# Wynter 1AC

## Framing

#### The world operates through the color line. Oppressive political institutions hold the strings to our subjectivity creating conceptions of the “ideal human being” as a mechanism to create objectivity within civil society. Wynter 03

Wynter, Sylvia. “Sylvia Wynter Unsettling the Coloniality of Being-1.” Scribd, Scribd, 2003, pt.scribd.com/document/238581999/Sylvia-Wynter-Unsettling-the-Coloniality-of-Being-1. Accessed 8/20/20 //FD WHS

Recent and still ongoing scholarship on archaeo-astronomy has shown that all human orders—from the smallest society of nomadic hunter-gath-erers, such as the San people of the Kalahari, to the large-scale societies of Egypt, China, the Greeks, and the Romans—have mapped their “descriptive statements” or governing master codes on the heavens, on their stable periodicities and regular recurring movements (Krupp 1997). Because, in doing so, they had thereby mapped [and]their specific criterion of being human, of what it was “to be a good man and woman of one’s kind” (Davis 1992), onto the physical cosmos, thereby absolutizing each such criterion; and with this enabling them to be experienced by each order’s subjects as if they had been supernaturally (and, as such, extra humanly) determined criteria, their respective truths had necessarily come to function as an “objective set off acts” for the people of that society—seeing that such truths were now the indispensable condition of their existence as such a society, as such people, as such a mode of being human. These truths had therefore both com-manded obedience and necessitated the individual and collective behaviors by means of which each such order and its mode of being human were brought into existence, produced, and stably reproduced. This, therefore, meant that all such knowledges of the physical cosmos, all such astronomies, all such geographies, whatever the vast range of human needs that they had successfully met, the range of behaviors they had made possible—indeed, however sophisticated and complex the calculations that they had enabled to be made of the movements of the heavens (as in the case of Egypt and China)—had still remained adaptive truths-for and, as such, ethno-astronomies, ethno-geographies. This was no less the case with respect to the long tradition of Greek/Hellenistic astronomy, which a medieval Judeo-Christian Europe would have inherited. Since, in spite of the great advances in mathematical astronomy to which its fundamental Platonic postulate (that of an eternal, “divinized” cosmos as contrasted with the Earth, which was not only subject to change Sylvia Wynter●271 and corruption, but was fixed and unmoving at the center) has led a longline of astronomers to struggle to “save the phenomena” (i.e., to reconcile their measurements of the movements of the heavens with this premise),Greek astronomy was to remain an ethno-astronomy. One, that is, in which the moral/political laws of the Greek polis had been projected upon the physical cosmos, enabling them to serve as “objective truth” in Feyerabend’s(1987) sense of the term, and therefore as, in my own terms, adaptive truth-for the Greeks. With the consequence that their projected premise of a value distinction and principle of ontological distinction between heaven and earth had functioned to analogically replicate and absolutize the central order-organizing principle and genre-of-the-human distinction at the level of the sociopolitical order, between the non-dependent masters who were Greek-born citizens and their totally dependent slaves classified as barbarian Others. With this value distinction (sociogenic principle or master code of symbolic life/death) then being replicated at the level of the intra-Greeksociety, in gendered terms (correlatedly), as between males, who were citizens, and women, who were their dependents. In a 1987interview, the theoretical physicist David Bohm explained why the rise of the physical sciences would have been impossible in ancient Greece, given the role that the physical cosmos had been made to play in stabilizing and legitimating the structures/hierarchies and role allocations of its social order. If each society, Bohm pointed out, bases itself on a general notion of the world that always contains within it “a specific idea of order,” for the ancient Greeks, this idea of order had been projected as that of an “increasing perfection from the earth to the heavens.” In consequence, in order for modern physics (which is based on the “idea of successive positions of bodies of matter and the constraints of forces that act on these bodies”) to be developed, the “order of perfection investigated by the ancient Greeks” had to become irrelevant. In other words, for such an astronomy and physics to be developed, the society that made it possible would have to be one that no longer had the need to map its ordering principle onto the physical cosmos, as the Greeks and all other human societies had done. The same goes for the need to retain the Greek premise of an ontological difference of substance between the celestial realm of perfection (the realm of Unsettling the Coloniality of Being/Power/Truth/Freedom272● true knowledge) and the imperfect realm of the terrestrial (the realm of doxa, of mere opinion).This was not a mutation that could be easily effected. In his recent book The Enigma of the Gift(1999), Maurice Godelier reveals an added and even more powerful dimension as to why the mutation by which humans would cease to map the “idea of order” onto the lawlike regularities of physical nature would not be easily come by. This would come to be effected only in the wake of the Renaissance humanists’ initiation of the processes that would lead to the degodding/de-supernaturalizing of our modes of being human on the basis of their invention of Man in the reoccupied place of their earlier matrix theocentric identity, Christian. Although, Godelier writes, as human beings who live in society, and who must also produce society in order to live, we have hitherto always done so by producing, at the same time, the mechanisms by means of which we have been able to invert cause and effect, allowing us to repress the recognition of our collective production of our modes of social reality (and with it, the Argument proposes, the recognition also of the self-inscripted, auto- instituted nature of our genres/modes of being human). Central to these mechanisms was the one by which we projected our own authorship of our societies onto the ostensible extrahuman agency of supernatural Imaginary Beings (Godelier 1999). This imperative has been total in the case of all human orders (even where in the case of our now purely secular order, the extrahuman agency on which our authorship is now projected is no longer supernatural, but rather that of Evolution/Natural Selection together with its imagined entity of “Race”). As if, in our contemporary case, Evolution, which pre-adapted us by means of the co-evolution of language and the brain to self-inscript and auto-institute our modes of being human, and to thereby artificially program our own behaviors—doing so, as the biologist James Danielli pointed out in a 1980 essay, by means of the discourses of religion, as well as of the secular ones that have now taken their place—still continued to program our hybrid ontogeny/sociogeny behaviors by means of unmediated genetic programs. Rather than, as Danielli further argued, all such behaviors being lawlikely induced by discursively instituted programs whose good/evil formulations function to activate the biochemical If, as David Bohm pointed out, the Greeks’ “idea of order” had been mapped upon degrees of perfection, projected upon the physical cosmos as degrees of rational perfection extending from the apex of the heavens’ degrees to the nonhomogenous nadir of the earth’s—with the rise, in the wake of the collapse of the Roman Empire, of a now Judeo-Christian Europe, while the classical Greco-Roman (i.e., Ptolemaic) astronomy that had given expression to the Greek idea of order was to be carried over—it was to be Christianized within the terms of Judeo-Christianity’s new “descriptive statement” of the human, based on its master code of the “Redeemed Spirit” (as actualized in the celibate clergy) and the “Fallen Flesh” enslaved to the negative legacy of Adamic Original Sin, as actualized by laymen and women. Hence the logic by which medieval Latin-Christian Europe’s “notion of the world” and “idea of order” would become one of degrees of spiritual perfec- tion, at the same time as it would remain mapped onto the same “space of Otherness” principle of nonhomogeneity (Godzich 1986). With the result that on the basis of this projection, the medieval Latin-Christian subject’s sensory perception of a motionless earth would have “verified” for them not only the postulate of mankind’s justly condemned enslavement to the nega- tive Adamic legacy, but, even more centrally, the “sinful by nature” descrip- tive statement of the human in whose terms they both experienced themselves as Christians, being thereby behaviorally impelled to seek redemption from their enslavement through the sacraments of the Church, as well as by adhering to its prohibitions, and to thereby strive to attain to its otherworldly goal—that of Divine Election for eternal salvation in the Augustinian civitas dei (the city of God).

#### European modernity’s idea of the man creates a double bind – the operation of a sociogenic culture creates alienation + denounces difference. Parker 18

Emily Anne Parker, The Human as Double Bind: Sylvia Wynter and the Genre of ‘Man.’ Journal of Speculative Philosophy, Penn State University Press. 2018 https://www.jstor.org/stable/10.5325/jspecphil.32.3.0439

By “referent subject” Wynter means a shared sense, poetic in nature, that can nevertheless exclude many who are also expected to live it. Man, Wynter argues, as a referent subject first appeared in the Italian Renaissance. As Walter Mignolo (2015, 109) has argued, this way of representing an individual is made visual in Leonardo da Vinci’s Vitruvian Man, a man of perfect symmetry and supposedly ideal form. Wynter suggests that the Vitruvian Man has become the medical chart of “the skeletal or muscular system” hanging in countless medical offices. This mode of knowing is then synonymous with the “referent subject,” the presumed author of the Anthropocene, an epoch in which it is possible to chart a changing planet but for which a poetics is lacking for explicitly articulating what referent subject or morphology could collaborate to make such changes possible. There is clearly a referent subject, but it is an implicit one who only acquires words for himself from his Others: blackness, darkness, blindness, penetrability, impregnability, dependence (Wynter 1995, 42). Man is supposedly not these things. For Wynter, this becoming Man in both modes—the Vitruvian Man and the medical- natural organism—defines itself as “the human” precisely by, as I will discuss, distinguishing among “bodiments” that are intuitively humanity-in- negativerelation.1 Such intuition is owed to the salience of Man. Mignolo has also suggested that in decoupling Man from humanity, Wynter’s aim “is not to find the true and objective definition of ‘what is Human,’ but to show that such projects are filled with an imperial bend, a will to objectivity and truth” (2015, 110). In the claim with which I began, in which Wynter argues that the “concrete individual” must become a “referent subject,” Wynter is articulating a poetics, one that does, I agree with Mignolo, reject “the will to objectivity and truth” of “the human” (Mignolo 2015, 110). And yet how can a concrete individual become a referent subject, something that is by definition collective? In making this suggestion, Wynter is implicitly responding to a current double bind set in motion by the very idea of “the human” as defined by European modernity. Wynter undermines in an unprecedented way an implicit distinction between the political and the ecological that shows itself if one compares, for example, the work of Karen Barad and Saidiya Hartman. While Barad, in Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning (2007), writes of the powers of agential materiality without attention to the role of the rejections of human blackness, darkness, blindness, penetrability, impregnability, and dependence considered sylvia wynter and the genre of “man” 441 synonymous with inert matter, Hartman, in Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America (1997), writes precisely of the rejections of blackness without attention to the role of what Barad calls a more-than-human agential materiality. (The awkwardness of my own use of the word human here is precisely that in which I am interested.) What I am trying to point to is the division of a modern terrain that Barad and Hartman might be read together as representing. Both works are crucial to my own understanding, but both leave out essential pieces in which the other is, I think, fundamentally interested. What is the connection between the denial of the agencies of matter and ongoing colonization? By modern terrain I mean “modernity” according to Bruno Latour and “Manichaeanism” according to Frantz Fanon:2 what is political never ceases to be ecological, and yet the senses of the terms ecological and political almost always diverge sharply in the modern philosophical vocabulary and canon and human morphology. For Fanon this divide is owed to the conceptualization of a certain white man speaking a certain language and with a certain mythology as a morphology that characteristically attempts to distinguish itself from materialities. This is a specific culture that is intuitive and yet not consciously palpable to those who live it. It is marked by what Fanon (2004, 6–9) names Manichaeanism in The Wretched of the Earth. The world is divided into humans and nonhumans. For Fanon, whiteness/ language/religion in this way constitute a morphology in denial of its own contingent bodiment and bent on the active denunciation of any other than gives the lie to this denial. Sylvia Wynter expands this approach: a certain Man, constituted by, in terms only more recently emerging for naming Man, cis/white/masculinity/ability/sexuality/class/ nationality / geography, is produced by a denial of its own specific bodiment, something that this body hides from itself. It denies its status as a “concrete individual,” as “flesh-and-blood” body, precisely by contrasting itself with other bodies and ignoring and silencing those who would depart from this morphology. Such denial creates and relies upon a political realm thus constructed upon the denial of that which modernity projects and partitions as bodily, and today there are words precisely for pointing to all that is left out of what is considered modern/political: the feminine, transness, blackness, dis/ability, queerness, nonbinariness. Such words are crucial, but they are produced by an implicit morphology that can continue to feel implicit, even when named as composed of cis/white/masculinity/ability/sexuality/class/nationality/ geography. Thus even individuals who know to check the box “white” on 442 emily anne parker a demographic form are likely not able to appreciate consciously that they are in fact white and all that this means in their day-to-day life. Other features of this body—cisgender, language, nationality, ability—can likewise be understood on a factual or “biological” level and yet entirely unappreciated in moment-by-moment interactions precisely because they only have sense in being not-transgender, not-accented, not-(“foreign”-)languaged, not-from-another-place, not-disabled. And yet without these contrasting bodies such an implicit morphology could not exist. This implicit morphology gives rise to a double bind. “The human” and “the body” are expressions of a modern distinction between that which is political and human and transcending of the bodily (which is projected onto other bodies) and that which is precisely bodily and thus ecological. Because of this, clearly an ecological turn is necessary to counter the splitting of the political from the ecological. But to reunite the human and the ecological is for some bodies a doubling down on a violent equation that they have experienced all along, as they continue to serve as the negative of “the human.” To talk about ecology without a questioning of this ultimate homogeneity of “the human” means leaving unquestioned the fact that many bodies are its negative referents. In this way ecological thinking can be a continuation of modern Manichaeanism. Then again, to speak in strictly political terms means of course ignoring all of that which modernity deems “ecological,” and that includes unshared bodily experiences and needs for life that are indistinguishably biological-cultural. One needs to think ecologically, but this is politically problematic; one needs to think politically, but this is premised upon a variety of denials insofar as they conflict with the human. Either an ecology without the human or the human without ecology: neither option is acceptable, and yet both are necessary. What I would like to offer is that Wynter’s philosophy of sociogenesis, which articulates Man as a denial of bodiment, is an implicit response to this double bind. Sociogenesis as a figure defies this double bind in further undermining an already unstable ecological-political distinction. Sociogenesis offers a way of thinking about humanity not only “as praxis,” as lived in a time and a place, but also as a very sensory encounter. In doing so, what Wynter names the genre of Man offers a philosophy of whiteness, not only as an ethno-race to which I belong but as an ecologically alienated, sense-denying way of life. I have in mind the work of Linda Martín Alcoff, who has argued that a philosophy of whiteness is necessary for political purposes, a making explicit and palpable, rather than denying any reality sylvia wynter and the genre of “man” 443 to whiteness, in the manner of “eliminativist” projects. I am interested in the fact that for Wynter, a philosophy of whiteness, as the crucial feature of the genre of Man, in fact its historically new religion, is necessary for purposes that are indistinguishably ecological and political. Man according to Wynter becomes a religion insofar as it takes the place of all-powerful agency previously held by God in the Western tradition

#### The standard and role of the ballot is to disrupt the Color Line. This means disenchanting our discourse i.e. exposing and rejecting the ways European humanism has clouded and enchanted our epistemology, and to reach beyond to a new human. ROB spec in doc. Wynter 87

* Both prefiat and postfiat matter, which matters more can be debated but prefiat is the default
* Aff comes before theory + aff can weigh theory through ROB
* The role of the ballot is solely determined by the flow
* Offense: show that you remove parts of the Color Line via minimizing oppression, removing extensions of humanism, or that you deconstruct the Man – weighing metrics are normal (magnitude, probability, timeframe, scope, etc)

Sylvia Wynter, Autumn 1987, "On Disenchanting Discourse: "Minority" Literary Criticism and Beyond," JSTOR, <https://www.jstor.org/stable/1354156>,

To disenchant discourse will therefore be to desacralize our "cultures" and their systems of rationality by setting upon our literary and cultural heritages and their orders of discourse rather than by continuing to adapt to their generating premises and non-conscious systems of inference as we do now. The "setting upon" process of disenchantment – parallel to Heidegger's definition of "technology" as expressive of the human's new setting upon physical nature rather than adapting to it – into being through the collective behaviors of the systemic subjects which the order of discourse unconsciously orients and regulates. This proposal redefines the dynamics of desire as a new meta-biological object of knowledge constituted by discourse, as the acquired rhetorical motivation systems which are the uniquely human parallel of the species-specific motivation systems characteristic of all mammalian forms of life up to and including the different species of the prehuman hominid. These systems regulate all facets of species- specific behavior, cognitive and actional, in non-human mammals and linguistically speciated, i.e., group-specific, behaviors in human. It is these acquired/rhetorically coded, rather than innate/genetically coded, motivation systems that constitute the psychic unity of the human species. Like Mendel's new object of knowledge, hereditary trails, which functioned as an object irreducible to the species and to the "sex transmitting them," rhetorical motivation systems whose function is to bring differing modalities of "human being" into being, by means of enculturating discourses generated from the grounding premise of an environmentally "fit" conception of life/death, must also necessarily decenter the human subjects whose behaviors enable the stable replication of their own autopoiesis as systems. That is to say, their own intentionality and autonomy as autopoietic systems, once put into discursive play, whilst largely compatible with, are not reducible to that of their individual subjects. The discursive system of each human order functions as the enculturating machinery by and through which the motivational system which dictates the behaviors needed if a specific mode of the human is to be brought into dynamic being and stably replicated (even if and where these behaviors are contradictory to the self-realization of human individuals or groups: cf. Black Skins/White Masks, minority skins, majority masks). Thus orders of discourse must function so as to "enchant" their human subjects into desiring in the mode of desiring needed, into acquiescing to the effecting of the intentionality of the R.M.S. in question, even at the cost of not affirming their own. Hence the great moments of Girardian conversion, from Don Quixote to The Invisible Man, arise where the novelistic hero wakes up, rejecting the non-conscious "mimetic" quality of his former inculcated mode of motivation/desire. It is in the disenchanting of the discourses which brings into being an existential reality experienced as if it were objectively outside our human control that Minority Discourse will both find and go beyond its own paradoxical rationale. For if, as Derrida argues, the "very idea of reason as dominant . . . in human nature is also a fiction" since consciousness or reason are "effects, traces, the detritus of will" and "man lacks the capacity-to know without motive," it is only through the "disenchanting" of our true discourses that we will come to know the grounding premise that determines this ostensibly autonomous "will" or "motive" and to determine then consciously what now determines us, determining how we know and act upon the world: to disenchant the human, then, enabling her/his Girardian "waking up" to a consciously chosen intentionality. With this emerges the possibility of a science of human behavior, and of what Gellner calls the extra-territoriality, at last, of human cognition.

#### Prefer additionally: the Color Line is the root cause of climate change -- impact is the “hothouse planetary”— society’s overreliance on humanism and control of those deemed inferior and the cultivation of superiority over the environment leads to the destruction of our earth.

Gabrys 18, “Becoming Planetary” By Jennifer Gabrys (Jennifer Gabrys is Chair in Media, Culture and Environment in the Department of Sociology at the University of Cambridge, and Honorary Visiting Professor in the Department of Sociology at Goldsmiths, University of London. She is Principal Investigator on the projects Citizen Sense and AirKit, both funded by the European Research Council. Her books include Program Earth: Environmental Sensing Technology and the Making of a Computational Planet (2016) and How to Do Things with Sensors) Oct 2, 2018 [https://www.e-flux.com/architecture/accumulation/217051/becoming-planetary/

Homo economicus—human as accumulator—is a figure of planetary destruction, since the crisis of climate change can on one level be characterized as a crisis of accumulation—not just of carbon and heat in the atmosphere and biosphere, but also as an accumulative mode of the human that is forever consuming and bound to economic growth. The split and designation of this particular category of human is then not just a matter of racial and social justice—how these humans are designated, and who does and does not belong to the Western bourgeois delineation of the human—but also it is a matter of planetary survival. The genre of the human must be expanded so that other less destructive modes of being human—and being planetary—might be formed.23 Wynter’s discussion indicates how we might find ways to do the planetary otherwise. If the subject or human were here to become planetary, following Spivak read along with Wynter, the universal designations of human and planet would be re-made and re-imagined. If Wynter proposes being human as praxis as a way to rework the possibilities for opening the category of the human, being planetary as praxis is a way to engage with the planetary-human joins that might also be re-imagined.24 We are planetary creatures, Spivak suggests, but this is not a fixed designation, as Wynter’s work further indicates. The sutures of difference that run through and across planetary creatures are also potential lines of praxis, giving rise to alternative configurations of “planetary thought” and planetary being and becoming. The split into a particular category of human also involves, as Marisol de la Cadena suggests, a partitioning into universal nature and universal humans that depends on keeping these categories separate. Partitioning is not just a way of designating the planetary and the human. It is also a way of operating on the relations and segregations of each, such that ways of turning “nature” into “resource” and humans into accumulators might also occur. De la Cadena tells these stories through people’s struggles to resist development, to struggle against the conversion of their relations with more-than-human entities into “resources.” And yet, as she writes, “The interruption of the universal partition is a political and conceptual worlding event; what emerges through it is not a ‘mix’ of nature and human. Being composed as humans with nature—if we maintain these categories of being—makes each more. Entities emerge as materially specific to (and with!) the relation that inherently connects them.”25 De la Cadena reminds that the categorization of the human is not just one of making sub-humans; it is also one of carving off other more-than-human entities into categories such as resources. Writing across Wynter, Spivak and de la Cadena, one could say that separating humans by race, and designating the planetary as a globe or more-than-humans as resources, also involves separating humans from worlds that spark them into (other) ways of being. Being planetary as praxis, in this way, involves working from within the forests; thinking through and working toward modes of being neither from a ground or grounding, nor from above in a position of mastery or partitioning, but from within the middle of asymmetrical yet non-subjugating planetary relations. In the current context, this might also mean that characterizations of the problem of climate change could be recast. At the time of Spivak’s writing, the planetary was a way to address the question of migration within Europe as one of collectively responsibility. This question still continues, and is now combined with forced migration through climate change. In a not dissimilar way, climate change then raises related questions about what collective responsibility as right, and about what mode of being planetary as praxis, might emerge here. The work of these thinkers signals toward ways not just of expanding and remaking the genres of the human, but also to ways of reworking and transforming human-planetary relations. The forest is a crucial figure and space within which these relations could be rethought, since it at once resists a universal and singular view, while also bringing into focus a multiplicity of subjects and inhabitations. Parsing the human is also a practice of parsing the planet and planetary relations. Projects of addressing racial injustice and inequity might then also be ones that remake planetary inhabitations, and vice versa. This could “unsettle” colonial ways of being as part of the operation of working toward less destructive inhabitations.26 How might this approach to the planetary and to being planetary as praxis then inform the ways in which that “unparalleled catastrophe for our species,” the event of climate change, is addressed? Hothouse Earth, Hothouse Planetarity In the summer of 2018, heat waves have occurred in multiple locations, from the High Arctic to southern Spain. Temperatures reached 46° Celsius in Portugal, and wildfires tore through Attica in Greece and northern Sweden. One scientific study published during this time suggested that the planet might become “Hothouse Earth,” with rising carbon emissions and temperatures forcing the crossing of thresholds to trigger non-linear responses and feedbacks so that methane begins to release from permafrost, forests cease to be carbon sinks and instead begin to be a net source of carbon, and oceans begin to acidify while absorbing less carbon and contributing humidity to atmospheres and energy to storms.27 Rather than operating in a relatively “stable” way with “self-reinforcing feedbacks,” ecosystems could amplify warming and irrevocably transform ecosystems—even to conditions that are inhospitable to human life—and in the process rapidly accelerate the process of climate change. Although the story of climate forcings, thresholds, and tipping points is not especially new, the article served as a reminder, in the midst of sweltering temperatures, forest fires, and flash floods, that planetary warming might kick into overdrive, making any current or near-future attempts at lowering emissions by marginal amounts an insufficient exercise. While much of the focus within news media reporting on this article centered on the figure of the “Hothouse Earth” and its alarming rendering of a combusting planet, a less-reported aspect of the article pertains to the authors’ suggestion for ways to combat the scenario of a runaway warming planet. In order to prevent the possibility of “irreversible” climate change “driven by intrinsic biogeophysical feedbacks,” the authors suggest a pathway that could lead to a “Stabilized Earth” that could be achieved through “human-created feedbacks to a quasi-stable, human-maintained basin of attraction.”28 The authors suggest that “stewardship of the entire Earth System” would need to be addressed, including of the “biosphere, climate, and societies.” Examples of these Earth-sized actions that might move along to a stabilized state include not just using less fossil-fuel intensive modes of energy, but also developing new technologies, governance, and social codes. At the same time, planetary sinks might be cultivated to better store carbon. Forests here become a project for human stewards. Geo-engineering is also part of the mix, where “solar radiation management” could constitute part of the “stewardship” set of practices.29 Hothouse Earth thus becomes a medial project: it makes the planet into a medium of stabilized operation and control. The planet, as the earth sciences often remind, consists of interconnected yet unpredictable systems. Planetary forces might easily cross a threshold toward other less livable conditions. This is not the self-correcting planet put forward in Gaia theory, but rather is one where accumulation runs amok. Carbon and heat do not just accumulate; they also amplify changes to the climate that differently shape conditions of planetary distress. Yet the planetary is ideally projected to be a figure of stability and control. The curious “basin of attraction” that humans might cultivate raises numerous questions about how “Hothouse Earth” might be addressed. What humans, or genres of being human, as Wynter would term it, are these? Specific practices of “stewardship” proposed potentially include technocrats involved in geo-engineering, forest workers reforesting continents, as well as speculative figures yet to be created for their planetary maintenance skills. It is equally unclear what sort of planet this might be, which would yield to a process of stabilization, veering away from “Hothouse Earth” to “Stabilized Earth” through the guiding practices of humans. Indeed, the end of “human civilization” is one aspect of climate change that scientists often designate as a likely outcome in their scenarios. Yet what does the planet have to become such that human civilization in this rendering might be sustained, however problematic that civilization might be? And what other planet-human configurations might be proposed such that human “civilization” is not a project of stabilizing the planet, but rather of re-imagining the human and the planetary as praxis? “Hothouse Earth” then gives way to a “Hothouse Planetarity.” The usual forms of environmental science and environmentalism turn up here as conducted through the categories of universal science and the universal human-as-steward. Yet as Spivak writes, “to talk planet-talk by way of an unexamined environmentalism, referring to an undivided ‘natural’ space rather than a differentiated political space, can work in the interest of this globalization in the mode of the abstract as such.”30 The globe that is on our computers—and in a basin of attraction—is one that can seemingly be controlled by universal humans. Even if the “natural space” of climate science is one largely impacted by anthropogenic activities, here the proposal for how to address “Hothouse Earth” does not differentiate how such stewardship activities would unfold across diverse locations and by multiple contributors. For instance, humans are much more likely to become climate migrants in the Global South, and potentially less able to contribute to forest stewardship or geo-engineering projects, for better or worse.31 Indeed, science here remains within a universal and even “silent” modality, as Wynter would term it, by not engaging with the cultural practices and stories that code and recode ways of being human.32 Yet the problem of climate change forces a reconsideration of how new subjects, new humans, and new planetary relations are irrupting, even within proposals by climate scientists. “Hothouse Earth” proposes that a legion of eco-stewards emerge who would continually look after the planet to keep it in a stable state. Yet “Hothouse Planetarity” asks questions about which humans—and which genres of the human and the planetary—are enrolled here. Questions of social justice cannot be separated from problems of deforestation, biodiversity loss, rising temperatures, and environmental pollution. Planetary inhabitations are entangled with ways of being planetary as praxis. To know the planet can be a way to fix it as a figure of analysis and management. Stability could even be seen to be a way to rid the planet of alterity: to make it knowable and so manageable within a universal science. It can be a way to elide planetary differences both within and throughout terrestrial inhabitations. Indeed, as the overall Welt entry to the Dictionary of Untranslatables charts, to know the world (here a different but useful concept to call into play when discussing the planetary) can be a much different relation than to have world.33 This having of world is less a condition of possession, and more a mode of experience and engagement. Where we are in the world and the world is in us, as Whitehead would term it.34 The planetary involves remaking environmental relations and remaking the subject-superject. If the planetary is a site of difference, it also constitutes and runs through subjects in diverse ways. If Spivak’s consideration of the planetary and planetarity is brought to bear, where the usual forms of environmentalism and custodianship are suspended, and yet the right to (collective) responsibility is held in play, then how might a “Hothouse Planetarity” unfold as a necessary rejoinder to the figure of the “Hothouse Earth”? While Benjamin wrote “To the Planetarium” as a way to capture the wartime effects of planetary-scale technology, becoming planetary and being planetary as praxis would suggest a move “out of the planetarium” as a way to disassemble the universal figurations of the planetary scale and universal science. By moving out of the planetarium of the total Earth and planetary-scale talk, one might also venture into the forest to find oneself in the thick of a set of planetary relations that are not easily fixed or figured, but which in their incommensurability signal toward other ways of being planetary as praxis. Being planetary as praxis is a move out of the planetarium to consider other designations and mobilizations of the planetary, the human, and techno-cultural practices. In this sense, media are neither planetary in scale, nor should they be figured through a universal computational or earth science imaginary. Instead, the planetary should be unsettled, along with media and the human. However, this unsettling does not arrive at an elemental materialism at the core of media, and it does not suggest a command-and-control stratum of technology permeating the globe. Instead, the planetary is an ongoing process of creating, articulating, and transforming human subjects and collective inhabitations. The globe is on our computers, but the planetary forces a diverse and sprawling set of encounters with media, technology and science that might remake these practices. The becoming planetary of media is a concept that addresses the ways in which the planet, Earth, and environments are figured as medial projects.36 The planetary within discussions of media and technology has at times taken on an elemental or epic quality. In a not dissimilar way, environmental science often casts the planet as mix of large-scale atmospheric, oceanic, terrestrial, and biotic systems and media as elemental records. And yet, planetary media might necessarily involve an unsettling of these categorizations of the planet or media, since planetary media would neither be universally designated nor abstractly partitioned. To refer to planetary media is to call attention to the differences that planetarity invokes, to the inassimilable and incommensurate conditions of planetary inhabitation that cannot and do not settle into one coherent or planar object: not the Earth of earth sciences, the globe of capitalism, or the human of homo economicus. The becoming planetary of media forces a recasting of the usual ways in which the planetary and media might be understood or approached. In this space the becoming planetary of media might unfold not so much as a tale of elemental media, but rather more as collective narratives that generate lived storylines toward more just worlds for diverse humans, more-than-humans, and their planetary inhabitations. Being planetary as praxis and the becoming planetary of media thus asks how the planetary might provoke other ways of figuring planetary inhabitations—of moving out of the planetarium and into the forest. Being planetary as praxis involves an attention to questions of colonial imaginations and control, of racial and economic exclusions, of environmental injustices, and of universal science and global abstractions that might be de-figured, superseded, and transformed in the search for more open and just ways of being human and planetary that are still to be re-imagined. The planetary is necessarily transfigured when re-considered beyond the partitions of universal science and global capitalism. The ways in which the planetary is constituted, informed, and even de-figured have consequences for planetary crises such as climate change, as well as proposals for addressing these crises through projects such as cultivating forests as carbon sinks. This approach to the planetary involves not just an abstract or totalizing set of planetary forces, but rather involves very distinct and unequal ways in which planetary politics, relations, and technicities unfold. This transfiguration reworks the planetary away from abstract globes and toward different genres of humans and collective responsibility. Planetary media in this context are less categories of elements and resources and more a constitution and re-constellation of collective responsibility through a planetary imperative. At the same time, it is not a human designation of the planet, but rather an unsettling of the ways in which subjects are partitioned and formed, against universal and colonial figurations. This approach moves away from the satellite view or the much-referenced images of Earthrise or Blue Marble and toward the more entangled environs of a forest. While this view does not offer up an absolute expanse, fixed figure, or even foundational elementalism as the basis for knowledge, it does remake planetary-subject relations. Forests become planetary media. They are proxies for climate change—they tell stories about the accumulation of carbon and the shifts in environmental conditions. At the same time, diverse forest inhabitations also offer another way of figuring the human-planetary genres and praxes that move away from globes, universal man, accumulators or subjugators, to engage with the practices that irrupt through the prospect of becoming planetary and being planetary as praxis. More-than-human contributors, other genres of the human, and multiple worlds and ways of being members of collectives come into view here.37 Other ways of thinking about forest work—in contrast to the “Hothouse Earth” scenario—also emerge here. Mapping and monitoring with remote sensing platforms, forest watch toolkits, and sensing technologies are one way to figure modes of engagement with forests. Yet from within this reworking of the planetary and the human, there are still many other pre- or post-accumulative modalities, media and storylines that might be recognized and created. Becoming planetary is a way to consider how the planetary is not a uniform or fixed set of conditions, but rather signals conditions of difference, as well as collective responsibility and possibility with and through those differences.

#### Survival Strategy – Wynter offers a method for minorities to understand violence – insofar as the neg’s theory can’t do that, it’s epistemically bankrupt

#### Lexical Prerequisite – entry into normative frameworks requires subjectivity that isn’t granted under the Color Line

## Plan

#### Thus I affirm the resolved: the member nations of the World Trade Organization ought to reduce intellectual property protections on medicines. I’m defending the resolution as a general principle, so PICs don’t necessarily negate. Definitions below, I’ll spec anything in cx if you want

#### Reduce: to diminish in size, amount, extent or number [merriam webster]

#### The WTO is all but 14 countries. Amadeo 20

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The WTO has 164 members. 128 countries were members of the General Agreement on Tariff and Trade.5﻿ These countries symbolically joined the WTO on January 1, 1995 and quickly transitioned official business to the new structure. The remaining countries went through the six-step process to become WTO members. Here are the five newest members: Afghanistan was accepted on July 29, 2016. Liberia was accepted on July 14, 2016. Seychelles was accepted on April 26, 2015. Kazakhstan, on November 30, 2015. Yemen became a member on June 26, 2014. There are 25 observer countries currently in this application process. They have five years to complete it unless they request an extension.1﻿ They are Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia and Herzegovina, Comoros, Curaçao, Equatorial Guinea, Ethiopia, the Vatican, Iran, Iraq, Lebanon, Libya, Sao Tome and Principe, Serbia, Somalia, South Sudan, Sudan, Syria, Timor-Leste, Turkmenistan, and Uzbekistan.6﻿ Only 14 countries are not WTO members. These nations do not wish to become members. They are Aruba, Eritrea, Kiribati, Kosovo, Marshall Islands, Micronesia, Monaco, Nauru, North Korea, Palau, the Palestinian Territories, San Marino, Sint Maarten, and Tuvalu.

## Offense

#### Intellectual property is intertwined with Enlightenment humanism. Hesse 2

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The concept of intellectual property – the idea that an idea can be owned – is a child of the European Enlightenment. It was only when people began to believe that knowledge came from the human mind working upon the senses – rather than through divine revelation, assisted by the study of ancient texts – that it became possible to imagine humans as creators, and hence owners, of new ideas rather than as mere transmitters of eternal verities. Besides being distinctively modern, intellectual property is a dense concept, woven together from at least three complex strands of jurisprudence – copyright, patent, and trademark – each with its own sources in premodern custom and law, and each with its own trajectory into our own era. Still, copyright, and the complementary concepts of authors’ rights and literary property in continental law – the focus of this essay – are at the core of the modern concept of intellectual property. It was here in the eighteenth century that the language of “ideas” and “property” first came into contact with one another, and first forged a legal bond. And it was here, too, that the very idea of a property right in ideas was most sharply contested – at the outset, and to the present day. From the Heliconian Muses let us begin to sing. . . .” Thus begins Hesiod’s Theogony, and many other texts of the ancient Greek world. The poet spoke the words of the gods, not his own creations. Knowledge, and the ability to make it manifest to man, was assumed to be a gift, given by the muses to the poet. Alternatively, Plato thought that all ideas were held from birth in the mind, where they had transmigrated from earlier souls. Ancient Greeks did not think of knowledge as something that could be owned or sold. A scribe could be paid fees for his labor, an author awarded prizes for his achievement, but the gift of the gods was freely given. And thus the libraries of the ancient academies were not sold, but were instead transmitted as gifts to the teacher’s most worthy successor. Socrates held the Sophists in contempt for charging fees for their learning. A tour of the other great civilizations of the premodern world – Chinese, Islamic, Jewish, and Christian – reveals a striking absence of any notion of human ownership of ideas or their expressions. In the Lun-Yii, or Analects, compiled in China in the fifth century b.c., the philosopher Confucius is recorded as saying, “I transmit rather than create; I believe in and love the Ancients.” The measure of the greatness of a Chinese scholar was not to be found in innovation, but rather in his ability to render or interpret the wisdom of the ancients, and ultimately God, more fully and faithfully than his fellows. Wisdom came from the past, and the task of the learned was to unearth, preserve, and transmit it. Confucian thought despised commerce and thus also writing for profit; authors practiced their craft for the moral improvement of themselves and others. Reputation, and especially the esteem of future generations, was its own reward, even if it might, incidentally, bestow the worldly gifts of patrons upon its bearer.1 This is not to suggest that there was no commerce in books in China. In the land that invented movable type, a book trade flourished as early as the eleventh century. Still, Chinese authors had no property right to their published words. The contents of books could not be owned. Not even the particular expressions an author might employ could be claimed as his. Chinese characters were thought to have come from nature, and no human being could make a claim upon them that would exclude their usage by others. Only the paltry vessel – the paper and ink of a manuscript or a printed book that bore the ideas and expressions – could be bought or sold.2 Throughout the Islamic lands, too, there was no concept of intellectual property for many hundreds of years. All knowledge was thought to come from God. The Koran was the single great scripture from which all other knowledge was derived. A text that embodied the word of Allah, it belonged to no one. There were guardians of its true meaning, to be sure – the great Imams who formed schools at the sites of the most important temples. But the principle means of transmitting Koranic knowledge was oral recitation – from teacher to student, in an unbroken lineage from Muhammad himself to his disciples, and from these chosen few forward through the generations. The word “Koran” itself means “recitation,” and oral transmission of the living word was always to be preferred over a written transcription. The book was merely an instrument, a lowly tool, to facilitate faithful memorization of the word, and manuscripts were continuously checked and rechecked against oral memory to ensure their accuracy and the authority of their lineage. The Islamic belief that oral recitation, rather than written transcription, best preserved the word of God and kept it pure across the generations meant that the technology of printing was very slow to penetrate into Islamic lands, and it was only widely adopted throughout the Middle East with the advent of the mass newspaper press in the nineteenth century.3 To be sure, a certain notion of legal “authorship” did emerge from Islamic scribal practices. But a concept of intellectual property did not. sharīʿa law against “imposture” or “fraud” was used to prevent the unauthorized appropriation of the reputation or authority of a great teacher through false attribution of written texts.4 But the teacher did not own the ideas expressed within his books. A thief who stole a book was thus not subject to the punishment for theft – the amputation of his hand. Islamic law held that he had not intended to steal the book as paper and ink, but the ideas in the book – and unlike the paper and ink, these ideas were not tangible property.5 The Judeo-Christian tradition elaborated a similar view of knowledge. Moses received the law from Yahweh and freely transmitted it to the people chosen to hear it. And the New Testament sanctified the idea of knowledge as a gift from God in the passage of the Book of Matthew in which Jesus exhorts his disciples, “Freely ye have received, freely give” (10:8). Medieval theologians interpolated this passage into the canon law doctrine “Scientia Donum Dei Est, Unde Vendi Non Potest” (Knowledge is a gift from God, consequently it cannot be sold). Selling something that belonged to God constituted the sin of simony. University professors, lawyers, judges, and medical doctors were thus admonished not to charge fees for their services, although they might receive gifts in gratitude for the wisdom they imparted.6 Indeed, the language of gift-giving permeated all forms of knowledge exchange in the premodern period, and nowhere more so than in the dedicatory prefaces to books through which authors sought patronage in recompense for the symbolic offering of their works. Thus, even as books were increasingly bought and sold after the advent of print in Europe in the fifteenth century, and even as writers began to sell their manuscripts to printers for a profit, there remained a dimension of the book, its spiritual legacy, that lay beyond the grasp of market relations.7 The author might lay claim to the manuscript he created, and the printer to the book he printed, but neither could claim to possess the contents that lay within it. The Renaissance elevated the poet, the inventor, and the artist to unprecedented social heights, but their “genius” was still understood to be divinely inspired rather than a mere product of their mental skills or worldly labors. In the sixteenth century, Martin Luther could thus preach confidently in his Warning to Printers, “Freely have I received, freely I have given, and I want nothing in return.” Well into the eighteenth century the idea of the writer as God’s handmaiden held sway. Alexander Pope, in 1711, still conceived of the poet as a reproducer of traditional truths rather than an inventor of new ones, and Goethe could write fairly of the German poets of the early eighteenth century that “the production of poetical works was looked upon as something sacred. It was considered almost simony to accept or to bargain for payment of them.” This theologically informed moral revulsion to the idea of an individual profit motive in the creation and transmission of ideas continued to circulate in the United States well into the nineteenth century. Francis Wayland, the president of Brown University in the 1830s, wrote in his college textbook The Elements of Moral Science that “genius was given not for the benefit of the possessor, but for the benefit of others.”8 And an intellectual of no less stature than George Bancroft added a Hegelian twist to the Christian tradition, writing in 1855 that: Every form to which the hands of the artist have ever given birth, spring first into being as a conception of his mind, from a natural faculty, which belongs not to the artist exclusively, but to man. . . . Mind becomes universal property; the poem that is published in England, finds its response on the shores of Lake Erie and the banks of the Mississippi.9 The virtually universal proscription of private ownership of ideas in the premodern world did not, of course, mean that ideas flowed freely within premodern regimes. It fell to God’s agents upon the earth to determine how much of the knowledge putatively transmitted from God was actually divine in origin, as well as how widely and by whom such knowledge should be circulated within their kingdoms, empires, and cities. Rulers forged alliances with religious authorities to control the production and circulation of ideas and information – both spiritual and technical – within their realms. Throughout the world, the early modern period witnessed the emergence of elaborate systems of prepublication censorship, state-licensed monopolies to control the burgeoning printing and publishing trades, and the use of royal letters of patent or “privileges” to give exclusive monopolies for the printing and publication of authorized texts. Technical inventions came to be regulated by a similar system of exclusive state licensing. In China, as early as the Tang dynasty (A.D. 618–907), the legal code prohibited the transcription and distribution of a wide range of literature in order to protect the emperor’s prerogatives and interests. The first known ordinance regulating publication was that of the Emperor Wen-tsing, in 835, forbidding the private publication of almanacs. An extensive regulatory apparatus was created around the industry of printing under the Sung dynasty (960–1179), and official government printing houses were established in the major cities. Exclusive state privileges were implemented for categories of sensitive literature, from astrological charts, prognostications, and almanacs to official promulgations, dynastic histories, and civil-service examination literature. Private printing houses could register a particular work with Imperial officials and receive an exclusive privilege to print and sell it. But privileges were not a form of property right in the modern sense. They were a grace, extended by the pleasure of the authorities, and they were revocable at any time. By the eighteenth century a comprehensive system of prepublication censorship and licensing, even of private writing, was in place throughout Imperial China.10 European monarchies, empires, and city-states created similar legal and institutional structures in response to the introduction of the new technology of printing in the 1450s. Less than a hundred years later, the Reformation rent western Christendom. With the spread of ideological division, regulation of the printed word intensified rapidly. Rulers granted commercial monopolies, or “privileges,” in exchange for submission to state censorship and control. The earliest European initiative occurred in the Republic of Venice in 1469, where Johann Speyer was granted an exclusive monopoly on printing in Venetian territories for a period of five years.11 The practice of granting exclusive privileges to print in a particular city, to print a particular text, or to print a particular category of texts (schoolbooks, laws, Latin texts, etc.) spread rapidly from Venice throughout the Italian states, and from there to France and England. England presents an exemplary case. The first royal grant of a privilege to the book trade was the creation of the title of “King’s Printer,” which was given to one William Facques in 1504. This position afforded him the exclusive right to print royal proclamations, statutes, and other official documents. By 1557 the English crown reorganized the guild of printers and publishers known as the “Stationers’ Company” and gave them a virtual monopoly over printing and publishing, both in London and in the kingdom as a whole. In 1559, as part of her attempt to resolve the religious controversies that wracked the realm, Elizabeth I issued an injunction against publication of any text unless it had been licensed by censors appointed by the crown. The Stationers’ Company kept a registry of licensed books and the crown could, in principle, extend or revoke a license at will and limit it for whatever term it deemed appropriate. Rights to profit from a book derived not from property in ideas, but from a “privilege” extended by royal “grace” alone.12 These licenses were “copied” into the registry book of the guild and soon came to be treated by members of the guild as exclusive rights to print a particular “copy.” Though created by royal prerogative, these “copy” rights were bought, sold, and traded amongst guild members, as though they were a form of perpetual property. By the 1570s, four prominent members of the Stationers’ Company came to have a monopoly control, through “letters patents” that they claimed as their perpetual property rights, over the most lucrative books in print: Christopher Barker, the Queen’s Printer, controlled the Bible, the New Testament, the Book of Common Prayer, and all statutes, proclamations, and other official documents; William Serres had a monopoly on private prayer books, primers, and schoolbooks; Richard Tottel had a monopoly on common law texts; and John Day laid claim to alphabet books, the Catechism, and the Psalms in meter. A similar process of consolidation of great publishing empires, founded upon monopolistic claims rooted in royal privileges, occurred throughout Christian Europe. By the middle of the seventeenth century, the Paris Book Publishers and Printers Guild, like its brethren in London, had used its strategic proximity to the royal court to achieve a monopoly on the most valued ancient and religious texts as well as the most lucrative contemporary publications.13 Each of the more than three hundred German principalities and cities developed its own particular mechanisms to censor books, distribute privileges, and regulate guilds. An author might sell a manuscript to a licensed publisher for a one-time fee, but the real material rewards for the composition of a book came from the anticipated royal or aristocratic patronage that might redound, indirectly, to the writer from its publication. Authors could not publish their own books, and unless they obtained a privilege in their own name, they were denied any profits from the sale of their books. These went to the publishers alone. State-licensed monopolies on texts, on technical inventions, and on the means of reproducing them successfully wedded the commercial interests of publishers, printers, and other technical entrepreneurs to the ideological needs of absolutist states to control the knowledge that circulated in their realms. Throughout the early modern world the development of commercial printing and publishing thus first occurred through a system of state-licensed monopolies, sanctioned by religious ideologies, that made no mention at all of intellectual property rights. The prevailing theories of knowledge and of political legitimacy made such rights inconceivable. In the 1700s, cultural life in Europe underwent a dramatic transformation. A shift from intensive to extensive reading and the rise of a middle-class reading public led to an explosion of print commerce in the eighteenth century. In England, it is estimated that annual book production increased fourfold over the course of the eighteenth century. France, too, saw a marked increase in the literacy rate and a dramatic increase in the demand for modern secular literature. Everywhere, observers noted the change. Whereas in 1747 Johann Georg Sulzer lamented that in Berlin “the general public does little reading,” a half-century later Immanuel Kant recorded a literary world transformed: “This incessant reading has become an almost indispensable and general requisite of life.” Kant’s observations were confirmed by others: “People are reading even in places where, twenty years ago, no one ever thought about books; not only the scholar, no, the townsman and craftsman too exercises his mind with subjects for contemplation.” Increasing literacy and the emergence of a large middle-class readership throughout Europe in the first half of the eighteenth century put unprecedented strains upon a system of publication that had been predicated on the notion that there was a fixed amount of divine or ancient knowledge to be known, transmitted, and interpreted.14 These developments put enormous pressure on traditional notions of authorship. The increased demand for printed matter, and especially for modern secular literature (in particular, novels, theatrical works, and self-help manuals of various sorts), tempted an increasing number of young men (and women) to aspire to become writers. And they were writers of a new sort – oriented more toward the commercial potential of their contemporary readership than toward eternal glory. For the first time, in the eighteenth century, writers like Daniel Defoe in England, Denis Diderot in France, and Gotthold Lessing in Germany began to try to live from the profits of their pens rather than from elite patronage. And, not surprisingly, they began to make claims for better remuneration for their products. Older notions that a fixed “honorarium” or fee was an appropriate reward for the composition of a manuscript gave way to bolder assertions that the author deserved a share in the profits earned from his creative labor. Rather than selling a manuscript to a publisher, authors increasingly sought simply to sell the “rights” to a single edition. With greater frequency, secular authors began to claim that they were the creators of their own works rather than the mere transmitters of God’s eternal truths. As they came to view themselves as the originators of their work, they also began to claim that their creations were their own property, as susceptible to legal protection and as inheritable or saleable as any other form of property. Daniel Defoe wrote in 1710, “A Book is the Author’s Property, ’tis the Child of his Inventions, the Brat of his Brain: if he sells his Property, it then becomes the Right of the Purchaser.” Authors thus began to assert that their works were their own property, transmissible by contract to others if the authors desired, but that authors should no longer be constrained to sell their manuscripts in order to see them published. The rise in public demand for printed matter also led to a dramatic expansion in the practice of literary piracy. Sensing unsatisfied market demand and acutely aware of the artificial inflation in the price of some books due to publishers’ perpetual privileges, less-scrupulous printers and booksellers throughout Europe paid diminishing heed to the claims to exclusive perpetual privileges on the best-selling and most lucrative works. Cheap reprints, produced most frequently across national frontiers or in smaller provincial cities, began to flood urban markets. Publishers of pirate editions successfully represented themselves as champions of the “public interest,” against the monopolistic members of the book guilds. Why, they argued, should any particular publisher have an exclusive claim on a work whose authors or heirs were no longer living – indeed, on many works composed before the invention of printing? Did not the greater good of making enlightening works widely available at a low cost eclipse the selfish interests of individual publishers? By the middle of the eighteenth century, the traditional system of publication was everywhere in shambles. First in England, and then in France and Germany as well, calls for reform of the regulation of the book trade were coming from all parties involved. Readers wanted cheaper books. Government legislators sought to increase commerce and to encourage a more educated population within their realms. Foreign and provincial publishers – most notably in Scotland, Switzerland, and secondary French cities like Lyon – clamored against the perpetual monopolies of the London and Paris Book Guilds on the most lucrative books. Authors wanted their property rights in their compositions recognized as absolute and perpetual. And even the privileged guild publishers, especially in Hamburg, Leipzig, Frankfurt am Main, London, and Paris, hoped to see their traditional privileges recognized as perpetual property rights that could be defended against pirates in the courts. Satisfying and sorting out these conflicting claims provoked a host of pressing new questions: Were ideas in fact a gift from God, as traditional authorities had claimed, or were they the property of those who made them manifest, as authors now asserted? Was a “privilege” a “grace,” or was it rather the legal ratification of an anterior, natural right to property? Upon what basis could the governments of nations or cities restrict or confirm traditional privileges? Could a secular foundation be articulated for the regulation of the publication and circulation of ideas? The reform of the publishing industry in Europe thus entailed a rethinking of the basis and purpose of knowledge. A variety of European thinkers entered into a momentous debate about the origins and nature of ideas. As a result, a series of philosophical (or, more specifically, epistemological) problems were shown to lie at the heart of what at first glance seemed merely to be questions of commercial policy. One influential view – that authors have a natural property right in their ideas – was articulated first in England and associated with two key texts: John Locke’s Second Treatise (1690) and Edward Young’s Conjectures on Original Composition (1759). In his Treatise, Locke famously wrote that “every Man has a Property in his own Person. This no Body has any right to but himself. The Labour of his Body, and the Work of his Hands, we may say, are properly his.” Three generations later, the poet Edward Young, writing with the assistance of the novelist Samuel Richardson, asserted that the author contributed more than simply his labor to a book – he imprinted its contents with his original personality. According to Young, the labor of an author was thus of a higher order than the labor of an inventor, never mind the labor of a farmer, for the author not only worked upon nature, but produced something from himself, which bore the indelible stamp of a unique personality. While limits might be imposed upon patents for mechanical inventions, products of the mind – bearing the personhood of their author – ought to belong perpetually to their creator. Intellectual property, an invention of the eighteenth century, thus burst into the world claiming to be real property in its purest form. Young’s reflections, like those of John Locke before him, constituted a dramatic secularization of the theory of knowledge. If all knowledge was derived from the senses working upon nature, as Locke had argued in the Essay Concerning Human Understanding (1689), there was no role left for divine revelation. In the secular epistemology of Locke, inspiration is internalized and redefined as cognition. Young in turn applied Locke’s epistemology to argue that cognition emanates from the workings of a unique mind. The individual personality supplanted God as the divine font of knowledge. The new British accounts of knowledge began circulating almost immediately on the Continent. Young’s on Original Composition was rapidly translated into German and went through two editions there in the two years after it first appeared in English. Meanwhile, in France, both Locke and Young were widely influential. In 1726, for example, the French jurist D’Hericourt seized upon Locke’s critical passage to argue in court on behalf of perpetual book privileges for authors, asserting that products of the mind are “the fruits of one’s own labor, which one should have the freedom to dispose of at one’s will” and forever. One could own one’s ideas just as one owned land that one had cleared with one’s own labor. D’Hericourt concluded that a royal book privilege was not merely a grace accorded by the king, to be granted or revoked at his will, but rather a legal confirmation of an anterior natural property right, secured by the author’s labor.15 The author could sell or retain those rights as he or she wished. Once sold, they belonged to the publisher in perpetuity. The same argument was taken up again by the encyclopedist Denis Diderot in 1763, after he was commissioned by the Paris Book Guild to write a Letter on the Book Trade. In Diderot’s words, we can hear the resonance of both Locke and Young: What form of wealth could belong to a man, if not the work of the mind . . . if not his own thoughts . . . the most precious part of himself, that will never perish, that will immortalize him? What comparison could there be between a man, the very substance of a man, his soul, and a field, a tree, a vine, that nature has offered in the beginning equally to all, and which the individual has only appropriated though cultivating it?16 Like Young, Diderot argued that products of the mind are more uniquely the property of their creator than land acquired through its cultivation. Literary property should, therefore, be even less susceptible to social regulation than land. It was Gotthold Lessing, the greatest writer of the German Enlightenment, who most forcefully developed the notion of the author’s unique personality as a source of property rights in ideas. In a 1772 essay, Live and Let Live, Lessing proposed a reorganization of the German book trade that attacked the foundations of the old system. He challenged directly the traditional ban on profits received from writing: What? The writer is to be blamed for trying to make the offspring of his imagination as profitable as he can? Just because he works with his noblest faculties he isn’t supposed to enjoy the satisfaction that the roughest handyman is able to procure?. . . Freely hast thou received, freely thou must give! Thus thought the noble Luther. . . . Luther, I answer, is an exception in many things. From Lessing forward, German writers clamored insistently for recognition of their claims upon their writings as a form of unique, perpetual, and inviolable property.

#### **The global IP system is broken – the system is designed to perpetuate harm those already structurally marginalized – this is the Color Line at its finest. Vanni 21**

Amaka Vanni, On Intellectual Property Rights, Access to Medicines and Vaccine Imperialism. Third World Approaches To International Law Review, March 23, 2021. / leela

While the response to COVID-19 has shown what can be accomplished when the world works together, it has also underscored three interrelated points. First, [the neoliberal framework](https://bostonreview.net/law-justice/jedediah-britton-purdy-amy-kapczynski-david-singh-grewal-how-law-made-neoliberalism) – including the critical role intellectual property (IP) law plays in constituting this form of civilisation – is an unsuitable model for delivering the goods needed to respond to global health emergencies. The current economic/market system does not allow for equitable responses to infectious diseases, particularly access to sufficient medical and health resources. This inequity was obvious in the early days of the pandemic when test kits, PPEs, and ventilation machines were being distributed on the basis of who could pay the most rather than who needed them the most. Second, the beggar-thy-neighbor response currently adopted by developed countries hurts everyone because failing to stop the spread of the virus globally allows more mutations, which makes existing vaccines less effective. As COVID-19 has shown, [no one is safe until everyone is safe](https://www.who.int/news-room/commentaries/detail/a-global-pandemic-requires-a-world-effort-to-end-it-none-of-us-will-be-safe-until-everyone-is-safe). Yet, despite this warning, the hoarding of vaccines by developed countries continues unabated and speaks to the wider racist capitalist system we live in. If anything, this crude accumulation of vaccines reinforces North-South economic and political dominance and marks, as [Onur Ince observes](https://onlinelibrary.wiley.com/doi/full/10.1111/ruso.12025), the conceptual locus of political violence operative in the global genealogy of capitalism. Third, while COVID-19 may endanger us all, it is far more costly to some than others. Numerous reports have shown how black and brown people are most impacted by [COVID-19] the pandemic. In the United States, for example, indigenous Americans have the highest COVID-19 mortality rates nationwide while  [African American communities](https://www.apmresearchlab.org/covid/deaths-by-race) have COVID-19 mortality that is 2.3 times higher than the rate for Asians and Latinxs, and 2.6 times higher than the rate for Whites. Similar [data is also emerging in the UK](https://www.health.org.uk/news-and-comment/charts-and-infographics/emerging-findings-on-the-impact-of-covid-19-on-black-and-min) where people from black and minority ethnic groups are at greater risk of dying from coronavirus. This means those groups suffer higher loss of life compared to other racial groups due to inequities in healthcare access as well as higher rate of pre-existing conditions. In other parts of the world, the most vulnerable and the economically marginalized such as those working in the informal sector and living in shanty towns are feeling the effects of the pandemic the most. In [Latin America and the Caribbean](https://rosanjose.iom.int/SITE/en/blog/how-does-covid-19-impact-migrant-domestic-workers), 70 per cent of domestic workers have been affected by the pandemic where most have stopped receiving income. In Ghana, residents of slums at Old Fadama – a suburb in Accra – were made [homeless](https://www.facebook.com/JoyNewsOnTV/videos/257537245373128/) when the government demolished their homes. The ensuing homelessness means there is little to no space of observing social distancing rules, access to running water and access to other resources to practice basic hygiene. Meanwhile in India, the [pandemic has unsurprisingly hit the country along caste lines](https://theconversation.com/indias-coronavirus-pandemic-shines-a-light-on-the-curse-of-caste-139550) where the Dalits are most impacted because many are poor and have limited access to healthcare. As [Kimberlé Williams Crenshaw](https://newrepublic.com/article/157537/blackness-preexisting-condition-coronavirus-katrina-disaster-relief) reminds us, the high number of minority deaths is not new. Rather, this crisis simply amplified racism and other forms of structural inequality as a pre-existing condition – an intersectional issue – where those disproportionately hurt are those who are already structurally marginalized. Thus, while recognising a broken global IP regime that triggered the scramble for vaccines, the racialized impact of the pandemic cannot be ignored, and it points to the entangled roots of race and capitalism.  TRIPS Agreement and Access to Medicines Intellectual property rights (IPRs) are time-limited legal rights granted to inventors and creators. IPRs include copyrights, trademarks, patents, trade secrets, and geographical indications, while protected subject-matters include, but are not limited to, brands, inventions, designs, and biological materials. Importantly, IPRs overlap as a product may be covered by a series of rights. For example, a pharmaceutical medicine, defined by [Britannica](https://www.britannica.com/technology/pharmaceutical) as a ‘substance used in the diagnosis, treatment, or prevention of disease’, is protected by patents, trademarks, and trade secrets. Patents are the most common form of IPR used for the protection of innovation in pharmaceuticals. Patents grant inventors limited market exclusivity for their inventions, and, in exchange, the inventor must disclose sufficient information such that competitors will be able to step into the market. This disclosure allows a competitor to make preparation to enter the market at the end of the monopoly period. Due to this legally-mandated exclusivity, patent owners – [usually multinational corporations](https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0049470) – have the right to prevent others from making, using, or selling a patented invention. The [TRIPS Agreement](https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm), concluded as part of the Uruguay Round of multilateral trade negotiation and in force since 1995, provides a minimum of 20 years patent protection. The belief is that the duration allows corporations to recoup the expenses of developing, testing and upscaling an innovative pharmaceutical product. 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](https://core.ac.uk/download/pdf/33087557.pdf) 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](https://www.nytimes.com/2001/04/20/world/drug-makers-drop-south-africa-suit-over-aids-medicine.html) 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](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3050898) 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](https://digitalcommons.law.villanova.edu/vlr/vol45/iss5/11/) 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](https://jamanetwork.com/journals/jama/article-abstract/2674671) 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](http://www.i-mak.org/wp-content/uploads/2018/08/I-MAK-Overpatented-Overpriced-Report.pdf). 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](https://www.nytimes.com/2018/01/06/business/humira-drug-prices.html) 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](https://twailr.com/digital-colonialism-and-the-world-trade-organization/) 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](https://joppp.biomedcentral.com/articles/10.1186/s40545-017-0107-9) 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](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3187345). 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](https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-00565-4). In this instance, we see a crystallising of Euro-American ideas of [property](https://digitalcommons.law.villanova.edu/vlr/vol45/iss5/11/) and a willingness to promote those property interests through the law, both domestic and international. In fact, [certain scholars](https://pubmed.ncbi.nlm.nih.gov/23581666/) 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](https://heinonline.org/HOL/LandingPage?handle=hein.journals/temple77&div=25&id=&page=), 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](https://journals.sagepub.com/doi/pdf/10.1111/jlme.12014). 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](https://spicyip.com/2013/04/supreme-court-rejects-bid-by-novartis.html) 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](https://makemedicinesaffordable.org/five-years-after-the-indian-supreme-courts-novartis-verdict/) 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](https://theconversation.com/explainer-evergreening-and-how-big-pharma-keeps-drug-prices-high-33623) 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](https://www.lexology.com/library/detail.aspx?g=50b1a4a5-1f4e-4e95-9e35-cd0aaef827e6)®, 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](https://www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html). Similarly, a [white paper](https://www.i-mak.org/wp-content/uploads/2020/10/Excess-Costs-Briefing-Paper-FINAL-2017-10-24-with-cover-rev.compressed.pdf) 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](https://medium.com/@tahir_5675/celgene-didnt-invent-revlimid-but-it-has-made-billions-from-overpatenting-7b71876ad0) 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](https://poseidon01.ssrn.com/delivery.php?ID=107064121121024002083085003006101002098014089077064041076071094098122002091113120094058057003006039016043112014118116085107100106078031069085001083107096069125096047093042123014122082089097079012017106071090110098068010006029096119030098103096114111&EXT=pdf&INDEX=TRUE) 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](https://www.euronews.com/2019/03/08/dutch-join-backlash-at-expensive-drugs-by-making-their-own) 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.

#### High drug costs continue systemic racism. Fadeyi-Jones et al 20

Tomi Fadeyi-Jones, Chuck Hurley, Gloria Johnson-Cusack, Cal LaRoche, David Mitchell, Nicole Solomon-Mitchell. “High Prescription Drug Prices Perpetuate Systemic Racism. We Can Change It. Patients for affordable drugs now, December 14 2020. <https://patientsforaffordabledrugsnow.org/2020/12/14/drug-pricing-systemic-racism/> / leela

The barriers to and [rationing of treatment](https://www.axios.com/us-health-care-disparities-0219fc72-4ff3-435a-9d89-257428c52564.html) resulting from high prescription drug prices are an integral part of how systemic racism plays out in health care. By consistently putting profit maximization ahead of public health, [drug companies inflict](http://seattlemedium.com/prescription-drug-prices-hit-communities-of-color-the-hardest/) the greatest pain on those who are most vulnerable — Black Americans and other people of color. While 25 percent of white Americans [report](https://www.kff.org/health-reform/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/) not taking prescription medications as prescribed due to cost, the number rises to 30 percent among Black Americans and 42 percent among Hispanics. Drug corporations tout so-called patient assistance programs as a solution for people who cannot afford their drugs. But [97 percent](https://www.jhsph.edu/news/news-releases/2019/most-independent-charity-drug-assistance-programs-exclude-the-uninsured.html) of these programs exclude people who don’t have insurance. Why? Because these programs are really about selling more drugs at high prices; drug companies want to spend patient assistance money to cover patient copayments in order to leverage the much higher total insurance payment for a drug. Since Black Americans are almost [twice as likely](https://avalere.com/press-releases/covid-19-projected-to-worsen-racial-disparities-in-health-coverage?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosvitals&stream=top) to be uninsured, these programs are frequently of no help to them. Those without insurance are often condemned to pay the high list prices set by drug corporations — not the discounted prices that insurers negotiate for their customers. Yet, there is a more insidious and far-reaching impact of our drug pricing system in perpetrating systemic racism: We permit drug corporations to dictate whatever price they choose, and as a result, they extract [an unearned](https://sciencebasedmedicine.org/rd-and-the-high-cost-of-drugs/) and disproportionate share of the nation’s resources. For every dollar of taxpayer money we send to drug corporations in unwarranted profits through Medicare and other public programs, that is a dollar we don’t have to provide insurance coverage, improve nutrition, clean up water, increase funding for education, and generally support the steps that can lead to a healthier and higher quality of life for communities of color. The bottom line with prescription drug pricing in America is that brand drug corporations insist on unfettered power to set prices as high as they choose, and diverse communities are disproportionately hurt by their practices. We can fix our drug pricing system to make Black and Brown lives healthier and longer.

#### **The very concept of the global intellectual property protections system is racist – its fundamental orientation is built on a humanist imagining of whiteness as creatorship**

Parthasarathy 20 (Shobita, “Racism is baked into patent systems.” 02 November 2020. https://www.nature.com/articles/d41586-020-03056-z)

This might seem like cultural miscommunication, or the past meeting the future. But this year’s wake-up call to the ravages of social injustice are a reminder that this was also about racism and power. Many people are trying to address systemic biases in science and technology through training, grants and better job pipelines for researchers from marginalized groups. But the tentacles of racism are institutional, embedded and endemic. In *The Color of Creatorship*, law scholar Anjali Vats focuses on how racism has shaped intellectual-property systems. Patent, copyright and trademark laws and policies have, she argues, imagined whiteness and creatorship as synonymous while consistently devaluing the ingenuity of people of colour. This is pa\rticularly pernicious because it is cloaked in technical legal language and in seemingly objective categories such as invention, novelty and infringement. So it goes unchallenged, and shapes our understanding of who can participate in science, technology and markets — and how Vats’s powerful analysis draws mainly from laws and legal cases in the United States, moving roughly chronologically from the eighteenth century to the present. But her argument has international reach. US law shapes global industries and markets, and many countries have adopted the US approach to intellectual property. They see it as a model in stimulating innovation and economic growth. Most histories of US intellectual property emphasize that the idea was so central to the founding of the country that it appears in Article I, Section 8 of the Constitution: “To promote the Progress of Science and useful Arts, by securing for limited Times for Authors and Inventors the exclusive Right to their respective Writings and Discoveries”. They also often observe that the US system was intentionally more democratic than its European predecessors, with low barriers to participation. They rarely mention that this access was limited to free persons. Enslaved people created inventions, often in agricultural technology, but could not receive intellectual-property protection through patents. After the abolition of slavery, many Black Americans held patents — including Lewis Latimer and Granville Woods, who worked on electricity and telegraphic communications. Yet, well into the twentieth century, racists used low rates of patenting to argue that people of colour lacked ingenuity and could not fully participate in the US project of technological progress. The problem is not just one of systematic exclusion. Vats argues that it is one of fundamental orientation. The rules and procedures of the patent system embody approaches to knowledge production that promote a “vision of inventorship as a process that unfolds in a laboratory, at the hands of expert scientists”. It has little truck with the creative fruits of the kitchen, forest, farm or workshop.The aff’s orientation is a sequencing strategy to resistance – our advocacy against exploitative medicine and Western hegemony is an independent reason to affirm

#### The aff’s orientation is a sequencing strategy to resistance – our advocacy against exploitative medicine and Western hegemony is an independent reason to affirm

Ahmed 20 A Kavum Ahmed 6-24-2020 "Decolonizing the vaccine" <https://africasacountry.com/2020/06/decolonizing-the-vaccine> (A. Kayum Ahmed is Division Director for Access and Accountability at the Open Society Public Health Program in New York and teaches at Columbia University Law School.)//

Reflecting on a potential COVID-19 vaccine trial during a television interview in April, a French doctor stated, “If I can be provocative, shouldn’t we be doing this study in Africa, where there are no masks, no treatments, no resuscitation?” These remarks reflect a colonial view of Africa, reinforcing the idea that Africans are non-humans whose black bodies can be experimented on. This colonial perspective is also clearly articulated in the alliance between France, The Netherlands, Germany and Italy to negotiate priority access to the COVID-19 vaccine for themselves and the rest of Europe. In the Dutch government’s announcement of the European vaccine coalition, they indicate that, “… the alliance is also working to make a portion of vaccines available to low-income countries, including in Africa.” In the collective imagination of these European nations, Africa is portrayed as a site of redemption—a place where you can absolve yourself from the sins of “vaccine sovereignty,” by offering a “portion of the vaccines” to the continent. Vaccine sovereignty reflects how European and American governments use public funding, supported by the pharmaceutical industry and research universities, to obtain priority access to potential COVID-19 vaccines. The concept symbolizes the COVID-19 **vaccine** (when it eventually becomes available) as **an instrument of power deployed to exercise control** **over who will live and who must die**. In order to counter vaccine sovereignty, we must decolonize the vaccine. Africans have a particular role to play in leading this decolonization process as subjects of colonialism and as objects of domination through coloniality. Colonialism, as an expansion of territorial dominance, and coloniality, as the continued expression of Western imperialism after colonization, play out in the vaccine development space, most notably on the African continent. So what does decolonizing the vaccine look like? And how do we decolonize something that does not yet exist? For Frantz Fanon, “**Decolonization**, which sets out to change the order of the world, **is**, obviously, a program of **complete disorder**.” **Acknowledging** **that the** COVID-19 **vaccine has been weaponized** **as an instrument of power** by wealthy nations, **decolonization** **requires** a Fanonian program of **radical re-ordering.** In the context of vaccine sovereignty, this re-ordering **necessitates** the **dismantling** of the **profit-driven biomedical system**. This program starts with **de-linking from** **Euro-American constructions of knowledge and power** that reinforce vaccine sovereignty through the profit-driven biomedical system. Advocacy campaigns such as the “People’s Vaccine”, which calls for guaranteed free access to COVID-19 vaccines, diagnostics and treatments to everyone, everywhere, are a good start. Other mechanisms, such as the World Health Organization’s COVID-19 Technology Access Pool, similarly supports universal access to COVID-19 health technologies as global public goods. Since less than 1% of vaccines consumed in Africa are manufactured on the continent, regional efforts to develop vaccine manufacturing capacity such as those led by the Africa Center for Disease Control and Prevention, as well as the Alliance of African Research Universities, must be supported. These efforts collectively advance delinking and move us closer toward the re-ordering of systems of power. The opportunity for disorder is paradoxically enabled by the COVID-19 pandemic, which has permitted moments of existential reflection in the midst of the crisis. A few months ago, a press release announcing the distribution of “a portion of the vaccines” to Africans, may have been lauded as European benevolence. But in the context of a pandemic that is more likely to kill black people, Africa’s reliance on Europe for vaccine handouts is untenable, necessitating a re-examination of the systems of power that hold this colonial relationship in place. The Black African body appears to be good enough to be experimented on, but not worthy of receiving simultaneous access to the COVID-19 vaccine as Europeans. Consequently, Africans continue to feel the effects of colonialism and white supremacy, and understand the pernicious nature of European altruism. By reinforcing the current system of vaccine research, development and manufacturing, it has become apparent that European governments want to retain their colonial power over life and death in Africa through the COVID-19 vaccine. Resistance to this colonial power requires the decolonization of the vaccine.

## UV

#### aff gets 1AR theory -- otherwise the neg can be infinitely abusive and there’s no way to check it

#### drop the debater because the 1ar doesn’t have enough time to prove abuse and win substance

#### no rvis because it means the 2nr can be a 6 minute blip storm against 4 minutes of 1ar arguments

#### presumption goes aff because it’s harder to affirm.

#### there’s a 7/4/6/3 time skew which means that if there’s no offense at the end of the debate, i did the better debating.

#### we assume statements to be true until proven otherwise (ex: if i said my name is leela, you’d believe me until given some reason not to)

#### pre fiat evidence comes first. questions about the debate space + educational structures are prerequisites to discussing any benefits of implementing policy action

#### No omissions: All neg theory violations and kritik links must come from the text of the AC, not the absence of specification.

#### I have a limited time to speak so it’s an infinite aff burden

#### Race to bottom – incentivizes people to not engage the aff and make a bunch frivolous spec argument to preclude

#### Neg may only read 1 T or theory shell. Multiple shells spread out the 1AR and allow the 2NR to collapse to whichever shell was under covered, meaning I wasn’t given a fair shot at justifying my practice. Multiple rounds solve your offense since we can check lots of abusive practices over time.