**I affirm and value morality**

#### Humans are practical reasoners because to question the notion that reasoning is constitutive is to concede its importance.

**Velleman 06** (James David, “Ethics professor. Let's cut to the chase, this guy is THE man for Ethics.” – someone on ratemyprofessor, “Self To Self”, Cambridge University Press, 2006, pg 18-19)

As we have seen, **requirements that depend for their force on some external source of authority turn out to be escapable because the authority behind them can be questioned.** **We can ask**, **“Why should I act on this desire?”** or “**Why should I obey the U.S. Government?**” or even “**Why should I obey God?”** And as we observed in the case of the desire to punch someone in the nose, this question **demands a reason for acting.** The authority we are questioning would be vindicated, in each case, by the production of a sufficient reason. What this observation suggests is that **any purported source of practical authority depends on reasons for obeying it—and hence on the authority of reasons.** Suppose, then, that we attempted to question the authority of reasons themselves, as we earlier questioned other authorities. Where we previously asked “Why should I act on my desire?” let us now ask “Why should I act for reasons?” Shouldn’t this question open up a route of escape from all requirements? **As soon as we ask why we should act for reasons, however, we can hear something odd in our question. To ask “Why should I?” is to demand a reason; and so to ask “Why should I act for reasons?” is to demand a reason for acting for reasons.** This demand implicitly concedes the very authority that it purports to question—namely, the authority of reasons. Why would we demand a reason if we didn’t envision acting for it? If we really didn’t feel required to act for reasons, then a reason for doing so certainly wouldn’t help. So there is something self-defeating about asking for a reason to act for reasons.

#### The right to freedom entails a right to property – otherwise end-setting would be contingent.

Buck ’87 (Wayne, Yale, "Kant's Justification of Private Property." In New Essays on Kant. Ed. den Ouden, 227-244.) OS

(1) Because human beings have the right to pursue their ends (i.e. they have the right to external freedom) they have a right to act in those ways necessary for achieving any ends at all. When we act to attain some end, in many cases our action involves manipulating or transforming some material object. When I eat an apple, I use the object for sustenance. When I paint, I use a brush and oils to transform a piece of canvas. Manipulation of objects is thus one of the means necessary to achieving ends in general. Hence the right to use external things is a necessary condition of the right to external freedom. As Kant puts it, if reason were to forbid the use of physical objects, external freedom would come into contradiction with itself, or "freedom would be robbing itself of the use of its Willkur" (MEJ, 52 [354]). Simply put, external freedom would in effect be forbidden by reason and morally impossible. (2) So far Kant has established the inherent right to use external objects. But this is not yet to establish the Juridical Postulate, which claims that individuals have the inherent right to own things. Kant makes this second step from the right to use things to owning them by means of an analysis of the concept of "possession." The 'subjective' condition of the possibility of actually manipulating a thing is physical possession. I am not able to use an axe unless I have it in hand, and I am not able to build a cabin unless I am standing on the spot where it is to be. These kinds of possession Kant usually calls "empirischer Besitz" and "Inhabung." I will call them "custody." Possession in this sense, then, is the subjective condition of the possibility of actually using a thing. "Possession," however, cannot just mean custody. Suppose that my right to the use of a thing lasted only as long as no one prevented me from using it as I desired. Thus if someone wrests the thing from my control to use as she pleases, my right to use it would end. But losing the right to an object merely because another grabbed it from me is precisely the situation in which I did not have a right to use it in the first place. Therefore, my having a right to the use of a thing presupposes that I can justifiably complain if anyone interferes with my using it as I please, and that I am justified in preventing anyone who tries to do so. If I have rights to something there must be some circumstances in which I retain those rights even though I have lost custody of the object (MEJ, 5 4 [356]). Custody is neither necessary nor sufficient for possession in this sense. So "possession" must have a second meaning, distinct from custody, if having rights to things is to be possible. This sort of possession must be a relation between an individual and a thing that obtains independently of their spatial relations. Since "possession" in this sense cannot denote a sensible relation between persons and things, Kant calls it "intelligibler Besitz." When there is such a relation between me and some object, I have "authority" (Gewalt) over the object regardless of whether I have custody (MEJ, 61-6 4 [362-365]). Let us call this intelligible or 'noumenal' relation "ownership."

#### However, human beings are not only rational, but sensible as well, meaning they are affected by the world around them. This allows for humans to be empathetic creatures and feel emotions devoid of reason i.e. falling in love.

**GOBSCH 14**, [Wolfram Gobsch, Wissenschaftlicher Mitarbeiter / Research Assistant “The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love in which to Overcome It” 2014 WW]

**Sensibility is a receptive capacity: a capacity to represent objects through being affected by them. Affection happens at a time and a place, so sensible organisms are spatiotemporal beings. And it depends on the existence of its object, so the actualization of sensibility has conditions that cannot be satisfied through acts of this capacity itself.** In virtue of these conditions, however, sensibility is a limited, particular capacity, a capacity with a specific form. But if a capacity is limited, then its object – the content of its act in general – is limited, too: its object cannot be that which is, simply as such. It is for this reason that sensibility differs **infinitely from reason, the unconditioned, so that no sensible organism can be pure reason, and so that the definition of a human being unites two distinct determinations.** **To exist as an animal is to be engaged in sensible activity**. So although human beings exist, if all goes well, through actualizing pure reason, **sensibility will have to play [has] a role in their rational practical activity. A merely prudentially rational animal, should such a thing be possible at all, would be determined to act by sensible desire, reason would merely serve to direct it toward happiness. In a human being, however, reason is**, if all goes well, of itself practical; and so the role of sensible desire cannot, ideally, be that of **the determinant, the motor, of its practical activity.** As the activity of an animal, human action, too, is oriented toward happiness. But the subjective principles of a human being’s practical activity, principles which, as such, determine the extent to which its orientation toward happiness becomes practical, are acts of free choice: acts of a capacity to “be determined to actions by pure will” , maxims, as Kant calls them, acts which, as such, presuppose that their subject acknowledges her own happiness as prima facie good: as to be pursued in the activity of pure reason. To exist as a human being is to engage in the activity of free choice. In this activity, reason is employed theoretically, but above all it is, if all goes well, of itself practical. Reason is the capacity to explain why a thing is determined the way it is through its own activity according to the laws that relate it to the activities of all other things. But the law of pure practical reason is law in virtue of no other. So in the eyes of a subject of the power of free choice, this single categorical law is to be conceived as the supreme principle of all laws that can be cognized theoretically. Hence human beings are as such, in their activity of free choice, necessarily out to validate the moral law’s supremacy in the world. And this would be impossible, unless they are, in this activity, out to grasp all laws, unless, that is, they are out to understand the activities of all things in the world through the laws under which they fall in virtue of their definitions. **Now, there is more than one human being. On condition of this fact we can therefore say that human beings are, as such, also out to understand the activities of all other human beings through the laws under which they fall in virtue of their definition, and that is: as human beings. As human beings, these others, too, exist through their activity of free choice**. So on condition of a multiplicity of human beings, every human being is, as such, i.e. in its activity of free choice, – out to be – related to every other human being as a subject of free choice. Subjects of free choice are called persons. So we can rephrase**: given a multiplicity of human beings, to exist as a human being is to – be out to – exist as a person in relation to every other human being as a person**. **But this is to say that, given a plurality of human beings, the notion of relationality, the second of the two sides of the idea of an ethical community, does indeed bring into view an essential aspect of the practical activity characteristic of human beings: the personhood in which such a being rationally displays its [a human’s] sensible nature: the individuality and finitude that make it an animal.**

#### Because rationality and sensibility are constitutive of human beings, the highest good is an ethical community where everyone recognizes each other as rational agents and sensible beings and so, is aware that their choices affect others.

#### Thus, the standard is consistency with the ethical community

**GOBSCH 2**, [Wolfram Gobsch, Wissenschaftlicher Mitarbeiter / Research Assistant “The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love in which to Overcome It” 2014 WW]

**The idea of an ethical community is the idea of a multiplicity of human beings who act in accordance with a principle that relates them to one another as persons in and only in being the principle from consciousness of which alone they act in this way**. I am going to show that the **notion of internality, of acting from respect for a practical principle, and of relationality each bring into focus an essential aspect of the practical activity characteristic of human beings.** According to the classical definition, a human being is a rational animal, a sensible organism endowed with reason. For the purposes of this essay, “reason” as it figures in this definition is to be practical reason: reason as of itself a power to act. In the sense of this essay, then, **human beings are not the merely prudentially rational beings** Hume proclaims us to be, rational animals whose practical activity “arises not from reason, but is only directed by it” . Rather, they are sensible beings like you and me who are – or at least take themselves to be – characteristically capable of acting from reason alone. In what follows I will show that, **while the notion of internal motivation brings into focus the rational origin of human practical activity (section 1.1), the notion of relationality brings out our rational conduct’s dependence on our sensibility** (section 1.2). I will argue (in section 1.3) that the unity thought in the idea of ethical life is no other than the unity thought in the concept of a human being, and that, given a plurality of human beings, the one is entailed by the other. **It will further transpire that the ideally rational origin of human activity compels us to conceive of the idea of an ethical community as an essential end, not of human reason, but of reason, simply as such.** To act from one’s consciousness of nothing but the moral law is to act autonomously, it is to give this law to oneself: it is to act in such a way as to therein also constitute and preserve oneself as a being that is acting from its consciousness of nothing but this law. So for me to be related to you as one person to another in my acting from nothing but my consciousness of the moral law is for me to give the law to both of us and to therein receive it from you who is equally giving it to both of us. **So as members of our ethical community, each of us acts in such a way as to constitute and preserve herself and therein the other as a person who acts from consciousness of the moral law.** **In this sense, an act from consciousness of the moral law, conceived as the principle of an ethical community, is a joint or general act of the will**: in the practical activities that constitute an ethical community, i.e. **in ethical life, the willing itself is relational That is to say that in my ethical community with you, my willing is nothing but our willing, only from my perspective, oriented toward you; and your willing is our willing, only from your perspective, oriented toward me.** Now, because our willing here is our acting from nothing but our consciousness of the moral law, **I am, in my willing, conscious of myself as related to you in this manner, and you are, in your willing, conscious of yourself as related to me in this manner: we share the same – relational – self-consciousness. So in ethical life, the willing itself is relational in its very internality, its very self-consciousness.** **In ethical life we are conscious of one another as one at heart:** as one in the consciousness of the principle from which we act. **We are practically conscious of one another’s hearts**. Through this consciousness we constitute a sense of “we” in which “validity for every human being (universitas vel omnitudo distributiva), i.e. communality of insight” and “universal union (omnitudo collectiva)” are necessarily identical. **This implies that for me to act merely in accordance with the moral law, conceived as the principle of our ethical community, but not from my consciousness of it alone, is to break this law and to therein wrong you. So** if I do act from nothing but my consciousness of the moral law conceived as the principle of our ethical community, I am moved by reason and therein by you. This is to say that the rational activity that is **ethical life is the unconditioned approval of one another’s finitud**e, and that is: love. It is the rational, hence impartial love we know as אהב) ahābā), ἀγάπη, caritas and solidarity.

#### Prefer additionally:

1. **All evil is just one’s misrecognition of others’ ability to reason and be sensible, which as a result, allows them to maximize their own happiness without regard of others. I.E. Slavery is just the plantation owner’s misrecognition of their slaves; the plantation owner does not see them as having the same ability to reason and be sensible, and as a result, oppresses them. However this directly contradicts the Ethical Community, where everyone is recognized as having an equal ability to reason and be sensible.**
2. **Bindingness: In order for an ethic to be binding, it has to explain where the principles come from and how they are actualized in the real world. Only Hegel takes into account the infinite nature of the subject, it’s reason, and it’s limited capacities with the world around it, it’s sensibility.**
3. **Performativity-Hegel’s Ethical Community is a prerequisite to debate in the first place. Reasoning gives us the freedom to say what we want to say, and sensibility and the recognition of the other allows us to have a productive debate because it makes us know when to stop speaking and respect the rules – without it, debate would be a mess of just talking over one another.**

#### Impact Calc:

1. **Reason is unconditional and practical in a human being and sensibility is conditional on what is affecting. They are separate factors that define the human being.**
2. **Since the Ethical Community is the highest good, the impact calculus is the course of action that brings us closest to the Ethical Community- where our ability to reason is not impeded and our knowledge of sensibility prevents us from harming other people’s ability to reason or to be sensible.**

**Advocacy: I affirm the resolution in general, will clarify if needed in cx**

# IPPs inhibit reasoning

#### The ability to reason includes not only the ability to have the thought itself, but to then be able to act on the thought - if we could not act on our thoughts, it would be the same as not having the thought in the first place, making it useless to use reason, which contradicts the Ethical Community.

#### 1) Intellectual Property Protections (IPPs) prevent people from reasoning, since they are unable to make use of their own creations. Additionally, IPPs don’t even usually serve their function to prevent copying, but instead suppress people with unique ideas.

Lindsey and Teles 17 [Ricketts, M. (2018). The Captured Economy: How the Powerful Enrich Themselves, Slow Down Growth, and Increase Inequality by Brink Lindsey and Steven M. Teles. Oxford University Press (2017), 221 pp. ISBN: 978-0190627768 (hb, £16.99). Economic Affairs, 38(2), 297–300. doi:10.1111/ecaf.12299]//Lex AKu recut Lex VM

In our opinion, the biggest problem with the moral case for patents and copyright laws is that those laws as currently constituted regularly violate the principle on which they are supposedly grounded—namely, entitlement to the fruits of one’s mental labor. The exclusive rights granted to copyright and patent holders aren’t just an additional premium layer of protection on top of the basic rights that all enjoy. Rather, **copyright and patent laws extend premium rights to some in a way that frequently restricts the basic rights of others. Perversely, copyright and patent laws are regularly used to stop people from producing or selling their own original works**. This was not always the case with copyright. Originally, US law prohibited only simple copying of full works as originally published. Thus, translations and even abridgments were not considered infringing. Gradually, the concept of infringement, to a limited and uncertain extent, by the concurrent rise of the doctrine of “fair use.” According to this doctrine, some derivative works—parodies, for example, and books that include expanded to cover so-called derivative works—for example, a play based on a book, or a book that contains characters created by another author. This expansion was checked brief quoted passages from other works—are not considered infringing. For everything else, including adaptations of an artistic work to a new format, new works using existing literary characters or settings, remixes or mashups of musical works, and so forth, the restrictions and penalties of copyright apply. In all these cases, artists can expend mental effort to create something new and original, but they are not allowed to publish or sell it.33 They are thus deprived of their basic rights to the fruits of their own mental labor. In the case of patent law, independent invention has never been a defense against claims of infringement. As a result, **inventors who come in second in a patent** race have no right **at all to make use of and profit from their ideas.** This is by no means an unusual occurrence, for nearly simultaneous and completely independent discovery of new technologies occurs with astonishing frequency.34 Indeed, patent **infringement lawsuits** only rarely involve intentional copying of someone else’s invention; in the clear majority of lawsuits, the **alleged infringers** developed their products on their own and weren’t even aware of the patent in question. In summary, the moral case for patents and copyright is supposedly based on the entitlement to enjoy the fruits of one’s mental labor. Yet under current law, the most basic and universal form that this entitlement can take, one whose general propriety is completely uncontroversial, is regularly traduced. We therefore find unconvincing the claim that copyright and patent holders are rightful property owners who are only receiving their just due. Yes, we can imagine intellectual property laws in which the moral claims for exclusive rights are much stronger. If copyright were limited to its original concern of preventing sales of full reproductions, and if patents were awarded to all independent co-inventors (or at least independent invention were a complete defense in any infringement action), then intellectual property rights would indeed provide additional protections for artists and inventors without impinging on the basic rights of other artists and inventors. But that is not the intellectual property law we have today, and to get there would require major statutory changes. The copyright and patent laws we have today therefore look more like intellectual monopoly than intellectual property. They do not simply give people their rightful due; on the contrary, **they regularly deprive people of their rightful due**. If there is a case to be made for the special privileges granted under these laws, it must be based on utilitarian grounds. As we have already seen, that case is surprisingly weak, and utterly incapable of justifying the radical expansion in IP protection that has occurred in recent years. Therefore, it is entirely appropriate to strip IP protection of its sheep’s clothing and to see it for the wolf it is, a major source of economic stagnation and a tool for unjust enrichment.

#### 2) IPPs prevent people from having full property ownership, thus inhibiting reasoning.

**Kinsella 13**Kinsella S. (2013) The Case Against Intellectual Property. In: Luetge C. (eds) Handbook of the Philosophical Foundations of Business Ethics. Springer, Dordrecht. https://doi.org/10.1007/978-94-007-1494-6\_99]//Lex AKu recut Lex VM

Let us recall that IPP rights give **to pattern-creators** partial rights of control – ownership – **over the material property of everyone else. The pattern-creator has partial ownership of others’ property, by virtue of his [their] IP right, because he [they] can prohibit them from performing certain actions with their own property. Author X,** **for example,** can **prohibit a third party, Y, from inscribing a certain** pattern of words on Y’s own blank pages with Y’s own ink. That is, by merely authoring an original expression of ideas, by merely thinking of and recording some original pattern of information, or by finding a new way to use his own property (recipe), the IP creator instantly, magically becomes a partial owner of others’ property. He [They] has some say over how third parties can use their property. He is granted, in effect, a type of “negative servitude” in others’ already owned property” (See [32]). IP rights change the status quo by redistributing property from individuals of one class (material-property owners) to individuals of another (authors and inventors). Prima facie, therefore, IP law trespasses **against or “takes” the** property of material-**property** owners, by transferring partial ownership to authors and inventors. It is this invasion and redistribution of property that must be justified in order for IP rights to be valid. We see, then, that utilitarian defenses do not do the trick. Further problems with natural-rights defenses are explored below.

#### 3) Medicinal IPPs are not trivial and already suffocate people from creating their own products.

**Komendant 20,** [Erik Komendant, AAM Vice President, Federal Affairs, 9-7-2020, "Pharmaceutical Patent Abuse: To Infinity and Beyond!," No Publication, https://accessiblemeds.org/resources/blog/pharmaceutical-patent-abuse-infinity-and-beyond]

We are, however, increasingly seeing evidence of how the patent system is being used to tip the balance **and delay patient access to a point well beyond what Congress intended.** In a recent [report from I-MAK](http://www.i-mak.org/overpatented-overpriced-excessive-pharmaceutical-patenting-extending-monopolies-driving-drug-prices/), the **top 12 brand drugs on the market last year are protected by a total of 848 patents (71 per drug) providing an average of 38 years without generic competition**. A few examples from the report:

* **The world’s top-selling brand drug, Humira,** treats arthritis and other chronic conditions. On the market since 2002, **132 patents block competition for up to 39 years.**
* **One of the most prescribed cancer treatments, Revlimid**, was approved by the FDA in 2005. The patent thicket consists of **96 patents providing potentially 40 years without competition.**
* **Diabetes** **patients who rely on the insulin treatment, Lantus, may not see a generic alternative for 37 years due to the 49 patents issued.**

There is no question that several of these patents represent true innovation. New patient populations benefit from the same drug being used to treat a different condition, for example. But the expansive use of the patent system to build barriers to generic and biosimilar competition **results in patients paying higher drug prices for longer.**

# IPPs Prevent Recognition

#### IPPs allow for companies to directly misrecognize people as things to maximize profits instead of equal rational and sensible beings that are in need of help and suffering. This is especially the case in vaccines, where poorer people and people from poorer countries are not thought of as human, but instead mechanisms for profit.

Sekalala et al 21(Professor in law school at the university in Warwick. “Decolonizing human rights: how intellectual property laws result in unequal access to the COVID-19 vaccine”, BMJ Global Health, July 2021,  [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8277484//](http://monthlyreview.org/2015/07/01/imperialisms-health-component/)WW)

Global health law encompasses the legal norms, processes and institutions needed to create the conditions for people throughout the world to attain the highest possible level of physical and mental health.[16](https://gh.bmj.com/content/6/7/e006169#ref-16) The legal landscape for global health is fragmented, with multiple competing actors and regimes covering areas such as health security, border control, surveillance, trade and IP.[17](https://gh.bmj.com/content/6/7/e006169#ref-17) At the intersection of global health and human rights, this fragmentation is further exacerbated by a division of global health law into separate regimes emanating from the International Health Regulations (IHR), on the one hand, and international human rights law, on the other. This has led to calls for global health law and human rights law to be ‘harmonized’.[18](https://gh.bmj.com/content/6/7/e006169#ref-18) The development and dissemination of COVID-19 vaccines has highlighted how the international legal system pertaining to global health is driving global health inequalities instead of alleviating them. As a result, in part, of neocolonial ‘development’ models that promote inequitable IP laws, most of the vaccine supply has been manufactured in the Global North and purchased by governments in those countries to be stockpiled for their own populations—a practice sometimes described as ‘vaccine hoarding’ or ‘vaccine nationalism’.[19 20](https://gh.bmj.com/content/6/7/e006169#ref-19) Even where countries in the Global South have produced vaccines themselves in significant quantities, they have sometimes been guilty of perpetuating inequity of other Global South countries through vaccine nationalism and vaccine diplomacy, in which vaccines are offered to poorer countries in order to achieve geopolitical objectives.[21 22](https://gh.bmj.com/content/6/7/e006169#ref-21) A decolonised approach to global health enables us to conceptualise this behaviour as a reproduction of a neocolonial system which pits some formerly colonised countries against others.[23 24](https://gh.bmj.com/content/6/7/e006169#ref-23) This has meant that some countries in the Global South also benefit from this uneven system, and they too contribute to the exploitation of poorer countries in the Global South.[21](https://gh.bmj.com/content/6/7/e006169#ref-21) Although the WHO cocreated the COVAX Facility, a donor-funded mechanism that seeks to pool procurement to enhance access to vaccines for LMICs, the charitable funding scheme is facing a serious shortfall in meeting global needs. The WHO has estimated that most people in LMICs will not be vaccinated until the end of 2023,[25](https://gh.bmj.com/content/6/7/e006169#ref-25) and even this estimate may be optimistic, given the delays in initial distributions through COVAX.[26](https://gh.bmj.com/content/6/7/e006169#ref-26) This prompts the obvious question: How is it that existing legal mechanisms, or at least the prevailing interpretations and understandings of them, have permitted and even enabled this inequity? International IP law embedded in international trade agreements allows pharmaceutical companies time-limited rights to prevent others from making, using or selling their patented invention without permission. Under the 1995 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which was included in the Uruguay Round of multilateral trade negotiation, pharmaceutical companies have at least 20 years from filing a patent to profit from their investments in developing, testing and upscaling pharmaceutical products throughout the world.[27](https://gh.bmj.com/content/6/7/e006169#ref-27) This protection is given to pharmaceutical companies to incentivise them to engage in greater research and development for new drugs. However, there is evidence that challenges previous assumptions about the linkages between Research and Development spending and innovation for essential medicines.[28](https://gh.bmj.com/content/6/7/e006169#ref-28) The current COVID-19 crisis has brought this into sharp focus, with projections that the global public sector had spent at least €93 billion on the development of COVID-19 vaccines and therapeutics—€85.6 billion of this on vaccines.[29](https://gh.bmj.com/content/6/7/e006169#ref-29) Global IP rights, whether adopted in accordance with TRIPS, or subsequent bilateral and multilateral agreements, are part of a wider legal system which facilitates global neocolonialism. For instance, powerful actors such as the European Union (EU) and the USA have included TRIPS-plus provisions in bilateral and multilateral agreements. These agreements often force countries of the Global South to concede to more stringent patent protections in order to gain trade advantages and also to escape trade sanctions.[30](https://gh.bmj.com/content/6/7/e006169#ref-30) In so doing, IP law commodifies medicines that are essential to human survival and well-being, and sacrifices the lives and health of the poor and otherwise marginalised on the altar of corporate profitability.[31](https://gh.bmj.com/content/6/7/e006169#ref-31) Common interpretations and understandings of the international IP system are that healthcare goods and services derive their value from their tradability.[14](https://gh.bmj.com/content/6/7/e006169#ref-14) (‘We use the term “public good” as it is used in global health to mean a good that should be available universally because of its critical importance to health, and not as the term is used in economics to mean a good that is both non-excludable and non-rivalrous.’)[14 32](https://gh.bmj.com/content/6/7/e006169#ref-14) However, many, including critical Global South scholars, have questioned the prioritisation of property rights (including IP rights) over other rights (especially the rights to health, life and equal benefit from scientific progress) in a manner that is inconsistent with international human rights law.[31](https://gh.bmj.com/content/6/7/e006169#ref-31) Many low-income countries have long been active in resisting the IP system as an unjust extension of a colonial trade system. At the height of the HIV pandemic, in which millions of people in the Global South were denied life-saving medicines, civil society treatment access campaigns galvanised states within the World Trade Organization (WTO) into agreeing to the Doha Declaration on TRIPS and Public Health.[33](https://gh.bmj.com/content/6/7/e006169#ref-33) This WTO Declaration recognises human rights and allows states to use all of the ‘flexibilities’ within the TRIPS regime to protect public health, acknowledging the need for access to medicines in a public health emergency.[34](https://gh.bmj.com/content/6/7/e006169#ref-34) However, this international consensus on IP has always been strongly contested by pharmaceutical companies and their host governments, predominantly in the Global North. This remarkably strong resistance to employing TRIPS flexibilities has continued in the current COVID-19 crisis, as the attempts of countries largely from the Global South to try to obtain a TRIPS waiver to increase their supply of vaccines for COVID-19 have been unsuccessful. Although the USA has recently supported a watered-down version of a TRIPS waiver, it remains far from certain whether other states in the Global North will support this prioritisation of health over IP rights, or whether this would be sufficient, as we discuss in the section on flexibilities below. Rather than allowing for equitable vaccine access as a human right for all people everywhere, states have instead turned to a charitable donation and market purchase scheme through the COVAX initiative. This type of model, which focuses on charity and not rights, is consistent with exactly the kind of understandings of human rights and public health that are in need of decolonisation. While there have been public consensus statements issued by the Human Rights Council, in which states have agreed that all states have the right to access vaccines and the right to use TRIPS flexibilities, this statement reflects a disappointing failure to acknowledge any corresponding state obligations to employ such flexibilities.[35](https://gh.bmj.com/content/6/7/e006169#ref-35) This has allowed countries from the Global North, and their few Global South allies, to agree to this statement and support the right to vaccine access rhetorically, and in principle within the Human Rights Council, while resisting any calls for a TRIPS waiver within the WTO, and thus consolidating a denial of their obligations to employ TRIPS flexibilities. Although countries from the Global South have the option of engaging TRIPS flexibilities in the absence of a general waiver, they often do not do so because the process of using these flexibilities is often stacked against them, reproducing neocolonial dynamics. For instance, TRIPS allows states with limited manufacturing capacity to waive a patent for a limited duration so as to import essential medicines through a compulsory licence. However, in practice, this process is lengthy and complex, as it relies on ensuring that both the importing and exporting countries have enacted local laws that permit them to use TRIPS flexibilities. Further, the importing country needs to negotiate with the pharmaceutical company in order to establish a fair price, which is always tricky, but made significantly more difficult in a crisis. To date, this process has been used only once, when Rwanda obtained access to generic antiretrovirals through an importation agreement with the Canadian company Apotex. However, even in that context, although Rwanda notified the WTO Council of its intention to use the mechanism in July 2007, it took 15 months before it could import its first batch of antiretrovirals. Despite its strong support, the manufacturer Apotex felt that the process was too cumbersome to use again.[36](https://gh.bmj.com/content/6/7/e006169#ref-36) This complexity has been heightened during the COVID-19 crisis due to the speed at which vaccines were manufactured, which has created a lack of transparency around the patent process.[37](https://gh.bmj.com/content/6/7/e006169#ref-37) Thus, the Bolivian government, which is seeking to use TRIPS flexibilities through compulsory licences, recognises in their application that there is a lack of clarity around the exact extent of product and process patents for any of the existing COVID-19 vaccines due to inadequate information about manufacturing or regulatory processes in different countries.[38](https://gh.bmj.com/content/6/7/e006169#ref-38) Additionally, many countries that have manufacturing capacity, such as those in the EU, have not sought to support countries in the Global South that want to use these **flexibilities.** In sum, cumbersome rules, political and economic pressures and a lack of transparency conspire to enable the Intellectual Property Regime (IPR) system to sustain and deepen global health inequitie**s. The current global distribution of COVID-19 vaccines is largely dictated by power disparities and inequities in financial and other resources, with predominantly high-income countries contracting bilaterally with individual pharmaceutical companies (many in their own countries) for specific vaccines, leaving countries from the Global South facing inequitable vaccine access.** Bilateral deals between states and pharmaceutical companies, whether completed by Global North or Global South states, significantly compromise the effectiveness and equity of the COVAX initiative, limited as it already is by the coercive influence, vested interests and participation of pharmaceutical companies and their host nations**. The African Union, for example, endorsed the TRIPS waiver to relax WTO rules so that LMICs could create their own COVID-19 vaccines, but this collective effort across African countries faced resistance from Global North countries and pharmaceutical companies.** The IP system appears to have pushed countries in the Global South that may prefer not to be dependent on the charitable model of the COVAX scheme to join high-income countries in engaging directly with manufacturers to purchase COVID-19 vaccines. This has included African countries, despite the African Union’s criticism of the inequities resulting from IP law protections. This process has reproduced colonially entrenched power dynamics, in which poorer countries lack the bargaining power to obtain competitive rates and, consequently, typically end up paying far more than the wealthier, developed countries. More broadly, countries in the Global South are pressured into participating in global systems of trade that result in the exploitation of their own populations by unjust global economic systems and IP laws.[39](https://gh.bmj.com/content/6/7/e006169#ref-39) The high cost of vaccines for countries from the Global South constitutes a large proportion of their health expenditure, and this comes at the expense of other health priorities. In many cases, the only way in which Global South countries can purchase vaccines is to move themselves further into debt. Given the detrimental neocolonial implications of debt, with a long history of loan conditionalities through structural adjustment programmes, increasing debt to service health needs contributes to the worsening of inequalities between the Global North and Global South.[40](https://gh.bmj.com/content/6/7/e006169#ref-40) **These programmes may increase debt and undermine develo**pment in ways that limit the realisation of the right to health.[41](https://gh.bmj.com/content/6/7/e006169#ref-41) The World Bank has set aside US$12 billion and has already disbursed loans of US$500 million for vaccines in low-income and middle-income nations;[42](https://gh.bmj.com/content/6/7/e006169#ref-42) poorer nations, instead of servicing already depleted health systems, are forced to divert additional funds to servicing debt.

#### IPPs also allow for companies to commit evil by elimination competition, which allows for monopolies to increase prices absurdly. This directly misrecognizes people and denies them from the right to live or well being, since they simply cannot afford the medicine.

**Oxfam 21**, Organization working to end the injustice of poverty. Intellectual property and access to medicine. Oxfam.com, Summer 2021 < https://www.oxfamamerica.org/explore/issues/economic-well-being/intellectual-property-and-access-to-medicine/> KK

Today, more than two billion people across the developing world lack access to affordable medicines, including many patients in countries negotiating in the Trans-Pacific Partnership (TPP) free trade agreement. Two critical factors limit access to treatment: the high prices of new medicines, particularly those that are patent-protected, and the lack of medicines and vaccines to treat neglected diseases, a consequence of lack of R&D. Intellectual property (IP) has different forms; in the case of access to medicines, we are talking about patents. Patents are a public policy instrument aimed at stimulating innovation. By providing a monopoly through a patent—which gives inventors an economic advantage—governments seek to provide an incentive for R&D. At the same time, the public benefits from technological advancement. This trade-off underpins patent systems everywhere. Governments need to maintain an appropriate balance between incentivizing innovation, on the one hand, and, on the other, ensuring that new products are widely available. High levels of IP protection in developing countries exacerbate, rather than help solve, the problem of access to affordable medicines. Extensive patent protection for new medicines delays the onset of generic competition. And because generic competition is the only proven method of reducing medicine prices in a sustainable way, such high levels of IP protection are extremely damaging to public health outcomes. A word on background: The 1994 TRIPS Agreement represented the single greatest expansion of IP protection in history, but it also includes a range of public health safeguards and flexibilities, which were reinforced by the 2001 Doha Declaration on the TRIPS Agreement and Public Health. Yet US trade agreements over the past decade have sought to redefine and even undermine the Doha Declaration, as FTAs have included provisions that curb governments’ ability to use the health safeguards in TRIPS and have mandated higher levels of IP protection. These provisions block or delay the onset of generic competition, keeping medicine prices high. Higher treatment costs are devastating to poor people, and they undermine the sustainability of public health programs—particularly in low- and middle-income countries, where public finance for health care is limited and most patients pay for medicines out of pocket. The agreement reached between Congressional leadership and the Bush administration on May 10, 2007, broke this trend of imposing increasingly stricter IP protections in trade agreements by scaling back so-called TRIPS-plus rules in the FTAs with Peru, Panama, and Colombia. This agreement was very significant—not only did it confirm the importance of the Doha Declaration on the TRIPS Agreement and Public Health, but it also recognized that higher levels of IP protection can in fact run counter to public health interests and US trade and development goals. Under this agreement, which has become known as the May 10 Agreement, three key TRIPS-plus provisions that Oxfam believes have been most harmful in delaying generic competition were rolled back: namely, patent linkage and patent-term extensions were made voluntary, and important flexibilities were included in the data exclusivity (DE) provisions to speed up the introduction of generic medicines. Patent linkage prohibits a country’s drug regulatory authority from approving a medicine if there is any patent—even a frivolous one—in effect. It requires regulatory officials to police patents in addition to their core work of evaluating the safety and efficacy of medicines. Patent extension provisions allow companies to seek extensions of the 20-year patent term to compensate for administrative delays by patent offices and drug regulatory authorities. (Such delays are inevitable in developing countries, where these offices are chronically underfunded and are facing increasing numbers of patent applications.) [Data exclusivity](https://policy-practice.oxfamamerica.org/work/trade/data-exclusivity) creates a monopoly that is separate from patents by prohibiting a country’s drug regulatory authority from approving a generic medicine based on the clinical trial data provided by the originator company. Although the May 10 Agreement did not eliminate all TRIPS-plus rules, Oxfam considered it to be a step in the right direction—after a long time going the wrong way. It reflected a meaningful effort to ensure that US trade policy more appropriately balances IP protection with public health considerations in developing countries. Oxfam fully expected this new approach in US trade policy to continue. But the Office of the US Trade Representative (USTR) effectively abandoned the May 10 Agreement in TPP negotiations and added new provisions that would further constrain generic competition—for example, by expanding the scope of what can receive monopoly protection—and Oxfam’s concerns with the USTR TPP proposal relate not only to the IP chapter, but also to a proposed chapter on “transparency” in pharmaceutical reimbursement, which would hinder government efforts to control the cost of reimbursing medicines through public health care programs. The reality is that fragile gains in health in developing country TPP partners are at risk from the USTR proposal. For example, Peru is a low- to middle-income country with high levels of poverty and inequality and with a high burden of chronic and noncommunicable diseases that require medicines over the long term. Prices for patented medicines to treat cancer, for example, are unaffordable for households and have exhausted most of the government’s resources available to pay for treatments under the public health system. A 2010 study by a Peruvian government entity (the Director General of Medicines, Supply and Drugs, or DIGEMID) revealed this stark reality: the monthly cost of one key patented medicine needed to treat head and neck cancer is equivalent to 880 times the daily minimum wage in Peru, an amount that would take a worker more than two years to earn, without a single day off. The TPP would not only undermine the efforts of other countries to protect public health, but would also undermine US efforts to improve access to health care around the world. Thanks to the cost savings from use of generics, PEPFAR (the President’s Emergency Plan for AIDS Relief) has successfully initiated treatment for more than three million people worldwide, and saved $380 million in 2010 alone. In Vietnam, where more than half the population lives in poverty, 97 percent of antiretroviral medicines purchased under PEPFAR ($323 million in 2004–2009) are generics. If Vietnam had to adopt what USTR is proposing in the TPP trade agreement, it would undermine the sustainability of HIV and AIDS treatment under PEPFAR, and also undermine broader efforts by the Vietnamese government to ensure access to affordable medicines. Not surprisingly, the USTR IP proposal has generated stiff resistance from TPP negotiating partners. It’s been hard to sell greater monopoly rights and less competition as facilitating access to medicines. What’s more, the USTR proposal will not enhance pharmaceutical innovation. It’s important to challenge the argument that stricter IP rules and high prices are essential to promote innovation. This logic is flawed in rich countries and simply does not apply in most developing countries. Additional IP protection in developing countries does not alter the calculus that multinational pharmaceutical companies employ when deciding where to invest limited R&D resources. Even accounting for recent economic growth, developing countries still only represent in total about 1 percent of global pharmaceutical demand. Stricter patent rules in a few countries may generate greater profits for drug companies, but won’t lead to additional innovation that would meet the public health needs of those countries. And such rules could undermine patients’ access to new treatments. In order to generate greater innovation, changes need to be made within the pharmaceutical industry itself. This is not something that a trade agreement can achieve. The problem of access to affordable medicines cannot be solved through trade agreements, but it can be exacerbated. That will be the outcome if USTR succeeds in its insistence that TPP partners institute far-reaching IP rules that upset the important balance between access and innovation, thereby rewarding multinational companies with excessive monopolies at the expense of the public interest.

**As a result, the reduction of IPPs makes misrecognition more obsolete, allowing us to get closer to the Ethical Community.**

# Underview

**ROTB: vote debater who best proves resolution as true or false**

1. **Jurisdiction: The judge is to vote Aff or Neg based on the resolution—to affirm is defined as to validate and negate is to deny the truth of by Merriam Webster. The judge is limited to only a topical evaluation of the res. Prefer this because jurisdiction controls the internal link to fairness-otherwise the vote is arbitrary since the Judge can use implicit biases on ROTB stances.**