#### TW: Non graphic descriptions of pedophillia

## Util

#### The standard is maximizing expected well-being.

#### 1] Only pleasure and pain are intrinsically valuable – all other frameworks collapse.

Moen 16 [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] TDI

Let us start by observing, empirically, that a widely shared judgment about intrinsic value and disvalue is that **pleasure is intrinsically valuable and pain is intrinsically disvaluable**. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for **there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels**, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 **The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values.** If you tell me that you are heading for the convenience store, I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the **pleasure is not good for anything further**; it is simply that for which going to the convenience store and buying the soda is good.3 As Aristotle observes: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value.**

#### 2] Extinction first --- moral uncertainty.

**Bostrom 12** [(Nick Bostrom, Faculty of Philosophy & Oxford Martin School University of Oxford) “Existential Risk Prevention as Global Priority.” Global Policy, 2012] TDI

These reflections on moral uncertainty suggest an alternative, complementary way of looking at existential risk; they also suggest a new way of thinking about the ideal of sustainability. Let me elaborate. **Our** present **understanding** of axiology **might** well **be confused**. We may not now know — at least not in concrete detail — what outcomes would count as a big win for humanity; we might not even yet be able to imagine the best ends of our journey. **If we are** indeed profoundly **uncertain about our** ultimate aims, **then we should** recognize that there is a great option **value** in preserving — and ideally improving — **our ability to** recognize value and to **steer the future accordingly. Ensuring** that there will be **a future** version **of humanity** with great powers and a propensity to use them wisely is plausibly the best way available to us to increase the probability that the future will contain a lot of value. To do this, **we must prevent any existential catastrophe**.

#### 3] Actor specificity: A] Governments must aggregate since every policy benefit some and harms others, which also means side constraints freeze action. B] States lack wills or intentions since policies are collective actions. C] Actor-specificity comes first since different agents have different ethical standings.

#### 4] Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first.

## I Law

#### Intellectual property rights cannot be discriminated on the basis of field, or place of invention

WTO <https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm>, Article 27.1, Section 5 on patents, World trade Organization, WTO, Part II — Standards concerning the availability, scope and use of Intellectual Property Rights

Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. [(5)](https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm#fnt-5) Subject to paragraph 4 of Article 65, paragraph 8 of Article 70 and paragraph 3 of this Article, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.

#### The WTO’s appellate body no longer exists to mediate disputes, without immediate buy in by states, and no mechanism to make disobedient states obey, the system collapses

Horton, 08/3, Lessons from Trump’s assault on the World Trade Organization, https://www.chathamhouse.org/2021/08/lessons-trumps-assault-world-trade-organization, Chatham House – International Affairs Think Tank, Communications Manager; Project Lead, Common Futures Conversations

The WTO is unique amongst international institutions because it has a powerful enforcement mechanism – the dispute settlement system. However, the fundamental vulnerability is that if powerful states like the US and others won’t participate in the system and be bound by its rules, they quickly risk becoming irrelevant. And that’s the situation we’re in right now with the appellate body crisis, where, without a functioning mechanism to ensure that WTO rules are enforced, the entire system of global trade rules risk collapsing. Ironically, the United States has been the leader of the liberal trading order for the past 70 years, but since Trump, it has become its leading saboteur.

#### A major country operating outside WTO consensus wrecks global trade norms

Bacchus 20 [James Bacchus, member of the Herbert A. Stiefel Center for Trade Policy Studies, the Distinguished University Professor of Global Affairs and director of the Center for Global Economic and Environmental Opportunity at the University of Central Florida, 12-16-2020, "An Unnecessary Proposal: A WTO Waiver of Intellectual Property Rights for COVID-19 Vaccines," Cato Institute, [https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines]/Kankee](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines%5d/Kankee)

In a sign of their increasing frustration with global efforts to ensure that all people everywhere will have access to COVID-19 vaccines, several developing countries have asked other members of the World Trade Organization (WTO) to join them in a sweeping waiver of the intellectual property (IP) rights relating to those vaccines. Their waiver request raises anew the recurring debate within the WTO over the right balance between the protection of IP rights and access in poorer countries to urgently needed medicines. But the last thing the WTO needs is another debate over perceived trade obstacles to public health. Unless WTO members reach a consensus, the multilateral trading system may be further complicated by a delay like that in resolving the two‐​decades‐​old dispute between developed and developing countries over the compulsory licensing and generic distribution of HIV/AIDS drugs. A new and contentious “North‐​South” political struggle definitely would not be in the interest of the developed countries, the developing countries, the pharmaceutical companies, or the WTO. Certainly it would not be in the interest of the victims and potential victims of COVID-19. Background In early October 2020, India and South Africa asked the members of the WTO to waive protections in WTO rules for patents, copyrights, industrial designs, and undisclosed information (trade secrets) in relation to the “prevention, containment or treatment of COVID-19 … until widespread vaccination is in place globally, and the majority of the world’s population has developed immunity.”1 India and South Africa want to give all WTO members freedom to refuse to grant or enforce patents and other IP rights relating to COVID-19 vaccines, drugs, diagnostics, and other technologies for the duration of the pandemic. In requesting the waiver, India and South Africa have argued that “an effective response to the COVID-19 pandemic requires rapid access to affordable medical products including diagnostic kits, medical masks, other personal protective equipment and ventilators, as well as vaccines and medicines for the prevention and treatment of patients in dire need.” They have said that “as new diagnostics, therapeutics and vaccines for COVID-19 are developed, there are significant concerns, how these will be made available promptly, in sufficient quantities and at affordable prices to meet global demand.”2 Later in October, the members of the WTO failed to muster the required consensus to move forward with the proposed waiver. The European Union, the United States, the United Kingdom, and other developed countries opposed the waiver request.3 One WTO delegate, from the United Kingdom, described it as “an extreme measure to address an unproven problem.”4 A spokesperson for the European Union explained, “There is no evidence that intellectual property rights are a genuine barrier for accessibility of COVID‐​19‐​related medicines and technologies.”5 In the absence of a consensus, WTO members have decided to postpone further discussion of the proposed waiver until early 2021. Balancing IP Rights and Access to Medicines Not New to WTO This waiver controversy comes nearly two decades after the end of the long battle in the multilateral trading system over access to HIV/AIDS drugs. At the height of the HIV/AIDS crisis at the turn of the century, numerous countries, including especially those from sub‐​Saharan Africa, could not afford the high‐​priced HIV/AIDS drugs patented by pharmaceutical companies in developed countries. Having spent billions of dollars on developing the drugs, the patent holders resisted lowering their prices. The credibility of the companies, the countries that supported them, and the WTO itself were all damaged by an extended controversy over whether patent rights should take precedence over providing affordable medicines for people afflicted by a lethal disease. Article 8 of the WTO Agreement on the Trade‐​Related Aspects of Intellectual Property Rights (the TRIPS Agreement) provides that WTO members “may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health … provided that such measures are consistent with the provisions of this Agreement.” In similar vein, Article 7 of the TRIPS Agreement provides that the “protection and enforcement of intellectual property rights” shall be “in a manner conducive to social and economic welfare.”6 It can be maintained that these two WTO IP rules are significantly capacious to include any reasonable health measures that a WTO member may take during a health emergency, such as a pandemic. Yet there was doubt among the members during the HIV/AIDS crisis about the precise reach of these provisions. As Jennifer Hillman of the Council on Foreign Relations observed, ordinarily the “inherent tension between the protection of intellectual property and the need to make and distribute affordable medicines” is “resolved through licensing, which allows a patent holder to permit others to make or trade the protected product—usually at a price and with some supervision from the patent holder to ensure control.”7 But, in public health emergencies, it may be impossible to obtain a license. In such cases, “compulsory licenses” can be issued to local manufacturers, authorizing them to make patented products or use patented processes even though they do not have the permission of the patent holders.8

#### Without all states buy in, we risk WW3 but with nukes

Hopewell and Horton 08-03 [Kristen Hopewell Associate Professor and Canada Research Chair in Global Policy at the University of British Columbia, and Ben Horton, Communications Manager; Project Lead, Common Futures Conversations, 08-03-2021, "Lessons from Trump’s assault on the World Trade Organization," Chatham House – International Affairs Think Tank, https://www.chathamhouse.org/2021/08/lessons-trumps-assault-world-trade-organization]/Kankee

What has this episode revealed about the strength of multilateral institutions such as the WTO, in the face of spoiling tactics from major powers? The WTO is unique amongst international institutions because it has a powerful enforcement mechanism – the dispute settlement system. However, the fundamental vulnerability is that if powerful states like the US and others won’t participate in the system and be bound by its rules, they quickly risk becoming irrelevant. And that’s the situation we’re in right now with the appellate body crisis, where, without a functioning mechanism to ensure that WTO rules are enforced, the entire system of global trade rules risk collapsing. Ironically, the United States has been the leader of the liberal trading order for the past 70 years, but since Trump, it has become its leading saboteur. What are the implications of a permanent collapse of the international trading system? The very real danger from such a breakdown is a return to what we saw in the 1930s. In response to the outbreak of the Great Depression, you had countries imposing trade barriers, blocking imports from other state, and a general escalation of tit-for-tat protectionism. This response wound up not only exacerbating the effects of the depression itself but has also been credited by some as paving the way for the outbreak of the second world war. The reason why institutions like the WTO were created in the first place was to prevent a recurrence of the 1930s protectionist trade spiral. The danger now – if those rules become meaningless and unenforceable – is the institutional foundations of postwar economic prosperity could unravel, throwing us back into economic chaos and potentially political disorder. What does the WTO’s future look like under new director-general Dr Okonjo-Iweala?

# Case

## Framework

### Framework Overview:

#### 1] Their form of ethics ends up reifying inside-outside binaries and reproducing violence – only rigorous explanatory critique can undermine the basis for moralism – consequentialism is key.

#### 2] Consequences are good and necessary – their politics of becoming only entrenches utopianism.

**Nail 12** [Thomas Nail, Assistant Professor of Philosophy at University of Denver, PhD from University of Oregon, "Returning to Revolution: Deleuze, Guattari and Zapatismo," 2012.] MT

Revolution, according to Patton, is a groundless, unconditioned, unthinkable (in-itself) difference ‘that is the condition of there being events at all’ (2009: 42). Insofar as actual political struggles exhibit this ‘hermeneutical sublime in the highest degree . . . they realise the potential break with existing frameworks of understanding’ (2009: 43). They constitute a ‘pure exteriority and metamorphosis’ (2000: 114) (absolute deterritorialisation) from the state of affairs and its processes of representation. Rather than presuppose existing political conditions, revolution, or the pure eventness of transformation, change and becoming itself, Patton argues, must be considered as ‘the source or condition of the emergence of the new’ (2009: 50). Similarly, as Dan Smith argues in ‘Deleuze and the Production of the New’, ‘if identity (A is A) were the primary principle, that is, if identities were already pregiven, then there would in principle be no production of the new (no new differences)’ (2008: 151). Thus, Smith continues, ‘for Deleuze, the conditions of the new can be found only in a principle of difference’ (2008: 151), ‘no less capable of dissolving and destroying individuals than of constituting them temporarily’ (Deleuze 1994: 56/38). While Patton and Smith accurately develop the important concept of ‘difference-in-itself’ drawn from Deleuze’s earlier works, I believe that this concept not only remains unable to account for a theory of revolutionary intervention and political change but even risks blocking it by affirming the unconditioned ambivalence and non-relational ‘exteriority’ of political action. By valorising revolution as the unconditioned (real) potentiality for ‘change as such’ (liberatory change as well as nonliberatory change) or what Patton calls ‘critical freedom’ (2000: 83), radical politics remains optimistically tied to an ultimately indifferent and ambivalent principle of difference for its own sake: the aleatory temporal constitution no less than the destruction of individuals; or spontaneous insurrection. However, the contemporary return to revolution, I argue, is more than an affirmation that ‘another world is possible’. And insofar as revolution affirms pure eventness ‘as that part of every event that escapes its own actualisation’ exterior to history, it remains ultimately (in its pure form) abstracted from all actual and concrete political relations as well as different political events in their specificity. To be clear, this is not the same criticism well refuted by John Protevi in his review of Peter Hallward’s Out of This World (Protevi 2006). It is not the case that the virtual simply remains abstractly above the actual as a spiritual realm. Insofar as revolution is the ‘general transformative movement between actualization and counter-actualization’, it remains non-related to any determinate quasi-causal political event and its singular concrete consequences. It remains unable to conceptualise the multiple intermediate stages of any local political intervention. I disagree that concrete revolutionary struggles are radical only insofar as they abandon their actual relations and affirm ‘only’ their capacity to become-other-as-such in a pure becoming-actual-becoming-virtual.

#### FRAMING ISSUE: Constantly changing desires and actions do not change our ONTOLOGICAL NATURE—there’s no internal link between the flux of desires and the flux of agency

#### 4] Turn: If two thoughts belong to the same mind, then there is a train of thought available to that mind in which they could both figure. That presupposes that there's a singular agent that encapsulates different things. The phrase “I think” necessitates unity of self-consciousness, so even if my interactions in the world themselves are not static, the ways in which I process them are.

#### 5] Even if there are such things as desires that implicate a shiftiness of the subject, the ability to conceptualize those desires is static. This is the same reason why there is nothing that shifts a racist person from their desires.

#### 6] Although some instances desire would alter the subject, this does not affect their AGENCY as a whole. Certain negative or positive experiences contextualize how an agent pursues and formulates their desires.

#### 7] Fluidity alone can’t generate static obligations since they’re temporally bound; you need static norms that are always good for a subject’s agency to do so. If you can’t generate an obligation you can’t generate a prescription of what obligation you should take.

#### 8] Infinite Regress – constantly upholding fluidity is itself is in itself a static norm which means the syllogism is paradoxical.

#### 9] Inclusion voter – constant fluidity rids the state of laws against rape, pedophilia etc. which means all violence is permissible. Inclusion is an independent voter because you cannot debate if you cannot participate.

#### 10] Not Normative – Deleuze makes a descriptive claim that fluidity is always good but, gives no action guiding constraints in moral dilemmas proves every action is permissible under Deleuze since it doesn’t shape how we act.

#### 11] Perf Con – you follow static norms such as following speech times and answering questions during CX. that is a voting issue and outweighs since you knew your method and still chose to violate it.

#### 12] Their scholarship is hateful and a reason to lose the round—their author endorsed pedophilia and actively advocated against the age of consent law.

Doezema 18 [Marie Doezema (Parisian Journalist). “France, Where Age of Consent Is Up for Debate.” The Atlantic, 10 March 2018. https://www.theatlantic.com/international/archive/2018/03/frances-existential-crisis-over-sexual-harassment-laws/550700/ //WWDH]

After May 1968, French intellectuals would challenge the state’s authority to protect minors from sexual abuse. In one prominent example, on January 26, 1977, Le Monde, a French newspaper, published a petition signed by the era’s most prominent intellectuals—including Jean-Paul Sartre, Simone de Beauvoir, Gilles Deleuze, Roland Barthes, Philippe Sollers, André Glucksmann and Louis Aragon—in defense of three men on trial for engaging in sexual acts with minors. “French law recognizes in 13- and 14-year-olds a capacity for discernment that it can judge and punish,” the petition stated, “But it rejects such a capacity when the child's emotional and sexual life is concerned.” Furthermore, the signatories argued, children and adolescents have the right to a sexual life: “If a 13-year-old girl has the right to take the pill, what is it for?” It’s unclear what impact, if any, the petition had. The defendants were sentenced to five years in prison, but did not serve their full sentences.

#### Drop the debater—academic spaces have way too many sympathizers who ignore violence against children, and every act must be challenged in the most unflinching terms because anything else reinforces the epistemic bias in favor of rationalizing disgusting behavior.

Grant 18 [Alec Grant (Independent Scholar, retired from the Uiversity of Brighton where he was a Reader in Narrative Mental Health). “Sanitizing Academics and Damaged Lives” Mad In The UK, 12 April 2018. https://www.madintheuk.com/2018/12/sanitizing-academics-and-damaged-lives/ //WWDH]

Academics who sympathize with paedophilia constitute its intellectual public relations arm. Their role is to make child-adult sex presentable, more acceptable to the public, fit for polite society, sugar-coated, glossed with a scholarly veneer, sanitized. Snapshots of sanitizing academic activity from the last 40 years show how this seeps into and contaminates public policy, education and practice in insidious ways. This is done via the workings of power, privilege, perverse cronyism, and, as Pilgrim (2018) argues, as a result of widespread moral stupor and denial. It’s astonishing that this happens in the face of the psychological and development features of complex post-trauma which are often a consequence of child sexual abuse. By pathologizing adult survivors, often with the ‘Borderline Personality Disorder’ (BPD) tag, mainstream psychiatric business-as-usual plays out its role in suppressing the truth about the consequences of paedophilia among adult survivors. Pilgrim (2018) reminds us that care and mutuality are core ethical features of all sexual practices. As someone who was for many years associated with cognitive therapy, I’m interested in ‘cognitive, or thought distortions’, which are used by people in rationalising their behaviour in self-serving ways. We know from Pilgrim and many other writers, researchers and practitioners about the rationalisations of perpetrators of child sexual abuse and exploitation. They include: Children are not victims but willing participants; They want it; They enjoy it; It’s about friendship; It’s about love; It helps children develop and mature. According to Pilgrim (2018), the ‘heyday’ period of academic versions of such rationalisations was the 1970s. 1977 was the year of an unsuccessful lobby by French intellectuals to defend intergenerational sex. Included among these were the otherwise well-respected philosophers Jean-Paul Sartre, Simone de Beauvoir, Jaques Derrida, Roland Barthes and Michel Foucault. These figures were at the forefront of the use of academic authority to lobby governments to liberalise and decriminalise adult-child sexual contact.

### Underview

#### Presumption and permissibility negates – a) statements are more often false than true since I can prove something false in infinite ways b) real world policies require positive justification before being adopted c) resolved in the resolution indicates they proactively did something, to negate that means that they aren’t resolved e) to negate[[1]](#footnote-1) means to deny the truth of which means if the aff is false you vote neg. f) Lack of obligation proves the resolution false. Ought means moral obligation (Merriam Webster) so if the aff can’t prove there is a moral obligation, then they haven’t proven the res true

#### you can’t say things like P and ~P are both right either

#### Neither is presuming statements true

#### It allows 1AR to deliberately undercover and spend 3 minutes unresponded too on an arguemnt

## Offense

### PM 13

#### 1] This card is not about medicines, has no impact on the 1AC

#### 2] This card talks about broader issues of trademark rights which the AC cannot solve for

#### 3] For this card to be offensive they must prove having medicine without IP readily available creates a safe welcome atmosphere which is ridiculous

### Wolodozco

#### 1] The human genome is not a medicine, they don’t solve

#### 2] The examples the card cites aren’t even about medicine, they are about broader testing which the aff cant solve for

### OV

#### Their whole case is predicated on patents decreasing accessibility and raising prices, if we prove they do the opposite, vote neg

#### No solvency because it’s about IP in general

#### Weakening patents is worse – eliminates funds for R&D and halts pharma innovations that prevents an effective development of a right to health.

Sarah Joseph 11, Professor of Human Rights Law, and the Director of the Castan Centre for Human Rights Law at Monash University, Sarah, “Blame it on the WTO?” http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199565894.001.0001/acprof-9780199565894-chapter-8#acprof-9780199565894-note-1350

IP protection restricts trade and competition, so IP clauses are somewhat anomalous in trade agreements, which are normally designed to decrease trade barriers. What is the justification for IP protection?44 Due to their relevance to this chapter, I will concentrate on arguments in favour of patents.45 Patents reward people for their inventions, thus encouraging creativity and innovation. Patents operate on the assumption that people are not inherently altruistic, and expect rewards for their endeavours, especially when those endeavours are risky as they may, and often do, result in costly failure.46 Furthermore, the money raised from patent protection is said to be necessary to fund the considerable costs of research and development (R&D).47 Therefore, without patents, innovation in the pharmaceutical field (or any industrial field) might grind to a standstill. While it is true that the high prices generated by patent protection may render access to drugs selective, (p.221) it is nevertheless better that a drug is available to some rather than non-existent and available to no one. The global extension of patent law mandated by TRIPS helps to ensure that patents are not undermined by the sale of competing pirated copies. Furthermore, global IP regimes should theoretically encourage greater technology transfer between countries, greater foreign direct investment, and greater local innovation within compliant states.48 All of these outcomes should accelerate the economic development of poor countries, with positive knock-on effects for human rights. Thus, perhaps it is arguable that pharmaceutical patents are justifiable under international human rights law, as they promote R&D which is essential for the future enhancement of rights to life and health. Furthermore, to the extent that they are held by natural persons, they are one way of protecting that person’s rights under Article 15(1)(c) of the ICESCR.

#### IP developed COVID vaccines rapidly and produced collaboration – turns case

Stevens and Schultz 21 [Philip Stevens and Mark Schultz, “WHY INTELLECTUAL PROPERTY RIGHTS MATTER FOR COVID-19”. Geneva Network, January, 2021. https://geneva-network.com/wp-content/uploads/2021/01/Why-IP-matters-for-Covid-19.pdf]

Some asserted that intellectual property would inevitably hold up urgent research. They theorised that the “winner-takes-all” nature of intellectual property rights, especially patents, would prevent scientists from rapidly disclosing research results, and discourage the sharing of unpatentable insights that may potentially lead to patentable treatments with further work. Members of Congress warned that IP would “put public health at risk”, while NGO Médecins Sans Frontières (MSF) called for “no patents or profiteering” on yet to be developed health technologies. A coalition of over 500 NGOs claimed that IP rights were a “hindrance” to efforts to tackle the pandemic, calling for all COVID-19-related IP to be rescinded. As events demonstrated, critics of IP were wrong by a wide margin. In January 2020 very little was known about COVID-19. By January 2021, three safe and highly efficacious vaccines had been authorised for use by stringent regulatory authorities, with several others poised to follow. As of 21st December 2o20, there were 1052 COVID-19-19 vaccines, therapeutics and diagnostic tools under development or approved globally, of which 219 are vaccines. This major achievement is a testament to how well the IP system has worked during the pandemic. Calls to override intellectual property rights in the early stages of the pandemic were seductive and were backed by respected global humanitarian NGOs and prominent political figures. But it is to the credit of the majority of governments that they held their nerve and ignored such calls, despite the growing urgency of the situation over 2020. V BUILDING ON EXISTING IP IP is the bedrock upon which today’s COVID-19 vaccines have been built. The technologies they are based on did not come out of thin air at the beginning of the pandemic, but had been under development for decades, with substantial research in academic labs followed by years of risky investment by commercial start-ups. Consider the messenger RNA (mRNA) technology that is the basis for two of the first vaccines approved in Western countries. Scientists discovered in 1961 that mRNA could be used to “reprogram” cells to battle disease. It took decades of lab research and private sector-funded development by startups BioNTech and Moderna to overcome major difficulties and turn the technology into an effective vaccine that can be safely given to patients. Both companies and their investors have spent billions of dollars on mRNA research prior to the pandemic. While academic research is fundamental, the end result would not have been possible without the private sector, which depends on intellectual property rights. Shortly before the pandemic started, we spoke to Dr. Derrick Rossi, the academic founder of Moderna. When asked whether the treatments could be brought from the academic lab to patients without the help of the private sector, Dr. Rossi’s reply was categorical: “Not a chance. Academics are good at academia and fundamental science. They are not good at developing drugs for patients.” Dr. Rossi explains that bringing a drug to market takes many professionals, sharing their labour and diverse expertise. “This industry of professionals is out there... The more people that are involved in the chain, post-academic discovery, the more you have pros involved — all the way from IP filings to VCs to due diligence to assembling a team,” the more likely you are to develop a viable treatment. Developing a practical application for a great academic insight takes vast sums, and investors need some prospect of a return on that investment. As Dr. Rossi explains, “you can be working on the coolest thing, but investors need to know that there is some protection for their investment, plain and simple.” V IP HELPS NOT HINDERS R&D COLLABORATION The other claim frequently heard at the beginning of the pandemic was that IP poses a barrier to collaboration and knowledge sharing, so in a time of emergency any related IP should be open licensed or pooled. In reality, the IP system encouraged the rapid establishment of dozens of partnerships around COVID-19-19, with even commercial rivals prepared to cooperate and share capital and proprietary intellectual resources such as compound libraries. Examples of consortia between the private sector and research centres include the COVID-19-19 Therapeutics Accelerator to evaluate new and repurposed drugs and biologics, the EU-backed Swift COronavirus therapeutics REsponse, Corona Accelerated R&D in Europe (CARE) as well as dozens of bilateral agreements between companies. Indeed, the Pfizer vaccine is the result of its collaboration with BioNtech, where partners shared and combined knowhow and proprietary knowledge to create the first vaccine authorized in the U.S. Far from being a barrier to such collaborations, IP is fundamental. Because patent rights require public disclosure, they enable drug developers to identify partners with the right intellectual assets such as knowhow, platforms, compounds and technical expertise. Without patents most of this valuable proprietary knowledge would be kept hidden as trade secrets, making it impossible for researchers to know what is out there. Second, the existence of laws protecting intellectual property helps rights-holders make the decision to collaborate in the first place. By allaying concerns about confidentiality, IP enables companies to open up their compound libraries, and to share platform technology and know-how without worrying they are going to sacrifice their wider business objectives or lose control of their valuable assets. For instance, rights holders might contribute IP that is useful for entirely different diseases to COVID-19 collaborations.

1. <http://dictionary.reference.com/browse/negate>, <http://www.merriam-webster.com/dictionary/negate>, <http://www.thefreedictionary.com/negate>, <http://www.vocabulary.com/dictionary/negate>, <http://www.oxforddictionaries.com/definition/english/negate> [↑](#footnote-ref-1)