# 1AC – r1 Holy Cross

#### I affirm the resolution

#### Resolved – The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

### First is My Framework

#### I value justice as per the evaluative term “ought” in the resolution

#### In order to know what’s just, we must remove any biases that would distort our judgment. Hurley explains:

**Hurley,** S.L. "COGNITIVISM IN POLITICAL PHILOSOPHY." Oxford University Press, **2000**. Web. 17 Oct. 2011. <http://www.bristol.ac.uk/philosophy/hurley/papers/cpp.pdf>.

**“Biases** are influences that **distort** the relationship of our beliefs about **what should be done** to any truths there may be about what should be done. It is antecedently unlikely that biased beliefs will constitute knowledge--unlikely, that is, independently of any view about the truth or falsity of the beliefs in question. Biases are cognitive distortions: they distort the relationship of belief to truth **in a way that prevents belief from attaining the status of knowledge.** For example, **a** personal **desire to believe that something is true is a biasing influence on belief. If you believe something because you want to believe it, then even if your belief just happens to be true, it isn't knowledge because someone whose beliefs on a topic just happen to be true** in this way **doesn't have beliefs that are reliably true** under relevant counterfactual suppositions**.”**

#### Thus subjective systems ought not be used because they inherently privilege the affluent over the disadvantaged  - For example, if the death penalty could not be proven to be accurately applied it ought not be used because it is based in bias – institutions that are created to be unjust should be abolished Rawls 1

**Rawls 71** John Rawls (Political philosopher). “A Theory of Justice.” Harvard University Press. 1971. JDN. <http://fs2.american.edu/dfagel/www/Philosophers/Rawls/RawlsDescribingVirtueofJustice.pdf>

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; 3 the rights secured by justice are not subject to political bargaining or to the calculus of social interests. The only thing that permits us to acquiesce in an erroneous theory is the lack of a better one; analogously, an injustice is tolerable only when it is necessary to avoid an even greater injustice. Being first virtues of human activities, truth and justice are uncompromising.

#### A just Society must guarantee education to satisfy conditions of fair equality of opportunity. We must structure any inequalities to the greatest benefit of the least advantaged Rawls 2

[John Rawls, Dead Philosopher who taught at Harvard for a bit, A theory of justice, 1999 edition, ///AHS PB // SHS ZS]

One should not be misled, then, by the somewhat unusual conditions which characterize the original position. **The idea** here **is** simply **to make vivid** to ourselves **the restrictions that it seems reasonable to impose on arguments for principles of justice**, and therefore on these principles themselves. Thus it seems reasonable and generally acceptable that **no one should be advantaged or disadvantaged by natural fortune or social circumstances in the choice of principles**. It also seems widely agreed that **it should be impossible to tailor principles to the circumstances of one’s own case**. We should insure further that **particular inclinations and aspirations**, and persons’ conceptions of their good **do not affect the principles adopted**. **The aim is to rule out** those **principles that it would be rational to propose for acceptance**, however little the chance of success, only if one knew certain things that are irrelevant from the standpoint of justice. For example, **if a man knew that he was wealthy**, **he might ﬁnd it rational to advance the principle that various taxes** for welfare measures **be counted unjust**; if he knew that he was poor, he would most likely propose the contrary principle. To represent the desired restrictions **one imagines a situation in which everyone is deprived of this sort of information**. **One excludes the knowledge of those contingencies which sets men at odds** and allows them to be guided by their prejudices. In this manner **the veil of ignorance is arrived at in a natural way**. This concept should cause no difﬁculty if we keep in mind the constraints on arguments that it is meant to express. **At any time we** can **enter the original position**, so to speak, simply by following a certain procedure, namely, **by arguing for principles of justice in accordance with these restrictions**. **It seems reasonable to suppose that the parties in the original position are equal.** That is, **all have the same rights in the procedure** for choosing principles; each can make proposals, submit reasons for their acceptance, and so on. Obviously **the purpose of these conditions is to represent equality between human beings as moral persons**, as creatures having a conception of their good and capable of a sense of justice. **The basis of equality is taken to be similarity in these two respects**. Systems of ends are not ranked in value; and **each man is presumed to have the requisite ability to understand and to act upon whatever principles are adopted**. Together with the veil of ignorance, **these conditions deﬁne the principles of justice** as those which rational persons concerned to advance their interests would consent to as equals when none are known to be advantaged or disadvantaged by social and natural contingencies.

#### Thus, the criterion is consistent with the Rawlsian Difference Principle

#### Prefer the difference principle –

#### a) stays consistent with the idea of reciprocity with citizens which is required by the resolution as it is Universal

#### b) prioritizes the least advantaged and does so better than any other ethical theory because of it’s distribution of societal wealth which is fundamental for guaranteeing a universal policy. Freeman 3 (Freeman, Samuel, "Original Position", The Stanford Encyclopedia of Philosophy (Spring 2012 Edition), Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/spr2012/entries/original-position/>.)

#### Rawls concedes that “mixed conceptions are much more difficult to argue against than the principle of utility,” since “the strong arguments from liberty cannot be used as before” (TJ, 316/278). He discusses mixed conceptions in *Theory*, §49, and devotes more attention to them later in *Justice as Fairness: A Restatement* (§36ff). Rawls makes one main argument in favor of the difference principle and several more specific arguments against the principle of restricted utility. The main argument in favor of the difference principle depends on a strong idea of reciprocity among free and equal citizens: in a democratic society structured by the difference principle further gains to those more advantaged are not made at the expense of those less advantaged; instead, further gains to the more advantaged always benefit the least advantaged, and do so more than any other alternative distribution. All increments to society's wealth are then marked by strict reciprocity in its distribution; this accords with free and equal persons sense of justice, that cooperation is to be grounded in terms of reciprocity and mutual respect. By contrast restricted [Also] utility, even if it provides a social minimum, still permits disadvantages and losses to the worst off so that those better off may prosper; any degree of inequality is allowed in the name of maximizing utility so long as it does not violate the social minimum. Such a situation, Rawls contends, [This is] would be morally unacceptable to free and equal persons in a well-ordered society, and rationally unacceptable to the parties in the original position

#### Rawl presents a binding moral theory any other system not moral if it is situational because you can use the situation to justify immoral actions

#### Justice is internally motivated because we want justice by achieving justice, it is intrinsically good thus is an apriori system.

#### Finally, Rawlsian justice assure access to good because assuming that justice can happen regardless of access equality is impossible a utilitarian lie

Resnik, David. "Fair Drug Prices And The Patent System." Health Care Analysis 12:2. June, 2004.. < https://www.researchgate.net/publication/8228636\_Fair\_Drug\_Prices\_and\_the\_Patent\_System/link/605b4f85458515e8346c5209/download >.

One way of viewing Rawls’ argument for his principles of justice is that it presents hypothetical contractors with a decision under ignorance, since they would not know the probabilities for various outcomes associated with different choices. The difference principle, on this view, would be an application of the maximin rule of decision theory to social choices. The maximin rule holds that one should choose the option with the maximum minimum outcome when one does not know the probabilities of the outcomes associated with various choices (Resnik, 1987). The least advantaged people in society have minimum outcome because they would have the fewest primary goods. According to this interpretation of Rawls, the rational choice in this situation would be to maximize the welfare of the worst-off members, since one does not know whether one will be one of those people when the Veil of Ignorance is lifted. Some utilitarians have argued that the rational choice under these circumstances would be to follow the principle of insufficient reason, which holds that all outcomes are equally probable. By following this rule, one would choose the option with the greatest average utility, not the one that maximizes the minimum (Harsanyi, 1976). Rawls argues against the principle of average utility on the grounds that it does not guarantee basic liberties and it does not promote the welfare of the least advantaged members of society (Rawls, 1971, pp. 175–183). He also challenges the rationality of assuming that all outcomes are equally probable (Rawls, 1971, pp. 168–172).

### Next is My Advocacy

#### The member nations of the World Trade Organization ought to reduce intellectual property protections on medicines to the point that discoverable biological elements are not patentable as this violated my framework.

Martin Khor October 2000 Why Life Forms Should Not Be Patented Third World Network Features, https://www.twn.my/title/2103.htm

The patenting of living things or life forms, some of which have been made mandatory by the World Trade Organisation, is unethical and also against the economic and social interests of developing countries. Thus, the WTO’s Agreement on trade-related intellectual property rights (TRIPs) should be revised and the patenting of life should instead be prohibited. This was one of the points put forward by speakers and some participants at a panel discussion on the review of the TRIPs Agreement during a seminar on Current Developments in the WTO organised in Geneva by the Third World Network on 14-15 September. The patenting of life forms has become the subject of a growing worldwide campaign by citizen groups, environmentalists, scientists, farmers’ organisations and also religious leaders. They believe that animals, plants, humans, micro-organisms and their parts such as genes and cells, should not be patentable as these life forms are creations of God and Nature. They also argue that life forms, even if they are genetically modified, are not inventions and thus do not meet the criteria of patentability. A debate has also been raging in the WTO, which is reviewing Article 27.3(b) of the TRIPs treaty, which deals with patenting of life forms. It allows countries not to patent plants and animals but makes the patenting of micro-organisms and microbiological processes compulsory, thus opening the road to the patenting of life. Opening the discussion at the TWN seminar, the chairperson, Mr Chakravarthi Raghavan, said that a basic rethinking is now going on in the public arena on the nature of intellectual property rights and TRIPs, on the need to balance the rights of IPR holders and that of users and consumers. Raghavan said policy-makers and negotiators from the South should examine what had been promised in TRIPs on technology transfer and other positive aspects and compare these with the actual results. They should also focus on the aspects of TRIPs that had generated negative effects and that thus need to be reversed. Mr Nelson Ndirangu, a senior Kenyan diplomat based in Geneva, said developing countries had general concerns that TRIPs requires strong regimes to protect intellectual property. The advantage would go to those holding patents. Although the developed countries had said that strong IPR rules would cause technology transfer to take place, five years later this has not happened, and thus the claims of benefit were similar to fraud. In relation to patenting of life forms, Kenya and the Africa Group believes that this is unethical and should not be allowed. This patenting also has serious implications for food security. African countries are not satisfied with Article 27.3(b) of TRIPs. The requirement for protecting micro-organisms, non-biological and microbiological processes and plant varieties is unethical in allowing patents over life forms, unfair in terms of biopiracy, and harms food security for local communities as well as biodiversity. Ndirangu added that when a product is patented, it disallows or discourages research. Big companies that patent would benefit and produce what the market wants. ‘Those of us living on subsistence cannot afford patented products from the North. Also, in relation to products containing genetically modified organisms, we are not sure if they are safe for health or the environment.’ Ms Cecilia Oh, legal adviser to the Third World Network, said that the TRIPs Agreement has contributed to the prevention of access to technology for developing countries. In the case of patents on biological materials, there is a case of ‘double irony’ in that patents are being granted over biological materials and the traditional knowledge of the use of such materials. This prevents access by developing countries to such biological resources and knowledge, which originated largely from the developing countries. In this context, the TRIPs Agreement has facilitated the flow of resources and technology from the South to the North. As the United Nations Conference on Trade and Development (UNCTAD)’s Trade and Development Report 1999 pointed out, IPR protection has generated the outward flow of profits from developing to developed countries, in terms of payments for technology and licensing fees and royalties. Oh said the patent system was not an appropriate reward system for knowledge relating to biological materials. ‘The patent system was designed to protect mechanical inventions, and makes the distinction between mere discoveries and inventions. It is clear that biological materials are naturally occurring and can only be discoveries, and not inventions. ‘Patents confer monopolies over patented subject matter. In the cases of seeds and plant varieties, patents on such biological materials will have serious implications for agriculture and food security in the developing countries. The monopoly over biological resources and knowledge essential for agriculture, medicinal and other uses may be misappropriated and vest in individuals and corporations.’ Oh added that from a scientific perspective, the distinctions made in Article 27.3(b) (for example, between plants and animals, on the one hand, and micro-organisms, on the other) are artificial and were drafted with the aim of allowing and requiring micro-organisms and microbiological processes to be patentable. Quoting from reports made by scientists, Oh said: ‘Scientifically, no such distinctions can be drawn, and therefore, all living organisms and living processes cannot be patentable.’ She said that there are four categories of patents on life forms and processes, which should be prohibited or banned. These are: · Patents based on bio-resources and knowledge of their use pirated from countries and indigenous communities, which do not satisfy the novelty or invention criteria; · Patents on discoveries, for example, micro-organisms, cell lines, genomes, genes (including human cell lines and human genomes and sequences), which are all naturally occurring; · Patents on transgenic techniques and constructs, and transgenic plants, animals and micro-organisms (better known as genetically modified organisms); and · Patents on nuclear transplant cloning (for example, the techniques that produced Dolly the sheep). Oh said: ‘A system for rewards should be developed, but distorting the patent system only serves to attract controversy and rejection of the whole system.’ She added that at the WTO, the African Group of countries has already submitted a comprehensive proposal with the main point ‘that the review process should clarify that plants and animals as well as micro-organisms and all other living organisms and their parts cannot be patented, and that natural processes that produce plants, animals and other living organisms should also not be patentable’. The Africa Group had also proposed that the protection of plant varieties should allow for protection of the innovations of indigenous and local farming communities in developing countries. At discussion time, Mr Leo Palma of the Philippines Mission in Geneva said he subscribed to the view that there should be no patents on life forms. He asked how this principle should be brought forward. A delegate from Trinidad and Tobago said it was important to work out the elements of an appropriate system of protection for plant varieties. A delegate from the India Mission said it was useful to examine the patent application forms and procedures in developed countries, such as the United States. He proposed that in patent application forms a column be added to include the source of origin of biological materials. Before patents are granted, the source of origin as well as evidence whether the knowledge has already been in use should be looked at. This would help prevent patents being granted for products or knowledge that have already been in use in other parts of the world. -

### Next is My Offense

#### Medicine patents are used to pirate indigenous knowledge breading massive inequality in the global south waivers are essential

Ashleigh **Breske** Global Politics and Societies, Hollins University, 28 Aug **2018** Biocolonialism: Examining Biopiracy, Inequality, and Power <https://spectrajournal.org/articles/abstract/10.21061/spectra.v6i2.a.6/> -

**The global demand for medicinal drugs has led to an increase in biopiracy in the Global South. Once companies find something they believe will be profitable, they want to patent it straightaway** so that no one else can capitalize off it. **Patents are an easily accessible source of income for those able to apply for them. In fact, patents act as an exclusive control on a product, and, when corporations hold patents on biodiversity, they are creating a monopoly on** food and **health**. xxviii In some ways **it is impossible for** those in **developing countries to compete with MNCs due to how patents and intellectual property rights are sustained**. Since patents are held nationally instead of internationally, most patent holders tend to be from more developed countries. Because of this divide, **it** is possible t**o inflate the price of patented medicines so that corporations can make an even greater profit, which leads to more global inequalities.**

Rich states can also pay for access to technology for research and resources to control epidemics and infectious diseases more readily than poorer areas of the world. **With the establishment of the W**orld **T**rade **O**rganization in 1994, international trade negotiations opened, and western notions of **intellectual property rights took a firm hold in pharmaceutical research and development, increasing the strength of MNCs**. This was classified under TRIPS, the Agreement on Trade Related Intellectual Property Rights.xxix TRIPS was negotiated at the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and set the standard for member states to recognize the same intellectual property rights. This then meant that industries could bypass local patent law by registering their patents in the most favorable jurisdiction.”xxx **Before TRIPS, which set consistent requirements, intellectual property was considered a domestic issue with protections set on the national level. However, with TRIPS, transnational corporations are now much more successful at acquiring patents**. xxxi For example, looking at the number of patents held at the end of the twentieth century, most were filed by the United States (41.8%) and Europe (41.95%).xxxii **The TRIPS agreements and domestic patent laws**, specifically US law, **shapes** international IPRs and show that **the legal system** is **excluding indigenous or marginalized communities.**xxxiii There has been a push for **TRIPS**, predominantly **by the pharmaceutical industry**, to **restrict profit potential by indigenous communities**. Corporations make minor genetic or chemical formula changes for their intellectual property claims and patents and can then claim their product is no longer directly linked to the initial source. Debra Harry has claimed that the main problem with biocolonialism is the “manipulation and ownership of life itself, and the ancient knowledge systems held by Indigenous peoples.”xxxiv **The problem stems from the belief that indigenous peoples are merely the holders, not owners, of communal knowledge. What are not considered are their territorial rights to the resources on their lands**.xxx

#### Biopiracy is a form of piracy that steals from indigenous communities, robs them of medicine, and destroys their livelihoods Pedersen 12

Stephanie **Pedersen**, 23 August **2012**, Biopirates Are Harming Indigenous Livelihoods, <http://www.theinternational.org/articles/233-biopirates-are-harming-indigenous-livelih>

In the late 1990’s a Swiss national went to the Simanjiro region of Tanzania to study the properties of the Oloisuki tree. He sent several samples back to Switzerland where it has since been processed and turned into syrup that is used as an additive in fruit juices, teas and toiletries. By doing this he violated Access and Benefit Sharing laws and Tanzanian customary laws, which in an interview with LIRDO (a local NGO), he later denied having any knowledge of. Access and Benefit Sharing laws regulate access to genetic materials and traditional knowledge and also ensure appropriate fair and equitable sharing that may arise from their utilization. The Maasai people in Tanzania and Kenya have been using the bark of the Oloisuki tree for years to treat malaria, stomach aches and to heal livestock. Recently, both the Muhimbili Univserity of Health and Applied Sciences and Makerere University Medical School confirmed the effectiveness of Oloisuki for treating malaria and measles. The Maasai people have seen very little compensation for the use of the Oloisuki tree. It is a plant that has great historical and cultural value. Their traditional knowledge regarding the properties of the tree was utilized for the production of Oloisuki products in Switzerland. There are international laws such as the Convention on Biological Diversity, which state that traditional knowledge may only be used by corporations if indigenous populations have given their informed consent. The Maasai did not give their informed consent for the harvesting and use of the Oloisuki tree and are demanding a patent that will provide appropriate economic compensation. Initially, the poorest women of the Maasai tribes were assigned the task of harvesting the Oloisuki tree as part of a project that was supposedly aimed at improving gender equality. These women were minimally compensated for their work. The Maasai people are semi-nomadic and rely upon subsistence farming and pastoralism for their livelihood. They live in regions of Tanzania and Kenya where access to clean water is frequently limited due to droughts and their current healthcare systems are largely inadequate. They rely heavily on the Oloisuki tree for its healing properties. With the threat of global warming, increased modernization and the loss of their traditional lands to national parks and conservation, the Maasai way of life as farmers and pastoralists is continually threatened. The Maasai as a people are increasingly impoverished and are in desperate need of new economic opportunities. Appropriate economic compensation for the use of the Oloisuki tree would allow for the expansion of health services, provide clean drinking water for both themselves and their livestock and would improve the socioeconomic welfare of the Maasai overall. What is biopiracy? The issue of bioprospecting, or biopiracy as many NGOs and developing nations call it, is one that is growing in scale as large multi-national corporations and pharmaceutical companies continue to search for new ways to make profit via the appropriation of biological materials. Bioprospecting is the process of appropriation and commercialization of natural products ranging from plants and animals to genes, many of which are found in the biologically diverse developing world. Often, bioprospecting includes the use of traditional knowledge derived from indigenous peoples who have used plants as a part of their culture for the purposes of healing, and becomes biopiracy when due credit is not given. Essentially, biopiracy accounts as a form of plagiarism or theft. There are several international laws in place to regulate bioprospecting and ensure that indigenous populations are rightly compensated for their contributions toward revenue generation, such as the Convention on Biological Diversity and the Nagoya Protocol. In an interview with Flurina Doppler, a member of a Swiss-based NGO called Berne Declaration that monitors patent applications by Swiss corporations, Doppler identified one of the major shortcomings of these types of international conventions, namely that while they are legally binding, they lack the effective means for implementation and/or enforcement. Ms. Doppler also claims that while these international laws are in place to enforce access and benefit sharing laws (ABS), one of the main problems in stopping biopiracy is that many countries do not have ABS legislation as part of their national laws. Thus, while there is legislation in place to protect indigenous populations against biopiracy, these laws are easily and frequently circumvented. A negative impact **Many patents either deny economic compensation to indigenous groups entirely or they prevent indigenous groups from using specific plant materials altogether.** A report by Greenpeace about patents and bioprospectng explains that, “**Patents take plant genetic resources out of the public domain and define them as private property.” The restricted use of these plants may prevent access to traditional healing methods and this threatens indigenous health systems. Many of these groups**, including the Maasai, the Aboriginal peoples of Australia and the tribespeople of Orissa, India **lack access to modern medicine and thus greatly rely on the traditional local healing methods**. Patents award the sole use and sale of a product to the patent holder. In some cases, the patents also result in inflated prices and indigenous groups may be unable to afford them. The problem that patents pose to these fragile healthcare systems is one that is largely unaddressed by patent holders. Some of the more infamous examples of the harm caused by patenting to indigenous populations include restrictions on the use of the neem tree that the indigenous populations of India and Nepal are facing due to the patents of W R Grace and Co, and the use of the Duboisia plant by Aboriginal groups in Australia for its uses as a sedative and in motion sickness medication.

#### Next, Biopiracy allows rich countries to strip developing nations and indigenous people of resources, widening the 1st/3rd world divide and causing unjustifiable structural violence

Johanna Marie **Staral** **and** Jean Ann **Sekerak**, **2012**, FIGHTING BIOPIRACY AT THE SOURCE: SENSITIZING INDIGENOUS COMMUNITIES TO WESTERNIZED INTELLECTUAL PROPERTY RIGHTS AND THE THREAT OF BIOPIRACY, <https://www.academia.edu/1115515/FIGHTING_BIOPIRACY_AT_THE_SOURCE_SENSITIZING_INDIGENOUS_COMMUNITIES_TO_WESTERNIZED_INTELLECTUAL_PROPERTY_RIGHTS_AND_THE_THREAT_OF_BIOPIRACY> [Case Western Reserve University School of Law (USA) International Partners in Mission (USA)]   
**The effects of biopiracy are far-reaching and injurious to global development. Biopiracy increases distrust in the research community, reduces the economic and political power of developing nations, and violates basic human rights**. When biopiracy occurs because there is a lack of properly obtained permission given by the indigenous community, it is very likely that this will be viewed as extremely offensive. This cultural affront erodes the already delicate trust that indigenous peoples have for the North¶s research community, making it difficult to forge ethical relationships for biological research, injuring the drug discovery potential of the medical industry. The effects on economic development in the South are much more severe. Through the use of I PRs and the TR I Ps mandate, patent holders and corporations leave developing countries and indigenous peoples out of the development of products based on their traditional knowledge and biological resources. 1 Projects utilizing TK and local resources, projects like Mujer y Comunidad, are in danger . Even more damaging are plant patents that can keep provider countries from selling and exporting their resources. **The inability of these countries to access the economic potential held by their resources further exacerbates the inequality of the global market**. The worst effects of biopiracy are born by the people living in these struggling nations. **Biopiracy can price essential medical therapies far outside the reach of these communities and deplete the resources used for food and shelter by indigenous peoples.** Developed nations that are complicit in acts of biopiracy are **violating the basic human rights** that they helped to enshrine in the Universal Declaration of Human Rights. 11 Biopiracy goes further and erodes the identity and psyche of the cultures it effects, ignoring the human rights principles espoused in the Covenant on Social, Economic and Cultural Rights. 12 **The appropriation of biological resources tied to traditional knowledge returns relatively nascent nations to their oppressive colonial past through the exploitation and degradation of a peoples¶ culture**. Dr. I kechi Mgbeoji, states, ³ I n cases where traditional use of plants pertains to the culture of a people, it seems beyond doubt that biopiracy constitutes both an individual and collective violation of an internationally recognized and protected right to culture. Even though economic, social and cultural rights have traditionally been marginalized in the human rights discourse and praxis, there is no doubt among scholars that they are human rights in the full sense of the term, with all the legal obligations attendant thereto.´ 13 When viewed from this perspective, **it is imperative that biopiracy be addressed by the international community and that individual states fulfill their obligation to protect human rights within their territories and globally.** 1.4 The Need for Protection The preservation of biological diversity is important for the entire human population, as evidenced by the emergence of international treaties like the Kyoto Protocol and the Convention of Biological Diversity. 14,15 However, recent technological advances have put added strain on environments where biological materials are sourced. As outspoken anti-biopiracy author, Vandana Shiva, has observed, **"[t]he emergence of new biotechnologies has changed the meaning and the value of biodiversity. I t has been converted form a life-support base for poor communities to the raw material base for powerful corporations.´ 16 This change** in valuation **has created a** potentially **dangerous demand for resources once freely utilized by indigenous peoples without the threat of depletion**. Yet it has also created an opportunity for developing countries to gain a foothold in the world economy. Sovereign states control access to their resources and have used this positionof power as a means of gaining some leverage in negotiating political and economic relations. 1 I f done correctly,developing countries can create regulations that will utilize biological resources responsibly through conservation practices that will provide lasting economic benefit. 17 I t is imperative that indigenous populations are included in thedevelopment of these regulations, as they are perhaps the best suited to be the stewards of the developing world¶s biological diversity, having both a vested interest in conservation as a means of preserving their heritage and as arenewable source of income

#### Finally, Rawlsian justice apply to intellectual property allow there to be a balance that avoid severe injustice.

Yanisky-Ravid, Dr. Shlomit. "The Hidden Though Flourishing Justification Of Intellectual Property Laws: Distributive Justice, Nat." Lewis & Clark Law Review 21:1. 2017. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1956&context=faculty\_sch olarship

It is my premise that Professor Rawls’s theory of justice could easily be used as the moral foundation of distributive justice principles applied to intellectual property rights.62 The theory’s principles should ensure equality and fairness among all relevant parties, if the rules chosen reflect the values of mutual equality and are not designed only (or primarily) to serve the interests of the stronger parties as against the other parties. A rule can be considered just and fair if it is chosen by the parties as such, at a time when the parties were unaware of their status or the expected impact of the rule on them. The theory assumes, as detailed above, that legal norms should be set behind the veil of ignorance, where those who set the rules do not know their status in the realm within which the rule will apply to them. Such virtual negotiations to determine the rules would preserve equality, unlike in the real world, where power and influence override equality. The theory is quite well suited to this discussion as it deals with the inherent complexity of labor laws and intellectual property laws, particularly with regard to the inequality between creators or inventors and strong enterprises. To be truly just, intellectual property rules should be determined in relation to the distribution of goods.

Goods can be divided among humans, and are something humans strive to create, but the term “goods” in this context is used in a broader sense. It includes, among other things, capital, money, property, benefits, governmental power, influence, rights, and jobs. Moreover, this term also includes fundamental freedoms, including freedom of movement, freedom of occupation, freedom of trade, opportunities for personal development, etc.63 The Rawlsian principles are consistent, in my opinion, with the assumption that individuals in society are interested in ensuring rules of distribution that are based on fair and appropriate criteria that protect the public from being adversely affected by powerful parties. To adhere to such criteria, however, the distribution principles promulgated by the Anglo-American intellectual property legal system must be exchanged for principles ensuring that even the most deprived party will benefit more than under any other system.64 Rawls’s theory is suitable as a basis for rules governing the distribution of rights in intellectual property law, since (i) it actually implements the principles of equality that are lacking in the Anglo-American intellectual property regime, and (ii) could prevent injustice between groups with conflicting interests regarding the distribution of intellectual property privileges and compensation. This is very important, since, ordinarily, one party has more power and influence than other parties, as will be discussed in the last Part of this Article