**CAP AC**

I affirm the resolution, Resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

1. **KRITIKAL FRAMEWORK: MARX’S VIEWS ON ETHICS**

**Justice is an abstract idea that is solely dependent on the mode of production at a given time.**

**Van Wulven 1** Vanwulven, Tyler, "A Marxian Critique of Nonideal Theory." Thesis, Georgia State University, 2018. [https://scholarworks.gsu.edu/philosophy\_theses/229 //](https://scholarworks.gsu.edu/philosophy_theses/229%20//) Needham LF

2.2 Marx on Morality and Justice Marx holds that **not only will** legal and political **institutions reflect** the **material life** of humans, **but so** too **will beliefs** and ideas. **If** the **beliefs** of a given society **reflect** the **mode of production**, the only way **to understand** those ideas will be to **examine them in relation to their** 18 **genesis and development**. Additionally, it follows that if ideas are tied to a given mode of production, **moral ideas** too will **reflect**, in one way or another, a given **mode of production**. Think, for example, of values associated with different epochs. Marx, in a criticism of historians who detach the ruling ideas of an era from their material basis, points out that **ruling ideas change.** Thus **honor and loyalty were** the **values of the aristocracy while freedom and equality are** the **values of bourgeois society**. In later years, Engels declared that “[we] **reject** every attempt to impose on us **any moral dogma** whatsoever **as eternal**, ultimate and forever immutable **ethical law on the pretext that [morality] has** its **permanent principles which stand above history**” (726). He continues **morality has** always been class morality; it has either **justified** the **domination and** the **interests of the ruling class, or,** ever since **the oppressed class** became powerful enough, it has represented its **indignation against** this **domination**. (726) Therefore, for Marx and Engels, just as social relations and social institutions are always in flux, the ideas that arise out of material existence are also in flux. Now, how does this affect justice? The answer is that **justice is affected in** precisely **the same way**; however, the term justice can be understood in both a legal and a moral sense. Given that, for Marx, “every form of production creates its own legal relations, form of government, etc.,” it follows that **justice**, the concept typically **used to describe legal phenomena**, is itself an idea that **arises in, and is conditioned by, the existing mode of production** (Gr; 226). **A** give**n era**, according to Marx’s method, will **contain a** social **totality of needs, productive forces, and** social, economic, and political **relations that determine** the overall form of **social organization**. Part of this overall form is the legal and political apparatus that both grows out of, and helps to develop and fortify, the rules and practices of society. **These developments**, rules, and regulations **determine**, in one sense, **what is just.** Consequently, **justice**, like morality, **can have no transhistorical or** 19 **transsocietal determinate content** — it is determinable at a given moment, but never abstractly determinate. Thus, that it is just to enslave a large number of human beings at one moment and that it is unjust to do so at another lends support to Marx’s view: namely, justice can be determinate and identifiable at any given moment, but it does not retain the same determinacy from era to era, place to place. **Appeals to abstract justice**, then, **are historically-contextualized expressions misrepresented as universal**. Allen Wood (1972) is helpful on this point. On Wood’s reading of Marx, ‘**just’ actions** are those “transactions [that] **fit** the prevailing **mode [of production]**, they **serve a purpose relative to it**” (1972, 256). What is just, then, is a matter of what maintains the existence and reproduction of the social totality as a whole. Again, the legitimacy of Fugitive Slave Act of 1850 expressed the idea that society cannot reproduce itself (in its current form) if slave labor is unenforceable. To adopt **a juridical view**, then, **entails that one takes** these legal and political **determinations as if they do n**o**t presuppose a** given **social totality** composed of interrelated and interworking parts. As Wood explains, such a view “**is** essentially **one-sided**, and **to adopt it as the** fundamental **standpoint from which to judge all social reality is to adopt a distorted conception of that reality**” (1972, 255). Again, the juridical view is a distortion precisely because in taking some particular notion of justice as the primary metric of a given society, one neglects the way in which ideas about justice arise, not to mention the way in which societies function so as to reproduce themselves. The juridical view confuses a context-dependent idea for an abstract one. Furthermore, the juridical view is equally problematic for its neglect of society as a totality that contains needs, production, relations, and ideas which condition and are conditioned 20 by each other. Whatever justice means at a given historical moment must be understood in its broader social and political context. **So long as** identifying **principles of justice is the central concern, developing a** proper **understanding of how** so-called **injustices arise**, for what reasons, in what way, as a result of what needs, production, and relations of power, etc., **will be** secondary and potentially, if not often, **overlooked**. Therefore, **because ‘justice-seeking’** and ‘justice adjudicating’ **ignore** the centrality of civil society and the **interdependency of social phenomena within a** given **mode of production**, we can see how **nonideal theory adopts a flawed view of society**. As Wood explains: Abstracted from a concrete historical context, all formal philosophical principles of justice are empty and useless; when applied to such a context, they are misleading and distorting, since they encourage us to treat the concrete context of an act or institution as accidental, inessential, a mere occasion for the pure rational form to manifest itself. (1972, 257) In other words, to use justice as nonideal theory does — as an abstract, pure, moral, or metaphysical concept — is to misunderstand what justice is. Therefore, the nonideal theorist’s employment of justice, like their ideal theorist counterparts’, is simply confused. Stated differently, abstract justice, from the Marxian understanding of society as a totality of interdependent moments, is a contradiction in terms.

**Since justice is historically-contextualized, non-ideal theory’s belief that justice is a moral ideal is inherently flawed.**

**Van Wulven 2**

 2.3 The Critique of Justice in Nonideal Theory As I mentioned in the previous section, the concept of justice has varying semantic use. Often, nonideal theorists use the term in a moral, rather than a legal, sense. How might a nonideal theorist respond to the Marxian critique of justice? The most likely objection seems to be that Marx’s view is simply incorrect, and that I am engaged in a purely semantic criticism. **Nonideal theorists**, I think, would **point to** the idea of **justice as a moral**, rather than a legal, term. 21 Thus, we must distinguish between several types of justice. On the one hand we have **Marx’s conception** which takes the concept to be a **contextualized legal term**; call this Legal Justice (LJ). On the other hand, we have moral justice, which takes justice to be a moral ideal. Marx’s LJ is historically-contextualized and historically-variable. Moral justice, prima facie, seems like it can be transhistorical/transsocial or socially/historically-relative. The former implies that principles of justice are applicable to any and all societies in any and all times according to some verifiable conception of justice. The latter implies that justice in the moral sense can only be applied to historical epochs and societies that share the same conception of justice that the critic employs. To put the matter in other terms, the former entails that **one conception of justice** can **adjudicate** or criticize **across time and place, while** the latter can **only adjudicate** or criticize **those who share similar beliefs about justice**. Thus, **moral justice has a strict and loose form**. Let’s call moral justice in the **strict, transhistorical/transsocial sense Hard Moral Justice (HMJ) and justice in the loose, socially/historically relative sense Soft Moral Justice (SMJ)**. **Insofar as SMJ is** socially, historically, and culturally **relative, we could n**o**t apply it to social phenomena transhistorically or transsocially**. **It s**eems **implausible that nonideal theory** in its current form **would commit to SMJ.** Recall Mills’ dedication to generalism over particularism: without utilizing justice or rights, “one can no longer demand gender or racial justice” (2005, 174). Moreover, Mills defends the necessity of a “universalist, intertranslatable, not incommensurable measure of rights or well being” (ibid). To be sure, it is unclear here whether Mills wants commensurable principles to be commensurable confined to liberal societies or commensurable across all (including illiberal) societies. Given his dedication to reconceptualizing Rawls’ original position for a nonideal theory of justice, his frequent attacks 22 on the Western political philosophical tradition, attention paid to the history of colonialism, and his adherence to a univeralist “measure of rights or well-being,” I find it unlikely that Mills would want to limit himself to a non-universal SMJ. Therefore, **it** seems that nonideal theory, at least in Mills’ iteration, **would** most likely **adopt Hard Moral Justice** in order **to retain universality.**

**Adopting a Marxist perspective helps us resist alienation and solve issues of inequalities.**

**Rikowski 1** Rikowski, Ruth. “A Marxist Analysis of the World Trade Organisation’s Agreement on Trade-Related Aspects of Intellectual Property Rights.” *Policy Futures in Education*, vol. 4, no. 4, Dec. 2006, pp. 396–409, journals.sagepub.com/doi/pdf/10.2304/pfie.2006.4.4.396, 10.2304/pfie.2006.4.4.396. Accessed 19 Sept. 2019. // Needham LF

**We need to** try to **grasp** the complexities of the world that we find ourselves in, in **global capitalism** today, **so** that **we can** then try to find a way to **break free** from it all, in order **to create a better, a kinder and a fairer world**. If one took a different position, and argued that global capitalism was a very good system, and that we just need to work through the various issues and dilemmas, one would quickly come up against an insurmountable number of problems (as indeed people do) in regard to issues such as IPRs, moral and humane issues, the public service ethos and the balance in copyright. **A Marxist analysis** is complex, but it **seeks to explain and solve many** of these **real problems** and contradictions, whilst also enabling us to face up to these contradictions. We need a theoretical analysis that helps us to understand and explain the system that we find ourselves in – global capitalism, **with** all its **injustice, inequality, cruelty, suffering and death** – and an Open Marxist theoretical analysis provides us with this, in my view. **Once we have this understanding, we can** then endeavour to **create a** better, kinder and a fairer social, economic and political **system** – one that is **based on human wants and needs** and one that will enable humans to find self- expression and fulfilment, **rather than a system** that is **based on the exploitation, alienation and objectification** of labour, value-creation and the never-ending drive to increase profit margins.

Thus, the role of the judge (ROJ) is resisting alienation since idealizing justice enables us to overlook injustices.

1. **ROLE OF THE BALLOT (ROB):**

It is the role of the ballot to reject capitalism in order to dismantle oppressive ideas.

**The exclusion of human rights from the copyrights clause of the TRIPS agreement alienates those in developing countries.**

**Rikowski 2**

**TRIPS and Large Corporations** The **power of large corporations and rich countries** in the developed world **and the lack of democracy at the WTO are** illustrated **clear**ly **through TRIPS**. The **developed countries typically benefit at the expense of** the **developing countries.** The Pharmaceutical Research and Manufacturers of America (PhRMA), is probably the world’s most powerful industrial lobby and in many ways it shapes the **TRIPS** agenda. As Watkins says: Dictated by the US pharmaceutical industry, and driven through by threats of US trade sanctions, the agreement **was opposed by virtually every developing country in the Uruguay Round**. (Watkins, 2003, p. 32) Furthermore, ‘**TRIPS** enshrines the US patent law in the multilateral trade system’ (Watkins, 2003, p. 32). It **forces developing countries to adopt** the **standards of the rich countries** in the west. **Over 90% of patents** for new technologies **are held by corporations in rich countries**. **There are two rights in copyright – moral and economic rights**. Ideally, both of these should be included in all copyright legislation, agreements, directives and conventions, although in reality **moral rights are often excluded**. This, I would argue, is because of the **drive embedded within capitalism** itself, where **entrepreneurial drives** and trade are bound **to take precedence over** moral and **humane considerations.** Moral rights have been excluded from the copyright section of TRIPS. Most of the Berne Convention is included in TRIPS apart from moral rights. **The WTO says** that: **Members do not have** rights or **obligations under** the **TRIPS** Agreement **in respect of** the rights conferred under Article 6 bis of that Convention, i.e. **the moral rights** (the right to claim authorship and to object to any derogatory action in relation to a work, which would be prejudicial to the author’s honour of reputation), or of the rights derived therefrom. (WTO, und.a, p. 4) Thus, a very important part **of the Berne Convention** that was established over 100 years ago has been excluded from the TRIPS Agreement. Even where moral rights are included in copyright legislation, it can sometimes be difficult to enforce, there are often waiver facilities, and it can be difficult for creators to obtain their appropriate moral rights. But if it is not there at all, then creators really are at a serious disadvantage. Instead, the emphasis in TRIPS is on economic rights and trade. *TRIPS and Traditional Knowledge* TRIPS does not refer to traditional knowledge (TK) directly, but clearly TRIPS is likely to impact on TK. Drahos & Braithwaite refer to patent law and TRIPS, saying that: Patent law ... has become one of the main mechanisms by which public knowledge assets have been privatized. TRIPS itself is an outcome of this process of privatization of the intellectual commons. (Drahos & Braithwaite, 2002, p. 150) They draw attention to the fact that the ‘intellectual commons’, which includes TK, is being patented and privatised, and then traded through TRIPS. It should be noted that most people and organisations, such as NGOs that look at, and are concerned about, patents in TRIPS, examine areas other than information, education and libraries. They focus, in particular, on areas such as drugs, genes and the patenting of life-forms. Thus, I am exploring a very new, undeveloped area here. Given that TRIPS is about transforming IPRs into international tradable commodities, TK for the benefit of the local, indigenous population is under threat. *TK and IPR Issues in the Developing World* TK cannot be encapsulated in copyright, which would provide copyright protection, unless it is in a tangible form. This means that local indigenous communities in the developing world are very vulnerable and can be exploited. Many have been gathering their knowledge for hundreds of years. However, most of these people would not have the skills and capabilities to be able to write down what they know, and to transform it into a tangible form. This makes it easy for large companies to come along and appropriate this knowledge, patent it, turn it into an IPR and make money out of it, without giving due recompense to the indigenous population. As Utkarsh (2003, p. 190) says, with globalisation: ‘**knowledge** and other public goods are rapidly **being appropriated, transformed and marketed by commercial concerns, without any benefit** being shared **with the original producers’**. Western law also often treats TK as part of the public domain, and thus freely available to everyone. This is another problem. This is partly because of the culture embedded within the indigenous community itself, with its emphasis on sharing and the community spirit. Many people in the developing world see TK as being part of Nature itself, and there are also religious connotations. Thus, many would be against any notion of people owning, or seeming to own, any of this knowledge, or turning it into any form of IPR. Meanwhile, Aguilar argues that patents and other IPRs are not really suitable for protecting TK for both practical and cultural reasons. Instead, there is a need to look for viable alternatives, otherwise those in the indigenous communities will become the ‘victims of knowledge piracy’ (Aguilar, 2003, p. 181). He argues that a *sui generis* system tied to the framework that is provided by the Convention on Biological Diversity (CBD) and in Article 27.3(b) of TRIPS is urgently needed. *TRIPS and the Developing World* What are the implications of TRIPS for the developing world in general? Many NGOs argue that **TRIPS is** largely **disadvantageous for the developing world.** This is for a number of reasons. Firstly, the **strong IPRs systems** and practices that are being established **in WTO** member countries through TRIPS will **give monopoly rights to** many **private**ly-run **research organisations and** to various **powerful private corporations**. Secondly, **TRIPS** makes it **mandat**ory for WTO member countries **to patent some** categories of **life forms** and other living processes. This has raised various ethical, religious and environmental questions. The third reason is the concern that TRIPS favours large private companies and modern technology, and the fourth is the misappropriation of much TK and the lack of concern about the rights of local communities, indigenous populations and farmers, and the important role that they have played in developing this TK. *Patents and TRIPS in the Developing World* The TRIPS patent system was established in the joint statement presented to the GATT Secretariat, in June 1988 by the Intellectual Property Committee (IPC) of the USA and industry associations of Japan and Europe. The IPC is a coalition of 13 major US corporations which aims to ensure that TRIPS works to its advantage. The members of IPC include corporations like Hewlett Packard, General Motors, IBM, Rockwell and Warner. Patents laws have existed in various developing countries for over 100 years. Embedded in these patent laws was some desire to help the indigenous populations. But this is now threatened by TRIPS because of the lack of a democratic process. Shiva (2001), for example, refers to various patent systems that have evolved through multinational corporations and have been pushed by governments in the developed world through TRIPS, and how this can damage the democratic process of nation states. Fundamentally, it will be impossible to implement TRIPS in a way that will significantly benefit the developing world, because of the inherent inequalities and contradictions that are built into the very fabric of global capitalism itself. Furthermore, the drives of capital are infinite; it will never be satisfied. So, there will never come a point where it will be decided that the inequalities need to be lessened in any fundamental way. Instead, **TRIPS**, as a tool which aids the furtherance of global capitalism**, is likely to increase** the **inequalities**. Furthermore, inequalities **and poverty will only** ever **be lessened** (and largely on a temporary basis) **when pressure is placed on** those in **positions of power**. In regard to TRIPS this rests on putting pressure on the WTO through organisations such as the Third World Network and various NGOs in order to soften some of the most worrying of the implications of TRIPS for the poor and those in the developing world. However, capitalism is a battlefield upon which various compromises are and can only ever be made, but it can never ultimately be for the benefit of the labourer and the poor. To change the situation on a permanent basis, we need to terminate capitalism and replace it with socialism and eventually with communism in my opinion.

**AFF SUBSTANCE**

C1: Structural Violence from Patent Protections

Subpoint A) Exclusion based on gender

**The patent system excludes women.**

**Reardon 20** Reardon, Sara. “Gender Gap in US Patents Leads to Few Inventions That Help Women.” *Nature*, vol. 597, no. 7874, 20 Aug. 2021, pp. 139–140, www.nature.com/articles/d41586-021-02298-9, 10.1038/d41586-021-02298-9. Accessed 16 Sept. 2021. // Needham LF

When **Rembrand Koning**’s wife was giving birth to their first child in 2017, the couple was dismayed by **the lack of technology for new mothers** who were recovering from pregnancy complications. Baby scales were hard to use one-handed, breast pumps were frustrating, and there were few resources to help Koning’s wife with the post-partum pre-eclampsia that she experienced. It seemed, Koning says now, as **if designers of health-care tech**nologies **had little first-hand knowledge of childbirth** and the **difficulties** that could arise. Perhaps, reasoned Koning, an economist at Harvard University in Cambridge, Massachusetts, the relative **scarcity of women’s health products on the market** was **due to a scarcity of women inventing** them. A study[1](https://www.nature.com/articles/d41586-021-02298-9#ref-CR1) that he published in June confirms this theory: **few biotechnology patents are owned by women**, and **female inventors are** significantly **more likely** than are male ones **to patent health products for women**. **Patenting** inventions has long been **a mainly male endeavour**: a 2016 report[2](https://www.nature.com/articles/d41586-021-02298-9#ref-CR2) by the Institute for Women’s Policy Research, a US non-profit organization that aims to improve the lives of women by shaping public policy, found that **a woman was cited as the lead inventor on just 7.7% of all patents filed between 1977 and 2010 in the United States**. Those female-owned patents **tended to involve products such as jewellery and clothing.** Koning theorizes that **those who have** the opportunity **to invent** anything **have** a **strong influence on what** actually **gets invented. When inventors are diverse**, he adds, “those people may **see problems that men may have dismissed or overlooked”.** To find out whether this trend extends to the health field, Koning and his colleagues looked at more than 400,000 biomedical patents filed between 1976 and 2010 with the US National Bureau of Economic Research, a non-profit organization that collates all data from the US Patent and Trademark Office. In **2010**, they found that **only 16.2% of patents** were **generated by** research **teams consisting mostly of women — up from 6.3% in 1976.**Next, using a machine-learning algorithm, the researchers scoured the patents for terms that indicate whether the invention related to women’s or men’s health, then determined the gender make-up of the patent-holders for each. **Teams made up of all women**, they found, **were 35% more likely** than all-male teams **to invent technologies relating to women’s health.** But teams made up of all women or all men were equally likely to patent technologies for men’s health. **If women and men** had **produced an equal number of patents since 1976**, the researchers estimated, **there would be 6,500 more female-focused inventions today.**Koning says that there are probably multiple reasons for these disparities. **The unequal numbers** of patents produced by men and women **suggests that fewer women have the chance to invent**. That’s not surprising, he says, given the **barriers** that **women face** advancing **in science** and engineering **fields**. Still, the **discrepancy is** particularly **striking** considering that [**half of life-science PhDs in the United States are held by women**](https://www.ncses.nsf.gov/pubs/nsf19304/digest/field-of-degree-women)**.** Elina Berglund, a particle physicist and entrepreneur in New York City, is also not surprised by the findings. “It makes sense to me that one is more likely to spend time innovating or solving a problem that they have either experienced or are close to,” she says. After failing to find an effective non-hormone-based, non-invasive form of contraception, Berglund co-developed an app that used an algorithm to track fertility cycles. In 2018, Natural Cycles became the first direct-to-consumer contraceptive app to be approved by the US Food and Drug Administration. “I realized the unmet need for this option for contraception by experiencing it myself,” says Berglund, who is now chief executive of Natural Cycles. “I believe that the gender gap is indeed why women’s health has been an under-served and under-researched area for so long.” Mathias Nielsen, a sociologist at the University of Copenhagen who researches social stratification in science, says that Koning’s study represents the first time that anyone has quantified an issue that he says researchers have long suspected: **less attention is given to** innovation in **women’s health because the mostly male entrepreneurial field researches it less**. “It’s a very interesting and important contribution to the discussion of how diversity links to innovation,” he says. Sociologist Laurel Smith-Doerr, who studies gender diversity in science, is not surprised by the gender gap in patenting, but says that the link between women’s patents and women’s health is an important advance. She thinks that further research is needed to examine how gender and ethnicity collectively influence invention trends. The same work needs to be repeated with nationality, she argues, and also with regards to whether the inventor is the first in their family to attend university. Smith-Doerr, who is at the University of Massachusetts Amherst, adds that inventors are often drawn to work on problems that affect their own daily lives. That could partly explain why diseases that disproportionately affect those from minority ethnic groups or people who live in developing countries tend to receive less research funding and interest than do diseases that affect financially privileged white people. If research teams were more racially diverse, the focus of their interest might change, she says. “**We’d be better off with inventions** that represent **all of the knowledge and** all the human **capacity we have**,” she says. Diversity, she adds, is also important for ensuring that medical devices and technologies that target all genders benefit all of them equally. “Historically, **the male body has been** taken as **the baseline**,” Nielsen says; **certain tech**nologies **and practices** such as personal protective equipment and drug-dosing regimens **don’t** necessarily **work well for women**. Koning expects that the male-heavy invention trend is also visible in the concepts that make it to the marketplace. **Venture capitalists are** much **less likely to fund women’s inventions**: start-up companies led by women in the United States received [only 2.3% of total venture-capital funding in 2020](https://hbr.org/2021/02/women-led-startups-received-just-2-3-of-vc-funding-in-2020), and **women represent just 12% of venture-capital decision-makers**. Koning thinks that this trend might extend to inventions that most benefit women. He cites stories about venture capitalists shying away from touching a breast pump, for instance, thinking it was “gross”. Men are also more likely to be on the scientific advisory boards of companies and start-up businesses[3](https://www.nature.com/articles/d41586-021-02298-9#ref-CR3). Koning says that his team is now looking into digital health products and apps, and whether they benefit certain communities or genders more than others. The team also plans to look at whether the gender imbalance in entrepreneurship affects the products that are brought to market. “Our hope is that in 20 years, some of this stuff starts disappearing,” he says.

**Patriarchy, as part as the male dominated and capitalist state system, enables depriving women of work, work space equality, and political representation.**

**Einspahr ’10** (Jennifer Einspahr, Associate Professor of Political Science,“Structural Domination and Structural Freedom: A Feminist Perspective,” Feminist Review 94, March 2010, 1-19, http://search.proquest.com/docview/212059658?accountid=7113.. SM)

More specifically, **patriarchy functions as a structure of domination**, in complex interactions **with other structures of domination, in part through men's exploitation of women**, or the 'systematic and unreciprocated transfer of powers from women to men ... The freedom, power, status, and self-realization of men is possible precisely because women work for them. **Gender exploitation has two aspects, transfer of the fruits of material labor to men and transfer of nurturing and sexual energies to men'** (Young, 1990: 50). For example, **although many individual women control greater amounts of resources than many individual men due to the intersections of class and race with gender, on average women continue to earn significantly less than men for the same work and have access to fewer material resources than men, not in small part due to the horizontal and vertical segregation of the labour market, women's underemployment, and women's participation in unremunerated labour in the 'private' sphere**. While such exploitation will take different forms for women who are privileged by the racial division of labour and those who are oppressed by it, for example, such **systematic inequality nonetheless provides men as group with power over women as a group and constitutes a background condition of domination**.¶ Men's sexual exploitation of women, or the systematic transfer of women's sexual energies to men, constitutes a blatant form of men's domination of women (and shows how patriarchy is bound up with heteronormativity as well). **Men, particularly those who are privileged by race or class, are systematically positioned to interfere in the sexual lives of women and girls, with impunity and in ways that are potentially arbitrary at the individual level, as evidenced by astonishingly high rates of sexual assault and miniscule rates of conviction for sex crimes.** However, **sexual exploitation affects the lives of women and girls whether or not they ever experience it in its most overt or violent forms**. Kathy Miriam makes this particularly clear in her discussion of male sex-right, or the **background assumption of men's implicit right to the sexual access to the bodies of women and girls.** Again underscoring the importance of maintaining a conceptual distinction between agency and freedom, she shows how women's negotiation of the conditions under which they will experience compulsory heterosexuality may be evidence of women's exercise of agency, or participation in the given structure, but it does not constitute freedom, which would entail a transformation of the dominant background conditions under which we operate. 6 **Sex-right is part of our background understanding of heteronormativity ... the assumption that men have a right of sexual access to women and girls allows for specific actions of coercion and aggression to take place**, but sex-right is not synonymous with those acts. From this perspective, new forms of girls' and women's sexual agency refer to new ways of living through heterorelations. However, as I have argued, it does not thereby follow that girls and women are therefore experiencing new sexual freedom . On the contrary, new forms of sexual agency - of participating in, living through, and experiencing heterorelations - may very well presuppose new forms of men's access to women and girls. (Miriam, 2007: 225; emphasis in original)¶ In accord with the concept of freedom as non-domination I develop here, exercising agency - and even resisting - is perfectly consistent with living under conditions of domination. That is, women may be able to determine, perhaps even to a large degree, how they will experience men's sex-right, but true freedom for women and girls (and arguably for men and boys as well) would require that male sex-right be abolished in both its material and symbolic guises.¶ **The state is instrumental in maintaining the conditions of women's domination as well**. As Lisa Brush argues, once we examine social and political conditions through a gender lens, and once we see gender as a social structure (Connell, 1987; Lorber, 1995), the state's role in structuring the conditions under which women can exercise their agency becomes clear.¶ **Looking through a gender lens at states and social policies allows analysts and activists to understand 'gendered doing' - gender as a principle of social organization** (the gender of governance), and its consequences for citizenship, democracy, and everyday life (the governance of gender) ... A gender lens shows the ways states and social policies construct, limit, and expand diverse women's economic, political, and sexual possibilities.¶ (Brush, 2003: 123)¶ Indeed, if the state is male (MacKinnon, 1982, 1991) or masculine (Brown, 1992), arguing normatively for women's freedom means taking seriously the role of the state in **'coercively and authoritatively constitut[ing] the social order in the interest of men as a gender, through its legitimizing norms, relation to society, and substantive policies**' (MacKinnon, 1982: 644). And indeed, the evidence shows that 'states govern gender through casework and through debates over economic development, through welfare policies as well as policies on violence against women' (Brush, 2003: 72). **The state inevitably plays a role in the construction and maintenance of gendered**

Subpoint B) Disparity in COVID-19 vaccine distribution

**Current Covid-19 Vaccine distribution protocols have created a vaccine apartheid wherein poor nations are left to die because of lack of access**

**Lennard 21**

Natasha Lennard, educator of Critical Journalism at the New School for Social Research and Contributing Writer for the Intercept, 6-11-2021, "The G7 Upheld Vaccine Apartheid. Officials From the “Global South” Are Pushing Back.," Intercept, <https://theintercept.com/2021/06/17/vaccine-g7-covid-internationalism-summit/>]

IF **THE GROUP of Seven summit** in the United Kingdom last week made anything clear, it is that those **powers** [**cannot**](https://www.independent.co.uk/news/uk/politics/g7-summit-climate-aid-vaccines-b1865119.html) **be trusted to end** the urgent **crises** facing life **on Earth** — for humans and nonhumans alike. When it comes to the Covid-19 pandemic, the **G7** nation-**states reaffirmed their commitment to global vaccine apartheid** through neoliberal governance, only slightly obscured under a guise of **charitable offerings.** The concessions **are insufficient at best**. Amnesty International [condemned](https://www.amnesty.org/en/latest/news/2021/06/g7-pledge-to-share-one-billion-vaccine-doses-with-poorer-countries-is-a-drop-in-the-ocean/) the G7’s pledge to provide 1 billion doses to middle- and low-income countries as a “drop in the ocean.” G7 leaders failed to agree to waive vaccine [intellectual property](https://theintercept.com/2021/04/15/covid-vaccine-patent-ip-poll/) rules and commit to knowledge and technology sharing. **Under the current medicine monopoly regime, it is** [**projected**](https://www.oxfam.org/en/press-releases/more-million-covid-deaths-4-months-g7-leaders-failed-break-vaccine-monopolies) **to take until 2078 for the world’s poorest countries to vaccinate their populations**. **G7 countries are expected to vaccinate** their populations **by January 2022** “We do not have a system that protects against unequal access. Later this week, government ministers from many of the countries that will suffer most — and have already suffered — from this abhorrent vaccine inequality are convening online alongside scientists and global health advocates to forge a different path out of the pandemic. The [summit](https://act.progressive.international/vaccine-internationalism/), hosted by Progressive International, recognizes vaccine internationalism as the necessary order of the day. Politicians from states including Cuba, Venezuela, Vietnam, Kenya, Kerala — which is in India — and Argentina will attend, alongside Western parliamentarian progressive allies like the U.K.’s Jeremy Corbyn and Greece’s Yanis Varoufakis. The question is whether a solidarity-based bloc can be established with sufficient power and cooperation to undo vaccine apartheid. The stakes could not be higher**. Covid-19 is** all but **assured to shift from a pandemic into an endemic disease, with the victims** of historic and ongoing colonialism **left to die by the millions.** [I’m i](https://theintercept.com/newsletter/?source=Article-In&referrer_post_id=360405)n “We do not have a system that protects against unequal access,” Varsha Gandikota-Nellutla, an India-based coordinator with Progressive International, told me by email. She pointed to the disparities between the European Union and countries in Africa. “Consider this: the EU has already made a deal with BioNTech/Pfizer for 1.8 billion booster shots even as **the entire continent of Africa has vaccinated less than 2 percent of its population** with the first and second doses.” Gandikota-Nellutla noted that at current rates**, it will take nearly six decades for the world to be vaccinated** — a statistic echoed by the People’s Vaccine Alliance, a coalition of organizations including Amnesty International, Health Justice Initiative, Oxfam, Stop AIDS Campaign, and UNAIDS. She said, “We’re witnessing the ills of nationalism, imperialism, and racial capitalism all play out in the most grotesque of ways in the vaccine race.” **WE KNOW WHAT vaccine nationalism looks like: Powerful countries, aided by World Trade Organization** regulations, **make deals with leviathan pharmaceutical companies** to buy up **and hoard vaccines**. **Poorer** **countries are** **forced into positions of dependence** on insufficient charity; **Big Pharma gets bigger.** Meanwhile, intellectual property [fetishist](https://www.wired.com/story/opinion-the-world-loses-under-bill-gates-vaccine-colonialism/) Bill Gates asserts, despite evidence from international scientists to the contrary, that poorer nations are per se incapable of developing, regulating, and distributing vaccines safely and efficiently. A system of health care scarcity is developed by design, with results no less than genocidal. The basic means of surviving a pandemic are held as a political cudgel by the richest countries over the poorest. At present, for example, Venezuela has been shut out of receiving any of the half a billion Pfizer vaccine doses President Joe Biden pledged to donate to COVAX, short for COVID-19 Vaccines Global Access, the initiative purportedly committed to equitable international vaccine distribution. Despite Biden stating that vaccine donations “don’t include pressure for favors or potential concessions,” Venezuela has been shut out of COVAX access due to ongoing, brutal U.S. sanctions against the country. “No country has the right to obstruct the access to health of any other,” Venezuelan Foreign Minister Jorge Arreaza, who will be attending the Summit for Vaccine Internationalism, said in a statement. “**Obstructing** **a people’s access to vaccines during the pandemic is a crime against humanity** and the free peoples of the world must unite and design mechanisms to avoid this medical apartheid, where a few have access to vaccines and others are excluded.” ANY SORT OF robust vaccine internationalism — in which collective potentials for vaccine production and distribution are truly unlocked — has so far been off the table. Yet we have seen a number of recent examples of production and sharing outside the top-down control of powers like the U.S. and the EU.

**Current vaccine charity isn’t enough-  IPR reductions are key to solving the ongoing apartheid**

**Sariola 21** [Salla Sariola, educator of social sciences at the University of Finland, 04-01-2021, “Intellectual property rights need to be subverted to ensure global vaccine access,” BMJ Global Health, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8021739/]/Kankee

My response to their comment claims that though well intended and to the point, the commentary misses a crucial bottleneck in research and development, namely**, intellectual property rights** (IPRs) that **hinder** the actualisation of **global vaccine access. Instead of making vaccine knowledge available** openly**,** **IPRs protect industry** benefits **over human health** and well-being. The current arrangement is epidemiologically short-sighted and unjust. The brunt of vaccine capitalism is felt most in LMICs and Africa in particular.2 Presently, philanthropic programmes to deliver vaccines to LMICs are not fast enough, and a social movement is picking up speed to subvert IPRs that are upheld by rich countries at the World Trade Organization (WTO). Global health communities need to take a stronger stance against IPRs that are protecting vaccine pharma over the world’s poorest and leverage political will to make global vaccine access a reality. First, IPRs legitimate the pharmaceutical industry to make exclusive decisions to whom vaccines are sold and at what price. Under the Trade Related **Intellectual Property Rights Agreement** (TRIPS) **by WTO, [allows] companies** that own the intellectual property hold exclusive rights **to** produce vaccines without competing generic products on the market. This way, they are able **to keep a foothold of the markets** and the **prices** high, **as there is little competition** over similar products. Vaccines currently on the market have been priced such that developing countries cannot afford them. Prices may also vary depending on the contract: for example, contradictory to a social justice logic, the AstraZeneca vaccine was sold to South Africa at $5.25 per dose but to EU at a lower rate of $2.16.3 The second reason follows from the first. Availability of vaccines at national level is made possible via bilateral prepurchase agreements between vaccine producers and countries or regions, such as the European Union or the African Union. The African Union, with the help of the African Export-Import Bank, has negotiated an agreement to prefinance 670 million doses of vaccines while African countries pool their funds,4 but still, very few low-income countries have contracts that would provide sufficient volumes to cover their entire populations.5 6 In short, different countries are not on an equal footing on funding and networks in the negotiations, and the African Union has been a low priority. Third, **the COVAX programme was established** in April 2020 **to ensure that vaccines spread globally at equal pace** after their licencing approval. COVAX is often lauded as a mechanism that holds promise for just vaccine access, but its public representation is glossier than the reality. COVAX is funded by various philanthropic funders and wealthy countries; it aims to cover 20% of populations in countries that have funded it and to provide 1 billion doses across 92 non-funding lower income countries.4 **[but] In December 2020, COVAX was close to failure** due to insufficient funding,7 but one of the first decisions by President Joe Biden’s new administration was to give its support to COVAX,8 which improved its chances of success. Simultaneously, rich countries such as Canada have grabbed vaccines through the COVAX programme.9 Canada has five times the number of vaccines required to cover its entire population.10 Due to the reality of manufacturing rates, the surplus of some is at the expense of others, which brings to a sharp focus the inherent inequality in how access is shaped by the purchasing power of countries where people happen to be born. While the COVAX programme has commenced vaccinations for frontline carers in several lower income countries during February and March 2021, the majority of the populations in these countries have no vaccines in sight. The dynamic underscores how COVAX is unable to remove global vaccine injustices and at worst reproduces differences between the haves and the have-nots with a seeming guise of ‘doing something about it’. **While** **COVAX is notable in its charitable efforts, it remains a smokescreen for the IPRs** issue at the heart of the inequity of vaccine deployment. India and South Africa proposed to the World Trade Organization in October 2020 that **a waiver of IPRs should be mandated to guarantee international availability of vaccines** under the exceptional pandemic circumstances.11 The proposed waiver would see various aspects of the TRIPS agreement surrendered, denying pharmaceutical companies exclusive rights to produce vaccines and benefit from their sales**. The waiver would** not only **forego** patents but various other aspects of IPR, such as **trade secrets, copyright, manufacturing knowhow, industrial design, blueprints and so on,** that might get in the way of universal production. **The motion is presently cosponsored or supported by 100 countries from two key groups at WTO**: the Africa Group and the Least Developed Countries Group.12 These are also the countries where vaccine gaps are felt most. The waiver has so far not been accepted by the WTO. European Union, USA, UK, South Korea, Japan, Switzerland, Canada, Brazil, Australia and Mexico continued to oppose the waiver in the most recent WTO meeting on 10 March 2021.13 14 The rationale by big pharma and countries that stand beside them ultimately protects the interests of big pharma and its profit-based logic rather than the public. The proposed waiver is time bound and restricted to products related to the pandemic but a more radical reformation could have profound impacts in how innovation is organised in the future by questioning the capitalist modus operandi of vaccine production. Waiving patents is not a radical or new proposal. The most notable example is the use of compulsory licencing for cheap antiretrovirals in early 2000s. A social movement led by the South African NGO Treatment Action Campaign sued the South African government over the denial of its citizens’ health rights and mobilised the Indian generic pharmaceutical company Cipla to produce cheap generics. The price of antiretroviral medication (ARVs) was reduced by 97%, and with this, the HIV epidemic in Africa has been brought under control.15 The campaign is not unique in its purpose: compulsory licencing is regularly applied in various situations, of which epidemics are just one. However, since the 2000s, stronger patent barriers have been established, making it harder to subvert patents. Compulsory licencing is not seen sufficient and timely enough for COVID-19 vaccines: it is slow because it requires separate negotiations between countries and companies, would not provide access to key elements in production such as trade secrets, it maintains barriers for collaboration and import and export of products and materials and does not cover future vaccines. **The waiver would remove any obstacles for global vaccine production, present and future.** However, in the light of the opposition, it seems that without a strong international movement and direct pressure, similar motion is unlikely. Organisations like Medicines Sans Frontiers, People’s Vaccine Alliance, Third World Network and the European United Left at European Parliament have advocated the waiver, and it is time that global health scholars worldwide stand with them. Conclusions Arguments to defend IPRs simply do not hold. The commonly presented claim that IPRs protect innovator companies from market failure and financial risks do not apply in case of COVID-19 vaccines because the research was done predominantly on public funding from various governments in the Global North,16 which means that companies had to invest very little, and there continues to be an enormous market for vaccines. **COVID-19 vaccines should be treated as global public goods** because at present, the protections of IPRs to the vaccine companies are causing health and socioeconomic suffering globally, rather than alleviating them**. Delaying vaccine access for billions** of people **threatens the** **continuation** of the pandemic and development of **further mutations.** Global health communities need to join the motion and put pressure on the WTO for when the waiver is discussed at the upcoming WTO meetings during the spring, lest allowing vaccine capitalism and apartheid to endure.

Subpoint C) Price Gouging

According to Heather **Morton 2021** from National Conference of State Legislatures, “price gouging refers to when retailers and others take advantage of spikes in demand by charging exorbitant prices for necessities”

**The patent system of many countries has lead to extreme price gouging of life-saving medicines**​​

**Amir 18**

Tahir Amin is the co-founder and co-executive director of I-MAK.org, a global nonprofit organization that works to lower drug prices, Dec. 7, 2018, "Patent abuse is driving up drug prices. Just look at Lantus ” , STAT, https://www.statnews.com/2018/12/07/patent-abuse-rising-drug-prices-lantus/ ] Needham RP

**A** rare **point of consensus** following the midterm elections **is that Americans are adamant about lowering drug prices.** Bipartisan pledges to seek common ground on this vexing issue suggest we might finally see action to make medicines more affordable.What should this new common ground look like? Beyond important proposals like allowing drug importation or Medicare negotiation, policymakers should take a hard look at one of the key factors affecting market competition, transparency, and affordability: patents. **Patent abuse by drug makers is one of the most influential drivers of our pricing problem**.U.S. **law** **provides** **20** **years of** **patent** **exclusivity** **for** inventions such as a new **medicine** — **meaning** two decades that **a drug maker has monopoly** power **to develop a medicine and set prices however they wish**. Even ifit takes eight years to develop a medicine, that leaves 12 years for the drug to have market exclusivity. While rewarding invention is important, under **the** U.S. **patent system** those **rewards have become inflated and unmerited as drug makers have developed defensive strategies that include overly broad patent claims and filing large numbers of follow-on or secondary patents to extend their monopolies.** **Patients are paying the price.** **Diabetes** **provides a** **good** **snapshot of the problem.** Approximately **7 million Americans rely on insulin to live**. **Surging insulin prices have gotten so out of hand that 1 in 4** Americans **are rationing their own treatment, putting their lives in jeopardy and**, in some cases, **dying**. Without insurance, one five-pen carton of Lantus Solostar costs $280 at all major pharmacies in the U.S. The exact same branded — not generic — package costs about $50 in a leading diabetes clinic in Mexico. **Lantus**, made by Sanofi, **is the leading drug for** people with **type 1 diabetes**. The company makes $15 million every day selling this type of insulin. As shown in a new report from I-MAK, the organization I help direct, **the price of** Lantu**s jumped 18 percent each year from 2012-2016.** During that time, U.S. taxpayers bought more than $22 billion worth of **Lantus** through Medicare and Medicaid. In fact, Lantus ranked number two for total overall expenditure in 2016 for both Medicare and Medicaid. Lantus is also highly overpatented. Though Sanofi’s primary patents on Lantus expired in 2015, the company **has** filed 70 secondary patent applications in the U.S. — 95 percent of its total — since the drug was first approved and put on the market in 2000. If granted, these additional patents would give Sanofi **monopoly protection for up to 37 more years** — almost double the duration provided under U.S. law. Why would a pharmaceutical company file so many patents after a drug is already on the market? Quite simply to preserve and extend its ability to keep competition at bay while hiking prices. The company — which along with Eli Lilly and Novo Nordisk control nearly the entire U.S. insulin market — has further prevented insulin competition in America by pursuing litigation against two companies that want to offer cheaper biosimilars. (Biosimilars are the generic-like equivalents for complex molecules such as insulin and other biologic drugs.) Like overpatenting, this tactic works against the millions of Americans who must take insulin. Putting two or more generics on the market has been shown to drastically reduce drug prices. In Europe and Japan, **fewer patent applications** and more friendly biosimilar regulatory requirements **have** **led** to multiple biosimilar competitors of Lantus, helping **drive[n] down prices and improve access to treatment.**

Thus, I strongly encourage an affirmative ballot and stand ready for cross x.