, involve human subjects and are costly because they can run up to three separate phases. The data collected during these clinical trials are the proprietary materials of the company conducting the tests. Because it is expensive and time-consuming, generic drug companies usually rely on the safety and efficacy data of brand name companies to seek regulatory approval as long as they can prove their generic version is chemically and biologically equivalent to the original. Relying on the test data of brand name companies reduces the production cost for generic medicines and allows for quicker market entry. However, recent years have seen a promotion of time-limited, legally mandated protection against the non-proprietary use of such data by generic companies. This is known as data exclusivity. Put differently, data exclusivity is a period when a generic company cannot use the clinical trial data of an innovator pharmaceutical company to receive regulatory approval for a generic medicine. In so doing, data exclusivity provides a layer of protection in addition to patent protection to further delay market entry of generic medicines. Data exclusivity periods vary depending on the jurisdiction. For example, it is twelve years in US and ten years in the EU. While the TRIPS Agreement does not create property rights over registration data, the US and the EU have continued to champion and export data exclusivity through free trade agreements, particularly for biologics. For example, the US Affordable Health Care for America Act in 2009 extended a 12-year exclusivity period for biologics. This US interpretation for registration data was also included in the United States-Mexico-Canada Agreement (USMCA), which sought a 10-year data exclusivity for new biologics. However, after intense negotiations, the data exclusivity protection was reduced to 5 years for new pharmaceuticals. In this instance, we see a crystallising of Euro-American ideas of property and a willingness to promote those property interests through the law, both domestic and international. In fact, certain scholars assert that this pursuit of higher TRIPS standards is driven, in part, by the US desire to achieve levels of protection it anticipated from the TRIPS Agreement but failed to secure. Given the influence of the industry and its representative group, PhRMA, in seeking stronger protection on a global scale, it is not surprising that the US’s post-TRIPS policies continue to rachet up standards in ways that undermine access to affordable medicines, and perpetuate social hierarchy and subordination. Third, patent practices in recent decades have seen pharmaceutical companies engaging in trivial and cosmetic tweaking of a drug whilst still reaping the benefit of 20 years of patent protection. This tweaking sometimes involves making minor changes to patented drugs, such as changes in mode of administration, new dosages, extended release, or change in color of the drug. These changes normally do not offer any significant therapeutic advantage even though pharmaceutical companies argue they provide improved health outcomes to patients. These additional patents on small changes to existing drugs, known as evergreening or patent thickets, block the early entry of competitive, generic medicines that drive medicine prices down. For example, while not mandated by TRIPS, many US led TRIPS-plus free trade agreements have expanded the scope for evergreening. These include the US-Jordan FTA (2000), US-Australia FTA (2004) as well as the US-Korea FTA (2007), which allow for the patenting of new forms, uses, or methods of using existing products. The development discourse often touted by developed nations to help countries in the Global South ‘catch up’ is empty when the essential medicines needed to stay alive are deliberately denied and weaponised. The cancer drug Gleevec®, owned by Novartis, is another example of how pharmaceutical companies often secure patents on new, more convenient versions with marginal therapeutic benefit to patients whilst blocking the entry of generic medicines. In 2013, Novartis’ patent application for Gleevec®– the β crystalline form of the salt imatinib mesylate – was rejected by the Indian Supreme Court because it lacked novelty. However, the company has secured patents for this product in other jurisdictions such as the US and has maintained a high price of Gleevec there. But in India the price of Gleevec® was reduced from approximately USD 2,200 to USD 88 for one month’s treatment in the generic drugs market as a result of the 2013 Indian Supreme Court judgement. Novartis is not the only culprit. The depression drug Effexor® by Pfizer was granted an evergreen patent when the company introduced an extended-release version, Efexor-XR®, even though there was no additional benefit to patients. Eventually, the patent was declared invalid, but by then it had already cost an estimated USD 209 million to Australian taxpayers and kept generic competition off the market for two and a half years. In another instance, Pfizer went on to secure an additional patent for the Pristiq®, which contained identical chemical compound as Efexor-XR®,and again with no added therapeutic benefit. These evergreening practices, of course, have material effects. Apart from delaying the entry of generic versions, they give brand-name pharmaceutical companies free reign in the market, which allows them to set the market price. Recent years have seen monopoly prices rise exorbitantly causing significant financial strain to patients, domestic healthcare services and even insurance companies in developed countries. A notorious example is Martin Shkreli, who in 2015 bought the rights to an anti-malarial drug, then raised the price by 5,000 per cent from a cost of USD 13.50 to USD 750. Similarly, a white paper by I-MAK shows how excessive patenting and related strategies are driving families to overspend on lifesaving medicines. Celgene, the makers of Revlimid® raised the price of the drug by more than 50 per cent since 2012 to over USD 125,000 per year of treatment. Using the example of Solvadi® by Gilead, which costs USD 84,000 per treatment, Feldman notes the drug would cost the US Department of Defense more than USD 12 billion to treat all hepatitis-infected patients in US Veterans Affairs. But the US is not alone. In Europe, expensive drugs have prompted a growing backlash against pharmaceutical corporations. Reacting to these price hikes, Dutch pharmacies are bypassing these exorbitant prices by preparing medicines in-house for individual patients. The broken IP system ranging from an extraordinarily low standard for granting patents to permissions of patent thickets around a single molecule has not only severely distorted the system of innovation, but they have also skewed access to life-saving drugs. As a result, prices for new and existing medicines are constantly rising, making essential medicines inaccessible for millions of people around the world. COVID-19, Intellectual Property and Vaccine Imperialism This brings us to the present and how this dysfunction continues to be normalised in the current pandemic. Moderna, for example, has filed over 100 patents for the mRNA technology used in its vaccine, despite receiving funds from the US government with its IP partly owned by the US National Institutes of Health. Pfizer/BioNTech have also filed multiple patents on not only their COVID-19 vaccine product, but also on the manufacturing process, method of use and related technologies even though BioNtech was given $450 million by the German government to speed up vaccine work and expand production capacity in Germany. It has become increasingly plain that IP makes private rights out of public funds while benefitting particular corporate interests. In fact, reports show the US government under Operation Warp Speed led by the US Department of Health also funded other vaccines developed in 2020 by several pharmaceutical corporations including Johnson and Johnson, Regeneron, Novavax, Sanofi and GlaxoSmithKline, AstraZeneca, and others. In spite of this boost from public funds, and with many governments wholly taking on the risks for potential vaccine side effects, drug manufacturers fully own the patents and related IP rights and so can decide how and where the vaccines get manufactured and how much they cost. As a result, taxpayers are paying twice for the same shot: first for its development, then again for the finished product. Meanwhile, a New York Times report has revealed that in some of the agreements between pharmaceutical companies and states, governments are prohibited from donating or reselling doses. This prohibition helps explain the price disparity in vaccine purchases among countries where poor countries are paying more. For example, Uganda is paying USD 8.50 per dose of the AstraZeneca vaccine while the EU is paying only USD 3.50 per dose. By prioritizing monopoly rights of a few western corporations, IP dysfunction not only continues to reproduce old inequities and inequality in health access, but helps frame our understanding about the creation and management of knowledge. And perhaps we begin to see the refusal of drug makers to share knowledge needed to boost global vaccine supply for what it truly is: an extension in capitalist bifurcation of who is imagined as a legitimate intellectual property owner and who is envisioned as a threat to the (intellectual) propertied order. Supporters and opponents of a TRIPS waiver for the COVID-19 vaccines (February 2021) Despite calls to make COVID-19 vaccines and related technologies a global public good, western pharmaceutical companies have declined to loosen or temporarily suspend IP protections and transfer technology to generic manufacturers. Such transfer would enable the scale-up of production and supply of lifesaving COVID-19 medical tools across the world. Furthermore, these countries are also blocking the TRIPS waiver proposal put forward by South Africa and India at the WTO despite being supported by 57 mostly developing countries. The waiver proposal seeks to temporarily postpone certain provisions of the TRIPS Agreement for treating, containing and preventing the coronavirus, but only until widespread vaccination and immunity are achieved. This means that countries will not be required to provide any form of IP protection on all COVID-19 related therapeutics, diagnostics and other technologies for the duration of the pandemic. It is important to reiterate the waiver proposal is time-limited and is different from TRIPS flexibilities, which are safeguards within the Agreement to mitigate the negative impact of patents such as high price of patented medicines. These safeguards include compulsory licenses and parallel importation. However, because of the onerous process of initiating these flexibilities as well as the threat of possible trade penalties by the US through the United States Trade Representative (USTR) “Special 301” Report targeting countries even in the absence of illegality, many developing countries are reluctant to invoke TRIPS flexibilities for public health purposes. For example, in the past, countries such as Colombia, India, Thailand and recently Malaysia have all featured in the Special 301 Report for using compulsory licenses to increase access to cancer medications. It is these challenges that the TRIPS waiver seeks to alleviate and, if approved, would also provide countries the space, without fear of retaliation from developed countries, to collaborate with competent developers in the R&D, manufacturing, scaling-up, and supply of COVID-19 tools. However, because this waiver is being opposed by a group of developed countries, we are grappling with the problem of artificially-created vaccine scarcity. The effect of this scarcity will further prolong and deepen the financial impact of this pandemic currently estimated to cost USD 9.2 trillion, half of which will be borne by advanced economies. Thus, in opposing the TRIPS waiver with the hopes of reaping huge financial rewards, developed countries are worsening pandemic woes in the long term. Perhaps it is time to reorient our sight and call the ongoing practices of buying up global supply of vaccine what it truly is – vaccine imperialism. Another kind of scarcity caused by vaccine nationalism has also reduced equitable access. Vaccine nationalism is a phenomenon where rich countries buy up global supply of vaccines through advance purchase agreements (APA) with pharmaceutical companies for their own populations at the expense of other countries. But perhaps it is time to reorient our sight and call the ongoing practices of buying up global supply of vaccine what it truly is – vaccine imperialism. **If we take seriously the argument put forward by Antony Anghie on the colonial origins of international law, particularly how these origins create a set of structures that continually repeat themselves at various stages, we will begin to see COVID-19 vaccine accumulation not only as political, but also as imperial continuities manifesting in the present**. Take, for instance, the report released by the Duke Global Health Innovation Center that shows that high-income countries have already purchased nearly 3.8 billion COVID-19 vaccine doses. Specifically, the United States has secured 400 million doses of the Pfizer-BioNTech and Moderna vaccines, and has APAs for more than 1 billion doses from four other companies yet to secure US regulatory approval. The European Union has similarly negotiated nearly 2.3 billion doses under contract and is negotiating for about 300 million more. With these purchases, these countries will be able to vaccinate their populations twice over, while many developing states, especially in Africa, are left behind. In hoarding vaccines whilst protecting the IP interests of their pharmaceutical multinational corporations, the afterlife of imperialism is playing out in this pandemic. Moreover, these bilateral deals are hampering initiatives such as the COVID-19 Vaccine Global Access Facility (COVAX) – a pooled procurement mechanism for COVID-19 vaccine – aimed at equitable and science-led global vaccine distribution. By engaging in bilateral deals, wealthy countries impede the possibility of effective mass-inoculation campaigns. While the usefulness of the COVAX initiative cannot be denied, it is not enough. It will cover only the most vulnerable 20 per cent of a country’s population, it is severely underfunded and there are lingering questions regarding the contractual obligations of pharmaceutical companies involved in the initiative. For instance, it is not clear whether the COVAX contract includes IP-related clauses such as sharing of technological know-how. Still, even with all its faults, without a global ramping-up of production, distribution and vaccination campaigns via COVAX, the world will not be able to combat the COVID-19 pandemic and its growing variants. Health inequity and inequalities in vaccine access are not unfortunate outcomes of the global IP regime; they are part of its central architecture. The system is functioning exactly as it is set up to do. These events – the corporate capture of the global pharmaceutical IP regime, state complicity and vaccine imperialism – are not new. Recall Article 7 of TRIPS, which states that the objective of the Agreement is the ‘protection and enforcement of intellectual property rights [to] contribute to the promotion of technological innovation and to the transfer and dissemination of technology’. In similar vein, Article 66(2) of TRIPS further calls on developed countries to ‘provide incentives to enterprises and institutions within their territories to promote and encourage technology transfer to least-developed country’. While the language of ‘transfer of technology’ might seem beneficial or benign, in actuality it is not. As I discussed in my book, and as Carmen Gonzalez has also shown, when development objectives are incorporated into international legal instruments and institutions, they become embedded in structures that may constrain their transformative potential and reproduce North-South power imbalances. This is because these development objectives are circumscribed by capitalist imperialist structures, adapted to justify colonial practices and mobilized through racial differences. These structures are the essence of international law and its institutions even in the twenty-first century. They continue to animate broader socio-economic engagement with the global economy even in the present as well as in the legal and regulatory codes that support them. Thus, it is not surprising that even in current global health crisis, calls for this same transfer of technology in the form of a TRIPS waiver to scale up global vaccine production is being thwarted by the hegemony of developed states inevitably influenced by their respective pharmaceutical companies. The ‘emancipatory potential’ of TRIPS cannot be achieved if it was not created to be emancipatory in the first place. It also makes obvious the ways international IP law is not only unsuited to promote structural reform to enable the self-sufficiency and self-determination of the countries in the global south, but also produces asymmetries that perpetuate inequalities. Concluding Remarks What this pandemic makes clear is that the development discourse often touted by developed nations to help countries in the Global South ‘catch up’ is empty when the essential medicines needed to stay alive are deliberately denied and weaponised. Like the free-market reforms designed to produce ‘development’, IP deployed to incentivize innovation is yet another tool in the service of private profits. As this pandemic has shown, the reality of contemporary capitalism – including the IP regime that underpins it – is competition among corporate giants driven by profit and not by human need. The needs of the poor weigh much less than the profits of big business and their home states. However, it is not all doom and gloom. Countries such as India, China and Russia have stepped up in the distribution of vaccines or what many call ‘vaccine diplomacy.’ Further, Cuba’s vaccine candidate Soberana 02, which is currently in final clinical trial stages and does not require extra refrigeration, promises to be a suitable option for many countries in the global South with infrastructural and logistical challenges. Importantly, Cuba’s history of medical diplomacy in other global South countries raises hope that the country will be willing to share the know-how with other manufactures in various non-western countries, which could help address artificial supply problems and control over distribution. In sum, this pandemic provides an opportune moment to overhaul this dysfunctional global IP system. We need not wait for the next crisis to learn the lessons from this crisis.

#### Thus, the member nations of the WTO ought to reduce all Intellectual Property Protections. CX Checks for any Specification

#### Only with IPR are the elite able to sadistically control the global market. Without their IPR, corporations will fail to thrive.

Pagano 14 (Ugo Pagano, Ugo Pagano is an Italian economist and Professor of Economic Policy at the University of Siena where he is also Director of the PhD programme in Economics and President of S. Chiara Graduate School, “A Crisis of Intellectual Monopoly Capitalism”, November 2014)//RM

In the midst of the financial crisis, the Financial Times of 6 March 2009 reported that government was considering saving Opel from the possible bankruptcy of GM, only that, although the company had the same workers, machines and management0, its vanished because some legal papers had changed hands (Benoit and Schaefer, 2009): 'Our impression is that Opel has not freed itself from GM's influence and that it serious about becoming more autonomous as a business,' the insider said, confirming Mr Guttenberg and Ms Merkel were losing patience with the companies. Berlin has refused to assist Opel without cast-iron guarantees that the money will GM or be lost in the wake of a GM insolvency. Officials say Opel's restructuring suggestions far have failed to provide this guarantee. The government suspects GM has provided some of Opel's patents as collateral to the US Treasury in exchange for financial assistance. Berlin therefore doubts Opel would be shielded against a GM insolvency. Without its patents, Opel was worth nothing and could not be saved even by substantial funding from the German state. This story exemplifies the nature of intellectual monop oly capitalism and in particular the importance of intellectual property rights (IPR) for a company's future prospects and value. Even if machines, workers and state support are still in place, a company may have no future when it is deprived of its intellectual property. The situation is likely to be even worse if the company has had no ownership of intellectual assets since the outset. Even if we disregard the overwhelming importance of trademarks, the absence of other forms of intellectual property is sufficient to jeopardise a company's prospects. With IPR protection lacking, all other resources, such as related skills and physical resources, are unlikely to be developed and investment opportunities may be completely blocked by the absence of a multiple set of factors. The overall blocking effect of patents appears to be even stronger if one considers that they include not only technological blueprints but also basic design **patents.** In the 3 An account of cases in which traditional knowledge has been stolen by multinationals is given by Shiva (2001). 4 For example, see Shiva (2001, pp. 44-8). 5 The blocking effect of patents was first considered in Heller and Heisemberg's (1998) classic study on anti-commons. Chang (2002) considered the constraints set by patents on development opportunities. For a more recent assessment of the problem see also Jaffe and Lerner (2006). Apple even claimed ownership of geometric shapes such as rectangles with rounded corners: The following elements of Apple product designs comprise the Apple i-phone Trade Dress at issue in this case: - a rectangular product with four evenly rounded corners; - a flat clear surface covering the front of the product; - a display screen under the clear surface; - under the clear surface, substantial neutral (black or white) borders above and below the display screen; - when the device is on, a matrix of colorful icons with evenly rounded corners within the display screen; - when the device is switched on, a bottom dock of colorful square icons with evenly rounded corners set off from the other icons on the display, which does not change as other pages of the user interface are viewed. (United States District Court, 2011, pp. 18-19) However, in spite of Apple's claims, rectangles are the only reasonable shapes for these devices and corners must be rounded for safety reasons. The intellectual ownership of such elementary geometric shapes would block the entire development of the mobile communication devices industry. While Apple tries to remove rounded rectangles from the public sphere, much of the technology generating the astronomic profit-making iPhone (from Internet, semicon ductors and microchips to GPS, Siri and touch-screen technologies) comes from huge investments made by public agencies that get little or no return for their very risky investments (Mazzucato, 2013, pp. 87-110). The picture is even worse when we consider that some agents—the so-called patent trolls6—do not use their patents to protect their own technological advances but only to extract profits from companies that they can 'hold up' with their patents. While pure patent trolls may still be a minority phenomenon, the growth industry of the new millen nium (Lemley, 2008, p. 613) may be patent hold-up: Hundreds of companies are engaging in efforts to capture not just the value of what they contributed to an invention, but also a disproportionate share of somebody else's product. (Lemley, 2008, pp. 613-14) It will be argued in the next section that these multiple blockages, due to intellectual monopoly capital, must be included among the causes of the current 'Great Recession'. We can conclude this section by observing that the same blockages evidence the extent to which, under modern intellectual monopoly capitalism, the labourer is brought face to face with the intellectual potencies of the material process of production, as the property of another, and as a riding power. 6 Strictly speaking, we can define patent trolls as entities that 'license' only the right not be sued and are not engaged in any technological transfer. However most firms carry out both activities and are character ised by different mixes of them. Since the 1980 Bayh-Dole Act, universities are not only permitted but also encouraged to patent federally funded inventions and in the past three decades they have contributed to the massive surge of patenting. Universities have also made an unfortunate contribution to the growth of the hold-up industry. Indeed, since they are not directly interested in production and are engaged in more basic research, cross-licensing cannot help solve the hold-up problem, which in their case is particularly damaging because it concerns usually essential upstream knowledge (Lemley, 2008, pp. 615-19). This monopoly power the worker must face the intellectual potencies of the production process as another and as a ruling poiver setting legal limits on the development of workers' bilities and skills. In this respect, what was in Marx's time the 'future of capitalism' gone well beyond Marx's most dramatic expectations.

#### The affirmative is a class-based critique through a radical interrogation of the fundamental structures of capitalism—pedagogical spaces are the crucial staging ground for keeping socialism on the horizon. Thus, the role of the ballot is to vote for the best methodology to resist capitalism.

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(Peter and Valerie, “Class Dismissed? Historical materialism and the politics of ‘difference’,” Educational Philosophy and Theory Vol. 36, Issue 2, p. 183-199)//RM

For well over two decades we have witnessed the jubilant liberal and conservative pronouncements of the demise of socialism. Concomitantly, history's presumed failure to defang existing capitalist relations has been read by many self-identified ‘radicals’ as an advertisement for capitalism's inevitability. As a result, the chorus refrain ‘There Is No Alternative’, sung by liberals and conservatives, has been buttressed by the symphony of post-Marxist voices recommending that we give socialism a decent burial and move on. Within this context, to speak of the promise of Marx and socialism may appear anachronistic, even naïve, especially since the post-al intellectual vanguard has presumably demonstrated the folly of doing so. Yet we stubbornly believe that the chants of T.I.N.A. must be combated for they offer as a fait accompli, something which progressive Leftists should refuse to accept—namely the triumph of capitalism and its political bedfellow neo-liberalism, which have worked together to naturalize suffering, undermine collective struggle, and obliterate hope. We concur with Amin (1998), who claims that such chants must be defied and revealed as absurd and criminal, and who puts the challenge we face in no uncertain terms: humanity may let itself be led by capitalism's logic to a fate of collective suicide or it may pave the way for an alternative humanist project of global socialism. The grosteque conditions that inspired Marx to pen his original critique of capitalism are present and flourishing. The inequalities of wealth and the gross imbalances of power that exist today are leading to abuses that exceed those encountered in Marx's day (Greider, 1998, p. 39). Global capitalism has paved the way for the obscene concentration of wealth in fewer and fewer hands and created a world increasingly divided between those who enjoy opulent affluence and those who languish in dehumanizing conditions and economic misery. In every corner of the globe, we are witnessing social disintegration as revealed by a rise in abject poverty and inequality. At the current historical juncture, the combined assets of the 225 richest people is roughly equal to the annual income of the poorest 47 percent of the world's population, while the combined assets of the three richest people exceed the combined GDP of the 48 poorest nations (CCPA, 2002, p. 3). Approximately 2.8 billion people—almost half of the world's population—struggle in desperation to live on less than two dollars a day (McQuaig, 2001, p. 27). As many as 250 million children are wage slaves and there are over a billion workers who are either un- or under-employed. These are the concrete realities of our time—realities that require a vigorous class analysis, an unrelenting critique of capitalism and an oppositional politics capable of confronting what Ahmad (1998, p. 2) refers to as ‘capitalist universality.’ They are realities that require something more than that which is offered by the prophets of ‘difference’ and post-Marxists who would have us relegate socialism to the scrapheap of history and mummify Marxism along with Lenin's corpse. Never before has a Marxian analysis of capitalism and class rule been so desperately needed. That is not to say that everything Marx said or anticipated has come true, for that is clearly not the case. Many critiques of Marx focus on his strategy for moving toward socialism, and with ample justification; nonetheless Marx did provide us with fundamental insights into class society that have held true to this day. Marx's enduring relevance lies in his indictment of capitalism which continues to wreak havoc in the lives of most. While capitalism's cheerleaders have attempted to hide its sordid underbelly, Marx's description of capitalism as the sorcerer's dark power is even more apt in light of contemporary historical and economic conditions. Rather than jettisoning Marx, decentering the role of capitalism, and discrediting class analysis, radical educators must continue to engage Marx's oeuvre and extrapolate from it that which is useful pedagogically, theoretically, and, most importantly, politically in light of the challenges that confront us. The urgency which animates Amin's call for a collective socialist vision necessitates, as we have argued, moving beyond the particularism and liberal pluralism that informs the ‘politics of difference.’ It also requires challenging the questionable assumptions that have come to constitute the core of contemporary ‘radical’ theory, pedagogy and politics. In terms of effecting change, what is needed is a cogent understanding of the systemic nature of exploitation and oppression based on the precepts of a radical political economy approach (outlined above) and one that incorporates Marx's notion of ‘unity in difference’ in which people share widely common material interests. Such an understanding extends far beyond the realm of theory, for the manner in which we choose to interpret and explore the social world, the concepts and frameworks we use to express our sociopolitical understandings, are more than just abstract categories. They imply intentions, organizational practices, and political agendas. Identifying class analysis as the basis for our understandings and class struggle as the basis for polistical transformation implies something quite different than constructing a sense of political agency around issues of race, ethnicity, gender, etc. Contrary to ‘Shakespeare's assertion that a rose by any other name would smell as sweet,’ it should be clear that this is not the case in political matters. Rather, in politics ‘the essence of the flower lies in the name by which it is called’ (Bannerji, 2000, p. 41).

#### The role of the judge is that the judge is an intellectual grading the knowledge claims of the 1AC. Beginning discussions at the intellectual causes better social changes, takes the ideological blinders off policymakers, and reclaims the political---this is empirically proven by the end of the Cold War, peace movements in the 80s and the Intifada in the Middle East

Bilgin 05 [Assistant Prof of International Relations at Bilkent University, REGIONAL SECURITY IN THE MIDDLE EAST A CRITICAL PERSPECTIVE, p54]//RM

The point is that a broader security agenda requires students of security to look at agents other than the state, such as social movements, nongovernmental organisations (NGOs) and individuals, instead of restricting their analysis to the state’s agency. This is essential not only because states are not always able (or willing) to fulfil their side of the bargain in providing for their citizens’ security, as noted above, but also because there already are agents other than states – be it social movements or intellectuals – who are striving to provide for the differing needs of peoples (themselves and others). This is not meant to deny the salience of the roles states play in the realm of security; on the contrary, they remain significant actors with crucial roles to play.25 Rather, the argument is that the state’s dominant position as an actor well endowed to provide (certain dimensions of) security does not justify privileging its agency. Furthermore, broadening the security agenda without attempting a reconceptualisation of agency would result in falling back upon the agency of the state in meeting non-military threats. The problem with resorting to the agency of the state in meeting non-military threats is that states may not be the most suitable actors to cope with them. In other words, the state being the most qualified actor in coping with some kinds of threats does not necessarily mean it is competent (or willing) enough to cope with all. This is why students of critical approaches aim to re-conceptualise agency and practice. Critical approaches view non-state actors, in particular, social movements and intellectuals, as potential agents for change (Cox 1981, 1999; Walker 1990b; Hoffman 1993; Wyn Jones 1995a, 1999). This echoes feminist approaches that have emphasised the role of women’s agency and maintained that ‘women must act in the provision of their own security’ if they are to make a change in a world where their security needs and concerns are marginalised (Tickner 1997; also see Sylvester 1994). This is not necessarily wishful thinking on the part of a few academics; on the contrary, practice indicates that peoples (as individuals and social groups) have taken certain aspects of their own and others’ security into their own hands (Marsh 1995: 130–5; Turner 1998). Three successful examples from the Cold War era – the Nestlé boycott, the anti-apartheid campaign for South Africa and the campaign against nuclear missile deployments in Europe – are often viewed as having inspired the social movements of the post-Cold War era (Lopez et al. 1997: 230–1; Marsh 1995). Christine Sylvester (1994) has also pointed to the examples of the Greenham Common Peace Camp in Britain (1980–89) and women’s producer cooperatives in Harare, Zimbabwe (1988–90) to show how women have intervened to enhance their own and others’ security. These are excellent examples of how a broader conception of security needs to be coupled with a broader conception of agency. It should be noted here that the call of critical approaches for looking at the agency of non-state actors should not be viewed as allocating tasks to preconceived agents. Rather, critical approaches aim to empower nonstate actors (who may or may not be aware of their own potential to make a change) to constitute themselves as agents of security to meet this broadened agenda. Nor should it be taken to suggest that all non-state actors’ practices are emancipatory. Then, paying more attention to the agency of non-state actors will enable students of security to see how, in the absence of interest at the governmental level (as is the case with the Middle East), non-state actors could imagine, create and nurture community-building projects and could help in getting state-level actors interested in the formation of a security community. It should, however, be noted that not all non-state actors are community-minded – just as not all governments are sceptical of the virtues of community building. Indeed, looking at the agency of nonstate actors is also useful because it enables one to see how non-state actors could stall community-building projects. In the Middle East, women’s movements and networks have been cooperating across borders from the beginning of the Intifada onwards. Women’s agency, however, is often left unnoticed, because, as Simona Sharoni (1996) has argued, the eyes of security analysts are often focused on the state as the primary security agent. However, the Intifada was marked by Palestinian and Israeli-Jewish women’s adoption of non-zerosum, non-military practices that questioned and challenged the boundaries of their political communities as they dared to explore new forms of political communities (Mikhail-Ashrawi 1995; Sharoni 1995). Such activities included organising a conference entitled ‘Give Peace a Chance – Women Speak Out’ in Brussels in May 1989. The first of its kind, the conference brought together about 50 Israeli and Palestinian women from the West Bank and Gaza Strip together with PLO representatives to discuss the Israeli–Palestinian conflict. The follow-up event took place in Jerusalem in December 1989 where representatives of the Palestinian Women’s Working Committees and the Israeli Women and Peace Coalition organised a women’s day for peace which, Sharoni noted, ‘culminated in a march of 6,000 women from West to East Jerusalem under the banner “Women Go For Peace”’ (Sharoni 1996: 107). Aside from such events that were designed to alert public opinion of the unacceptability of the Israel/Palestine impasse as well as finding alternative ways of peacemaking, women also undertook direct action to alleviate the condition of Palestinians whose predicament had been worsening since the beginning of the Intifada (Mikhail-Ashrawi 1995). In this process, they were aided by their Western European counterparts who provided financial, institutional as well as moral support. In sum, women’s agency helped make the Intifada possible on the part of the Palestinian women, whilst their Israeli- Jewish counterparts helped enhance its impact by way of questioning the moral boundaries of the Israeli state. The Intifada is also exemplary of how non-state actors could initiate processes of resistance that might later be taken up by policy-makers. The Intifada began in 1987 as a spontaneous grassroots reaction to the Israeli occupation and took the PLO leadership (along with others) by surprise. It was only some weeks into the Intifada that the PLO leadership embraced it and put its material resources into furthering the cause, which was making occupation as difficult as possible for the Israeli government. Although not much came out of the Intifada in terms of an agree- ment with Israel on issues of concern for the people living in the occupied territories, the process generated a momentum that culminated in 1988 with the PLO’s denouncement of terrorism. The change in the PLO’s policies, in turn, enabled the 1993 Oslo Accords, which was also initiated by non-state actors, in this case intellectuals (Sharoni 1996). The point here is that it has been a combination of top-down and bottom-up politics that has been at the heart of political change, be it the 1989 revolutions in Eastern Europe, or Intifada in Israel/Palestine. Emphasising the roles some non-state actors, notably women’s networks, have played as agents of security is not to suggest that all non-state agents’ practices are non-zero-sum and/or non-violent. For instance, there are the cases of Islamist movements such as FIS (the Islamic Salvation Front) in Algeria and Hamas in the Occupied Territories that have resorted, over the years, to violent practices as a part of their strategies that were designed to capture the state mechanism. However, although they may constitute threats to security in the Middle East in view of their violent practices, what needs to be remembered is that both FIS and Hamas function as providers for security for some peoples in the Middle East – those who are often neglected by their own states (Esposito 1995: 162–83). In other words, some Islamist movements do not only offer a sense of identity, but also propose alternative practices and provide tangible economic, social and moral support to their members. However, the treatment women receive under the mastery of such Islamist movements serves to remind us that there clearly are problems involved in an unthinking reliance on non-governmental actors as agents for peace and security or an uncritical adoption of their agendas. Middle Eastern history is replete with examples of non-state actors resorting to violence and/or adopting zero-sum practices in the attempt to capture state power. In fact, it is often such violent practices of nonstate actors (that is, terrorism or assassination of political leaders) that are mentioned in security analyses. Nevertheless, the fact that not all non-state actors are fit to take up the role of serving as agents of emancipatory change should not lead one to downplay the significant work some have done in the past, and could do in the future. After all, not all states serve as providers of security; yet Security Studies continues to rely on their agency. Then, in order to be able to fulfil the role allocated to them by critical approaches, non-state actors should be encouraged to move away from traditional forms of resistance that are based on exclusionist identities, that solely aim to capture state power or that adopt zero-sum thinking and practices. Arguably, this is a task for intellectuals to fulfil. This is not to suggest that intellectuals should direct or instruct non-state actors. As Wyn Jones (1999: 162) has noted, the relationship between intellectuals and social movements is based on reciprocity. The 1980s’ peace movements, for instance, are good examples of intellectuals getting involved with social movements in bringing about change – in this case, the end of the Cold War (Galtung 1995; Kaldor 1997). The relationship between intellectuals and peace movements in Europe was a mutually interactive one in that the intellectuals encouraged and led whilst drawing strength from these movements. Emphasising the mutually interactive relationship between intellectuals and social movements should not be taken to suggest that to make a change, intellectuals should get directly involved in political action. They could also intervene to provide a critique of the existing situation, what future outcomes may result if necessary action is not taken at present, and by pointing to potential for change immanent in world politics. Students of security could help create the political space that would enable the emergence of a Gorbachev, by presenting such critique. It should, however, be emphasised that such thinking should be anchored in the potential immanent in world politics. In other words, intellectuals should be informed by the practices of social movements themselves (as was the case in Europe in the 1980s). The hope is that non-state actors such as social movements and intellectuals (who may or may not be aware of their potential to make a change) may constitute themselves as agents when presented with an alternative reading of their situation. Lastly, intellectuals could make a change even if they limit their practices to thinking, writing and self-reflection. During the Cold War very few security analysts were conscious and open about the impact their thinking and writing could make. Richard Wyn Jones cites the example of Edward N. Luttwak as one such exception who admitted that ‘strategy is not a neutral pursuit and its only purpose is to strengthen one’s own side in the contention of nations’ (cited in Wyn Jones 1999: 150). Still, such explicit acknowledgement of the political dimension of strategic thinking was rare during the Cold War. On the contrary, students of International Relations in general and Security Studies in particular have been characterised by limited or no self-reflection as to the potential impact their research could make on the subject of research (Wyn Jones 1999: 148–50). To go back to the argument made above about the role of the intellectual as an agent of security and the mutually constitutive relationship between theory and practice, students of critical approaches to security could function as agents of security by way of reflecting upon the practical implications of their own thinking and writing. Self-reflection becomes crucial when the relationship between theory and practice is conceptualised as one of mutual constitution. State-centric approaches to security do not simply reflect a reality ‘out there’ but help reinforce statism. Although it may be true that the consequences of these scholarly activities are sometimes ‘unintended’, there nevertheless should be a sense of selfreflection on the part of scholars upon the potential consequences of their research and teaching. The point here is that critical approaches that show an awareness of the socially constructed character of ‘reality’ need not stop short of reflecting upon the constitutive relationship between theory and practice when they themselves are theorising about security. Otherwise, they run the risk of constituting ‘threats to the future’ (Kubálková 1998: 193–201).

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#### 1] 1AR theory – a) AFF gets it because otherwise the neg can engage in infinite abuse, making debate impossible, b) drop the debater – the 1AR is too short for theory and substance so ballot implications are key to check abuse, c) no RVIs – they can stick me with 6min of answers to a short arg and make the 2AR impossible, d) competing interps – 1AR interps aren’t bidirectional and the neg should have to defend their norm since they have more time. *Aff theory first – it’s a much larger strategic loss because 1min is ¼ of the 1AR vs 1/7 of the 1NC which means there’s more abuse if I’m devoting a larger fraction of time.* Fairness because debate’s a game that needs rules to evaluate it and education since it gives us portable skills for life like research and thinking.