# Speech 1AC Rd 2 Grapevine vs Plano 9-10 5PM

### Fw

#### Perspectivism is true –

#### 1] Opacity – we can never access another person’s perspective because we can never fully understand who someone else is or what they think. Every truth I create cannot be universalized because I can’t guarantee that they will create the same truth because they do what they want.

#### 2] Resolvability – Centuries of moral debate proves we can’t come to an objectively correct answer so it has to be indexed to individual subjects. High school debaters can’t come to a correct conclusion on their own and moral dilemmas are too complicated to “solve” in 45 minutes, so you should prefer a perspectivist account.

#### 3] The theory of relativity proves that objective reality does not exist but only in the reference to the observer.

**Berghofer 20** [Philipp Berghofer (a graduate student at University of Graz, Institute of Philosophy). “Scientific perspectivism in the phenomenological tradition”. European Journal for Philosophy of Science volume. 16 June 2020. Accessed 4/17/21. <https://link.springer.com/article/10.1007/s13194-020-00294-w> //Xu]

Concerning general relativity, Merleau-Ponty states: The physics of relativity confirms that absolute and final objectivity is a mere dream by showing how each particular observation is strictly linked to the location of the observer and cannot be abstracted from this particular situation; it also rejects the notion of an absolute observer. We can no longer flatter ourselves with the idea that, in science, the exercise of a pure and unsituated intellect can allow us to gain access to an object free of all human traces, just as God would see it. This does not make the need for scientific research any less pressing; in fact, the only thing under attack is the dogmatism of a science that thinks itself capable of absolute and complete knowledge. We are simply doing justice to each of the variety of elements in human experience and, in particular, to sensory perception. (Merleau-Ponty 2004, 44f.) It is to be noted that Merleau-Ponty’s remark is misleading since in the theory of relativity observation is not linked to the location of the observer but to the frame of reference of the observer.Footnote21 The principle of relativity implies that there is no privileged frame of reference; the laws of physics are the same in all inertial frames of reference. Special relativity is built upon the principle of relativity (first postulate) and the postulate that in a vacuum the speed of light is constant for all observers. Together, these two postulates have several implications that show that some of the facts that we usually consider to be “objective” are in fact observer-dependent. For instance, special relativity implies the relativity of simultaneity: It depends on the observer’s frame of reference whether two events separated in space occur at the same time. There is no objective or absolute sense in which we could tell that two spatially separate events take place simultaneously. When we turn to general relativity, we see that space and time are not absolute, not a fixed background, but that the geometry of spacetime itself is influenced by what is going on within spacetime, namely by the energy-momentum of matter. This means that there is a reciprocal relationship between spacetime and what it contains (including the embodied observer).Footnote22

#### Meaning only makes sense within a frame of reference that isolates the practical difference that it makes in action.

**Peirce 78** [Charles S. Peirce(American philosopher, logician, mathematician, and scientist who is sometimes known as “the father of pragmatism”). “How to Make Our Ideas Clear.” Popular Science Magazine. Pg 286-302. January 1878. Accessed 2/21/20. <http://www.filosofia.unimi.it/zucchi/NuoviFile/Peirce1878.pdf> //Xu]

This is the only fact which the idea of force represents, and whoever will take the trouble clearly to apprehend what this fact is, perfectly comprehends what force is. Whether we ought to say that a force is an acceleration, or that it causes an acceleration, is a mere question of propriety of language, which has no more to do with our real meaning than the difference between the French idiom "Il fait froid" and its English equivalent "It is cold." Yet it is surprising to see how this simple affair has muddled men's minds. In how many profound treatises is not force spoken of as a "mysterious entity," which seems to be only a way of confessing that the author despairs of ever getting a clear notion of what the word means! In a recent admired work on Analytic Mechanics it is stated that we understand precisely the effect of force, but what force itself is we do not understand! This is simply a self-contradiction. The idea which the word force excites in our minds has no other function than to affect our actions, and these actions can have no reference to force otherwise than through its effects. Consequently, if we know what the effects of force are, we are acquainted with every fact which is implied in saying that a force exists, and there is nothing more to know. The truth is, there is some vague notion afloat that a question may mean something which the mind cannot conceive; and when some hair-splitting philosophers have been confronted with the absurdity of such a view, they have invented an empty distinction between positive and negative conceptions, in the attempt to give their non-idea a form not obviously nonsensical. The nullity of it is sufficiently plain from the considerations given a few pages back; and, apart from those considerations, the quibbling character of the distinction must have struck every mind accustomed to real thinking.

**This commits us to practical deliberation as the method of moral inquiry   
Serra 09**Juan Pablo Serra. What Is and What Should Pragmatic Ethics Be? Some Remarks on Recent Scholarship*.* EUROPEAN JOURNAL OF PRAGMATISM AND AMERICAN PHILOSOPHY. 2009. Francisco de Vitoria College, Humanities Department, Faculty member. https://journals.openedition.org/ejpap/905

This separation of theory and practice runs parallel to another split, namely, that of ethics and morals or, better put, of ethical theory and moral practice. Peirce denies that morality is subject to rationality and thinks that ethics is valuable as a science in a broad sense. But he also regards ethics as a science which bears on human conduct only indirectly, through the examination of past actions and the self-correction of the self in view of future action. In addition, ethics would be a normative knowledge only in so far as it analyzes the adjustment of actions to ends and in so far as it studies the general way in which a good life can be lived. In morals Peirce appeals to instinct and sentiment, and in ethics he recommends the use of logical thinking —just as scientists do. However, even within the framework of his system, it’s not obvious that scientists may so easily set aside their instincts —in fact, instinct (or ‘rational instinct’ as he called it in 1908) plays a significant role in the economy of re- search. Moreover, the statement that in moral issues there may be no possibility of carrying out an inquiry that is truth-oriented is not an uncontroversial one. After all, moral inquiry is performed in a deliberative way, weighing up argumentations, beliefs and principles, and comparing them either with their probable or conceivable consequences or with lived as well as possible experiences that can be forceful or impinge upon the deliberative subject in such a way as to acquire the compulsory resistance due to reality. As Misak puts it succint- ly, “the practice of moral deliberation is responsive to experience, reason, argument, and thought experiments... Such responsiveness is part of what it is to make a moral decision and part of what it is to try to live a moral life” (2000: 52)3. Likewise, this same deliberative activity implies an effort to acquire habits, beliefs and principles that contribute to a truly free deliberation which, in turn, can result in creative conclusions. For Peirce, as you get more habit-governed, you become more creative and free, and your selfhood acquires plas- ticity and receptiveness to experience4. Vincent Colapietro has referred to Peirce’s description of human reason in terms of a deliberative rationality (1999: 24). Also, in another place he has explained that deliberation for Peirce is a process of preparation for future action which has to do with the checking of previous acts, the rehearsal in imagination of different roads to be followed by possible conduct and the nurturing of ideals (Colapietro 1997: 270, 281). It is precisely this experi- ment carried out within imagination that generates habits, because, as Peirce says in “A Survey of Pragmaticism”, “it is not the muscular action but the accompanying inward ef- forts, the acts of imagination, that produce the habit” (CP 5.479, 1907). Habits are regular ways of thinking, perceiving and interpreting that generate actions. As such, habits have a huge influence on human behavior, manifest themselves in the con- crete things we do and, at the same time, are formed within those same activities. Even more, according to Peirce, the activity takes the form of experimentation in the inner world; and the conclusion (if it comes to a definite conclusion), is that under given conditions, the interpreter will have formed the habit of acting in a given way whenever he may desire a given kind of result. The real and living logical conclusion is that habit (CP 5.491, 1907). Much more evidence could be given to support the view that habits are virtually decided (CP 2.435, c.1893) and also that intelligence comprises inward or potential actions that in- fluence the formation of habits (CP 6.286, 1893). Suffice it to say that, according to Peirce, deliberation is a function of the imagination, and that imagination is in itself an experiment which may have unexpected consequences that impose themselves upon the deliberative subject.

#### Thus, the standard is consistency with pragmatic deliberation.

#### Prefer –

#### 1] impacts cannot be isolated from their history and the only way to test the validity of truth is through application.

**Dewey 02** [John Dewey (head of the Philosophy Department at the University of Chicago). “The Evolutionary Method as Applied to Morality: II. Its Significance for Conduct.” The Philosophical Review, Vol. 11, No. 4 (Jul., 1902), pp. 353-371. Accessed 12/31/20. <https://www.jstor.org/stable/pdf/2176470.pdf> //Recut Xu]

The problem of the best method of arriving at correct judg- ments on points of moral worth, necessarily traverses ground covered by the time-honored and time-worn theories of intuition- alism and empiricism. Even at the risk of threshing old straw, it will be advisable to compare the evolutionary method with these other points of view. In such a comparison, however, it is to be borne in mind that the sole point under review is that of the log- ical relationship of the theory examined to the meaning and sanc- tion of our moral judgments. The question is not whether or no there are intuitions; whether or no they can be utilized in special cases, or whether or no all supposed intuitions can be accounted for as products of associative memory. The problem is not one of fact but of value. It is a logical problem. If we suppose such necessary and universal beliefs as go by the name of ' intuition' to exist, does such existence settle anything regarding the valid- ity of what is believed, either in general or in part? It is a question of the relation of the intuition to fact -to the moral order in reality. Under what conditions alone, and in what measure or degree, are we justified in arguing from the existence of moral intuitions as mental states and acts to facts taken to correspond to them ? The reply already hinted at is that the mere existence of a belief, even admitting that as a belief it cannot in any way be got rid of, determines absolutely nothing regarding the objectivity of its own content. The worth of the intuition depends upon genetic considerations. In so far as we can state the intuition in terms of the conditions of its origin, development, and later career, in so far we have some criterion for passing judgment upon its pretentions to validity. If we can find that the intuition is a legitimate response to enduring and deep-seated conditions, we have some reason to attribute worth to it. If we find that historically the belief has played a part in maintaining the integrity of social life, and in bringing new values into it, our belief in its worth is additionally guaranteed. But if we cannot find such historic origin and functioning, the intuition remains a mere state of consciousness, a hallucination, an illusion, which is not made more worthy by simply multiplying the number of people who have participated in it. Put roughly we may say that intuitionalism, asordinarily conceived, makes the ethical belief a brute fact, because unrelated. Its very lack of genetic relationship to the situation in which it appears condemns it to isolation. This isolation logically makes it impossible to credit it with objective validity. The intuitionalist, in proclaiming the necessity of his content, proclaims thereby its objective reference; but in asserting its non-genetic character he denies any reference whatsoever. The genetic theory holds that the content embodied in any so-called intuition is a response to a given active situation: that it arises, develops, and operates somehow in reference to this situation. This functional reference establishes in advance some kind of relationship to objective conditions, and hence some presumption of validity. If the ' intuition' persists, it is within certain limits because the situation persists. If the particular moral belief is really inexpugnable, it is just because the conditions which require it are so enduring as to persistently call out an attitude which is relevant to them. The probability is that it continues in existence simply because it continues to be necessary in function.

#### 2] Normative Necessity- If you’re unsure what the good is, allow for deliberation because it allows people to pursue their conception of the good and discuss it. This means that epistemic modesty collapses because it means we need to include various viewpoints, which is prag

#### 3] **Rule Following Paradox-** There is nothing inherent to a rule that tells us how we ought to follow it, which proves no internal motivation or direction to follow a particular rule, regardless of how correct the rule is. Since only our interpretation can tell us how to follow the rule, there can be no incorrect application. Only deliberation accounts for the diversity of interpretations of our norms.

#### 4] TJFS- Frameworks should be fair/educational like any other argument. A] Inclusion – Prag definitionally is a procedural for allowing almost any argumentation in the debate space which controls the internal link to inclusion which is an impact multiplier B] Resource Disparities- Discursive frameworks ensure big squads don’t have a comparative advantage since debates become about quality of arguments rather than quantity and require a higher level of analytic thinking that small schools have.

#### 5] Best studies prove pluralistic tendencies are inevitable

Polzler 19[Thomas Pölzler and Jennifer Cole Wright- “Empirical research on folk moral objectivism” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6686698/> NCBI. Published July 5th 2019]

Examining these studies' results more closely, however, makes it less clear whether this interpretation is appropriate (Pölzler, 2018b). Take again Goodwin and Darley's study. In this study, almost 30% of subjects' responses to the disagreement measure and almost 50% of their responses to the truth‐aptness measure fell on the option that the researchers took to be indicative of subjectivism (Goodwin & Darley, 2008, pp. 1347, 1351). Moreover, while some moral statements were dominantly classified as objective (e.g., the above statement about robbery), many others were dominantly classified as nonobjective (e.g., the stem cell research statement). This suggests that subjects in Goodwin and Darley's study may have actually favored what Wright, Grandjean, and McWhite (2013) called “metaethical pluralism,” i.e., they sometimes sided with objectivism and other times with nonobjectivism. More recent studies have by and large confirmed this hypothesis of folk metaethical pluralism. Wright et al. (2013) and Wright, McWhite, and Grandjean (2014), for example, replicated Goodwin and Darley's results, using the exact same measures, but letting subjects classify the presented statements as moral and nonmoral themselves. Objectivity ratings for statements that were dominantly self‐classified as moral varied between as little as 5% and as much as 85%. Research based on different measures yielded high proportions of intrapersonal variation as well (e.g., Beebe, 2014; Beebe, Qiaoan, Wysocki, & Endara, 2015; Beebe & Sackris, 2016; Fisher, Knobe, Strickland, & Keil, 2017; Goodwin & Darley, 2012; Heiphetz & Young, 2017; Wright, 2018; Zijlstra, forthcoming‐a).2

### Affirm

#### IP laws prioritize uniformity and predictability as a method of homogenizing knowledge and refusing experimentation.

Wu 14 [Tim Wu (Julius Silver Professor of Law, Science and Technology at Columbia University). “Intellectual Property Experimentalism By Way of Competition Law”. Columbia Law School. 2014. Accessed 8/16/21. <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2843&context=faculty_scholarship> //Xu]

The goals of uniformity and predictability has had its clearest implications at the international level. Unlike competition law, which varies significantly between OECD nations, over the last several decades all of the IP laws have become subject to a much stronger and geographically broader web of harmonizing international agreements, on multinational, regional and bilateral levels. The general aim of these treaties is to homogenize the world’s IP regimes, reducing or eliminating geographical variation. All of the major laws are the subject of longstanding global treaties specifying minimum protections (The Berne and Paris conventions), which were fortified in 1994 by the addition of an intellectual property agreement to the World Trade Organization, and further strengthened by numerous bilateral treaties since then. And of course the World Trade Organization, unlike the informal organizations common to competition law, has the power to punish deviations from the intellectual property treaties with serious trade sanctions. The pattern can also be observed at the national level. Both in Europe and the United States the last few decades have witnessed many important measures taken to create uniformity. In the United States, a single appeals court, the Federal Circuit, has heard the nation’s appeals in patent cases since 1982 in an effort to bring greater uniformity to the patent law. Though proposals for constructing a uniform patent court akin to the Federal Circuit in the European Union have been unsuccessful so far,26 the European Patent Convention, founded in 1973, provides a common application for the prosecution of patents in each of the member states.27 In short, stronger protection of uniform rights has been the clear trajectory of the intellectual property laws over the last few decades. That tendency is sharply at odds with the predispositions of the competition laws. The dichotomy I am suggesting here is, of course, not absolute. In certain areas of the competition law, one can sense the influence of a vested rights theory, in, for example, the resistance to breakups of dominant terms, even if the economic case for doing so might be quite strong. And there are areas in IP law, like the American fair use doctrine (a judicial and scholarly favorite), which have, in fact, served as important outlets for judicial tinkering in the face of changing conditions. For example the famous Sony decision, blessing the VCR, broke with prevalent copyright doctrine, arguably as a reaction to perceived technological necessity.28 Similarly, following a decade of bad press, Congress, the courts, and the American Patent Office have begun to make adjustments with American patent law. An example is the new post-grant review process, which includes a particular provision targeted at business method patents. Nonetheless it would be hard to describe the intellectual culture of either the intellectual property laws as truly committed to experimental improvement of the law. It would be even harder to describe competition law as devoted to the protection of fundamental rights. We are left with a divergence in intellectual cultures with broad implications for just about every advanced economy in the world. IV. USING ANTITRUST FOR PATENT EXPERIMENTALISM AT THE UNITED STATES SUPREME COURT I believe there is a need for a more experimentalist approach to the intellectual property laws, and particularly to the patent laws. The law, I believe, needs better mechanisms not simply to celebrate its successes, but to correct its errors, both specific and general. One way this might be achieved is to act within the structure and institutions of the laws themselves; as just discussed, this is a project underway in certain respects. But the other path is to rely on the competition laws as a kind of oversight and adjustment mechanism for the intellectual property laws.

#### The law is necessarily fallible and constrained by imperfection which requires constant experimentation to reconstruct “foundational” truths.

Wu 2 [Tim Wu (Julius Silver Professor of Law, Science and Technology at Columbia University). “Intellectual Property Experimentalism By Way of Competition Law”. Columbia Law School. 2014. Accessed 8/16/21. <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2843&context=faculty_scholarship> //Xu]

Experimentalism is not a word that attorneys use very often. At its most general, the idea of legal experimentalism is to apply the scientific method of hypothesis, experiment, and observation of consequence to challenging legal and policy problems. It is, as such, closely related to a “pragmatist” legal philosophy.5 John Dewey is usually credited with laying a philosophical foundation for policy experimentalism in his writings in the 1910s and 1920s. Dewey, whose background was in education, believed that a successful democracy needed the capacity to learn and improve itself. The key to learning, he believed, was the processing of experiences, or in his words the “reconstruction or reorganization of experience which adds to the meaning of experience and which increases ability to direct the course of subsequent experience.”6 As relevant to the legal system, Dewey thought policy and “proposals for social action” should be subject to the experimental method. Policy-making, he said, should be a constant process of learning from experience, rather than relying on rigid or foundational truths. “Policies,” Dewey argued, should be “experimental in the sense that they will be entertained subject to constant and well-equipped observation of the consequences they entail when acted upon, and subject to ready and flexible revision in the light of observed consequences.”7 As understood here we can describe legal experimentalism as comprising three main principles. First, for the experimentalist, laws are simply instruments meant to achieve some end and useful only to the extent they do so. A law has no intrinsic value, and its existence should not necessarily count in favor of its retention. Second, every law should be thought of as an ongoing experiment. That is to say, every enactment, regu- lation or judicial opinion must be seen as that moment’s best guess as to what a rule should be, in light of imperfect information and human fallibility. Borrowing Dewey’s language, policies should be thought of as a “working hypothesis, not as programs to be rigidly adhered to and executed.”8 Given the imperfect nature of law-making, policy should be subject to revision when faced with new information or changed conditions. The law must also be able to learn and improve itself based on observation of consequences, intended or otherwise.

### Method

#### 1] 1AR theory is legit – anything else means infinite abuse

#### – drop the debater – 1AR is too short to make up for the time trade-off

#### – no RVIs – 6 min 2NR means they can brute force me every time

#### – competing interps – reasonability narrows the theory debate to one issue of brightline, making it easy for the Neg to collapse to the issue in the long 2NR

#### – 1AR theory is the highest layer – the NC has 7 minutes to be abusive and 6 minutes to leverage the abuse against 1A theory in the 2N, making checking abuse lexically impossible

#### 2] Give me new weighing in the 2AR for 1AR shells – I don’t know what arguments will be read in the 2NR so 1AR weighing is impossible as I don’t know what to weigh against.

#### 3] Affirm if I win offense to a counterinterp

#### A] Timeskew – 6 Minute 2NR with collapse to whatever I undercover means that you can win theory and substance, but I need to go for both in half the time and split it between the 2 layers.

#### B] Reciprocity – you get T and theory so I should get theory and an RVI to make the burden reciprocal.

#### 4] Nothing in the 1AC has triggered it, but Presumption and permissibility affirm –

#### a) We always default to assuming something true until proven false ie if I told you my name is Daniel you would believe me

#### b) If agents have to justify why every action is morally good we would have to justify actions that are morally neutral ie drinking water

#### c) Lack of offense means it’s ok to do something, but it’s never okay to do something which is prohibited which means that the neg has to win offense.

#### d) empirics

**Shah 19,**[Shah, Sachin. “A STATISTICAL ANALYSIS OF SIDE-BIAS ON THE 2019 JANUARY-FEBRUARY LINCOLN-DOUGLAS DEBATE TOPIC.” NSD Update, National Symposium of Debate, 16 Feb. 2019, <http://nsdupdate.com/2019/a-statistical-analysis-of-side-bias-on-the-2019-january-february-lincoln-douglas-debate-topic/> ]//LHPSS accessed 9/4/19

As a final note, it is also interesting to look at the trend over multiple topics. In the rounds **from** 93 TOC bid distributing tournaments (**2017 – 2019** YTD), **the neg**ative **won 52.99% of ballots** (**p-value < 0.0001)** and 54.63% of upset rounds (p-value < 0.0001). **This suggests the bias might be structural, and not topic specific, as this data spans six different topics.**

**5] No 2n theory arguments and paradigm issues- a) overloads the 2AR with a massive clarification burden b) it becomes impossible to check NC abuse if you can dump on reasons the shell doesn't matter in the 2n**

#### 6] give both debaters 30 speaks to correct for perceptive skews

### Advantage

#### Plan – The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines by implementing a one-and-done approach. Spec in doc

The – “used to point forward to a following qualifying or defining clause or phrase”. Google. <https://www.google.com/search?q=the+definition&rlz=1C1CHBF_enUS877US877&oq=the+definition&aqs=chrome.0.69i59j69i64j69i61j69i60l2.2103j0j7&sourceid=chrome&ie=UTF-8>

member nations of the World Trade Organization – it’s a term of art so put away your aprioris – we will defend official list – <https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm>

Ought – “used to express obligation”. Merriam Webster. <https://www.merriam-webster.com/dictionary/ought>

To – “used as a function word to indicate application or attention”. Merriam Webster. <https://www.merriam-webster.com/dictionary/to>

Reduce – “bring someone or something to (a lower or weaker state, condition, or role)” – Google. <https://www.google.com/search?q=reduce+definition&rlz=1C1CHBF_enUS877US877&oq=reduce+definition&aqs=chrome.0.69i59l2j69i60l2.3332j0j7&sourceid=chrome&ie=UTF-8>

Intellectual property protections – it’s a term of art – “Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time”. WTO. https://www.wto.org/english/tratop\_e/trips\_e/intel1\_e.htm

For – “used as a function word to indicate an intended goal”. Merriam Webster. <https://www.merriam-webster.com/dictionary/for>

Medicines – “the science or practice of the diagnosis, treatment, and prevention of disease”. Google. <https://www.google.com/search?q=medicines+definition&rlz=1C1CHBF_enUS877US877&oq=medicines+&aqs=chrome.2.69i59l4j69i60l3.1898j0j7&sourceid=chrome&ie=UTF-8>

Counter solvency advocates

<https://www.who.int/intellectualproperty/submissions/Pharmacoevolution.pdf?ua=1>

https://pubs.acs.org/doi/10.1021/acsmedchemlett.9b00497

#### We are in an innovation crisis – new drugs are not being developed in favor of re-purposing old drugs to infinitely extend patent expiration.

Feldman 19 Robin Feldman 2-11-2019 "‘One-and-done’ for new drugs could cut patent thickets and boost generic competition" <https://www.statnews.com/2019/02/11/drug-patent-protection-one-done/> (Arthur J. Goldberg Distinguished Professor of Law, Albert Abramson ’54 Distinguished Professor of Law Chair, and Director of the Center for Innovation)//SidK + Elmer

Drug companies **have brought great innovations** to market. Society rewards innovation with patents, or with non-patent exclusivities that can be obtained for activities such as testing drugs in children, undertaking new clinical studies, or developing orphan drugs. The rights provided by patents or non-patent exclusivities provide a defined time period of protection so companies can recoup their investments by charging monopoly prices. When patents end, lower-priced competitors should be able to jump into the market and drive down the price. **But that’s not happening**. Instead, drug companies build massive patent walls around their products, extending the protection **over and over again**. Some modern drugs have an avalanche of U.S. patents, with expiration dates **staggered across time**. For example, the rheumatoid arthritis drug Humira is **protected by more than 100 patents**. Walls like that **are insurmountable**. Rather than rewarding innovation, our patent system is now largely repurposing drugs. Between 2005 and 2015, **more than three-quarters** of the drugs associated with new patents **were not new ones** coming on the market but existing ones. In other words, we are mostly churning and recycling. Particularly troubling, new patents can be **obtained on minor tweaks** such as adjustments to dosage or delivery systems — a once-a-day pill instead of a twice-a-day one; a capsule rather than a tablet. Tinkering like this may have some value to some patients, but it nowhere near justifies the rewards we lavish on companies for doing it. From society’s standpoint, incentives should drive scientists back to the lab to look for new things, not to recycle existing drugs for minimal benefit.

#### The Plan solves Evergreening.

Feldman 19 Robin Feldman 2-11-2019 "‘One-and-done’ for new drugs could cut patent thickets and boost generic competition" <https://www.statnews.com/2019/02/11/drug-patent-protection-one-done/> (Arthur J. Goldberg Distinguished Professor of Law, Albert Abramson ’54 Distinguished Professor of Law Chair, and Director of the Center for Innovation)//SidK + Elmer

I believe that one period of protection **should be enough**. We should make the legal changes necessary to prevent companies **from building patent walls** and piling up mountains of rights. This could be accomplished **by a “one-and-done” approach** for patent protection. Under it, a drug would receive just one period of exclusivity, and no more. The choice of which “one” could be left entirely in the hands of the pharmaceutical company, with the election made when the FDA approves the drug. Perhaps development of the drug went swiftly and smoothly, so the remaining life of one of the drug’s patents is of greatest value. Perhaps development languished, so designation as an orphan drug or some other benefit would bring greater reward. The choice would be up to the company itself, based on its own calculation of the maximum benefit. The result, however, is that a pharmaceutical company chooses whether its period of exclusivity would be a patent, an orphan drug designation, a period of data exclusivity (in which no generic is allowed to use the original drug’s safety and effectiveness data), or something else — but **not all of the above** and more. Consider Suboxone, a combination of buprenorphine and naloxone for treating opioid addiction. The drug’s maker has extended its protection cliff eight times, including obtaining an orphan drug designation, which is intended for drugs that serve only a small number of patients. The drug’s first period of exclusivity ended in 2005, but with the additions its protection now lasts until 2024. That makes almost two additional decades in which the public has borne the burden of monopoly pricing, and access to the medicine may have been constrained. Implementing a one-and-done approach in conjunction with FDA approval underscores the fact that these problems and solutions are designed for pharmaceuticals, not for all types of technologies. That way, one-and-done could be implemented through **legislative changes to the FDA’s drug approval system**, and would apply to patents granted going forward. One-and-done would apply to both patents and exclusivities. A more limited approach, a baby step if you will, would be to invigorate the existing patent obviousness doctrine as a way to cut back on patent tinkering. Obviousness, one of the five standards for patent eligibility, says that inventions that are obvious to an expert or the general public can’t be patented. Either by congressional clarification or judicial interpretation, many pile-on patents could be eliminated with a ruling that the core concept of the additional patent is nothing more than the original formulation. Anything else is merely an obvious adaptation of the core invention, modified with existing technology. As such, the patent would fail for being perfectly obvious. Even without congressional action, a more vigorous and robust application of the existing obviousness doctrine could significantly improve the problem of piled-up patents and patent walls. Pharmaceutical companies have become adept at maneuvering through the system of patent and non-patent rights to create mountains of rights that can be applied, one after another. This behavior lets drug companies keep competitors out of the market and beat them back when they get there. We shouldn’t be surprised at this. Pharmaceutical companies are profit-making entities, after all, that face pressure from their shareholders to produce ever-better results. If we want to change the system, we must change the incentives driving the system. And right now, the incentives for creating patent walls are just too great.

#### Evergreening restricts access to necessary life-saving HIV/Aids Medication.

Mellouk and Cassolato 19 Othoman Mellouk and Matteo Cassolato 10-2-2019 "HOW PATENTS AFFECT ACCESS TO HIV TREATMENT" <https://frontlineaids.org/how-patents-affect-access-to-hiv-treatment/> (International Treatment Preparedness Coalition (ITPC))//Elmer

Since the world acknowledged the global AIDS epidemic in the 1980s much has changed. **With** **better treatment** and prevention options, **AIDS is no longer** seen as **a death sentence**. Better treatment for co-infections, particularly multi-drug resistant tuberculosis (MDR-TB) and for viral hepatitis have also emerged in the past decade. However, **despite** the **huge progress** made, **1.7 million** people **acquired HIV** **last year** and 770,000 died of AIDS-related illness. For those people – the parents, children, siblings, and friends who unnecessarily lost their lives – the declarations of success are hollow. UNAIDS, which NGOs have been criticising for years for its unduly optimistic reporting, has now acknowledged in its 2019 Epidemic Update that “the annual number of HIV infections has increased in three regions: Eastern Europe and Central Asia (29% increase), Middle East and North Africa (10% increase) and Latin America (7% increase)”. **HIV advances** that had been made, are now **reversing**. The over-positive reporting resulted in a serious side-effect. Donors, with competing priorities, bought into the success narrative, and overall global funding for AIDS was reduced. Investment in the HIV responses of low- and middle-income countries decreased by $900 million in just one year. We must act now to ensure the response is fully funded and barriers to accessing medicines, including to second and third line HIV treatment and co-infection treatments, are effectively tackled. Frontline AIDS and the International Treatment Preparedness Coalition (ITPC) have released a joint report looking at one of these crucial barriers – the problem with patents in middle-income countries (MICS). In 2019, people aren’t dying because the drugs for treating HIV, MDR-TB, hepatitis C and many other diseases don’t exist. People are dying because they can’t access them. With an increasing focus on voluntary mechanisms to provide access to medicines, the problem with patents in MICs is being seriously over-looked; as are the legitimate tools that governments can use to increase access and availability and decrease prices. The use of legal mechanisms like TRIPS flexibilities by governments has proven highly effective; in the use of these legal tools, governments, global health agencies and civil society all have an essential role to play. **It will not be possible to achieve** a sustainable **response to HIV without** **tackling i**ntellectual **p**roperty (IP) **barriers**, particularly in MICs. THE PROBLEM WITH PATENTS One of the **most critical barriers** that has existed since treatment for HIV was first approved relates to **patents**. Patenting of medicines has increased considerably since 2005. More worrying is the trend of ‘**evergreening’** patents. Evergreening is a tactic **used** by pharmaceutical companies **to extend** their **exclusivity** over a medicine by applying for, and usually getting, multiple, overlapping patents on a single medicine. Most medicines are covered by several patents, known as patent ‘thickets’ and are used to delay or complicate generic production. **Over-pricing** as a result of unmerited and extended monopolies **puts a huge strain on health budgets**. While in theory a government may commit to universal access, in reality the budget may not stretch. **Prices for HIV treatment** can **vary** from under $100 **to tens of thousands** of dollars per person per year (pppy) – for the same drug. Take **dolutegravir** (DTG) for example. In July 2019, the World Health Organization (WHO) recommended all countries immediately adopt DTG-based regimens as the preferred first-line treatment for HIV. Prices pppy range from $75 for countries that are in a ‘voluntary license’, up to $9656 for those that are not. MIDDLE-INCOME, HIGH BURDEN Typically, MICs are worst affected by the patent problem. Nearly 38 million people live with HIV and a majority of them live in MICs. The countries’ income classification means they are frequently left out of pricing deals or voluntary agreements and have funding reduced by health and development agencies, and so face the dual burden of high prevalence and high costs. Evergreening is just one of the tactics employed by pharmaceutical companies to maintain monopolies and pave the way for this arbitrary pricing. Our report details other tactics as well as how they can be legitimately challenged. Within the Sustainable Development Goals themselves our recommendations are backed. SDG3b reaffirms the right of developing countries to use to the full the provisions in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) regarding flexibilities to protect public health, and, in particular, provide access to medicines for all. Unless TRIPS flexibilities are more routinely put into practice we risk undermining the commitments made to the HIV response.

#### AIDS spread leads to great power nuclear war

Koblentz 10, Deputy Director of the Biodefense Program @ GMU, Assistant Professor in Public and International Affairs, March, "Biosecurity Reconsidered: Calibrating Biological Threats and Responses." International Security Vol. 34, No. 4, p. 96-132 //Re-cut by Elmer

Pandemics are disease outbreaks that occur over a wide geographic area, such as a region, continent, or the entire world, and infect an unusually high proportion of the population. Two pandemic diseases are widely cited as having the potential to pose direct threats to the stability and security of states: HIV/AIDS and influenza. HIV/AIDS. Since it was first identified in 1981, HIV is estimated to have killed more than 25 million people worldwide. According to the Joint UN Program on HIV/AIDS (UNAIDS), the percentage of the global population with HIV has stabilized since 2000, but the overall number of people living with HIV (33 million in 2007) has steadily increased. Sub-Saharan Africa continues to bear a disproportionate share of the global burden of HIV with 35 percent of new HIV infections, 75 percent of AIDS deaths, and 67 percent of all people living with HIV. 116 Scholars have identified four ways that HIV/AIDS can affect security. 117 First, the disproportionately high prevalence of HIV/AIDS in the armed forces of some nations, particularly in Southern Africa, may compromise the ability of those states to defend themselves from internal or external threats. Militaries with high rates of HIV infection may suffer losses in combat readiness and effectiveness as infected troops are transferred out of combat roles, units lose cohesion because of high turnover rates, middle management is "hollowed out" by the early death or disability of officers, and defense budgets are strained because of rising medical costs and the need to recruit and train replacements for sick soldiers. The second threat is that HIV/AIDS will undermine the international peace-keeping system. Nations with militaries with high rates of HIV/AIDS will be unable to provide troops for international peacekeeping missions; nations with healthy militaries may be unwilling to commit troops to peacekeeping operations in nations with a high prevalence rate of HIV/AIDS; and war-torn nations may be unwilling to accept peacekeepers for fear they will spread the disease in their country. The third threat is that a "second wave" of HIV/AIDS could strike large, strategically important countries such as China, India, and Russia. These states, which possess nuclear weapons and are important players in critical regions, also suffer from internal security challenges that could be aggravated by a severe AIDS epidemic and its attendant socioeconomic disruptions.The fourth threat is that the high prevalence of HIV in less developed countries will cause political instability that could degenerate into internal conflict or spread into neighboring countries. Unlike most diseases, which affect primarily the poor, young, and old, HIV/AIDS strikes young adults and members of the middle and upper classes. By sickening and killing members of society when they should be their most productive, HIV/AIDS has inflicted the "single greatest reversal in human development" in modern history. 118

#### Pharma Innovation solves Bioterror.

Gillis 1 Justin Gillis 11-8-2001 “Scientists Race for Vaccines” [www.vaccinationnews.org/DailyNews/November2001/ScisRaceForVax.htm](http://www.vaccinationnews.org/DailyNews/November2001/ScisRaceForVax.htm) (Writer at Washington Post)//Elmer

U.S. scientists, spurred into action by the events of Sept. 11, have begun a concerted assault on bioterrorism, working to produce an array of new medicines that include treatments for smallpox, a safer smallpox vaccine and a painless anthrax vaccine. At least one major drug company, Pharmacia Corp. of Peapack, N.J., has offered to let government scientists roam through the confidential libraries of millions of compounds it has synthesized to look for drugs against bioterror agents. Other companies have signaled that they will do the same if asked. These are unprecedented offers, since a drug company's chemical library, painstakingly assembled over decades, is one of its primary assets, to which federal scientists usually have no access. "A lot of people would say we won World War II with the help of a mighty industrial base," said Michael Friedman, a onetime administrator at the Food and Drug Administration who was appointed days ago to coordinate the pharmaceutical industry's efforts. "**In** this new **war against bioterrorism**, the **mighty** industrial **power is the pharmaceutical industry**." Researchers say a generation of young scientists never **called upon** before to defend the nation is **working** overtime **in a push for rapid progress**. At laboratories of the National Institutes of Health, at universities and research institutes across the land, people are scrambling. But the campaign, for all its urgency, **faces hurdles** **both scientific and logistical**. The kind of **research** now underway **would** **normally** **take** **at least a decade** before products appeared on pharmacy shelves. Scientists are talking about **getting** at least some **new products out the door within two years**, a daunting schedule in medical research. If that happens, it **will** **be with considerable assistance from the nation's drug companies.** They are the **only organizations** in the country **with** the **scale** **to move rapidly to produce** pills and vials of **medicine** that might be needed by the billions.

#### Bioterrorism causes Extinction – overcomes any conventional defense.

Walsh 19, Bryan. End Times: A Brief Guide to the End of the World. Hachette Books, 2019. (Future Correspondent for Axios, Editor of the Science and Technology Publication OneZero, Former Senior and International Editor at Time Magazine, BA from Princeton University)//Elmer

I’ve lived through disease outbreaks, and in the previous chapter I showed just how unprepared we are to face a widespread pandemic of flu or another new pathogen like SARS. But a deliberate outbreak caused by an engineered pathogen would be far worse. We would face the same agonizing decisions that must be made during a natural pandemic: whether to ban travel from affected regions, how to keep overburdened hospitals working as the rolls of the sick grew, how to accelerate the development and distribution of vaccines and drugs. To that dire list add the terror that would spread once it became clear that the death and disease in our midst was not the random work of nature, but a deliberate act of malice. We’re scared of disease outbreaks and we’re scared of terrorism—put them together and you have a formula for chaos. As deadly and as disruptive as a conventional bioterror incident would be, an attack that employed existing pathogens could only spread so far, limited by the same laws of evolution that circumscribe natural disease outbreaks. But a virus engineered in a lab to break those laws could spread faster and kill quicker than anything that would emerge out of nature. It can be designed to evade medical countermeasures, frustrating doctors’ attempts to diagnose cases and treat patients. If health officials manage to stamp out the outbreak, it could be reintroduced into the public again and again. It could, with the right mix of genetic traits, even wipe us off the planet, making engineered viruses a genuine existential threat. And such an attack may not even be that difficult to carry out. Thanks to advances in biotechnology that have rapidly reduced the skill level and funding needed to perform gene editing and engineering, what might have once required the work of an army of virologists employed by a nation-state could soon be done by a handful of talented and trained individuals. Or maybe just one. When Melinda Gates was asked at the South by Southwest conference in 2018 to identify what she saw as the biggest threat facing the world over the next decade, she didn’t hesitate: “A bioterrorism event. Definitely.”2 She’s far from alone. In 2016, President Obama’s director of national intelligence James Clapper identified CRISPR as a “weapon of mass destruction,” a category usually reserved for known nightmares like nuclear bombs and chemical weapons. A 2018 report from the National Academies of Sciences concluded that biotechnology had rewritten what was possible in creating new weapons, while also increasing the range of people capable of carrying out such attacks.3 That’s a fatal combination, one that plausibly threatens the future of humanity like nothing else. “The existential threat that would be most available for someone, if they felt like doing something, would be a bioweapon,” said Eric Klien, founder of the Lifeboat Foundation, a nonprofit dedicated to helping humanity survive existential risks. “It would not be hard for a small group of people, maybe even just two or three people, to kill a hundred million people using a bioweapon. There are probably a million people currently on the planet who would have the technical knowledge to pull this off. It’s actually surprising that it hasn’t happened yet.”

#### ] Pluralistic Materialism – other theories rely on minimalistic criteria; our framework understands knowledge as changing and uses experience to base social change and revise ideas. Glaude 7Eddie S. (Eddie S. Glaude Jr. is the African-American chair of the Center for African-American Studies and the William S. Tod Professor of Religion and African-American Studies at Princeton University.) In a Shade of Blue : Pragmatism and the Politics of Black America. University of Chicago Press, 2007. EBSCOhost. (5-7)

In a Shade of Blue is my contribution to the tradition I have just sketched. My aim is to think through some of the more pressing conceptual problems confronting African American political life, and I do so as a Deweyan prag-matist. I should say a bit about what I mean by this self-description. John Dewey thought of philosophy as a form of cultural and social criticism. He held the view that philosophy, properly understood as a mode of wis-dom, ought to aid us in our efforts to overcome problematic situations and worrisome circumstances. The principal charge of the philosopher, then, is to deal with the problems of human beings, not simply with the problems of philosophers. For Dewey, over the course of his long career, this involved bridging the divide between science, broadly understood, and morals—a divide he traced to a conception of experience that has led philosophers over the centuries to tilt after windmills. Dewey declared, “The problem of restoring integration and co-operation between man’s beliefs about the world in which he lives and his beliefs about values and purposes that should direct his conduct is the deepest problem of any philosophy that is not isolated from life.”9Dewey bases this conclusion on several features of his philosophy: (1) anti foundationalism, (2) experimentalism, (3) contextualism, and (4) soli-darity.10 Antifoundationalism, of course, is the rejection of foundations of knowledge that are beyond question. Dewey, by contrast, understands knowledge to be the fruit of our undertakings as we seek “the enrichment of our immediate experience through the control over action it exercises.”11He insists that we turn our attention from supposed givens to actual consequences, pursuing a future fundamentally grounded in values shaped by experience and realized in our actions. This view makes clear the experimental function of knowledge. Dewey emphasized that knowledge entails efforts to control and select future experience and that we are always con-fronted with the possibility of error when we act. We experiment or tinker, with the understanding that all facts are fallible and, as such, occasionally afford us the opportunity for revision.12Contextualism refers to an understanding of beliefs, choices, and actions as historically conditioned. Dewey held the view that inquiry, or the pursuit of knowledge, is value-laden, in the sense that we come to problems with interests and habits that orient us one way or another, and that such pursuits are also situational, in the sense that “knowledge is pursued and produced somewhere, some when, and by someone.”13Finally, solidarity captures the associational and cooperative dimensions of Dewey’s thinking. Dewey conceives of his pragmatism as “an instrument of social improvement” aimed principally at expanding democratic life and broadening the ground of individual self-development.14Democracy, for him, constitutes more than a body of formal procedures; it is a form of life that requires constant attention if we are to secure the ideals that purportedly animate it. Individuality is understood as developing one’s unique capacities within the context of one’s social relations and one’s community. The formation of the democratic character so important to our form of associated living involves, then, a caring disposition toward the plight of our fellows and a watchful concern for the well-being of our democratic life.

#### ] Governmental action necessitates public deliberation of affected citizens.

**Christman 15** [Bracketed for Clarity. John Christman (Professor of Philosophy, Political Science, and Women's Studies at Penn State University). “Autonomy in Moral and Political Philosophy.” Stanford Encyclopedia of Philosophy. First published Mon Jul 28, 2003; substantive revision Fri Jan 9, 2015. Accessed 6/12/20. <https://plato.stanford.edu/entries/autonomy-moral/> //Xu]

In closing, we should add a word about the implications of political liberalism for the traditional division between liberal justice and democratic theory. I say “division” here, but different views of justice and democracy will convey very different conceptions of the relation between the two (see Christiano 1996, Lakoff 1996). But traditionally, liberal conceptions of justice have viewed democratic mechanisms of collective choice as essential but highly circumscribed by the constitutional provisions that principles of justice support. Individual rights and freedoms, equality before the law, and various privileges and protections associated with citizen autonomy are protected by principles of justice and hence not subject to democratic review, on this approach (Gutmann 1993). However, liberal conceptions of justice have themselves evolved (in some strains at least) to include reference to collective discussion and debate (public reason) among the constitutive conditions of legitimacy. It could be claimed, then, that basic assumptions about citizens' capacities for reflective deliberation and choice — autonomy — must be part of the background conditions against which an overlapping consensus or other sort of political agreement concerning principles of justice is to operate. Some thinkers have made the connection between individual or “private” autonomy and collective or “public” legitimacy — prominent, most notably Habermas (Habermas 1994). On this view, legitimacy and justice cannot be established in advance through philosophical construction and argument, as was thought to be the case in natural law traditions in which classical social contract theory flourished and which is inherited (in different form) in contemporary perfectionist liberal views. Rather, justice amounts to that set of principles that are established in practice and rendered legitimate by the actual support of affected citizens (and their representatives) in a process of collective discourse and deliberation (see e.g., Fraser 1997, 11–40 and Young 2000). Systems of rights and protections (private, individual autonomy) will necessarily be protected in order to institutionalize frameworks of public deliberation (and, more specifically, legislation and constitutional interpretation) that render principles of social justice acceptable to all affected (in consultation with others) (Habermas 1994, 111). This view of justice, if at all acceptable, provides an indirect defense of the protection of autonomy and, in particular, conceptualizing autonomy in a way that assumes reflective self- evaluation. For only if citizen participants in the public discourse that underlies justice are assumed to have (and provided the basic resources for having) capacities for competent self- reflection, can the public defense and discussion of competing conceptions of justice take place (cf. Gaus 1996, Parts II and III, Gaus 2011). Insofar as autonomy is necessary for a functioning democracy (considered very broadly), and the latter is a constitutive element of just political institutions, then autonomy must be seen as reflective self-appraisal (and, I would add, non-alienation from central aspects of one's person) (see Cohen 2002, Richardson 2003). This approach to justice and autonomy, spelled out here in rough and general form, has certainly faced criticism. In particular, those theorists concerned with the multi-dimensional nature of social and cultural “difference” have stressed how the conception of the autonomous person assumed in such principles (as well as criteria for rational discourse and public deliberation) is a contestable ideal not internalized by all participants in contemporary political life (see, e.g., Brown 1995, Benhabib 1992). Others motivated by post-modern considerations concerning the nature of the self, rationality, language, and identity, are also suspicious of the manner in which the basic concepts operative in liberal theories of justice (“autonomy” for example) are understood as fixed, transparent, and without their own political presuppositions (see, e.g., Butler 1990; for general discussion see White 1990). These charges are stated here much too generally to give an adequate response in this context. But the challenge remains for any theory of justice which rests on a presumption of the normative centrality of autonomy. To be plausible in a variously pluralistic social setting, such a view must avoid the twin evils of forcibly imposing a (reasonably) contested value on resistant citizens, on the one hand, and simply abandoning all normative conceptions of social order in favor of open ended struggle for power on the other. The view that individuals ought to be treated as, and given the resources to become, autonomous in one of the minimal senses outlined here will, I submit, be a central element in any political view that steers between the Scylla of oppressive forms of perfectionism and the Charybdis of interest-group power politics.

#### ] Ethics must be intersubjective – a] culpability – the only reason ethical questions are asked is because of a concern for other subjects. Otherwise, we would act selfishly because we wouldn’t care about others b] intuitions – we all intuitively know we should help others, but other theories justify this as an incidental premise and don’t explain why this is important. That justifies prag – deliberation fosters intersubjective relationships by comparing criteria.

#### ] Value – procedural decisions have infinite value because they allow agents to take steps to reduce harms under any index. To shut down an avenue for pragmatic discourse necessitates foreclosing all possible decisions in that situation except a static theory we can’t change. Kills the net most value – alternative theories with massive impacts can’t be considered.