# 1AC – Lay – Sept/Oct

#### I affirm the resolution: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

**Before we start this round here are some key definitions:**

**The World Trade Organization or known as the WTO is defined as the**

"WTO," No Publication, https://www.wto.org/english/thewto\_e/whatis\_e/whatis\_e.htm, accessed 9-6-2021 [Durham AA]

The World Trade Organization (WTO) is the **only global international organization dealing with the rules of trade between nations**. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations and ratified in their parl=iaments. The goal is to help producers of goods and services, exporters, and importers conduct their business.

**Intellectual property protections as defined by the WTO are**

"WTO," No Publication, https://www.wto.org/english/tratop\_e/trips\_e/intel1\_e.htm, accessed 9-6-2021 [Durham AA]

Intellectual property rights are the **rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.**

**That means when you affirm the resolution you reduce the “exclusive rights” that pharmaceutical companies have over medicine pricing.**

**Now onto the framework for this round**

## Framing

#### Morality must be rooted in consequences

#### Value is only accessible through experience.

Sam Harris 10, CEO Project Reason; PHD UCLA Neuroscience; BA Stanford Philosophy, “ The Moral Landscape: How Science Can Determine Human Values”) OS

Here is my (consequentialist) starting point: all questions of value (right and wrong, good and evil, etc.) depend upon the possibility of experiencing such value. Without potential consequences at the level of experience—happiness, suffering, joy, despair, etc.—all talk of value is empty. Therefore, to say that an act is morally necessary, or evil, or blameless, is to make (tacit) claims about its consequences in the lives of conscious creatures (whether actual or potential). I am unaware of any interesting exception to this rule. Needless to say, if one is worried about pleasing God or His angels, this assumes that such invisible entities are conscious (in some sense) and cognizant of human behavior. It also generally assumes and that it is possible to suffer their wrath or enjoy their approval, either in this world or the world to come. Even within religion, therefore, consequences and conscious states remain the foundation of all values.

#### Only consequences can explain degrees of wrongness, i.e. why it’s worse to break a promise to a dying friend than to meet someone for lunch.

#### Thus, the standard is maximizing expected wellbeing.

#### Prefer additionally – 1. Death must be the primary concern of an ethical theory since it destroys the subject itself.

Craig Paterson 03 – Department of Philosophy, Providence College, Rhode Island, “A Life Not Worth Living?”, Studies in Christian Ethics, 2003.

Contrary to those accounts, I would argue that it is **death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good** judged better than the alter- native of non-being. **It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically** destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81  In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### 2. Actor spec – states can only use util since they require aggregation to determine tradeoffs – outweighs since different actors have different obligations. Side-constraints can’t determine when to apply each framework.

### Now onto my First Contention: Equitable Access

**People need to access their life-saving drugs, but right now, price is preventing many from getting the medications they need. In the status quo, we observe that prices for prescription drugs have been skyrocketing.**

**A study done by the Association for Accessible Medicines shows that**

Association for Accessible Medicines, "Skyrocketing Drug Prices: What's Driving Up Costs?," No Publication, https://accessiblemeds.org/resources/blog/skyrocketing-drug-prices-whats-driving-costs, accessed 9-6-2021 [Durham AA]

**This crisis is fueled by the high launch prices of new brand biologics and year-over-year price increases of brand drugs that face no competition in the market for many years due to abuses of the patent system. A recent report shows the average annual price of specialty drugs has tripled over the last ten years from nearly**[**$18,000 to more than $52,000 today.1**](https://www.aarp.org/content/dam/aarp/ppi/2017/11/full-report-trends-in-retail-prices-of-specialty-prescription-drugs-widely-used-by-older-americans.pdf)**With** brand-name drugs now accounting for 77 percent of all spending on prescription drugs, patients are experiencing higher pharmacy costs, higher premiums and higher deductibles as a result of high brand drug prices.2

**Simply put it, the study states:**

**Moreover, taxpayers are footing the bill as increased prescription drug spending drives up Medicare and Medicaid spending. The increasing cost of brand drugs is unsustainable.**

**This increase is largely due to abuses of the patent system by the brand-name drug companies. After a 20-year patent is up, generics are supposed to flood into the market.**

**However, Nocera in 2017 says that**

**Joe Nocera, 10-23-2017, "Here's how drug companies game the patent system," chicagotribune, https://www.chicagotribune.com/opinion/commentary/ct-perspec-drugs-health-care-pharm-1024-20171023-story.html, accessed 10-1-2021 [AA^2]**

But for some time now, **big pharmaceutical companies have found ways to extend their monopolies on branded drugs by preventing lower-priced generics from entering the market. The primary way they've done this is by abusing the patent system.** In effect, that is what Bryson called Allergan out on.

He issued two rulings. In the smaller one, he allowed the Saint Regis Mohawks to join Allergan as a co-plaintiff in the litigation while also making it plain that he found the ploy disgraceful. "What Allergan seeks," he wrote, "is the right to continue to enjoy the considerable benefits of the U.S. patent system without accepting the limits that Congress has placed on those benefits."

**These companies are no longer using their patents to promote research and development, but are instead using the laws to gain the most profit.**

**In order to solve this problem we have to get rid of the patent system and regulatory restrictions that pharmaceutical companies use to exploit people**

**Tina Bhatt from the Brooklyn law journal even agrees with this saying**

[Tina S., Amending TRIPS: A New Hope for Increased Access to Essential Medicines, 33 Brook. J. Int'l L., 2008, <https://brooklynworks.brooklaw.edu/bjil/vol33/iss2/6>, accessed 8-1-21]

**Despite the international prioritization of health issues, adequate access to essential medicines continues to elude millions across the globe. One major obstacle [on adequate access to essential medicines] has been international trade and intellectual property laws. While significant strides have been made in harmonizing those regimes with the right of access to essential medicines, U.S. TRIPS-plus policy thwarts progress. Until recently, there were no legal mechanisms to prompt the United States and its trading partners to honor the right. However, the WTO’s recent decision to amend TRIPS heralds new possibilities for enforcing countries’ legal obligations under the right of access to medicine.**

**Because of these high prices, a WHO report states that**

WHO, "," No Publication, https://w`ww.who.int/publications/10-year-review/chapter-medicines.pdf, accessed 9-7-2021 [Durham AA]

**Nearly 2 billion people have no access to basic medicines**, causing a cascade of preventable misery and suffering. Since the landmark agreement on the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, WHO and its partners have launched a number of initiatives that are making market forces serve the poor. The WHO prequalification programme is now firmly established as a mechanism for improving access to safe, effective and quality-assured products.

**By affirming and reducing the cost barrier of these medications, we give people around the world the most basic human right, a right to life**

### Contention 2: Intellectual Property Protections Create Perverse Incentives

**This is true in two ways.**

**First, the industry focuses on chronic diseases affecting the wealthy, as that is the group most able to pay exorbitant prices for a long period of time.**

**The Wharton School of Economics at the University of Pennsylvania explains research by Yale Professor Thomas Pogge:**

May 26, 2010, 5-26-2010, "The Price of a Cure? How Big Pharma Can Help Poverty-stricken Populations," Knowledge@Wharton, https://knowledge.wharton.upenn.edu/article/the-price-of-a-cure-how-big-pharma-can-help-poverty-stricken-populations/, accessed 9-7-2021 [Durham AA]

**The high markups discourage development of drugs to treat diseases that plague the developing world because companies can make so much more money catering to patients in richer countries who can afford to pay premium prices for drugs to treat such ailments as diabetes and heart disease.** Pogue also argued that the payment structure encourages research into drugs that alleviate the symptoms of disease, but do not actually cure them. If a patient’s symptoms are treated but he or she still suffers from an illness, then the drug companies have a customer for life.

**This is perverse because life expectancy is much shorter in the developing world and health challenges are much greater. Reducing intellectual property protections would help rebalance this incentive.**

**Second, unlimited pricing drives pharmaceutical companies to try to drum up business using direct-to-consumer marketing.**

**According to Drugwatch in 2018,**

Convincing people they are sick and need a drug is a multi-billion dollar industry. In 2015, [**Big Pharma**](https://www.drugwatch.com/manufacturers/)**[Pharmaceutical companies] dropped a record-breaking $5.4 billion on** [direct-to-consumer (DTC) **ads**](https://www.drugwatch.com/news/2012/01/18/direct-to-consumer-marketing/), according to Kantar Media. And it paid off for Big Pharma. The same year, Americans spent a record $457 billion on prescription drugs. The U.S. and New Zealand are the only countries where DTC is legal. Americans also pay more for drugs and devices than any other country.

**Unfortunately, these advertisements, which are normally focused on the highest-priced drugs, lead to inappropriate and excessive prescriptions as patients press their doctors for the latest fad.**

**Dr. Andy Lazris confirms that marketing to consumers is a “nightmare” and**

**5-23-2018, "Consumer drug ads: The harms that come with pitching lifestyle over information," HealthNewsReview.org, https://www.healthnewsreview.org/2018/05/direct-to-consumer-tv-drug-ads/, accessed 9-7-2021 [Durham AA]**

“Everyone on the ads appears healthy, happy, dancing, and they get better. So people are led to believe a) the drug will be effective (which is often not the case), and b) that they should replace their old therapy with the newer one because it’s better (again, which is often not the case) “And if they give you any numbers at all they’re almost always the deceptive relative numbers that look really good, not the more realistic absolute numbers. So the benefits are over-exaggerated, the harms are downplayed or missed, and **that’s how patients can get hurt.”**

**Intellectual Property protections would remove the incentive for this type of marketing and would protect patients’ health.**

**Contention 3: Solving Pandemics**

#### Existing international IP law, known as TRIPS, prevents access to COVID vaccines

#### Labonte and Johri 20

Labonte, Ronald, and Mira Johri. "COVID-19 drug and vaccine patents are putting profit before people." *The Conversation* 5 (2020). (http://globalhealthequity.ca/wp-content/uploads/2020/11/COVID-19-drug-and-vaccine-patents-are-putting-profit-before-people.pdf)

The **TRIPS flexibilities** are important policies but they are not perfect. Rules allowing compulsory licensing apply only on a case-by-case and product-by-product basis. This **slows** down the ability of **countries[‘]** to scale up **production of** needed **COVID-19 products**. Developing countries with laws that permit compulsory licensing, or that have used such laws in the past, have also come under criticism and trade-bargaining pressures from both the European Union and the United States — homes to companies holding most of the world’s drug and medical-supply patents. Parallel importation is even more complex. Importing countries need to negotiate formal contracts with an exporting country’s producer. The products must be uniquely packaged. Approval is only for a specific amount for a specific time and for a specific purpose. TRIPS waiver opponents also argue that voluntary licenses should take care of most COVID-19 shortage issues. But **the ability to agree to a voluntary license rests with the patent-holder and** represents only a second-best short-term solution. Waiver proponents counter that today’s pandemic situation is novel, one in which more than US$70 billion public funding has gone to support COVID-19 research and development, often with no strings attached. a **few companies have** voluntarily **given up** some of **their IP rights**. Moderna, a vaccine front-runner, has said it would not enforce its patents and would license its COVID-19-related patents with other vaccine manufacturers. Its trade secrets for its vaccine, however, would not necessarily be shared. AstraZeneca will make its Oxford-researched vaccine available on a cost basis until the pandemic is over, although stipulating that only applies until July 31, 2021. Eli Lilly, in an agreement with the Bill & Melinda Gates Foundation, will forego royalties for low- and middle-income countries for its (still experimental) COVID-19 antibody treatment. But these are all one-off arrangements with an aura of charity rather than of obligation. As of Oct. 15, not a single drug company has joined the World Health Organization’s COVID-19 Technology Access Pool (C-TAP), which encourages industry wide contributions of IP, technologies and data to allow global sharing and manufacturing scale-up of all COVID-19 health products. Pharma appears reluctant to give up future potential IP windfalls.

**What happens is that the big pharmaceutical companies are the only who can make the vaccine, this makes the vaccines not only more expensive, but harder to access. Getting rid of these patents protection allows other companies to come into to market and help alleviate the burden of a pandemic.**

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