# NC

## Offs

### 1

#### Volition, or the structure of the will, is a pre-condition for ethics and has intrinsic value – A) Proceduralism – the will is the mechanism by which every agent engages in any activity, which means regardless of the content of any ethical theory, the ability to will that theory is an intrinsic good B) Motivation – the structure of the will is the primary source of all our desires, reasons, and beliefs since it generates what counts as motivational to the subject C) Identity – the nature of the will is most constitutive to the creation of the subject since it determines what each subject considers intrinsic to its identity and what exists externally as an façade.

**Ethical theories to evaluate the will face a dilemma – they are either paternally objectivist to the extent they restrict the will, or they are weakened by subjectivism to the extent that it’s impossible to make true moral claims. Jaeggi 14,** Jaeggi, Rahel. “Alienation.” Columbia University Press, cup.columbia.edu/book/alienation/. From the perspective of liberal theory one aspect of the critique of alienation appears problematic above all others: **theories of alienation appear to appeal to objective criteria that lie beyond the “sovereignty” of individuals to interpret for themselves what the good life consists in**. Herbert Marcuse exemplifies this tendency of many theories of alienation in One Dimensional Man—a book that provided a crucial impulse for the New Left’s critique of alienation in the 1960s and 1970s— when, unconcerned with the liberal objection, he defends the validity of diagnoses of alienation with respect to the increased integration and identification with social relations that characterize the members of affluent industrial societies: “I have just suggested that the concept of alienation seems to become questionable when the individuals identify themselves with the existence which is imposed upon them and have in it their own development and satisfaction. This identification is not illusion, but reality. However, the reality constitutes a more progressive stage of alienation. The latter has become entirely objective; the subject which is alienated is swallowed up by its alienated existence.”10 The subjective satisfaction of those who are integrated into objectively alienated relations is, according to Marcuse, “a false consciousness which is immune against its falsehood.”11 Here, however, the theory of alienation appears to have made itself immune to refutation. It would seem, then, that the concept of alienation belongs to **a perfectionist ethical theory that presupposes, broadly speaking, that it is possible to determine what is objectively good for humans by identifying a set of properties or a set of functions inherent in human nature—a “purpose”—that ought to be realized. But** if the foundation of modern morality and the fundamental conviction of liberal conceptions of society is the idea “that **it should be left to each individual how he lives his own life**” 12—that **individuals are sovereign with respect to interpreting their own lives—then a theory of alienation that relies on objective perfectionist ideals appears to reject this idea in favor of a paternalist perspective that claims to “know better.”** For the latter (and as seems to be the case for Marcuse), it is possible for something to count as objectively good for someone without him subjectively valuing it as such. By the same token, it is possible to criticize a form of life as alienated or false without there being any subjective perception of suffering. But can someone be alienated from herself in the sense outlined here if she herself fails to perceive it? Can we claim of someone that she is alienated from her own desires or driven by false (alienated) needs or that she pursues an alienated way of life if she claims to be living precisely the life she wants to lead? In diagnoses of alienation the question arises, then, whether there can be objective evidence of pathology that contradicts individuals’ subjective assessments or preferences. This is a dilemma that is difficult to resolve. On the one hand, the concept of **alienation (this is what distinguishes it from weaker forms of critique) claims to be able to bring to individuals’ prima facie evaluations and preferences a deeper dimension of critique—a critical authority—that functions as a corrective to their own assertions**. On the other hand, it is not easy to justify the position of such a critical corrective. What could the objective criteria that overrule the assessments and preferences of individuals be in this case? 13 The arguments from human nature frequently appealed to in this context demonstrate, even in their most methodologically sophisticated, “thin” variants, the problems that plague attempts to derive normative standards from some conception of human nature. 14 **Even if there is**—in a banal sense—**something humans share on the basis of their natural, biological constitution, and even if**—in a banal sense—**certain functional needs can be derived from these basic presuppositions of human life** (all humans need nourishment or certain climatic conditions in order to survive), **these basic conditions imply very little when it comes to evaluating how humans, in relation to issues beyond mere survival, lead their lives**. On the other hand, the more human nature is given a specific content such that it becomes relevant to (culturally specific) forms of life, the more controversial and contestable the claims become. How are we to define human nature when its extraordinary variability and malleability appear to be part of human nature itself?15 And how are we to pick out among diverse forms of human life those that really correspond to human nature, given that even forms of life criticized as alienated have been in some way developed, advanced, and lived by human beings?

beings?

#### Only a functional understanding of the will solves – it ensures the very nature of the will is taken care of through appropriate willing capacities, without over-limiting it to a strict set of substantive rules. This functional capacity of willing is mediated by social roles – as the authentic self is inexplicably linked to the self that engages in social communities with others through duplication. Understanding the functionality of the will is impossible in a vacuum. Jaeggi 2, Jaeggi, Rahel. “Alienation.” Columbia University Press, cup.columbia.edu/book/alienation/ The positions of both authors can be reduced to the following common denominator: roles are less alienating than constitutive for the development of persons and personality. They are constitutive in the sense that they are directly bound up with a person’s development and, so, “productive.” At first glance this position might seem to come down on one side of the two alternatives—an unconditional affirmation of roles—but after giving a brief account of the position, I will make use of it to move beyond the two alternatives. Once the “productivity thesis” has been articulated, it will be possible to distinguish between alienating and non-alienating aspects of role behavior. THE HUMAN BEING AS DOPPELGÄNGER Roles are productive. In and through them we first become ourselves. This is the essence of Helmuth Plessner’s conception of the positive significance of roles (which he developed as a direct response to critiques of them as alienating). “The human being is always himself only in ‘doubling’ in relation to a role figure he can experience. Also, all that he sees as comprising his authenticity is but the role he plays before himself and others.22 Roles on this view are not only necessary in order to make social interaction possible, whether this be a “being together” of individuals or a benign “passing each other by;” interaction mediated by roles is also constitutive of an individual’s relation to herself.

#### This culminates in the act of appropriation – the ability to view yourself as a practical agent capable of taking up a project that actively changes your own subject and the role itself. Jaeggi 3, Jaeggi, Rahel. “Alienation.” Columbia University Press, cup.columbia.edu/book/alienation/. What does it mean to appropriate something?12 If the concept of appropriation refers to a specific relation between self and world, between individuals and objects (whether spiritual or material), what precisely does this relation look like, what are its particular character and its specific structure? Various aspects come together here, and together they account for the concept’s appeal and potential. As opposed to the mere learning of certain contents, talk of appropriation emphasizes that something is not merely passively taken up but actively worked through and independently assimilated. In contrast to merely theoretical insight into some issue, appropriation—comparable to the psychoanalytic process of “working through”—means that one can “deal with” what one knows, that it stands at one’s disposal as knowledge and that one really and practically has command over it. And appropriating a role means more than being able to fill it: one is, we could say, identified with it. Something that we appropriate does not remain external to ourselves. In making something our own, it becomes a part of ourselves in a certain respect. This suggests a kind of introjection and a mixing of oneself with the objects of appropriation. It also evokes the idea of productively and formatively interacting with what one makes one’s own. Appropriation does not leave what is appropriated unchanged. This is why the appropriation of public spaces, for example, means more than that one uses them. We make them our own by making a mark on them through what we do in and with them, by transforming them through appropriative use such that they first acquire a specific form through this use (though not necessarily in a material sense). Although it has one of its roots in an account of property relations, the concept of appropriation, in contrast to mere possession, emphasizes the particular quality of a process that first constitutes a real act of taking possession of something. Accordingly, appropriation is a particular mode of seizing possession.13 Someone who appropriates something puts her individual mark on it, inserts her own ends and qualities into it. This means that sometimes we must still make something that we already possess our own. Relations of appropriation, then, are characterized by several features: appropriation is a form of praxis, a way of relating practically to the world. It refers to a relation of penetration, assimilation, and internalization in which what is appropriated is at the same time altered, structured, and formed. The crucial point of this model (also of great importance for Marx) is a consequence of this structure of penetration and assimilation: appropriation always means a transformation of both poles of the relation. In a process of appropriation both what is appropriated and the appropriator are transformed.

#### Thus, the standard is consistency with non-alienated relations.

#### Prefer –

#### 1. Performativity – Every exercise you engage in is an instance of using your volition to establish some relation to the world and only non-alienation can establish that relationship as normatively legitimate.

#### 2. Action theory – Only viewing an agent as an active body capable of generating intentions can hold agents culpable and decipher the difference between actions and wishes. That’s a necessary feature of ethics since we must be able to warrant a coherent conception of what motivates our actions in order to provide a method to actually implement ethical principles.

#### 3. Epistemology – Only an understanding of appropriation can unify the distinction between theoretical and practical knowledge. Theoretical abstract concepts like 2+2=4 are true and necessary, but can only becomes useful once explained in context of how they actualize in the world through our intentions. That means absent an explanation of how that knowledge mixes with the world around us, it becomes useless.

#### I contend that member nations of the WTO ought not reduce intellectual property protections for medicine.

#### [1] Intellectual property is a self-expression of the subject. When it’s used in a way that doesn’t reflect the framer’s intent, it is alienating.

Justin Hughes 98, "The Philosophy of Intellectual Property," 77 Georgetown L.J. 287, 330-350 (1988) [https://cyber.harvard.edu/IPCoop/88hugh2.html] Accessed 8/10/21

"On the Hegelian perspective, payments from intellectual property users to the property creator are acts of recognition." 3. Intellectual Property Under Hegel. For Hegel, intellectual property need not be justified by analogy to physical property. In fact, the analogy to physical property may distort the status Hegel ascribes to personality and mental traits in relation to the will. Hegel writes: Mental aptitudes, erudition, artistic skill, even things ecclesiastical (like sermons, masses, prayers, consecration of votive objects), inventions, and so forth, become subjects of a contract, brought on to a parity, through being bought and sold, with things recognized as things. It may be asked whether the artist, scholar, &c., is from the legal point of view in possession of his art, erudition, ability to preach a sermon, sing a mass, &c., that is, whether such attainments are "things." We may hesitate to call such abilities, attainments, aptitudes, &c., "things," for while possession of these may be the subject of business dealings and contracts, as if they were things, there is also something inward and mental about it, and for this reason the Understanding may be in perplexity about how to describe such possession in legal terms. . . . n205**.** Intellectual property provides a way out of this problem, by "materializing" these personal traits.Hegel goes on to say that "[a]ttainments, eruditions, talents, and so forth, are, of course, owned by free mind and are something internal and not external to it, but even so, by expressing them it may embody [\*338] them in something external and alienate them." n206.Hegel takes the position that one cannot alienate or surrender any universal element of one's self. Hence slavery is not permissible because by "alienating the whole of my time, as crystallized in my work, I would be making into another's property the substance of my being, my universal activity and actuality, my personality." n207 Similarly, there is no right to sacrifice one's life because that is the surrender of the "comprehensive sum of external activity." n208 This doctrine supplies at least a framework to answer the question of intellectual property that most concerns Hegel. It is a question we ignore today, but one that is not easy to answer: what justifies the author in alienating copies of his work while retaining the exclusive right to reproduce further copies of that work. A sculptor or painter physically embodies his will in the medium and produces one piece of art.When another artist copies this piece Hegel thinks that the hand-made copy "is essentially a product of the copyist's own mental and technical ability" and does not infringe upon the original artist's property. n209 The **problem arises when a creator of intellectual property does not embody** his **will in an object** in **the** same **way the artist does**. The writer physically manifests his will only "in a series of abstract symbols" which can be rendered into "things" by mechanical processes not requiring any talent. n210 The dilemma is exacerbated by the fact that "the purpose of a product of mind is that people other than its author should understand it and make it the possession of their ideas, memory, thinking, &c." n211 This concern for the common of ideas is familiar. In resolving this dilemma, Hegel says that the alienation of a single copy of a work need not entail the right to produce facsimiles because such reproduction is one of the "universal ways and means of expression . . . which belong to [the author]." n212 Just as he does not sell himself into slavery, the author keeps the universal aspect of expression as his own. The copy sold is for the buyer's own consumption; its only purpose is to allow the buyer to incorporate these ideas into his "self." Hegel also identifies the instrumentalist-labor justification as a consideration against granting full rights of reproduction to buyers of individual copies [\*339] of a work. Hegel admits that protecting intellectual property is "[t]he purely negative, though the primary, means of advancing the sciences and arts." n213 Beyond this, Hegel says little. He declares that intellectual property is a "capital asset" and explicitly links this label to a later section in which he defines a "capital asset." n214 There is considerable literature on how Hegel did not develop the idea of "capital" to its logical conclusions, n215 but here "capital asset" can be understood as property which has a greater tendency to permanence and a greater ability than other property to give its own economic security

#### [2] IP is key to recognizing agents through the personality in their work. Recognition is necessary for agents to be non-alienated bc we need to establish relations with the world.

**Hughes 2 -** "The Philosophy of Intellectual Property," 77 Georgetown L.J. 287, 330-350 (1988) by Justin Hughes [https://cyber.harvard.edu/IPCoop/88hugh2.html]

At first blush, this economic rationale seems far removed from the concerns of personality theory, [n244](https://cyber.harvard.edu/IPCoop/88hugh2.html#n244) yet it can be recast into the framework of the personality theory. From the Hegelian perspective, payments from intellectual property users to the property creator are acts of recognition. These payments acknowledge the individual's claim over the property, and it is through such acknowledgement that an individual is recognized by others as a person. [n245](https://cyber.harvard.edu/IPCoop/88hugh2.html#n245) "Recognition" involves more than lip service. If I say "this forest is your property" and then proceed to flagrantly trespass, cut your timber, and hunt your deer, I have not recognized your property rights. Similarly, verbal recognition of an intellectual property claim is not equal to the recognition implicit in a payment. Purchasers of a copyrighted work or licensees of a patent form a circle of people recognizing the creator as a person. Furthermore, this generation of income complements the personality theory in as much as income facilitates further expression. When royalties from an invention allow the inventor to buy a grand piano he has always wanted, the transaction helps maximize personality. But this argument tends to be too broad. First, much income is used for basic necessities, leading to the vacuous position that life-sustenance is "personally maximizing" because it allows the personality to continue. Second, this approach could justify property rights for after-the-fact development of personality interests without requiring [\*350] such interests in the property at the time the property rights are granted. The personality theory provides a better, more direct justification for the alienation of intellectual property, especially copies. The alienation of copies is perhaps the most rational way to gain exposure for one's ideas. This is a non-economic, and perhaps higher, form of the idea of recognition: respect, honor, and admiration. Even for starving artists recognition of this sort may be far more valuable than economic rewards. Two conditions appear essential, however, to this justification of alienation: first, the creator of the work must receive public identification, and, second, the work must receive protection against any changes unintended or unapproved by the creator.VARA Hegel's prohibition of "complete" alienation of intellectual property appears to result from his recognition of the necessity for these two conditions. While he would permit alienation of copies, and even the rights to further reproduction, [n246](https://cyber.harvard.edu/IPCoop/88hugh2.html#n246) he disapproves alienation of "those goods, or rather substantive characteristics, which constitute . . . private personality and the universal essence of . . . self-consciousness." [n247](https://cyber.harvard.edu/IPCoop/88hugh2.html#n247) Such alienation necessarily occurs if the recognition of the connection between a creator and his expression is destroyed or distorted. When the first condition is violated, this recognition is destroyed; when the second condition is violated, it is distorted.

### 2

#### Their intellectualization of health care policy does nothing but platform fascist argumentation that economizes our discussions and churns out academic garbage evaluating the “pros” and “cons” of IPR reductions for insulin. Their confrontation of medical violence in an argumentative activity forces us to platform opposing deliberations which spread white supremacist ideology while disrupting anti-racist and anti-capitalist organizing. The alt is to reject the aff for endorsing a deliberative framework that platforms fascist rhetoric.

Shaw 20. (Devin Zane Shaw, Professor of Philosophy at Douglas College, British Columbia, Ph.D. University of Ottawa, “Philosophies of Antifascism: Punching Nazis and Fighting White Supremacy,” Rowman and Littlefield International, 2020.)//catire

Beauvoir maintains that the imperative to reject oppression at any cost justifies the use of emancipatory violence. Her discussion of violence applies her general method of moral inquiry: after identifying an ideal (but impossible) situation, she proceeds to map the moral coordinates of failure—where indeed some failures are better than others. Hence she first identifies the ideal situation: “For a liberating action to be a thoroughly moral action, it would have to be achieved through a conversion of the oppressors: there would then be a reconciliation of all freedoms” (Beauvoir [1947] 1976, 96–97). Presumably this conversion would be achieved through civil discourse, but Beauvoir calls it a utopian reverie. The oppressor “refuses to give up his privileges” (Beauvoir [1947] 1976, 96). Nonetheless, the oppressor provides reasons to justify oppression. Beauvoir, before addressing justifications of violence, analyzes the oppressor’s justifications of oppression through the lens of political conflict. Practically speaking, the oppressor and the oppressed are not merely two sides of a debate, because the oppressor class also sets the terms of the debate (Marcuse 1969). Nonetheless, Beauvoir’s analysis serves a double purpose. First, it shows how these justifications are in bad faith. Second, and more importantly, it tests the political commitments of the reader by identifying the tropes of the oppressor’s discourse so that readers who might otherwise view themselves as committed to political emancipation, but who also feel an investment in these arguments, might be able to reflect upon and have done with them. Thus we must situate the exchange of reasons within a situation of oppression, which divides the world into oppressor and oppressed. I doubt that Beauvoir believes that these reasons are offered to persuade the oppressed, for that would acknowledge an intellectual equality between addressor and addressee denied by the oppressor. Hence these justifications or reasons need only “persuade” others: oppressors and their ideological accomplices, those with privilege, access, or advantage within the situation. Beauvoir situates these reasons as individual moments of a continuous order of justifications. In the first instance, then, justifications for the status quo could be categorized together insofar as they minimize the wrongs committed by oppression. At the most extreme, the oppressor offers reasons as to why either oppression is natural or why the oppressed desires oppression (Beauvoir [1947] 1976, 83–87). If oppression is natural, then it is inevitable and impossible to fight—in this case the oppressed are attempting to overthrow the natural order of things. However, from an existentialist standpoint, where “existence precedes essence,” all situations of oppression are contingent but shaped historically by material conditions—thus no oppression is natural. The second argument is a variation on the first; it maintains that the oppressed desires oppression, with the implication that those who resist have illicit desires. We know that claims of this type were common tropes in the antebellum United States (and after), where the master “interrogates” his slaves about their condition and they express their consent. Of course, this trope is in bad faith. Were it meant otherwise, it would entail the intellectual reciprocity between master and slave that is denied by the master. In a system where they could be killed but not murdered, slaves opt for duplicity; when the moral and material means for revolt are available, the answer is entirely different. The foregoing arguments are illiberal. The remaining arguments are not illiberal. In the first, the oppressor appeals to universal, objective values. These values are then presented as unequivocally good in themselves:[9] “It is not in his own name that he is fighting, but rather in the name of civilization, of institutions, of monuments, of virtues which realize objectively the situation which he intends to maintain” (Beauvoir [1947] 1976, 91). This argument justifies the means (oppression) by appeal to lofty ideals, such as Progress. When appeals to universal, objective values like Progress are raised, Beauvoir contends that such terms cannot be posited as transcendent, existing outside of human projects. We cannot then use these values to determine the meaning of concrete projects or a particular situation; instead, our concrete projects give meaning to our ideals relative to social struggle. When these values are treated as transcendent and absolute, when one treats their societies or institutions as the embodiment of Progress, this legitimates oppression under the guise of paternalism (or worse). The ruling classes identify their institutions with Progress or Enlightenment, and when faced with opposition, they adduce, under “the pretext of ignorance” of the other, “the incompetence of the masses, of women, of the natives in the colonies,” in order to maintain their rule, the status quo of oppression, capital accumulation, and resource extraction (Beauvoir [1947] 1976, 138–39). Proponents of “Western civilization,” for example, have for centuries exploited native populations in the colonized world in the name of historical Progress. The final trope frames oppression as merely one kind of interest in competition with other interests. As we have seen, oppression is a social structure that divides society into two, producing social conflict. To frame oppression as interest reduces political conflict to what Rancière has called parapolitics: all political claims are merely expressions of conflicting interests (see “3.1. Demarcating Egalitarianism”). This trope appeals broadly to abstract right: when the oppressed confronts the oppressor and seeks to correct a wrong, the oppressor objects that “under the pretext of freedom, there you go oppressing me in turn; you deprive me of my freedom” (Beauvoir [1947] 1976, 90). Though Beauvoir quickly dismisses this argument, it demands further analysis. In one variant of the argument, these freedoms are also framed in zero-sum terms: “Respect for freedom is never without difficulty, and perhaps he may assert that one can never respect all freedoms at the same time” (Beauvoir [1947] 1976, 96). In other words, granting rights to marginalized groups comes at the cost of those who already have rights. These arguments sometimes gain traction in well-meaning liberal discourses because they are framed in terms of a liberal understanding of rights. Sometimes these claims are specific: when we no-platform nazis, they often complain that their rights have been violated. Sometimes, these claims are broad: white nationalists and white supremacists, for example, present their views as if they represent white interests against other competing interests; that is, “It’s not ‘white supremacy,’ it’s a European-Canadian majority in a nation with European roots, which includes our history, our customs, our laws, our languages, our monuments, our faith, and our people.”[10] In general, these claims frame white supremacy as merely the expression of one ethnic group among others while asserting that other ethnic groups are permitted a degree of social cohesion and social mobility now denied to whites. These claims, however, are made in bad faith. Leading figureheads of the alt-right and Far Right, such as Richard Spencer, have readily admitted that they appeal to rights such as free speech only in order to advance their agenda (Ami du Radical 2018). As Matthew Lyons points out, the European New Right has long rehearsed the rhetorical devices of—and provided an intellectual veneer to—the ethnonationalism and separatism to which these groups often appeal: they “championed ‘biocultural diversity’ against the homogenization supposedly brought by liberalism and globalization. They argued that true antiracism requires separating racial and ethnic groups to protect their unique cultures” (Lyons 2018, 58). These claims do not have to make a positive or convincing case; they must merely be effective in shifting the frame of the debate away from the idea that oppression is a social structure; they must merely undermine the legitimate political claims of the oppressed. Here Sartre’s analysis of the rhetorical strategies of anti-Semites is apropos: They know that their remarks are frivolous, open to challenge. But they are amusing themselves, for it is their adversary who is obliged to use words responsibly, since he believes in words. The anti-Semites have the right to play. They even like to play with discourse for, by giving ridiculous reasons, they discredit the seriousness of their interlocutors. They delight in acting in bad faith, since they seek not to persuade by sound argument but to intimidate and disconcert. . . . They fear only to appear ridiculous or to prejudice by their embarrassment their hope of winning over some third person to their side. (Sartre [1946a] 1995, 20) In my view, when Sartre says anti-Semite, he means fascist. His book Anti-Semite and Jew was published after the defeat of fascism in Europe, and I believe that the terminological choice reflects this defeat: analyzing anti-Semitism points to forms of oppression that remain present in postwar Europe, whereas his readers might have dismissed his argument had he discussed the continued existence of fascist attitudes after the war. Thus, in contemporary parlance, Sartre contends that debating fascists either normalizes their views as worthy of debate or discredits the seriousness of their interlocutor. When the Far Right frames its agenda in terms of rights, this strategy aims to normalize their racist agenda, but it also treats all demands of political conflict as if they were merely competing interests. This parapolitical strategy appeals to those invested in the status quo because it presents all grievances in general as merely competing interests—occluding the possibility that political oppression is imbricated in the status quo itself. For Beauvoir, as for Sartre or Rancière, political and social conflict is not about competing interests that can be settled in the established terms of rights within a given institutional framework. Political struggle puts the very concept of freedom into question. Liberal democratic systems of consensus rest on some variation of a concept of freedom based on the harm principle.[11] By contrast, Beauvoir defines freedom as having the moral and material ability “to surpass the given toward an open future” (Beauvoir [1947] 1976, 91). In Rancière’s terms, Beauvoir’s analysis of discourse shows how the demands of the oppressed are a demonstration of disagreement.

## Case

### Framing

#### The framework is purely impact justified – There’s no normative force behind it implying it can’t condemn actions because there’s no principle or ethical system that we hold agents accountable to. That’s a problem because it means fascists and racists can get off the hook by saying they just “have a difference of opinion”

#### Medina –

#### [1] The need for inclusion of all perspectives justifies the platforming of fascism and racist ideology – Fascists constantly say their being silenced on facebook and twitter meaning you’re forced to grapple with them. That link turns your argument, the appeal that fascists make to be included is that they have been silenced, that’s a double bind – either a) You don’t include them 🡪 gish gallop about liberal exclusionism that appeals to others and increases fascist ranks or b) You do include them and you oppress minorities in discussion.

#### [2] Medina fails – People can’t express perspective if they are alienated, proves that the ability to control one’s own volition is a pre-requisite to your argument

#### Matthews –

#### [1] Doesn’t solve the K, its representational and discursive not a critique of power structures

#### The NC is consistent with your ROB; we’ll engage in interrogation but we think the aff fails its procedural attempts.

#### 2nd – Specificity doesn’t skirt reps, medical capitalism doesn’t get resolved by the round but your ideological violence can be deterred by signing a ballot for the negative. That means you vote neg

#### On Shelton –

#### [1] This form of Deliberation is exactly what the shaw evidence critiques – Their focus on argumentation about health policy platforms opposing ideology

#### [2] This doesn’t say debates about them are good, just that we need multi-faceted solutions. That’s key because framework sets the terms for the debate, it doesn’t just say X thing is important

### Advantage

#### [1] Framing access to insulin drugs as a “right” reinforces neoliberal political economy – turns case by strengthening the WTO

Kapczynski 19 (Amy Kapczynski – professor of law at Yale Law School, faculty co-director of the Global Health Justice Partnership, and co-founder of the Law and Political Economy Blog, “THE RIGHT TO MEDICINES IN AN AGE OF NEOLIBERALISM,” 4-26-19, http://humanityjournal.org/issue10-1/the-right-to-medicines-in-an-age-of-neoliberalism/

An influential group of critics has argued that the human rights movement in fact abetted this neoliberal advance. Naomi Klein, for example, maintains that one of the most formative campaigns of the modern human rights movement, the one against disappearances and torture in the Southern Cone of Latin America in the 1970s, “helped the Chicago School ideology to escape from its first bloody laboratory virtually unscathed.”1 In Argentina and Chile, terror was deliberately used to soften resistance to the introduction of radical free-market policies, she explains; and human rights activists failed, she contends, when they treated these acts as “abuses” instead of “tools that served clear political and economic ends.”2 Susan Marks broadens and updates Klein’s critique. While human rights organizations and experts have begun to address the root causes of the rights violations they decry, she asserts, they nonetheless typically fail to engage “the larger framework within which those conditions are systematically reproduced.”3 In this way, human rights have functioned “as a set of ‘blinders’ that narrow our field of vision and prevent us from seeing (and hence from challenging) the wider scene.”4 For example, even sophisticated work on the right to food, Marks urges, obscures the role of the global market order in creating a systemic basis for widespread hunger, malnutrition, and food crises.5 Hunger appears in the human rights idiom as a mistake, when it is instead the result of “planned misery.”6 Here, too, the argument is that human rights as a movement and discourse has limited our horizons, and deflected our attention from the deeper implications of the prevailing market order. Sam Moyn offers a somewhat milder critique.7 The tragedy of human rights, he asserts, is that it demanded only a moral minimum of sufficient protection and resources, and had “nothing to say about material inequality.”8 The movement thus became a “powerless companion,” merely “nipping at the heels of the neoliberal giant whose path goes unaltered and unresisted.”9 As these accounts suggest, critics have primarily focused on human rights as it operates to shape discourse and thought. However, the human rights movement has also significantly influenced law around the world—as has neoliberalism. What would a close consideration of the legality of human rights, in a context particular enough to allow us to see how it might relate to the legality of neoliberalism, help us to see about their relation? Might human rights also have more radical potential if we consider aspects of the movement further from its mainstream?10 This paper addresses these questions via a consideration of the emerging “right to medicines” that has taken legal hold in a growing number of countries, supported by an access to medicines movement that has operated in loose relation to the established human rights movement.11 Each year in Brazil, tens of thousands of people “judicialize,” asking courts to order the government to provide them with one or more specific medicines. They almost always win.12 In Colombia, from 1999–2014, an estimated 1.3 million right-to-health cases were litigated, many targeting medicines, with patients prevailing about 80 per cent of the time.13 The trend is most prominent in these two countries, but not limited to them. Courts in Argentina, Costa Rica, Uruguay, India, and South Africa have also ordered governments to provide medicines to individuals to vindicate rights to health and life.14 For critics and defenders of human rights both, these cases are an important instance. They construct a serious, judicially enforceable right—a socioeconomic right—that has provided life-sustaining medicines to tens of thousands, even millions of people. If these cases succeed in some meaningful sense, it would be hard not to count them as evidence that human rights can be more progressive than critics have acknowledged, and even can help sustain and expand the kind of welfare state that is the predicate of a more fair and egalitarian order.15 But what, in fact, are their implications? There is, today, sharp debate in human rights circles about precisely this question, mostly focused on the Brazilian and Colombian experiences. Critics like Octavio L. Motta Ferraz contend that right to medicines cases in Brazil “almost inevitabl[y]” undermine health equity because courts demand that medicines be provided regardless of their cost, but health budgets are necessarily limited.16 The lion’s share of the benefits of these cases, he sustains, will accrue to those who litigate—who are unlikely to be the very poorest. Similar arguments have been made about the Colombian cases.17 This critique echoes a broader one made by Daniel M. Brinks and Varun Gauri: social rights litigation in general, they contend, benefits those in the “middle of the social spectrum” because the poor have less access to courts.18 In response to this challenge, some scholars have sought to show that a substantial number of litigants in at least some regions are poor.19 But the concern about differential access to courts has been hard to dispel, and is compounded by evidence that litigants frequently obtain expensive and even ineffective medicines that are not recommended by or included in the national formularies that determine what public and private insurers must provide.20 If we incorporate both of these considerations, it seems plausible that the direct impact of this right, at least in Latin America, has been to accentuate rather than ameliorate health inequities.21 Litigation also has indirect effects. A newer body of scholarly literature argues that judicialization has triggered responses from other branches of government that have improved the healthcare system, particularly in Colombia,22 and perhaps more broadly facilitated legal empowerment and social mobilization.23 This may be. But what kind of change and mobilization have courts helped to facilitate? What logic is borne within these cases, and does it form the basis for more far-reaching, equitable change? So far, the debate over judicialization has failed to engage a foundational aspect of the right to medicines cases: the political economy of medicines that they assume. These cases operate against a background of market ordering and private property rights that they typically neither see nor disturb. It is anchored by a World Trade Organization treaty that has helped reshape national law, particularly in the global South, requiring all members to adopt intellectual property laws similar to those prevailing in the North, and to offer patents on life-saving medicines. These patents—monopoly rights that are granted by states and enforced by courts—and not manufacturing costs are the overwhelming determinant of the budgetary implications of the right to medicines. The prevailing political economy in fact, as I will explain, structurally undermines equity, increasing prices without generating significant countervailing innovation to meet the needs of the global poor. As Quinn Slobodian has described, neoliberalism mandates not the destruction of the state but the construction of a particular form of governance that protects capital from democratic demands for social justice and redistribution.24 Here we have a signal example: a set of international legal rules and sanctions that requires states to protect a form of property that prioritizes the profit imperative over access to essential goods, and that generates net wealth transfers to multinational companies based in the global North. A right to medicines imbricated into this regime is plausibly regressive: it places significant strain on healthcare budgets, redistributes upwards, and provides medicines on terms largely dictated by one of the most profitable industries in the world. This right to medicines, in short, reflects and even intensifies a neoliberal approach to medicines. It mandates discrete individual relief, but rarely sees, much less disrupts, the underlying legal logics and structures that help produce radical health inequities.

#### [2] Global insulin access isn’t a problem of patents but regulatory capacity and health system failures

Beran 21 (David Beran – Division of Tropical and Humanitarian Medicine, University of Geneva and Geneva University Hospitals, Maria Lazo-Porras – Division of Tropical and Humanitarian Medicine, University of Geneva and Geneva University Hospitals, Camille M. Mba – MRC Epidemiology Unit, University of Cambridge, & Jean Claude Mbanya – Department of Internal Medicine and Specialties, “A global perspective on the issue of access to insulin,” 1-23-21, https://link.springer.com/article/10.1007/s00125-020-05375-2)

However, these initial positive views on the prospects of insulin therapy in the 1920s are in harsh contrast to the reality that many people with diabetes face some 100 years later, specifically owing to lack of access to insulin. Basu et al. [3] found that, globally, in individuals with type 2 diabetes, one in two people had access to the insulin they needed; whilst in sub-Saharan Africa, this number was found to be to only one in seven people, highlighting the impact of poor health systems, and lack of access to insulin and other tools necessary for diabetes management, on the effective delivery of diabetes care. Global barriers to insulin access In 2016, the former Director-General of the WHO declared that ‘people with diabetes who depend on life-saving insulin pay the ultimate price when access to affordable insulin is lacking’ [4]. A study in 13 low- and middle-income countries (LMICs), published in 2019, found that mean availability of insulin was 55–80% in facilities that should have had insulin available on the day of study [5]. Furthermore, in looking at standardised prices per 10 ml vial of 100 U insulin in this study, the median price governments pay (the government procurement price) for human insulin was shown to be US$5, with analogue (long-acting) insulin being 6.6 times more expensive. Across public and private pharmacies and private hospitals, the median price that an individual has to pay for human insulin is US$9 [5]. Clearly, in LMICs, these prices are out of reach for most individuals; however, the affordability of insulin is also an issue in high-income countries [6,7,8]. The WHO’s framework on understanding the life cycle of medicines [9] provides a useful model for understanding the complexity of the barriers to access to insulin that are present globally (Fig. 1). Fig. 1 figure1 Schematic of WHO framework on understanding the life cycle of medicines [9]. This framework provides the key elements from a medicine’s discovery until it is used by an individual, highlighting key barriers along this pathway. This figure is available as part of a downloadable slideset Full size image Research and development and innovation The first component of the WHO framework [9] is research and development (R&D) and innovation. In a study in 2016, Kaplan and Beall looked at insulin-related patents to assess R&D and innovation and found that no patents existed for human insulin and many patents for analogue insulins expired in 2015 for products already on the market [10]. Most of the patents were filed by large multinational companies, with a few of the patents identified being from companies in China and India. In the USA, more than half of patents were found to be for insulin-delivery devices rather than insulin itself [11]. The transition from animal to human and then analogue insulin is seen as an innovation [12], but one that comes at a higher price [13, 14]. Some innovations in modes of administration of insulin (inhalable or oral insulin) have not shown any success [15, 16]. The promising so-called ‘smart insulin’ or glucose-responsive insulin that would reduce the risk of hypoglycaemia associated with insulin’s use is one innovation that is currently in the pipeline [17]. Manufacturing In looking at the manufacturing of insulin, two factors need to be considered: (1) insulin is a complex biological product that requires specific expertise to manufacture in order to ensure a high quality, safe and efficacious product [6]; (2) at present, the manufacturing of insulin is concentrated in three large multinational companies—Eli Lilly, Novo Nordisk and Sanofi (known as ‘the big three’). Eli Lilly, Novo Nordisk and Sanofi have a 96% share of the insulin market by volume and hold 99% of the market by value [6]. Other insulin manufacturing companies have been identified, including producers in India and China [18], but their current impact on the global market is negligible. In parallel to industrial production, so-called ‘biohackers’ are attempting to provide an open-source method for the production of insulin to possibly lower the costs of production, as well as increase competition [19]. Gotham et al. [20] estimated that the cost of production for human insulin for a 10 ml 100 U vial would be between US$2.28 and US$3.42, whilst the cost of manufacturing most formulations of analogue insulin was slightly higher (US$3.69–6.34), with the exception of insulin detemir, with costs of production of US$13.47–17.35. In comparing the median government procurement prices in different countries with the cost of production, procurement prices were found to range from 1.8 to 2.6 times higher than production costs for human insulin, and 2.0 to 9.3 times higher than production costs for analogue insulin (Fig. 2). Fig. 2 figure2 Costs of production and government procurement, and public and private sector patient prices for human and analogue insulin, based on 43 countries. Data for cost of production from [20]; data for government procurement costs and public and private sector patient prices from [60]. This figure is available as part of a downloadable slideset Full size image Marketing and registration All medicines are required to have marketing authorisation and must be registered by a national regulatory agency before placement on the market. This requires scientific evaluation of the product to ensure that it meets specific standards of safety, efficacy and quality [21]. For biological products, such as insulin, this process is more complex than for chemical entities. For biosimilars, generics of biological products, the process of regulatory assessment is demanding and includes the need for clinical trials [22]. These requirements affect the cost of insulin and the entry of biosimilar products into the market. In parallel to the complex process that is needed for insulin manufacturers to produce and get their products approved by regulatory agencies, there is also the challenge that many regulatory agencies in LMICs do not have the technical capacity to assess the data in the dossiers prepared for biological products. To address this, the WHO developed the Prequalification Programme in 2001, mainly in response to HIV/acquired immune deficiency syndrome (AIDS), to assess the quality of anti-retroviral products. The WHO announced the launch of prequalification for insulin in November 2019 [23]. This allows any producer of insulin to submit their product for regulatory review by the WHO. Through this process, competition in the insulin market will hopefully be increased whilst ensuring safety and efficacy of products for governments and their populations.

#### Prefer this to their ev –

[1] Recency – my ev is from 2021, Greene is 15. Uniquely, my evidence isolates that 2015 is when a lot of patents ran out. Reed their solvency ev, it all isolates 2015 as the year of study. Our argument is the situation has changed since 2015.

[2] Specificity – Barker is non-specific on insulin, their second evidence only slightly mentions it as an example but doesn’t contextualize market impact.

#### [3] WTO is a Trojan Horse for accumulation by dispossession and global imperialism – ideological apparatuses have created a regime of credibility to justify neoliberal economics which is an epistemic reason to be suspicious of all their claims

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(Ernesto, Global Imperialism and the Great Crisis: The Uncertain Future of Capitalism, p110-113, accessed 10-9-14 //Bosley)

Of the international economic organizations, those that work most effectively to achieve the expansion of “freedom” are the World Trade Organization, the International Monetary Fund, and the World Bank, the three main political institutions charged with preparing the world for capitalist penetration. The WTO was founded with the primary aim of favoring the expansion of international trade, and was equipped with effective instruments for disciplining opportunist countries. It fulﬁlls the function of issuing international trade rules and rendering them enforceable better than any national empire has ever managed to do. It achieves this through multi- lateral agreements carrying binding commitments for signatory states. With the Dispute Settlement Understanding (DSU) these agreements are enforceable. The "judgments" handed down by the WTO's Dispute Settlement Body (DSB) oblige noncompliant countries to conform to the rules, under the threat of economic sanctions ranging from compensating an injured country for damages to the implementa- tion of retaliatory measures. The rules, especially those known as "nondiscriminatory clauses" are supposed to foster the expansion of free trade. In reality, they effectively force member states to accept penetration by multinational corporations. The National Treatment clause, for example, obliges governments to extend the best treatment afforded to national ﬁrms, including state-owned companies, to foreign ones. The Market Access clause, in turn, prohibits governments from hindering the entrance of multinational ﬁrms.” Together these rules have contributed to creating a norm that encapsulates the essence ofthe whole set of regulations, a sort of “most favored ﬁrm” clause. If an advantage is granted to a ﬁrm, for example, a national company, it must be granted to all ﬁrms. This implies, among other things, that once a state-owned company has been privatized there is hardly any going back, even if it results in a market failure. The TRIPs (Trade-Related Aspects of Intellectual Property Rights) serve to safeguard the ownership of the products of scientiﬁc and technological research, trademarks, and the like, and thus to guaran- tee the proﬁtability oftheir use. Patents, which are mainly registered in the countries of the imperial Center, cannot be used by developing countries unless they pay the royalties established by the multinational companies to which the patents belong, often even ifthey apply to vital drugs.“ In the TRIPs, the World Trade Organization clearly reveals its nature as a political organization with the purpose ofsafeguarding the interests of multinationals. Not by chance, the big corporations played a key role in drawing up the TRIPs agreements.“ While all the other agreements formally have the aim of expanding competition and free trade, the TR1Ps agreement takes the form of a protectionist regulation. It explicitly seeks to protect monopoly positions and the monopoly proﬁts provided by scientiﬁc and technological research, an activity in which the big multinationals ofthe North excel. Even more blatant are the agreements known as TRIMs (Trade- Related Investment Measures). Their content is essentially disciplinary, as they prohibit the adoption of the economic policy instruments“-‘ that the governments of many countries use to protect their economies from certain negative consequences offoreign direct investments. The TRIMs serve to disarm states in their attempts to implement industrial and commercial policies for the beneﬁt of local populations. They mete out discipline in the interests ofthe multinationals. But possibly the most brazen of all these agreements is the GATS (General Agreement on Trade in Services), which regulates a highly heterogeneous sector (with 160 sub-sectors) effectively covering the production of all nonmaterial goods, from ﬁnance to postal services, from water supply to electricity, from telecommunications to transport, from insurance to banks, from education to health. The sector is so vast that it accounts for two-thirds of global output. The GATS was expressly proposed, prepared, and armed by certain Anglo-American ﬁnancial multinational lobbies whose names are well known.“ According to economic science, a large part of the goods covered generate market failures‘-‘—because they are produced in conditions of natural monopoly (for example, water supply), because they generate signiﬁcant externalities (for example, pollution), or because they are commons (for example, woods), public goods (for example, justice), or merit goods (for example, education). This is why their production was traditionally controlled or regulated by the state in the public interest. The GATS instead considers policies that pursue public aims in the production ofservices as discriminatory. Under the pretense of making markets competitive, it forces signatory states to dismantle public sectors that regulate services and sell off the ﬁrms that provide them. In contrast to the other agreements, the GATS is not conﬁned to regulating existing markets but plays a fundamental role as a creator of markets. It seeks to cornmodify public goods, public utilities, and commons, and to privatize natural monopolies. Joining the WTO implies acceptance of the rules of national treat- ment and market access, as well as the principle that public monopolies and public services are unacceptable. Then, when a serious economic crisis arises and leaves a country in need ofﬁnancial help from the IMF and the WB, the government is forced to sell off state-owned companies and commons to the multinationals. The WTO has become a partial substitute for gunboats in imperial governance. Through it, the big capital clears and paves the way for expansion and accumulation on a global scale. What is more, it does so with the consent ofthe exploited countries, which are induced to join the organization to gain access to ﬂows of foreign direct investments from multinationals, assistance from advanced countries, and ﬁnancial aid from the IMF and WB. As for the IMF, following the Washington Consensus (of“free market” economics] this pawnbroker for desperate states took on the role ot liberator. Previously, based on the Keynesian approach ofthe Bretton Woods system, the IMF imposed restrictions on the demand side, while granting credit to check the severity of those restrictions as much as possible. With the success of the rnonetarist ideology of Milton Friedman and the Chicago School in the late 1970s, the “structural” adjustments imposed were expected to affect the supply side, that is, mainly structures ofproduction and ownership, rather than aggregate demand alone. Moreover, a “long-run perspective” was to be preferred, rather than focusing on the "short run." Thus, from 1979 onward, the IMF began to impose structural reforms with the airn of “relaunching development.” According to neoliberal ideology, such reforms require the deregulation and liberalization of markets. This meant the cut- ting of tariffs and Other forms of protectionism to boost competition, the liberalization of prices to Cure inflation, the deregulation of labor markets to foster ﬂexibility and reduce labor costs, the deregulation of ﬁnancial markets to encourage capital mobility, and the privatization of public utilities to balance national budgets and expand competition. “thus the IMF acts as a bulldozer, preparing the ground for the arrival of multinational capital in desperate states. It does so to make this arrival as proﬁtable as possible: it cuts wages and the cost of raw goods, makes labor ﬂexible, and gets states to sell off public utilities and natural resources at ﬁre-sale prices. Lastly, the WB plays a more subtle, but no less eﬁective, role in bringing about the expansion of “freedom.” It offers help to develop- ing countries by Funding investments in the infrastructure necessary for industrial takeoff, or, in other words, for penetration by multina- tional capital. Like the IMP, with which it often acts in cooperation, the W’B gives nothing for free. In particular, among the conditions for access to its loans, it also demands the demolition oftrade barriers, the privatization of services, and the selling oﬁ' of the commons to private companies. Could the big multinationals let control over the great international economic organizations slip from their hands? And how could they get those organizations to serve their own interests while maintaining the decision-making autonomy of their managers? A powerful ideological campaign was called for. No sooner said than done. Having unleashed the most imaginative economists and even enlisted the help of the international academic body that decides on the recipients of the Nobel prize for economics, the right doctrines were promptly produced, one more audacious than the other: the right doctrines to replace the dated nineteenth- to twentieth-century free trade theory.” Then the markets for allegiance, the mass media, the most prestigious U.S. universities, research institutes, and culture academies, sprang into action to defend the new orthodoxy and put the right people in the right places. This is how the great international economic organi- zations came to be capable of acting autonomously in the interests of multinational capital.