# NC

#### The metaethic is practical reason. Prefer:

#### First, inescapability – the exercise of practical rationality requires that one regards it as intrinsically good – that justifies a right to freedom.

Wood [Allen W. Wood, (Stanford University, California) "Kantian Ethics" Cambridge University Press, 2007, https://www.cambridge.org/core/books/kantian-ethics/769B8CD9FCC74DB6870189AE1645FAC8, DOA:8-12-2020 // WWBW]//rct st

Kant holds that the most basic act through which people exercise their practical rationality is that of setting an end (G 4:437). To set an end is, analytically, to subject yourself to the hypothetical imperative that you should take the necessary means to the end you have set (G 4:417). This is the claim that you rationally ought to do something whether or not you are at the moment inclined to do it. It represents the action of applying that means as good (G 4:414) – in the sense of “good” that Kant explicates as: what is required by reason independently of inclination (G 4:413). Kant correctly infers that any being which sets itself ends is committed to regarding its end as good in this sense, and also to regarding the goodness of its end as what also makes application of the means good – that is, rationally required independently of any inclination to apply it. The act of setting an end, therefore, must be taken as committing you to represent some other act (the act of applying the means) as good. In doing all this, however, the rational being must also necessarily regard its own rational capacities as authoritative for what is good in general. For it treats these capacities as capable of determining which ends are good, and at the same time as grounding the goodness of the means taken toward those good ends. But to regard one’s capacities in this way is also to take a certain attitude toward oneself as the being that has and exercises those capacities. It is to esteem oneself – and also to esteem the correct exercise of one’s rational capacities in determining what is good both as an end and as a means to it. One’s other capacities, such as those needed to perform the action that is good as a means, are also regarded as good as means. But that capacity through which we can represent the very idea of something as good both as end and as means is not represented merely as the object of a contingent inclination, nor is it represented as good only as a means. It must be esteemed as unconditionally good, as an end in itself. To find this value in oneself is not at all the same as thinking of oneself as a good person. Even those who misuse their rational capacities are committed to esteeming themselves as possessing rational nature. It also does not imply that a more intelligent person (in that sense, more “rational”) is “better” than a less intelligent one. The self-esteem involved in setting an end applies to any being capable of setting an end at all, irrespective of the cleverness or even the morality of the end setting. Kant’s argument supports the conclusion, to which he adheres with admirable consistency throughout his writings, that all rational beings, clever or stupid, even good or evil, have equal (absolute) worth as ends in themselves. For Kantian ethics the rational nature in every person is an end in itself whether the person is morally good or bad.

#### Second, value theory – the existence of extrinsic goodness requires unconditional human worth.

Korsgaard (Christine M., “Two Distinctions in Goodness,” The Philosophical Review Vol. 92, No. 2 (Apr., 1983), pp. 169-195, JSTOR) OS \*bracketed for gen lang\* //rct st

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action, he or she [they] supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). In order for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a sufficient condition of their goodness. Kant considers what this might be: it cannot be an object of inclination, for those have only a conditional worth, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). It cannot be the inclinations themselves because a rational being would rather be free from them. Nor can it be external things, which serve only as means. So, Kant asserts, the unconditionally valuable thing must be "humanity" or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happiness of others-the ends that they choose-and, in general, to make the highest good our end.

#### Third, practical reason – ethical principles must be derived from the structure of reason:

#### [1] Regress – we can always ask why we should follow a theory, so they aren’t binding because they don’t have a starting point. Practical reason solves – When we ask why we should follow reason, we demand a reason, which concedes to the authority of reason itself, so it’s the only thing we can follow

#### [2] Action Theory – every action can be broken down to infinite amounts of movements, i.e. me moving my arm can be broken down to the infinite moments of every state my arm is in. Only reason can unify these movements because we use practical reason to achieve our goals, means all actions collapse to reason

#### Practical reason means we all have a unified perspective: What can be justified to me can be justified to everyone who is a practical reasoner. If I can conclude that 2+2 is 4, then I understand not only that I know 2+2 is 4, but that everyone around me can arrive at the same conclusion. These things are temporally consistent: I know that me adding two numbers now and taking that sum will not result in me adding the same two numbers in the future and getting a different sum. Our unified perspective does not change but rather stays consistent.

#### But, willing an action that violates the freedom of others is a contradiction: If I decide to kill someone, that action is not universalizable because that would justify other people killing me too. If I die, I cannot exercise my freedom to kill someone else. This is a contradiction: I both justify extending my freedom to kill others and limiting my own freedom.

#### Thus, the standard is respecting freedom.

#### Impact calc –

#### 1] Ethics are based on intent, but the state does not have intentions and cannot know the intentions of other agents. Instead, the state acts a procedural mechanism to punish those who violate rights claims. Those rights are derived from the structure of intent.

#### 2] The state does not have the authority to act to preempt future rights violations, because consequences of action are contingent and cannot be derived from the structure of the maxim on which one acts. Thus, the state does not have the jurisdiction to take them into account.

#### 3] There is an act-omission distinction –

#### [a] Infinite Regress – Ethics cannot hold agents accountable for an infinite number of untaken decisions, otherwise that would impair action because agents would simultaneously have an infinite number of obligations. [b] Illogical – we wouldn’t hold an agent who chooses a morally repugnant act equally culpable as an agent who chooses not to prevent a morally repugnant act, like saving a drowning baby from a pool. [c] Omissions aren’t intrinsic to the will because agents don’t proactively choose not to take certain actions, e.g. you don’t wake up and say, “Today is my day to not donate to charity!” – so we shouldn’t hold agents morally accountable for these omissions.

#### Negate –

**[1] Property rights – putting limits on the economic uses of intellectual property creates a contradiction – the concept of property is violated if you aren't allowed to control how you use it.**

Pozzo**,**6 (Riccardo Pozzo, Riccardo Pozzo is an Italian philosopher and historian of philosophy., 11-18-2006, accessed on 8-12-2021, Scielo, "IMMANUEL KANT ON INTELLECTUAL PROPERTY", [https://www.scielo.br/j/trans/a/rLfb3yPN3p4KPsYpxp8LQCp/?format=pdf&lang=en)\*brack](https://www.scielo.br/j/trans/a/rLfb3yPN3p4KPsYpxp8LQCp/?format=pdf&lang=en)*brack)eted for gen lang\*//st

The error consists in mistaking one of these rights for the other” (Kant, 1902, t.6, p.290). The corpus mysticum, the work considered as an immaterial good, remains property of the author on behalf of the original right of its creation. The corpus mechanicum consists of the exemplars of the book or of the work of art. It becomes the property of whoever has bought the material object in which the work has been reproduced or expressed. Seneca points out in De beneficiis (VII, 6) the difference between owning a thing and owning its use. He tells us that the bookseller Dorus had the habit of calling Cicero’s books his own, while there are people who claim books their own because they have written them and other people that do the same because they have bought them. Seneca concludes that the books can be correctly said to belong to both, for it is true they belong to both, but in a different way. The peculiarity of intellectual property consists thus first in being indeed a property, but property of an action; and second in being indeed inalienable, but also transferable in commission and license to a publisher. The bond the author has on [their] work confers [them] a moral right that is indeed a personal right. It is also a right to exploit economically [their] work in all possible ways, a right of economic use, which is a patrimonial right. Kant and Fichte argued that moral right and the right of economic use are strictly connected, and that the offense to one implies inevitably offense to the other. In eighteenth-century Germany, the free use came into discussion among the presuppositions of a democratic renewal of state and society. In his Supplement to the Consideration of Publishing and Its Rights, Reimarus asked writers “instead of writing for the aristocracy, to write for the tiers état of the reader’s world.” (Reimarus, 1791b, p.595). He saluted with enthusiasm the claim of disenfranchising from the monopoly of English publishers expressed in the American Act for the Encouragement of Learning of May 31, 1790. Kant, however, was firm in embracing intellectual property. Referring himself to Roman Law, he asked for its legislative formulation not only as patrimonial right, but also as a personal right. In Of the Illegitimity of Pirate Publishing, he considered the moral faculties related to intellectual property as an “inalienable right (ius personalissimum) always himself to speak through anyone else, the right, that is, that no one may deliver the same speech to the public other than in his (the author’s) name” (Kant, 1902, t.8, p.85). Fichte went farther in the Demonstration of the Illegitimity of Pirate Publishing. He saw intellectual property as a part of his metaphysical construction of intellectual activity, which was based on the principle that thoughts “are not transmitted hand to hand, they are not paid with shining cash, neither are they transmitted to us if we take home the book Trans/Form/Ação, São Paulo, 29(2): 11-18, 2006 13 that contains them and put it into our library.

#### It doesn’t matter if it’s intellectual property – the concept of intellectual property is the same as physical property – property as a concept is something that a person owns and can control unconditionally given that it doesn’t violate someone else’s freedoms, so IP qualifies.

#### [2] Act-omission distinction – not giving someone is an omission, otherwise we would have infinite obligations to tell everyone everything – pharma companies can’t be held accountable for doing functionally nothing.

# Case

#### A COVID IP waiver undermines R&D and innovation – takes out the wto advantage since if the plan fails then they’ll be perceived badly

1ac meyer –

“If the TRIPS waiver is successful, and people see the WTO as being part of the solution—saving lives and livelihoods—it could create goodwill and momentum to address what are still daunting structural problems.” Those problems are legion.

Mercurio 21 Bryan Mercurio [Chinese University of Hong Kong - Faculty of Law], 15 March 2021, “WTO Wavier from Intellectual Property Protection for COVID-19 Vaccines and Treatments: A Critical Review”, https://poseidon01.ssrn.com/delivery.php?ID= 732088024087092091113064080127110089026050064018017000018 0031221260080940690 05111120099022017 06202305700711703012701708109509505 1090012016041007114071124113127008068012087073001083113027126083074031005 001016117022001025118004082004113091069075097031&EXT=pdf&INDEX=TRUE accessed 7/20/2021 EH

While waiving certain IPRs might in theory bring about immediate benefits for developing countries as they could theoretically have increased access to COVID-19 technologies, in practice achieving such a result is far from certain as other major factors – such as infrastructure, supply chains and production capabilities and capacity – may prove to be a major stumbling block distributing medicines and vaccines. Moreover, legal determinants such as the effectiveness of existing mechanisms in the international rules and the role that stable IPRs play in facilitating investment and innovation in medical development should also not be discounted in the rush to alleviate the health, economic and social devastation and uncertainty brought about by COVID-19. Thus, having reviewed the arguments put forward in favour of granting the waiver, this section argues that the IP waiver is unnecessary, would not alleviate the burden of access to effective and affordable medicines and vaccines and has the potential to significantly hamper R&D and innovation in the pharmaceutical sector. 1. An IP waiver would undermine R&D and innovation The IP system is designed to encourage and reward creativity and innovation while benefiting society as a whole. The idea is that IPRs stimulate innovation by “enabling innovators to capture enough of the benefits of their own innovative activity to justify taking considerable risks.” 23 Therefore, while in the short term waiving IPRs may arguably accelerate the distribution of goods and services – i.e. access to COVID-19 vaccines – in the long term undermining IPRs would eliminate the incentives that spark innovation, thus hindering the discovery and development of knowledge for new products or technologies that the world needs.24 An example that illustrates the significance of IP protection is the technology of synthetic mRNA, a genetic technology behind the COVID-19 vaccines of both Pfizer and Moderna. Synthetic mRNA is a genetic technology that has long held huge promise but has so far run into biological roadblocks. The concept of tweaking specific strands in synthetic mRNA to deliver desired results was first introduced in the 1990s, but at that time while it made sense in theory it often failed in the real world as synthetic RNA was notoriously vulnerable to the body’s natural defences and the synthetic RNA was very often destroyed before reaching its target cells. In some situations, the foreign materials even elicited an immune response that poses health risks for some patients. The solution, substituting one of the nucleosides (building blocks of mRNA) for a slightly tweaked version to bypass the body’s defence, was not discovered until 2005 and did not reach commercialization stage for another 15 years. Without the prospect of IP protection, it is simply unimaginable that scientists would devote the human and monetary resources into such R&D as there would have been no incentive to spend the time and effort on a promising but extremely challenging technology. Likewise, venture capitalists would refuse to invest billions of dollars into any research effort knowing that any other company could simply take the successful result and produce a medicine without paying for the R&D costs; in such a scenario, it would be virtually impossible to recoup the initial investment. Thus, without the promise of IP protection the technology underpinning the most advanced and promising COVID-19 vaccines would likely never have been developed. This point is of such importance that it is worth stating the obvious: IPRs have played a large role in the response to COVID-19; a response which has led to an incredible feat of humanity – the identification of the genome of a new pathogen and development of several treatments and promising vaccines within the space of a year. Without the promixse of financial gain, the level of R&D into the novel coronavirus would have been greatly reduced and innovation hampered and delayed. In short, the IP system encouraged a robust response to the threat from innovator companies and worked as designed. It would be unwise (if not reckless) to place the innovation system which has delivered results in record time in jeopardy only in exchange for what is at best short-term benefits.

#### Double bind on WTO – the waiver has already been delayed for months, either they’ve lost all credibility or they have enough to not need the plan

#### Waiving IP kills incentive for vaccines for future pandemics – exacerbates impacts

**Iancu, April** 13, 2021, "No evidence that patents slow vaccine access," STAT, <https://www.statnews.com/2021/04/13/no-evidence-patents-slow-vaccine-access/> // DD AP

All governments now share the goal of quick and worldwide vaccination. To reach this goal, many are latching onto the idea of [suspending intellectual property rights](https://www.statnews.com/pharmalot/2021/03/29/coronavirus-covid19-vaccine-jnj-patents-opioids/) for Covid-19 vaccines and medicines, including [more than 400](https://www.politico.com/news/2021/03/21/coronavirus-vaccine-wto-477272) health, labor, religious, and other groups. Late last year, the governments of India and South Africa [petitioned the World Trade Organization](https://www.wto.org/english/news_e/news20_e/trip_10dec20_e.htm) to waive patent protections for Covid-19 therapies. To take effect, that proposal would have to be approved by member countries and, so far, the United States, the United Kingdom, the European Union, Japan, and others have withheld their approval. But international organizations, like [Doctors Without Borders](https://www.msf.org/msf-urges-wealthy-countries-not-block-covid-19-patent-waiver), as well as a number of [U.S. lawmakers](https://www.commondreams.org/news/2021/03/11/we-need-peoples-vaccine-not-profit-vaccine-sanders-urges-biden-support-push-suspend), support the call to strip away patent rights for Covid-19 vaccines and therapies**. President Biden is**[**reportedly weighing**](https://www.cnbc.com/2021/03/26/covid-vaccine-updates-white-house-mulls-lifting-intellectual-property-shield.html)**whether to back the waiver. Proponents of the idea say it would boost vaccine supply and access. The problem is,** there is no evidence for this claim. In fact, the push by [India](https://www.reuters.com/article/health-coronavirus-india-vaccine/not-without-india-worlds-pharmacy-gears-up-for-vaccine-race-idUSKBN28K10E) and [South Africa](https://theconversation.com/vaccine-production-in-south-africa-how-an-industry-in-its-infancy-can-be-developed-153204) appears to be disingenuous, aimed not at curbing the pandemic but at allowing domestic companies to make money off of others’ intellectual property. **Gutting patent rights** is a dangerous prospect. Drug invention **is highly risky**: [Fewer than 12%](https://www.policymed.com/2014/12/a-tough-road-cost-to-develop-one-new-drug-is-26-billion-approval-rate-for-drugs-entering-clinical-de.html) of new molecular entities that make it to the clinical trial stage get to the marketplace. The endeavor depends on [$100 billion](https://www.researchamerica.org/sites/default/files/Publications/InvestmentReport2019_Fnl.pdf) in annual private-sector investment, on top of billions in taxpayer money. Kill the patents taken out on these advances **and** you **kill the incentive to invest. That** would **mean even worse trouble when the next pandemic comes around, in five, 10, or 20 years. So before governments take the risk of waiving patents, they should evaluate whether intellectual property rights are really standing in the way of vaccine manufacturing and distribution.** **The issues about making more vaccines and distributing them to every country are far more complex than those proposing to waive intellectual property rights on these vaccines would have us believe.** **Manufacturing and distributing these vaccines is extremely complicated, posing issues well beyond patents.** Almost every factory on the planet that can make these vaccines is already doing so. One of the biggest, the Serum Institute in India, has contracts with AstraZeneca and others to make millions of doses. Under deals like these, manufacturing plants in India will produce [3 .6 billion doses](https://timesofindia.indiatimes.com/india/at-3-6-billion-india-pegged-to-produce-most-covid-19-vaccine-doses-after-us-in-2021/articleshow/80254075.cms) of vaccine this year, second only to the United States.

#### There is a fundamental issue in the drug practices and markets in poor countries – patented drugs are not the problem

**Silverman et al 19** [Rachel Silverman is a policy fellow at the Center for Global Development, where she leads policy-oriented research on global health financing and incentive structures. Janeen Madan Keller is a senior policy analyst and assistant director of global health at the Center for Global Development. Amanda Glassman is executive vice president and senior fellow at the Center for Global Development and also serves as chief executive officer of CGD Europe. Kalipso Chalkidou is the Director of Global Health Policy and a Senior Fellow at the Center for Global Development, Center for Global Development, “New Study Finds Some Poor Countries Paying 20 to 30 Times More for Basic Medicines Than Others”, June 17. 2019, <https://www.cgdev.org/article/new-study-finds-some-poor-countries-paying-20-30-times-more-basic-medicines-others>] DD MN

WASHINGTON – **Basic,** **everyday drugs can cost up to 20 to 30 times more in some poor countries** than others, **according to a new study released today by the Center for Global Development. The study examined billions of dollars of health spending on common, life-saving medicines in developing countries, mostly in Africa and Asia.** To date, it is one of the largest-ever studies on global health procurement. “Developing countries are often paying far more for everyday drugs than they should be. Why do some poor countries pay 20 to 30 times as much as others for common medicines to relieve pain or treat hypertension? In large part, **because of flawed drug buying practices and broken generic medicines markets**,” said Amanda Glassman, one of the authors of the study and the executive vice president at the Center for Global Development. “A robust market for generic drugs is a core part of an affordable health system. But in way too many countries, generic drug markets are broken and patients are paying the price,” said Kalipso Chalkidou, the director of global health policy at the Center for Global Development and an author of the study. “You need enough competition to keep prices low and quality assurance that consumers trust, or essential medicines are going to be much more expensive than they should be.” The study had three main findings: **In developing countries, prices for basic generic medicines can** vary widely and **far exceed wealthy-country prices**. Some purchasers in low- and middle-income countries pay as much as 20 to 30 times more for basic generic medicines like omeprazole, used to treat heartburn, or acetaminophen (also known as paracetamol), a common pain reliever. **Low- and middle-income countries purchase more expensive branded generic drugs rather than unbranded quality-assured generics**. In the US, most drugs are either on-patent medicines or unbranded generics, but in many developing countries more expensive brand-name generics are widely used, because people are concerned about unsafe or counterfeit drugs. **In the poorest countries, unbranded generics are only 5 percent of the pharma**ceutical **market** by volume—**in comparison to the US where unbranded** quality-assured **generics are 85 percent of the market** by volume. **There is little competition in the supply of** essential medicines in low- and middle-income countries. The largest seller of products like contraceptives, cancer medicines, and antiparasitics can account for upwards of 85 percent of all sales in some countries. “We’re talking about access to **common medications for pain or high blood pressure, not the latest cutting-edge cancer drugs**,” Glassman said. “It’s not as exciting to talk about procurement as new health technologies or biotech breakthroughs,” she continued. “But drug purchasing is incredibly important, and if it’s done badly you end up with the poorest countries in the world paying some of the highest drug prices.”