**I AFFIRM.**

**Merriam Webster defines ought as:**

(Merriam Webster Dictionary, “Ought”, <https://www.merriam-webster.com/dictionary/ought>)

“Used to express obligation.”

**Since “ought” implies obligation, morality is the intrinsic value.**

**First-Issues of structural violence must be prioritized because structural violence excludes certain individuals from the moral sphere. Winter and Leighton ‘99:**

(Deborah DuNann Winter and Dana C Leighton, Professor at Whitman College “Structural Violence Section Introduction”, 1999, <http://sites.saumag.edu/danaleighton/wp-content/uploads/sites/11/2015/09/SVintro-2.pdf>)

Finally, to recognize the operation of structural violence forces us to ask questions about how and why we tolerate it, questions which often have painful  answers for the privileged elite who unconsciously support it. A final question of this section is how and why we allow ourselves to be so oblivious to structural violence. Susan Opotow offers an intriguing set of answers, in her article Social Injustice. She argues that our normal perceptual/cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice that would be instantaneously confronted if it occurred to someone we love or know is barely noticed if it occurs to strangers or those who are invisible or irrelevant. We do not seem to be able to open our minds and our hearts to everyone, so We draw conceptual lines between those who are in and out of our moral circle. Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer. Moral exclusion is a human failing, but Opotow argues convincingly that it is an outcome of everyday social cognition. To reduce its nefarious effects, we must be vigilant in noticing and listening to oppressed, invisible, outsiders. Inclusionary thinking can be fostered by relationships, communication, and appreciation of diversity. Like Opotow, all the authors in this section point out that Structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects. Learning about structural violence may be discouraging, overwhelming, or maddening, but these papers encourage us to step beyond guilt and anger, and begin to think about how to reduce structural violence.

**Second- Debate must allow spaces for students to criticize systemic exclusion. Giroux ‘12:**

(Henry A. Giroux, “Dangerous Pedagogy in the Age of Casino Capitalism and Religious Fundamentalism”, 2012, <https://truthout.org/articles/dangerous-pedagogy-in-the-age-of-casino-capitalism-and-religious-fundamentalism/>)

An oppositional cultural politics can take many forms, but given the current assault by neoliberalism on all aspects of democratic public life, It seems imperative that educators revitalize the struggles to create conditions in which learning would be linked to social change in a wide variety of social sites, and pedagogy would take on the task of regenerating both a renewed sense of social and political agency and a critical subversion of dominant power itself. Making the political more pedagogical rests on the assumption that education takes place a variety of sites outside of the school. Under such circumstances, agency becomes the site through which power is not transcended but reworked, replayed and restaged in productive ways. Central to my argument is the assumption that politics is not only about power, but also, as Cornelius Castoriadis points out, "has to do with political judgements and value choices,"[[4]](http://www.truth-out.org/news/item/6954:dangerous-pedagogy-in-the-age-of-casino-capitalism-and-religious-fundamentalism#4)indicating that questions of civic education and critical pedagogy (learning how to become a skilled citizen) are central to the struggle over political agency and democracy. In this instance, critical pedagogy emphasizes critical reflexivity, bridging the gap between learning and everyday life, understanding the connection between power and knowledge, and extending democratic rights and identities by using the resources of history. However, among many educators and social theorists, there is a widespread refusal to recognize that this form of education is not only the foundation for expanding and enabling political agency, but also that it takes place across a wide variety of public spheres mediated through the very force of culture itself. One of the central tasks of any viable critical pedagogy would be to make visible alternative models of radical democratic relations in a wide variety of sites. These spaces can make the pedagogical more political by raising fundamental questions such as: what is the relationship between social justice and the distribution of public resources and goods? What are the conditions, knowledge and skills that are a prerequisite for civic literacy, political agency and social change? What kinds of identities, desires and social relations are being produced and legitimated in diverse sites of teaching and learning? How might the latter prepare or undermine the ability of students to be self-reflective, exercise judgment, engage in critical dialogues, and assume some responsibility for addressing the challenges to democracy at a national and global level? At the very least, such a project involves understanding and critically engaging dominant public transcripts and values within a broader set of historical and institutional contexts. Making the political more pedagogical in this instance suggests Producing modes of knowledge and social practices in a variety of sites that not only affirm oppositional thinking, dissent and cultural work, but also offer opportunities to mobilize instances of collective outrage and collective action. Such mobilization opposes glaring material inequities and the growing cynical belief that today's culture of investment and finance makes it impossible to address many of the major social problems facing both the United States and the larger world. Most importantly, such work points to the link between civic education, critical pedagogy and modes of oppositional political agency that are pivotal to creating a politics that promotes democratic values, relations,  autonomy and social change. Hints of such a politics is already evident in the various approaches the Occupy movement has taken in reclaiming the discourse of democracy and in collectively challenging the values and practices of finance capital. Borrowing a line from Rachel Donadio, the Occupy movement protesters are raising questions about "what happens to democracy when banks become more powerful than political institutions?"[[5]](http://www.truth-out.org/news/item/6954:dangerous-pedagogy-in-the-age-of-casino-capitalism-and-religious-fundamentalism#5)What kind of education does it take, both in and out of schools, to recognize the dissolution of democracy and the emergence of an authoritarian state? In taking up these questions and the challenges they pose, critical pedagogy proposes that Education is a form of political intervention in the world and is capable of creating the possibilities for social transformation. Rather than viewing teaching as technical practice, pedagogy, in the broadest critical sense, is premised on the assumption that learning is not about processing received knowledge, but actually transforming knowledge as part of a more expansive struggle for individual rights and social justice. This implies that Any viable notion of pedagogy and resistance should illustrate how knowledge, values, desire and social relations are always implicated in relations of power, and how such an understanding can be used pedagogically and politically by students to further expand and deepen the imperatives of economic and political democracy. The fundamental challenge facing educators within the current age of neoliberalism, militarism and religious fundamentalism is to provide the conditions for students to address how knowledge is related to the power of both self-definition and social agency. In part, This means providing students with the skills, knowledge and authority they need to inquire and act upon what it means to live in a substantive democracy, to recognize anti-democratic forms of power, and to fight deeply rooted injustices in a society and world founded on systemic economic, racial and gendered inequalities.

**AND-Issues of structural violence must come first in debate. The only way to challenge privilege in the status quo is to bring the oppressed into our conversations. Wise ‘08:**

(Tim Wise: Race Relations Specialist, Activst, Orator, White Like Me, 2008, 96 – 97)

The purpose of competitive debate is essentially to speak faster than your opponents so they will "drop" one of your arguments, which you will then insist to the judge is the most important issue in the round, warranting an immediate ballot in your favor. Just as critical, debaters are to make sure that whatever the topic, their arguments for or against a particular policy must be linked to nuclear war or ecological catastrophe, no matter how absurd the linkage. So, for example, you might claim that your opponent's plan to extend the retirement age will contribute to global warming by keeping people in the workforce longer, thereby increasing consumption levels, thereby increasing energy expenditure, thereby speeding up climate change and the ultimate end of the world. Though one can theoretically learn quite a bit from debate, especially during the research phase of the operation, the fact remains [end page 70] that superficiality, speed and mass extinction scenarios typically take the place of nuanced policy analysis, such that one has to wonder how much the debaters really come to know about the issues they debate at the end of the day. Learning is always secondary to winning, and for the sake of winning, debaters will say virtually anything. My own debate experience serves as vulgar confirmation of this maxim. On the one hand, I ran cases (which in debate terms means the primary position taken by the affirmative team upholding the year's formal resolution) calling for cutting off weapons sales to Venezuela, and also for the restoration of voting rights to ex-felons: positions with which I agreed. On the other hand, I also ran cases calling for a program that would employ all poor folks who were out of work to build a missile defense system (possibly the most ridiculous idea ever advocated in a debate round), and for reinforcing the nation's water reservoirs against poisoning by terrorists. Although the idea of protecting soft targets from terrorism might make sense, the evidence we used to make our case was almost exclusively from the most disgusting of anti-Muslim, right-wing sources (and this was in 1985 and 1986 mind you, long before 9/11) . I am still taking extra baths to wash off the ideological stench of having read evidence in debate rounds from people like Michael Ledeen or Daniel Pipes (the latter of whom would, several years Iater, post highly critical comments about me on his website, so I guess the feeling is mutual). When were on the negative side, I would argue, among other things, that poverty should be allowed to continue because it would eventually trigger a glorious socialist revolution (which isn't even good Marxist theory let alone a morally acceptable position), or that civil liberties should be eradicated so the United States could transition to a society in which resource use was limited by force, family size was strictly controlled, and thus planetary destruction averted. These kinds of arguments, it should be noted, were hardly mine alone: they were absolutely typical on the national debate circuit, and they still are. The reason I call this process a white one is because whites (and especially affluent ones), much more so than folks of color, have the luxury of looking at life or death issues of war, peace, famine, unemployment, or criminal justice as a game, as a mere exercise in intellectual and [end page 71] rhetorical banter. For me to get up and debate, for example, whether or not full employment is a good idea presupposes that my folks are not likely out of work as I go about the task. To debate whether racial profiling is legitimate likewise presupposes that I, the debater, am not likely to be someone who was confronted by the practice as my team drove to the tournament that day, or as we passed through security at the airport. In this way, competitive debate reinforces whiteness and affluence as normative conditions, and makes the process more attractive to affluent white students. Kids of color and working-class youth of all colors are simply not as likely to gravitate to an activity where pretty much half the time they'll be forced to take positions that, if implemented in the real world, might devastate their communities. Because debaters are encouraged to think about life or death matters as if they had little consequence beyond a given debate round, the fact that those who have come through the activity go on to hold a disproportionate share of powerful political and legal positions—something about which the National Forensics League has long bragged—is a matter that should concern us all. Being primed to think of serious issues as abstractions increases the risk that the person who has been so primed will reduce everything to a brutal cost-benefit analysis, which rarely prioritizes the needs and interests of society's less powerful. Rather, it becomes easier at that point to support policies that benefit the haves at the expense of the have-nots, because others whom the ex-debaters never met and never had to take seriously will be the ones to feel the damage. Unless debate is fundamentally transformed—and at this point the only forces for real change are the squads from Urban Debate Leagues and a few college squads of color who are clamoring for different styles of argumentation and different evidentiary standards—it will continue to serve as a staging ground for those whose interests are mostly the interests of the powerful. Until the voices of economically and racially marginalized persons are given equal weight in debate rounds with those of affluent white experts (whose expertise is only presumed because other whites published what they had to say in the first place), the ideas that shape our world will continue to be those of the elite, no matter how destructive these ideas have proven to be for the vast majority of the planet's inhabitants. end page 72] Privilege makes its recipients oblivious to certain things, and debate, as an activity, is one of its many transmission belts

**A couple of implications:**

1. **The Winter, Giroux, and Wise arguments function as impact framing arguments. They explain which impacts come first on a substantive and pre-fiat level. If I win either of these arguments, you should prefer my framework.**
2. **This means NEG theory and topicality arguments must be weighed against the unique education argument from Giroux because I explain that debate must allow students to criticize systemic inequalities. If they don’t weigh, then prefer Giroux over theory.**

**Thus, the criterion is combating structural inequalities.**

**Additionally-Large scale impacts are impossible to predict or simulate and will almost always be wrong – prefer impacts we know are happening.** **Matheson ‘15:**

(Calum Matheson – This is his PhD dissertation at the University of North Carolina at Chapel Hill, “Desired Ground Zeros: Nuclear Imagination and the Death Drive”, https://cdr.lib.unc.edu/indexablecontent/uuid:4bbcb13b-0b5f-43a1-884c-fcd6e6411fd6, pgs. 77 – 86)

Herman Kahn and Bernard Brodie, perhaps The most prominent American strategists of the early Cold War, tried to make nuclear war “thinkable” in the sense that they tried to explain how such a war might start and what options would exist for national leaders. At the same time, both acknowledged that the outcome of a full-scale nuclear war was indescribable. In Brodie’s words, to “make an intellectual prediction of the likelihood of war is one thing, to project oneself imaginatively and seriously into an expected war situation is quite another” (Ghamari-Tabrizi 149).  The unwillingness or inability to think “seriously” about a nuclear war—in other words, to understand it instrumentally rather than through dislocating language of the sublime—was met by organizations like the RAND Corporation with an attempt to systematize nuclear strategy and develop the intellectual and technical means to actually fight and control a nuclear war. Before RAND exercised its power through the “Whiz Kids” of the Kennedy Administration, the Strategic Air Command’s “Sunday punch” nuclear plan, enshrined in SIOP-62, was an all-out nuclear attack on the USSR, Eastern Europe, and the People’s Republic of China. It might have killed 285 million people in the initial attack (Kaplan 269). Despite its intricate planning and detailed execution strategies, SIOP was immensely inflexible. Asked whether the U.S. had any options to attack without striking China, which might not even be a combatant in the war, General Thomas Power replied “Well yeh [sic], we could do that, but I hope nobody thinks of it because it would really screw up the plan” (Kaplan 270, emphasis in original). Starting in the 1960s, a set of War games of various complexity was developed to test a broader range of nuclear theories and attack options at RAND and elsewhere (Arbella 35). Games like them continue to be used for strategic military planning today (Raatz). Most of these games—or at least their results—are classified, as they became the basis for US nuclear plans. In politicomilitary games, a number of military officers, civilians, and generally mid- to lowranking government officials would play various roles as US and/or foreign. decisionmakers. Another group, “control,” would feed them information about the actions of countries or groups not played by the participants or about world events that might influence the context of their actions. In more limited military simulations, extant or proposed war plans would be evaluated by computer or human players to identify possible flaws and improvements. The games themselves never had a guarantee of accuracy and were often quite obviously flawed. In one Navy game, American aircraft carriers were declared to be unsinkable. In others, the Soviet Union was assumed to have no effective airpower. Because factors like air pressure, prevailing winds, defense effectiveness, early warning, and missile failure rate were largely random or incalculable, a “fudge factor” simply declared estimated success. Even their designers sometimes admitted that the games were inaccurate, unprovable, or simply wishful thinking (Ghamari-Tabrizi 8; Allen 78). Especially in the case of nuclear war, these games cannot possibly be understood as accurate simulations of a real-world system, because There is no empirical data on the compound effects of many near-simultaneous nuclear explosions and no data on what factors cause states to cross the nuclear threshold against other similarly-armed states, a fact that bedevils nuclear planning in general and always has (Kaplan 87). By the admission of many of those who create and play them, they are “social science fiction” with no tangible effect other than that they are entertaining (Ghamari-Tabrizi 160-1). Some contemporary Social science work supports this claim especially in the context of extinction-level events. Human beings simply aren’t wired to think at such a scale, and they perform very poorly assessing probability and calculating magnitude (Yudkowsky). Others have suggested that warfare is a stochastic system that we could never identify laws for, no matter how diligent we might be, because its initial conditions are simply too complex a model and they do not conform to linear causality (Beyerchen; Buchanan 62). Indeed, military planners tended to be far less willing to predict the conduct and outcome of a conventional war—despite an enormous data set spanning thousands of years—than a nuclear war fought between two superpowers, an event that has never occurred in recorded history. Fred Iklé, former RAND strategists who was at times head of the Arms Control and Disarmament Agency and Undersecretary of Defense for Policy, criticized these semi-mathematical abstractions in harsh terms that deserve to be quoted at length: The prominence of the calculations continues because we know how to make them…we have tailored the problem to our capability to calculate. The seemingly rigorous models of nuclear deterrence are built on the rule: "What cannot be calculated, leave out’”…Such thoughts, especially those focusing on deterrence, lack real empirical referents or bases. No other field of human endeavor demands—absolutely compels—one to work out successful solutions without obtaining directly relevant experience, without experimenting. There can be no trial and error here, no real learning. Curiously, we are far more skeptical in accepting the calculations of traditional conventional military campaigns than the calculations of nuclear warfare. In fact, the more battle experience and information military analysts have, the more modest they become in predicting the course of conventional war. Such modesty is missing for nuclear war, where pretentious analyses and simplistic abstractions dominate and blot out the discrepancies existing between abstractions and possible reality—a reality that for so many reasons is hard even to imagine. (Iklé 246). Iklé is drawing attention to two unique aspects of nuclear war planning: first, that no empirical date (or at least very little) can be gathered for the species of war that planners concerned themselves with, and second, that unlike other military problems where little data exists, Defense intellectuals were willing to display great confidence in untested (and untestable) theories. Despite this lack of empirical grounding, nuclear war [for] simulations have been repeated again and again over the decades while nuclear doctrine has remained fundamentally the same (McKinzie et al. ix-xi). There has been some dispute in military circles about whether these exercises should be called simulations or games, with “simulations” becoming more popular by the 1980s (Allen 7). To call politico-military exercises “roleplaying games” conjures images of adolescent boys rolling dice and weaving fantasies about orcs and dragons. To call battle simulations “war games” might associate them with videogames produced for entertainment. Still, even military officers responsible for the creation of these artifacts had trouble distinguishing between game, model, and simulation and used them interchangeably. In his comprehensive history of U.S. wargaming, Thomas Allen writes that the three words “hover over imaginary battlefields like a mysterious, ever-shifting concept of the Trinity” (64, emphasis added). Berger, Boulay and Zisk, writing in the journal Simulation & Gaming acknowledge that “[d]efinitions of simulation are legion,” but center on representations of a system that allow users to model behavior (Berger et al. 416). Brewer and Shubik define games as a subset of simulation and simulation as a subset of modelling, the key defining feature of a game being the inclusion of human beings playing roles. Still, their extended attempt to define these terms results in the acronym MSG, grouping them all together (3-8). The difficulty in Brewer and Shubik’s definition is that all models and simulations require that human beings make decisions at least indirectly, at a minimum defining the independent variables and the parameters of the exercise. As a result, they all create some possibility for investment in the outcome. In common usage, the difference between simulations and models, on the one hand, and games, on the other appears to be a ludic dimension. Games are for play, with an agent making decisions within a set of prescribed rules to change the outcome, while simulations and models may simply represent the rules of a system. The least common denominator is that one rules-bound system—the game— stands in for another. Games, simulations, and models therefore have a metaphorical quality to them.10 In his work on videogames, Ian Bogost has identifies what he calls procedural rhetoric as “the practice of persuading through processes in general and computational processes in particular…a technique for making arguments with computational systems and for unpacking computational arguments others have created” (3). Whereas oral rhetoric attempts to persuade an audience to adopt a particular viewpoint through speech and written rhetoric does the same through writing, procedural rhetoric has its own unique goals and characteristics suited to the medium of games. Videogames create a digital process that simulates a real-world process, allowing the player to model something extant in the world of flesh, blood, steel and glass that exists outside of the game. Procedural rhetoric is the persuasive aspect of simulation. Bogost’s argument might be adapted to this understanding of metaphor. The replacement of the tenor (the thing represented) with the vehicle (the signifier standing in for it) makes an enthymematic argument that draws the audience to do the work of cathexis in connecting the two based on the shared principle that allows the substitution. This does not suggest that we read games as texts. Games require their players to invest in a specific way because they are called on to make choices that alter the outcome. Players identify with their characters in a powerful way: what is shared is not just a set of traits, but decisions over time that, to maintain the interest that keeps players playing, require at least some minimal attachment. One can identify deeply with Sauron, but no reading of Lord of the Rings can make him finally subjugate his haughty human and elven foes, let alone order the Scourging of the Shire and its disgustingly bourgeois hobbits when he still has a chance to succeed.11 This is the procedural element of Bogost’s theory: it is the procedure that links the system with its representation in the game, and the sense of control that binds us, something that differentiates this medium from others. One doesn’t have to decide that play matters and narrative doesn’t—it is the interaction between the two that channels the player’s investment in a game. In war games, attachments are formed even when a computerized Sam fights a computerized Ivan to test the SIOP and RSIOP.12 Allen’s book is full of examples of war game players becoming emotionally tied to their games, sometimes in perverse ways. Failing in a game that he was allowed to play, Allen himself described his team reacting with shock, real shock, not just a reaction to a bad break in a game. We were really feeling upset about what was happening in our imaginary world. ‘What is happening to our institutions?’ someone indignantly asked, as if real institutions were really going through what the situation paper had described. I had an unreasonable feeling of helplessness and failure. Some of us spoke softly to each other about having failed. (18). The prevalence of this reaction is confirmed in more recent scholarship by Paul Bracken, himself a war game participant. Bracken puts the case simply: “People get emotionally involved in games” (20).

**Contention One: IP protections entrench structural inequality.**

**A) IP protections prevent access to life saving medicines in developing countries. Studies confirm. Oxfam America ‘19:**

(Oxfam America, “Intellectual Property and Access To Medicine”, 2019, <https://www.oxfamamerica.org/explore/issues/economic-well-being/intellectual-property-and-access-to-medicine/>)

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

**B) Millions of people continue to die from AIDs-related illnesses because of the inequitable access to life saving medicines. IP protections are the driving force behind these structural inequalities.  Rajibul ‘19:**

(Sheikh Rajibul, Frontline Aids, “How Patents Affect Access to HIV Treatment”, 10/2/19, <https://frontlineaids.org/how-patents-affect-access-to-hiv-treatment/>)

Last week global health agencies set out their commitment to accelerate countries’ progress on health-related Sustainable Development Goals (SDGs) in [the Global Action Plan for Healthy Lives and Well-being for All.](https://www.who.int/publications-detail/stronger-collaboration-better-health-global-action-plan-for-healthy-lives-and-well-being-for-all) The Plan rightly acknowledges that one of The key drivers of health inequities is limited access to medicines. It’s also encouraging that the Plan promotes development of ‘global good access practices’ to address this problem. However, the Plan fails to address an important issue, which, unless addressed, will seriously undermine the achievement of health commitments, in particular in middle-income countries. The issue is patents. A joint blog by Othoman Mellouk, International Treatment Preparedness Coalition (ITPC), and Matteo Cassolato, Frontline AIDS. Since the world acknowledged the global AIDS epidemic in the 1980s much has changed. With better treatment and prevention options, AIDS is no longer seen as a death sentence. Better treatment for co-infections, particularly multi-drug resistant tuberculosis (MDR-TB) and for viral hepatitis have also emerged in the past decade. However, despite the huge progress made, [1.7 million people acquired HIV last year and 770,000 [people] died of AIDS-related illnes](https://www.unaids.org/sites/default/files/media_asset/UNAIDS_FactSheet_en.pdf)s [last year]. For those people – the parents, children, siblings, and friends who unnecessarily lost their lives – the declarations of success are hollow. UNAIDS, which NGOs have been criticising for years for its unduly optimistic reporting, has now acknowledged in its 2019 Epidemic Update that “the annual number of HIV infections has increased in three regions: Eastern Europe and Central Asia (29% increase), Middle East and North Africa (10% increase) and Latin America (7% increase)”. HIV advances that had been made, are now reversing. The over-positive reporting resulted in a serious side-effect. Donors, with competing priorities, bought into the success narrative, and overall global funding for AIDS was reduced. [Investment in the HIV responses of low- and middle-income countries decreased by $900 million in just one year](https://unaids.org/sites/default/files/media_asset/2019-global-AIDS-update_en.pdf). We must act now to ensure the response is fully funded and barriers to accessing medicines, including to second and third line HIV treatment and co-infection treatments, are effectively tackled. Frontline AIDS and the [International Treatment Preparedness Coalition (ITPC)](https://itpcglobal.org/) have released [a joint report looking at one of these crucial barriers – the problem with patents in middle-income countries (MICS)](https://frontlineaids.org/resources/the-problem-with-patents/). In 2019, people aren’t dying because the drugs for treating HIV, MDR-TB, hepatitis C and many other diseases don’t exist. People are dying because they can’t access them. With an increasing focus on voluntary mechanisms to provide access to medicines, the problem with patents in MICs is being seriously over-looked; as are the legitimate tools that governments can use to increase access and availability and decrease prices. The use of legal mechanisms like [TRIPS flexibilities](https://makemedicinesaffordable.org/en/strategy/law-and-policy-reform/) by governments has proven highly effective; in the use of these legal tools, governments, global health agencies and civil society all have an essential role to play. It will not be possible to achieve a sustainable response to HIV without tackling intellectual property (IP) barriers, particularly in MICs. One of the most critical barriers that has existed since treatment for HIV was first approved relates to patents. Patenting of medicines has increased considerably since 2005. More worrying is the trend of ‘evergreening’ patents. Evergreening is a tactic used by pharmaceutical companies to extend their exclusivity over a medicine by applying for, and usually getting, multiple, overlapping patents on a single medicine. Most medicines are covered by several patents, known as patent ‘thickets’ and are used to delay or complicate generic production. Over-pricing as a result of unmerited and extended monopolies puts a huge strain on health budgets. While in theory a government may commit to universal access, in reality the budget may not stretch. Prices for HIV treatment can vary from under $100 to tens of thousands of dollars per person per year (pppy) – for the same drug. Take dolutegravir (DTG) for example. In July 2019, the World Health Organization (WHO) recommended all countries immediately adopt DTG-based regimens as the preferred first-line treatment for HIV. Prices pppy range from $75 for countries that are in a ‘voluntary license’, up to $9656 for those that are not. Typically, MICs are worst affected by the patent problem. [Nearly 38 million people live with HIV and a majority of them live in MICs](https://apps.who.int/iris/bitstream/handle/10665/246178/WHO-HIV-2016.05-eng.pdf%253Bjsessionid=AA9223172C786025B9C3CE6274434C7A?sequence=1). The countries’ income classification means they are frequently left out of pricing deals or voluntary agreements and have funding reduced by health and development agencies, and so face the dual burden of high prevalence and high costs. Evergreening is just one of the tactics employed by pharmaceutical companies to maintain monopolies and pave the way for this arbitrary pricing. [Our report details other tactics as well as how they can be legitimately challenged](https://frontlineaids.org/resources/the-problem-with-patents/). Within the Sustainable Development Goals themselves our recommendations are backed. SDG3b reaffirms the right of developing countries to use to the full the provisions in the [Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)](https://www.wto.org/english/docs_e/legal_e/ursum_e.htm#nAgreement) regarding flexibilities to protect public health, and, in particular, provide access to medicines for all. Unless TRIPS flexibilities are more routinely put into practice we risk undermining the commitments made to the HIV response. Civil society has an instrumental role in challenging patent abuse by pharmaceutical companies. While the new report reflects our focus on HIV and common co-infections, civil society will continue to work in solidarity across countries and across diseases. Practical examples, from our own experiences, have resulted in [significant price reductions](https://makemedicinesaffordable.org/en/looking-back-to-build-on-our-success-making-more-medicines-affordable-in-2019/). These include: forming buyers clubs; working on patent law reform; filing oppositions on low quality patents (both pre- and post-grant); and advocating for the use of compulsory licenses, which is a government order allowing generic competition even during the pendency of a patent to introduce more affordable drugs to the market. Governments in middle-income countries must lead efforts to make full use of TRIPS flexibilities to ensure sustainable access to affordable medicines. This will require them to work with and support civil society. Utilising TRIPS flexibilities means working together against political and legal pressure, and rejecting any [TRIPS-plus](https://makemedicinesaffordable.org/en/strategy/challenging-trips-plus/) measures that may impact access to medicines. Global health and development agencies must provide technical and political support to MICs and encourage the use of TRIPS flexibilities as part of their efforts to expand access to affordable medicines. This must include specifically funding activities supporting and promoting the use of TRIPS flexibilities at national level including civil society’s work in this area. Given the importance of tackling the HIV epidemic in middle-income countries, global agencies should consider determining funding and health interventions on a public health-oriented basis instead of relying on income-based classifications.

**C) IP protections perpetuate structural harms by cementing inequities in the global health system. Covid19 vaccines empirically verify this. Engebresten ‘21:**

(Eivind Engebresten and Ole Petter Ottersen, International Journal of Health Policy and Management, “Vaccine Inequities, Intellectual Property Rights and Pathologies of Power in the Global Response to Covid-19”, 2021, https://www.ijhpm.com/article\_4055\_a50e07b7097a04e292a1d706e989ccaf.pdf)

The accelerated development of multiple coronavirus disease 2019 (COVID-19) vaccines is unprecedented and the result of a unique collaborative effort between industry, public health agencies and university laboratories. However, the introduction of new vaccines has also raised concerns about how the vaccines will be made available in sufficient quantities and [must be] distributed fairly across the globe.1 In October 2020, Eswatini, India, Kenya, and South Africa proposed a waiver from certain provisions of the World Trade Organization’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) that would allow poor countries to produce their own vaccine.2 However, the waiver has been met with suspicion especially from high income countries, and the European Union (EU), the United Kingdom, the United States and several other nations have opposed the proposal. Using the EU statement3 as a case in point, we will demonstrate how a critical analysis of the arguments used to oppose the waiver reveals what Paul Farmer4 has referred to as the pathologies of power in global health: Global health policies sometimes undermine their own premises by implicitly increasing global inequities rather than reducing them. As Farmer argues, Global health policies can lead to “structural violence” by propagating social arrangements that “put individuals and populations in harm’s way” by preventing them from meeting their basic needs.5 Farmer has primarily analyzed structural violence in terms of social and economic arrangements. However, as we will argue below, this violence also has a discursive aspect in the sense that economic and social arrangements are propagated and euphemized through language and arguments.6 In their response to the waiver, the EU shares the overall ambition of “equitable access to vaccines across the globe,” and they emphasize that this ambition also includes “developing countries” (EUs terminology) that have “no production capacities.”3 The “lack of manufacturing capacity” in “developing countries” is thus considered as a given and static fact: the EU implies, as we read it, that equitable access to vaccines across the globe is required because poor countries are assumed to be incapable of producing vaccines themselves. The possibility that increased production capacity in these countries might be a way forward for obtaining more “equitable access” is thus excluded from the outset. Accordingly, the EU claims that “there is no indication that IPR (Intellectual Property Rights) issues have been a genuine barrier in relation to COVID-19-related medicines and technologies.”3 Rather they emphasize that the real barrier is to be found in the “lack of manufacturing capacity” in poor countries. Through this statement they seem to imply that the real barrier is rooted within these countries rather than in international reward systems. Measures to tackle “current and future supply-side shortages” must, in their view, be found outside the IPR system and include “broad and equitable global distribution,” as well as removal of “unnecessary barriers to trade, abolishing tariffs on pharmaceutical and medical goods.”3 Although the EU assures that they are committed to work with all members to achieve equitable access to vaccines, they underscore that researchers and pharmaceutical industry have put “extraordinary efforts” into the vaccine development and that their contributions therefore deserve particular support.3 This is where the EU defines the real purpose of a well-functioning IPR system: IPR are intended to ensure that extraordinary efforts are “adequately incentivized and rewarded.”3 The IPR system is therefore “part of the solution rather than an obstacle” by being “one of the main economic incentives” to stimulate great achievements.3 Poor countries that allegedly have no manufacturing capacities are literally left behind; their efforts are not incentivized nor rewarded. Furthermore, the emphasis on economic incentives does not reflect the fact that the unprecedented efforts of pharmaceutical industry to develop new vaccines have been firmly anchored in state funded research.7 As their final argument, the EU states that global collaboration is “the only way to overcome a global pandemic” [Our emphasis].3 As we understand the text, global collaboration, being the “only way,” is here contrasted with local solutions. Hence, “global collaboration” is used as an argument against the global right to vaccine production3 : solutions should be sought in globally coordinated projects and, by consequence, not in the development of local production facilities in poor countries. What are the ideologies behind these arguments? A premise for the EU response to the TRIPS waiver is, according to out interpretation, a specific idea of globalization in which the global is defined from the point of view of the fittest (ie, rich countries). To the EU, global collaboration means adapting to a global vision or effort, rather than opening up to a global diversity of perspectives and approaches. ‘Global collaboration’ does not only refer to the acknowledgment of global interdependency as a fact but also as a norm6 : the EU implicitly attributes global legitimacy to their own set of standards and procedures. This global gaze is also an averted gaze.4 As the French philosopher Jean-Luc Nancy8 has claimed, the transformation of the global from fact to norm implies termination of the “global” as a plurality of opinions and meanings: “It suffices to say that a worldview is indeed the end of the world of views, the latter being sucked up, absorbed and dissolved in one unified vision.”8 Hence, this worldview which underpins EUs arguments [This] implies turning a blind eye to the world of views but also to the structural violence that is characteristic of the neoliberal era: the logic of the market. A similar logic has been detected in the arguments used against the distribution of antiviral treatment in low-income areas in the early phase of the AIDS epidemic. The neoliberal language of cost-effectiveness was used as a cover-up for structural violence and injustice and ended up “looking more like strategies for managing rather than challenging, inequality.”4 Another example is the lack of global incentives to facilitate the production of an effective vaccine against Ebola, an epidemic that existed in poor areas for several decades before a successful vaccine was introduced. Implicit in the EU arguments is a similar ideology: a competition-driven market model is the text’s pathology of power. The EU’s argument assumes that global collaboration is something that has its center in rich countries and is conditioned by the Western market, and not something that can happen on the terms of poor countries, which are considered to have “no production capacities.”3 This leads to a paradox: Lack of efficiency and capacity in the health service in poor countries is used as an argument for globally defined measures, and against contributing to the development of capacity and improving efficiency by allowing these countries to develop vaccines and treatment programs themselves.9 Underpinning this paradoxical argument is a static notion where change and improvement are not envisioned. In contrast to the anticipatory gaze characteristic of Agenda 2030, the waiver response does not look beyond the problems of the present. The “lack of manufacturing capacity”3 in Poor countries is taken to be a timeless fact and the response thereby belies the need for change that Agenda 2030 strongly holds up for us. Decisions taken during this pandemic should prepare for the next. The presentism underpinning the EU response is at odds with universal preparedness for health that the world so strongly needs.10 Although other countries that opposed the waiver were less explicit about their reasons, they supported the same line of argument as the EU. Without developing the argument further, the UK described the waiver as an extreme measure to address an unproven problem and as potentially “counterproductive.”11 Norway stated, on their hand, that the existing agreement already reflects the “required balance” between “incentives for the development of new medicines and medical products” and “the need for national flexibilities to make exceptions in extreme situations.”12 The United States have until recently supported the same argument. However, following an open letter13 in which 170 former heads of state and Nobel laureates called on President Biden to support the waiver, the president recently announced that he would share the “know-how” on vaccine manufacturing.14 The result of this statement still remains to be seen. We do not claim that changing the IPR regulations will alone solve the problem of [are facing] vaccine inequity. There might be other hurdles such as trade secrets or tacit know-how that might be difficult to articulate and share15 and other solutions and innovations to address vaccine inequity are needed. A case in point is the mRNA vaccine technology transfer hub recently launched by the World Health Organization (WHO) inviting proposals to scale up manufacturing of mRNA vaccines in low- and middle-income countries.16 However, the discussion about the TRIPS waiver is about much more than Intellectual property rights. It concerns fundamental ideologies and values in global health. As Jeffery Sachs pointed out in a recent commentary: “Given the surge of COVID-19 in several regions, most recently in India, the continuing emergence of new and deadly variants of the virus, and The inability of the current vaccine producers to keep pace with global needs, An intellectual property waiver or its equivalent has become a practical urgent need as well as a moral imperative.”17 TRIPS shows how “economic power can shape global rule making, with far-reaching consequences for health” and put the whole edifice of global health to the test. If we fail to distribute vaccines fairly we risk cementing poor-rich dichotomies and inequities rather than alleviating them – in stark contrast to the goals set out in Agenda 2030.

**As such, I offer the following advocacy: Members of the World Trade Organization should allow waivers for life saving medicines that are currently protected by stringent intellectual property law. I reserve the right to clarify.**

**Contention Two: IP waivers help combat structural inequalities.**

**A) Carving out exceptions for life saving medicines, through WTO reform, recognizes a human right to health for less privileged groups. This is key to inclusion for developing nations. Hale ‘18:**

(Zachary A. Hale, Arkansas Journal of Social Change and Public Service, “Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection”, 4/4/18, <https://ualr.edu/socialchange/2018/04/04/patently-unfair/>)

With globalization and international trade policy in the political spotlight, questions about how intellectual property protection impacts the enjoyment of human rights are of increasing importance to the national and international political discourse. In recent decades, the relationship between intellectual property and fundamental human rights has attracted increasing scrutiny. While the right to protection of the “moral and material interests” of an individual’s intellectual product is enshrined in the canon of international human rights, with explicit inclusion in the Universal Declaration of Human Rights (UDHR)[1] and the International Covenant on Economic, Social, and Cultural Rights (ICESCR),[2] the dominant regime of intellectual property rights has historically come into conflict with other fundamental human rights.[3] The system of recognition and enforcement for Intellectual property rights has run afoul of human rights principles by restricting access to protections to privileged classes throughout history.[4] This paper explores the historical and contemporary conflicts between intellectual property law and human rights, arguing that the current system of intellectual property protection threatens, and even actively violates, the enjoyment of several basic human rights. Some key issues that bring intellectual property protection into conflict with the enjoyment of human rights are restricted access to medicines, patented food products, computer software, and educational materials, as well as the protection of traditional knowledge and indigenous materials.[5] The visibility of these topics is largely due to the controversy surrounding access to HIV/AIDS treatments, the biopiracy of indigenous seed-strains, and the implementation of the Trade-Related Aspects of Intellectual Property Rights (TRIPs).[6] There are, however, many other areas where potential tensions can arise, including access to computer software and cultural and educational materials. These issues bring the protection of intellectual property interests into conflict with the rights to food, health, education, self-determination, freedom of expression, cultural participation, and the benefits of scientific progress.[7] Because the right to protection of one’s “moral and material interests” in his or her “scientific, literary, or artistic” products is considered a basic human right,[8] the notion that intellectual property protection might conflict with the realization of human rights objectives may seem counterintuitive. The discussion of whether intellectual property protection is essentially in conflict with other human rights takes place within a broader debate over the priority of different “generations” of human rights.[9] In this context, although intellectual property is recognized in the ICESCR, a document enshrining “second generation” rights, its ideological underpinnings in the liberal philosophy of John Locke places it more comfortably alongside the “first generation” civil and political rights found in liberal-democratic constitutions. This potential misalignment has generated a tension that fuels debate around the proper interpretation of intellectual property rights in the framework of universal human rights. The United Nation’s Economic and Social Council addressed this confusion in a 2006 comment to the ICESCR, stating that it is “important not to equate intellectual property rights with the human right recognized in article 15.”[10] Other international bodies, such as the United Nations Sub-commission on the Promotion and Protection of Human Rights, have also recognized a fundamental incompatibility between intellectual property instruments, like the TRIPs, and the enjoyment of other basic rights.[11] This interpretation, however, has been challenged within the United Nations system, with the United Nations High Commissioner for Human Rights, suggesting that intellectual property protection can coexist with human rights protection.[12]In order to paint a clearer picture of how international intellectual property protections have developed alongside international human rights, the following section will trace their institutional history and ideological underpinnings. II.  The Institutional History of International Intellectual Property and Human Rights A. International Intellectual Property Protection Before the United Nations. As with many institutionalized aspects of liberal philosophy, the first concrete effort at coordinating the protection of intellectual property across borders occurred in Western Europe. The issue of inconsistent intellectual property protection was brought to the fore in 1873, when Vienna’s International Exhibition of Inventions failed to attract international inventors who feared their designs would be copied and re-appropriated without consequence.[13] This inconsistency led to the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. In 1893, parties to these conventions agreed to create a single bureau to regulate intellectual property in the areas of industry (patents and trademarks) and the arts (copyright).[14] This bureau, known as the Bureaux Internationaux Réunis pour la Protection de la Propriété Intellectuelle (BIRPI), consisted of fourteen member states, primarily Western European nations and their colonies, and remained the sole international body for intellectual property protection until the United Nations restructured the organization to create the World Intellectual Property Organization (WIPO) in 1960.[15] Though the creation of WIPO signaled the transformation of the BIRPI from a keeper of European treaties to an agency responsible to the myriad member states of the UN, the undergirding philosophy of property-protection remained intact. If anything, the initial, industrialized members of the BIRPI saw its incorporation into the UN as an opportunity to introduce protection of intellectual property at the global scale.[16] However, the incorporation of member states at varying levels of development, coupled with new ideas about human rights in the international community, would eventually require the international system of intellectual property protection to adapt its instruments to a changing environment. B. Intellectual Property and Human Rights at the United Nations Before entering discussion of more recent institutional developments, it is germane to the object of this paper to examine the role of intellectual property in the United Nations preceding the incorporation of the WIPO. As noted above, intellectual property rights were included in the UDHR. Article 27 of the UDHR states that:1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.[17] This should not be interpreted as a consensus amongst the international community on how intellectual property should be regulated, or even on how to define the “moral and material” interests that deserved protection. As with many aspects of the UDHR, the inclusion of intellectual property was highly contested.[18] While a large number of states disagreed with Article 27, they were overpowered by states convinced of the material value of intellectual property protection. As Paul Torremans notes: [T]he initial strong criticism that [intellectual property] was not properly speaking a Human Right or that it already attracted sufficient protection under the regime of protection afforded to property rights in general was eventually defeated by a coalition of those who primarily voted in favour because they felt that the moral rights deserved and needed protection and met the Human Rights standard and those who felt the ongoing internationalization of copyright needed a boost and that this could be a tool in this respect.[19]This shift from discussion of intellectual property as a matter of trade law to discussion of intellectual property as a matter of human rights was furthered by the inclusion of intellectual property rights in Article 15 of the ICESCR, which took force in January of 1976. Article 15 states: *1. The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture. 3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity. 4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.[20]* The sub-clauses of 15.1 are essentially a reiteration of Article 27, but the mention of “development and diffusion” in 15.2 and “co-operation in the scientific and cultural fields” in 15.4 represent a radical shift in intellectual property interpretation. The conception of innovation in terms of market value and incentive systems was being challenged by ideas about human development, as is reflected in the suggestion that “the full realization” of the human rights aspect of intellectual property requires “the diffusion of science and culture,” a suggestion that was not present in the UDHR.[21]The Patents Cooperation Treaty (PCT),[22] arguably the most important development in international intellectual property law between the ICESCR (1976) and the TRIPs (1995), serves as an example of the continued dominance of traditional intellectual property notions, even within the diverse arena of the United Nations. The PCT came into effect under the authority of the United Nations in 1978, four years after the incorporation of the WIPO. This treaty, certainly the most consequential undertaking of the international intellectual property community since the 19th century, was engineered by a group of neoliberal economists led by Edward Brenner (US Commissioner of Patents) and Arpad Bogsch (Deputy Director of BIRPI and first Director General of WIPO) in response to the concerns of multinational corporations about international patent applicability.[23] The PCT set out to ensure that corporations with patents enjoyed equal protection in every country. This meant that a large pharmaceutical company could prosecute pharmaceutical actors around the world for using patented formulas as a starting point for generic drugs development. This protection provides a particular advantage to companies that already hold a large number of patents, as they can use patent-extending strategies to maintain a monopoly over formulas and technologies beyond the standard twenty-year limit.[24] Thus, twelve years after United Nations member states affirmed the value of diffusing scientific and cultural knowledge in the ICESCR, the WIPO became responsible for overseeing the regulation of such knowledge through the PCT. This protection, which largely favors companies with pre-existing patents,[25] set the tone for the most controversial institutionalization of intellectual property thus far, the TRIPs.[26]The TRIPs, established in the 1994 Uruguay Round of the General Agreements on Tariffs and Trade, was the first attempt to put forth comprehensive protection for intellectual property through the World Trade Organization (WTO).[27] This agreement represented a monumental change in the field of international intellectual property law, pushing the protection of intellectual property into the center of international trade law.[28] It forced a minimum standard of copyright and patent protection on all 162 WTO members, severely hindering the distribution and development of agricultural and pharmaceutical innovations.[29] Though there have been subsequent agreements aimed at increasing access to “essential drugs,”[30] the TRIPs and its restrictive prescriptions continue to dominate the institutional framework of international intellectual property.[31]III.  Conflict Between Intellectual Property Protection and Human RightsAlthough the right to the protection of “moral and material interests resulting from any scientific, literary, or artistic production,”[32] is a human right as defined in the UDHR and the ICESCR, the current system of intellectual property protection conflicts with and even violates rights that are considered to be fundamental to human life. Although intellectual property instruments are certainly used to violate essential civil and political freedoms like the freedom of expression, and economic and social freedoms like the freedom to share in the scientific advancements of society, the most blatant violations of human rights caused by intellectual property protection occur in the fields of nutrition, healthcare, and culture.[33] Of these essential entitlements, the rights to food and health are made even more significant by their relationship to the most fundamental of all human rights: the right to life. A. Intellectual Property Protection and the Right to Culture. The pursuit of traditional knowledge protection through standards of intellectual property is illustrative of how notions of human rights have informed actors on the contemporary international stage. The inclusion of intellectual property protection in global agreements on economic, social, and cultural rights has enabled indigenous populations to speak of a right to protection of their cultural heritage.[34] Though this claim is defensible (and, in some iterations, compelling), it is dangerous as the basis of protection in the realm of intellectual property. If we accept Kal Raustiala’s assertions that, “[a]lmost all intellectual property rights are government-granted monopoly rights,”[35] and that, “existing normative theories of intellectual property seek, among other things, to strike a balance between the public domain and private monopolies,”[36] then we must interpret these communities’ claims to intellectual property rights in relation to the place of traditional knowledge in the public domain. Essentially, intellectual property protections like patents serve to legally remove an innovation, created in the medium of previous public knowledge, from the public domain. However, in the case of traditional knowledge concerns, such as agricultural methods and herbal medicine, this removal is necessarily temporary.[37] Thus, the protection of intellectually based components of cultural heritage is not comparable to the more permanent defense that the United Nations Educational, Scientific, and Cultural Organization[ZH1]  provides for historical landmarks. Instead, patents provide a temporary protection for certain information with regards to markets and trade law. The danger here does not lie solely in the theoretical threat it poses to a healthy, creative public domain, but in the aggressive misappropriation of this knowledge at the hands of powerful forces outside the concerned community. Thus, though the argument for the protection of traditional knowledge is born of and framed in ideas of human rights, it runs the risk of taking essential elements of traditional culture out of the public domain and allowing for harmful monopolies akin to those we see in the fields of agriculture and healthcare. B. Intellectual Property and Violations of the Right To Food. In the developing nations of the world, access to affordable food is hindered by strict protection of genetically modified seeds, [38] and harmed by the act of biopiracy.[39] This pair of issues reveals two different directions from which intellectual property protection in the agricultural sector can affect human rights. The enforcement of patents on genetically modified organisms keeps various seed prices prohibitively high for rural actors in poor nations, preventing access to resilient crop strains that could supplement production in periods of drought. This represents a structural exclusion of an entire class of agricultural actors. The act of biopiracy, on the other hand, is an aggressive act of systematic inclusion, by which multinational corporations steal agricultural practices and products of indigenous populations and exploit them via intellectual property protection (think of the Texas based RiceTec acquiring a patent on a traditionally Indian strain of Basmati rice).[40] Both of these practices have attracted criticism from non-governmental organizations and members of developing communities, but the legal efforts to prevent them are almost always overcome by the robust international system of intellectual property protection. This tide may be changing, however, as the United Nations Special Rapporteur on the right to food recently identified the application of intellectual property protection to agricultural products as a significant threat to the right to food, especially in developing countries.[41]C. Intellectual Property Protection and the Right to Health. The harmful effect of strict patents on life-saving pharmaceuticals is the most visible structural violence perpetrated by the international intellectual property system. Even those not informed in the particulars of patent law can see the injustice in allowing millions of preventable deaths in the name of protecting massive pharmaceutical companies. The clear and offensive moral implications of this particular strain of intellectual property protection have led multilateral organizations to approve of relaxation in the case of essential medicines.[42] Both the United Nations Special Rapporteur on the right to health and the United Nations Special Rapporteur in the field of cultural rights have alerted the international community to the tensions between exclusive production and essential public access.[43] Additionally, the Global Commission on HIV and the Law has called upon the United Nations to develop a special intellectual property regime to regulate the protection of medicines in a way that protects human rights.[44] The ability of patent-holding corporations to demand high prices for protected innovations has created avoidable public health crises around the world, and the current work towards improving this situation is challenged by agreements that aim to strengthen rather than relax international intellectual property protections. While pharmaceutical patent protection creates the most significant threats to fundamental human rights, it has also been the site of some of the most promising ideas for intellectual property reform.[45] The following section will explore alternative approaches to intellectual property protection that could expand access to technology and ensure the enjoyment of all human rights.IV. Recommendations The impact of increasing ideological contact between intellectual property and other human rights has become an important issue for contemporary intellectual property theorists. Laurence Helfer posits three potential paths this emerging partnership may take, based on three different interpretations of intellectual property by actors concerned with human rights: if protection of intellectual property is a legitimate human right, then rights-holders will seek to expand their claims to protection; if intellectual property protections are obstructive to a pursuit of universal rights, then rights advocates will seek to contain or limit such regimes in an effort to promote human rights; finally, if protection of intellectual property is seen to have instrumental potential with respect to other rights, it may be employed by policymakers as a means to a rights-oriented end.[46] Raustiala offers a more cautious image for the future, with rampant potential for an already vociferous intellectual property agenda to abuse human rights language in an effort to increase its regulatory power. Raustialia and Munzer discuss this potential in reference to traditional knowledge, an increasingly visible candidate for incorporation into intellectual property structures with critical implications for human rights.[47]While conception of a system of intellectual property protection that is in complete harmony with other fundamental human rights requires a high level of intellectual flexibility, it is virtually impossible to conceive of intellectual property protection (especially in areas of agricultural and pharmaceutical innovation) assisting an agenda of distributive justice. For this reason, much of the debate surrounding intellectual property and social justice calls for the selective non-application of restrictions based on demonstrated humanitarian need. This pursuit has been institutionalized in various exceptions to international trade regimes (especially in the case of treatment for epidemics),[48] and continues in the area of biopatents, where advocates seek the relaxation of laws restricting access to genetically-modified organisms that could help in famine-relief. Other proposed solutions involve the development of distributive commons where essential research products in biotechnology and similar fields would be made available to the global public, while other aspects of intellectual property protection remain in place. Finally, some of the most provocative re-interpretations of the current system, voiced by actors in both developed and developing nations, call for bypassing intellectual property protections altogether in favor of a more equitable distribution of and access to vital technologies.A. Prioritizing Rights through Exceptions. One of the most appealing approaches to intellectual property reform is to work within current norms to carve out exceptions for life-saving [medicines] or life-improving technologies that are currently protected by stringent patent laws. At a domestic level, this can include judicial and administrative procedures that allow the citizens of a particular nation to request exclusions and exemptions from intellectual property protection when such protection comes into conflict with the enjoyment of human rights. This solution is consistent with the United Nation’s statement that, “States have a positive obligation to provide for a robust and flexible system of patent exclusions, exceptions, and flexibilities,” in order to safeguard the human rights of citizens. At the international level, states that are negotiating agreements within and outside of The World Trade Organization can draft provisions that exempt developing nations from complying with strict patent protections, such as those found in the Trade Related Aspects of Intellectual Property.B. Leveraging Public Funding and Creating Distributive CommonsTo ensure greater access to life-saving innovations that were developed through federally funded research, government agencies can condition research support on the non-exclusive licensing of resulting products. For example, if the National Institutes of Health provide money for biotechnology research that produces a breakthrough cancer treatment, the government can require that the treatment be excluded from patent protection.[49] Similar approaches could be used in the field of agriculture, with the goal of securing public access to technologies that were developed using public money. Although this approach would not result in cost-free access, it would allow multiple organizations to develop competing products based on open-source technology, breaking the current monopolies that artificially inflate the prices of life-saving drugs for HIV/AIDS and cancer.Intellectual property scholar James Love proposes a similar approach at the global level known as the Medical Research and Development Treaty.[50] This treaty would provide a mechanism through which wealthier nations would fund research for essential medicines to combat epidemics. Love suggests using development capital to support privately managed research in order to liberate life-saving health innovations from the cycle of patent protection.[51] This and similar approaches seek to ensure that protection of intellectual property does not prolong humanitarian crises in the name of market values. On their own, however, these models do not provide a sufficient solution to the conflicts between intellectual property protection and the enjoyment of human rights, as has been recognized by the UN.[52]C. Seizing Innovations for the Common Good. Finally, national governments can actively prioritize the rights to health and food, as well as other fundamental human rights, over intellectual property rights by seizing the patented technology and placing it in the commons. This may seem like an unorthodox solution, similar to the land reform policies adopted by some revolutionary governments, but it is better understood as an intellectual property analogue of eminent domain takings. For example, if the government decides that it is necessary for the public good to provide unhindered access to certain pharmaceutical or agricultural innovations, it could “buy out” the patent and create a commonly available product using the previously-patented technology.Ultimately, all three of the approaches discussed in this paper can work jointly, with particular solutions being deployed based on a situational assessment that takes into account the severity of the human rights deprivation and the likelihood that alternative approaches will sustainably improve the condition of impacted individuals.V. Conclusion. While the conventional approach to human rights holds that they are indivisible and mutually reinforcing, the situations described above display material conflicts that occur within the current system of intellectual property protection. Because international intellectual property protection has been developed within neoliberal institutions like the WTO, it has a global tendency to reinforce the hegemonic position of those nations who industrialized early at the expense of developing countries. Additionally, within countries like the United States, Instruments for intellectual property protection have been used to reassert privilege and perpetuate structural violence by robbing communities of color of their access to cultural products like music and art. The interaction between international intellectual property protection and the protection of other human rights is not a recent phenomenon, as seen in the UDHR and the ICESCR. Their institutionalized inclusion, however, has not thus far been reciprocal; despite reference to moral and material rights relating to authorship and innovation in canonical human rights documents, modern agreements on intellectual property are strikingly devoid of human rights language.[53]  Though human rights and intellectual property have philosophically distinct origins, both have become embodied in expansive international legal regimes with increasing ideological and institutional density. The widening of these once distinct policy spaces has led to overlap and confrontation in recent years, with a variety of possible outcomes.The notion that there ought to be legal protection for intellectual innovations contains many assumptions about the nature of imagination, invention, and the nature of social progress. That ideas for art and technology should be termed intellectual property reveals a fundamental supposition that these creations are to be understood primarily in relation to a system of private ownership. That such a system of property is desirable, to the end that society’s institutions should protect it, is the core assumption of modern, “western,” liberalism that dates back to John Locke.[54] In relation to human rights, two strains of intellectual property thought have become increasingly prevalent: the first deals with the integration/mutual incorporation of human rights and intellectual property thought, while the second explores the possibilities of intellectual property as a mechanism of social justice. As the leading industrialized nations of the world negotiate new trade instruments, issues of social equity must be elevated to the level that material profit-taking has traditionally occupied. The intellectual property protection of the future must protect fundamental human rights by ensuring access to life-saving [medicines] and life-improving technologies, while continuing to respect the material and moral interests of the individuals behind these vital innovations.

**B) IP waivers are critical to life saving medicine access in developing countries. A waiver increases production in low-income countries, it resists voluntary measures that protect pharmaceutical monopolies, and it removes legal uncertainties. MSF ‘21:**

(Medecins Sans Frontieres, “Countries Obstructing Covid-19 Patent Waiver Must Allow Negotiations to Start”, 3/9/21, https://www.msf.org/countries-obstructing-covid-19-patent-waiver-must-allow-negotiations)

 As governments prepare to meet for another round of talks at the World Trade Organization (WTO), Médecins Sans Frontières (MSF) urged the small number of governments that continue to block a landmark waiver on intellectual property (IP) during the pandemic to immediately reverse their obstructive tactics and allow formal negotiations at the WTO to start. [In the context of Covid] the temporary waiver would apply to certain IP on [COVID-19](https://www.msf.org/covid-19) medical tools and technologies until herd immunity is reached. It was originally proposed by India and South Africa in October 2020, and is now officially backed by 58 sponsoring governments, with around 100 countries supporting the proposal overall. “Even after one year of this pandemic, and 2.5 million deaths, we still see certain governments denying that removing monopolies on COVID-19 medical tools will help increase [people’s access to needed treatments](https://www.msf.org/access-medicines), vaccines and tests going forward,” said Dr Christos Christou, MSF International President. “[Thus] the waiver proposal offers all governments opportunities to take action for better collaboration in development, production and supply of COVID medical tools without being restricted by private industry’s interests and actions, and crucially would give governments all available tools to ensure global access.” “Countries must stop obstructing and show the leadership required to deliver on the ‘global solidarity’ they have so often declared during this pandemic,” said Dr Christou. “It’s time to champion access to medical tools for everyone, wherever they live.” With highly infectious new variants of the coronavirus spreading in many low- and middle-income countries, it is critical to ensure any existing and upcoming medical tools are accessible in sufficient quantities and in a timely way, especially for frontline health workers in developing countries, including MSF teams. If increasing the number of global suppliers of medical tools is not prioritised, people in these countries will remain in a disproportionately disadvantageous position for access. The proposed IP waiver could provide[s] a more expedited and automatic policy option for governments at the international level to facilitate increased access, instead of only relying on voluntary measures by the pharmaceutical industry. Enabled by IP monopolies, corporations continue to pursue secretive and limited commercial deals that exclude many low-and middle-income countries, even in the midst of the pandemic. The waiver proposal could help[s] by removing legal uncertainties and risks for potential producers and governments to quickly start preparing to scale up production and supply of treatments, vaccines, and other essential medical tools. In [Brazil](https://www.msf.org/brazil), where healthcare workers have struggled to provide care during multiple waves of the pandemic, our teams have witnessed how emerging waves saturated the existing health system resulting in rationing of medical equipment and interventions.

**C) IP waivers, for life saving drugs, incentivize developing nations to build the necessary infrastructure for better health access. The 1AC advocacy is a building block that fosters a total  transformation in global public health. Novak ‘03:**

(Kristine Novak, NCBI, “The WTO’s Balancing Act”, 2003, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC228482/)

Bale cites A lack of infrastructure, doctors and nurses, diagnostics, clean water, and food, as well as political corruption, as factors that prevent[s] access of the majority of the world’s sick people to treatment. Third-world politicians often blame patent restrictions to avoid criticism for their own inability to take care of their own people, and for their own squandering of resources. According to Bale, “drugs for malaria, diarrhea diseases, and tuberculosis aren’t even patented, yet many people in developing countries still don’t have access to them.”But MSF believes that once drug prices are driven down [by intellectual property waivers], the infrastructure for drug delivery will follow. MSF has established antiretroviral drug programs in Africa, Asia, Eastern Europe, and Central America to study the best, and most affordable, way to provide treatment to people carrying HIV. In a report contracted by the WHO and released at the 13th International Conference on AIDS and Sexually Transmitted Infections in Africa last September, the MSF reported that in the ten countries in which generic drugs were used to treat AIDS patients, competition among pharmaceutical companies drove down prices and made antiretroviral drugs more widely available. “We have seen that in countries like Cameroon, Mozambique and Kenya that as the cost of drugs comes down, governments start to talk about infrastructure, and patient access to the drugs goes up,” said T’Hoen. “Regardless of problems with infrastructure, countries can’t begin to deliver drugs they can’t afford.” In Zimbabwe, where 2,500 people are reported to die of AIDS every week, health professionals and AIDS activists said the Geneva deal was welcome but might not be effective if other factors affecting poor countries were not addressed, such as shortages of health workers, and provision of clean water and electricity. “There is a lot involved. It just does not end at the cost of anti-retroviral drugs,” said Sara Page, the health promotions manager for the Southern Africa HIV/AIDS Information Dissemination Service.

In light of all the viewpoints that the WTO had to contend with regarding TRIPS, it is amazing that the representatives of 146 nations were able to come together to unanimously agree on a document that at least takes a step toward removing the barriers that keep life-saving drugs from people in the poorest countries. Agreements such as these show that it is possible to begin to strike a balance between the needs of developed and developing countries, as well as between those of poor people and the pharmaceutical industry. WTO director-general Supachai Panitchpakdi has hailed the TRIPS agreement as proof that the organization has begun to find ways to balance humanitarian issues with trade concerns. Similar measures are needed to address the other obstacles that keep drugs from the people in the greatest need.

**Underview:**

**A]. Threat discourse is meant to obfuscate the consequences of structural violence. Impact calculus should be evaluated from the position of those rendered irrelevant in traditional metrics. Jackson ‘12:**

(Richard Jackson has a PhD in Political Science from University of Canterbury, New Zealand and is the Deputy Director of the National Peace and Conflict Studies Centre at the University of Otago, New Zealand “The Great Con of National Security”, August 15 2012 <https://richardjacksonterrorismblog.wordpress.com/2012/08/05/the-great-con-of-national-security>)

It may have once been the case that being attacked by another country was a major threat to the lives of ordinary people. It may also be true that there are still some pretty serious dangers out there associated with the spread of nuclear weapons. For the most part, however, most of what you’ve been told about national security and all the Big threats which can supposedly kill you is one big con designed to distract you from the things that can really hurt you, such as the poverty, inequality and structural violence of capitalism, global warming, and the manufacture and proliferation of weapons – among others. The facts are simple and irrefutable: you’re far more likely to die from lack of health care provision than you are from terrorism; from stress and overwork than Iranian or North Korean nuclear missiles; from lack of road safety than from illegal immigrants; from mental illness and suicide than from computer hackers; from domestic violence than from asylum seekers; from the misuse of legal medicines and alcohol abuse than from international drug lords. And yet, politicians and the servile media spend most of their time talking about the threats posed by Terrorism, immigration, asylum seekers, the international drug trade, the nuclear programmes of Iran and North Korea, computer hackers, animal rights activism, the threat of China, and a host of other issues which are all about as equally unlikely to affect the health and well-being of you and your family. Along with this obsessive and perennial discussion of so-called ‘national security issues’, the state spends truly vast sums on security measures which have virtually no impact on the actual risk of dying from these threats, and then engages in massive displays of ‘security theatre’ designed to show just how seriously the state takes these threats – such as the x-ray machines and security measures in every public building, surveillance cameras everywhere, missile launchers in urban areas, drones in Afghanistan, armed police in airports, and a thousand other things. This display is meant to convince you that these threats are really, really serious. And while all this is going on, The rulers of society are hoping that you won’t notice that increasing social and economic inequality in society leads to increased ill health for a growing underclass; that suicide and crime always rise when unemployment rises; that workplaces remain highly dangerous and kill and maim hundreds of people per year; that there are preventable diseases which plague the poorer sections of society; that domestic violence kills and injures thousands of women and children annually; and that globally, poverty and preventable disease kills tens of millions of people needlessly every year. In other words, they are hoping that you won’t notice how much structural violence there is in the world. More than this, they are hoping that you won’t notice that while literally trillions of dollars are spent on military weapons, foreign wars and security theatre (which also arguably do nothing to make any us any safer, and may even make us marginally less safe), that domestic violence programmes struggle to provide even minimal support for women and children at risk of serious harm from their partners; that underfunded mental health programmes mean long waiting lists to receive basic care for at-risk individuals; that drug and alcohol rehabilitation programmes lack the funding to match the demand for help; that welfare measures aimed at reducing inequality have been inadequate for decades; that health and safety measures at many workplaces remain insufficiently resourced; and that measures to tackle global warming and developing alternative energy remain hopelessly inadequate. Of course, none of this is surprising. Politicians are a part of the system; they don’t want to change it. For them, all the insecurity, death and ill-health caused by capitalist inequality are a price worth paying to keep the basic social structures as they are. A more egalitarian society based on equality, solidarity, and other non-materialist values would not suit their interests, or the special interests of the lobby groups they are indebted to. It is also true that dealing with economic and social inequality, improving public health, changing international structures of inequality, restructuring the military-industrial complex, and making the necessary economic and political changes to deal with global warming will be extremely difficult and will require long-term commitment and determination. For politicians looking towards the next election, it is clearly much easier to paint immigrants as a threat to social order or pontificate about the ongoing danger of terrorists. It is also more exciting for the media than stories about how poor people and people of colour are discriminated against and suffer worse health as a consequence. Viewed from this vantage point, national Security is one massive confidence trick – misdirection on an epic scale. Its primary function is to distract you from the structures and inequalities in society which are the real threat to the health and wellbeing of you and your family, and to convince you to be permanently afraid so that you will acquiesce to all the security measures which keep you under state control and keep the military-industrial complex ticking along. Keep this in mind next time you hear a politician talking about the threat of uncontrolled immigration, the risk posed by asylum seekers or the threat of Iran, or the need to expand counter-terrorism powers. The question is: when politicians are talking about national security, what is that they don’t want you to think and talk about? What exactly is the misdirection they are engaged in? The truth is, if you think that terrorists or immigrants or asylum seekers or Iran are a greater threat to your safety than the capitalist system, you have been well and truly conned, my friend. Don’t believe the hype: You’re much more likely to die from any one of several forms of structural violence in society than you are from immigrants or terrorism.  Somehow, we need to challenge the politicians on this fact.

**B] The neg must agree to and link all offense to only the aff's framework.**

**1]Time Skew/Clash– allowing the NEG to propose their own fw is unfair for the AFF because it nullifies AC offense. Side-bias means the NEG can spread the AFF in the 1AR and I get stuck answering their FW, taking valuable time away from substantive debate. Time skew kills clash because I can’t make enough args in the 1ar.**

**2] Topical education - Agreeing to one FW means there is more time for debaters to discuss the links to IPR, which is the crux of the topic.  Topical education is important because it allows in depth discussion of current social problems.**

**C]. If theory matters AFFIRMING is harder. This link turns all NEG theory arguments and means I get a permutation.**

**1] NEG is reactive – they tailor the 1NC before the round to exploit the AFFs weakness.  Not reciprocal – AFFs enter the round unaware.  Also means no NEG weighing – it supercharges the abuse since they can collapse in the 2NR and outweigh any turns I make.**

**2] AFF extends twice – takes valuable time from already most time-pressed speeches. That means reject NEG fairness concerns – the AFF is structurally skewed from the start so they have no excuse – responding to this assumes you get NEG fairness which is your fault because you introduced the contradiction so you still vote AFF.**

**D] Critique is useless without a concrete policy alternative– intellectual stances are worthless. Bryant ‘12:**

(Bryant 12 Levi Bryant (Professor of Philosophy at Collin College) “A Critique of the Academic Left” 2012 [https://larvalsubjects.wordpress.com/2012/11/11/underpants-gnomes-a-critique-of-the-academic-left](https://larvalsubjects.wordpress.com/2012/11/11/underpants-gnomes-a-critique-of-the-academic-left/))

Unfortunately, The academic left falls prey to its own form of abstraction. It’s good at carrying out critiques that denounce various social formations, yet very poor at proposing any sort of realistic constructions of alternatives. This because it thinks abstractly in its own way, ignoring how networks, assemblages, structures, or regimes of attraction would have to be remade to create a workable alternative. Here I’m reminded by the “underpants gnomes” depicted in South Park: The underpants gnomes have a plan for achieving profit that goes like this: Phase 1: Collect Underpants Phase 2: ? Phase 3: Profit! They even have a catchy song to go with their work: Well this is sadly how it often is with the academic left. Our plan seems to be as follows: Phase 1: Ultra-Radical Critique Phase 2: ? Phase 3: Revolution and complete social transformation! Our problem is that we seem perpetually stuck at phase 1 without ever explaining what is to be done at phase 2. Often the critiques articulated at phase 1 are right, but there are nonetheless all sorts of problems with those critiques nonetheless. In order to reach phase 3, we have to produce new collectives. In order for new collectives to be produced, people need to be able to hear and understand the critiques developed at phase 1. Yet this is where everything begins to fall apart. Even though these critiques are often right, we express them in ways that only an academic with a PhD in critical theory and post-structural theory can understand. How exactly is Adorno to produce an effect in the world if only PhD’s in the humanities can understand him? Who are these things for? We seem to always ignore these things and then look down our noses with disdain at the Naomi Kleins and David Graebers of the world. To make matters worse, we publish our work in expensive academic journals that only universities can afford, with presses that don’t have a wide distribution, and give our talks at expensive hotels at academic conferences attended only by other academics. Again, who are these things for? Is it an accident that so many activists look away from these things with contempt, thinking their more about an academic industry and tenure, than producing change in the world? If a tree falls in a forest and no one is there to hear it, it doesn’t make a sound! Seriously dudes and dudettes, what are you doing? But finally, and worst of all, us Marxists and anarchists all too often act like assholes. We denounce others, we condemn them, we berate them for not engaging with the questions we want to engage with, and we vilify them when they don’t embrace every bit of the doxa that we endorse. We are every bit as off-putting and unpleasant as the fundamentalist minister or the priest of the inquisition (have people yet understood that Deleuze and Guattari’s Anti-Oedipus was a critique of the French communist party system and the Stalinist party system, and the horrific passions that arise out of parties and identifications in general?). This type of “Revolutionary” is the greatest friend of the reactionary and capitalist because they do more to drive people into the embrace of reigning ideology than to undermine reigning ideology. These are the people that keep Rush Limbaugh in business. Well done! But this isn’t where our most serious shortcomings lie. Our most serious shortcomings are to be found at phase 2. We almost never make concrete proposals for how things ought to be restructured, for what new material infrastructures and semiotic fields need to be produced, and when we do, our critique-intoxicated cynics and skeptics immediately jump in with an analysis of all the ways in which these things contain dirty secrets, ugly motives, and are doomed to fail. How, I wonder, are we to do anything at all when we have no concrete proposals? We live on a planet of 6 billion people. These 6 billion people are dependent on a certain network of production and distribution to meet the needs of their consumption. That network of production and distribution does involve the extraction of resources, the production of food, the maintenance of paths of transit and communication, the disposal of waste, the building of shelters, the distribution of medicines, etc., etc., etc. What are your proposals? How will you meet these problems? How will you navigate the existing mediations or semiotic and material features of infrastructure? Marx and Lenin had proposals. Do you? Have you even explored the cartography of the problem? Today we are so intellectually bankrupt on these points that we even have theorists speaking of events and acts and talking about a return to the old socialist party systems, ignoring the horror they generated, their failures, and not even proposing ways of avoiding the repetition of these horrors in a new system of organization. Who among our critical theorists is thinking seriously about how to build a distribution and production system that is responsive to the needs of global consumption, avoiding the problems of planned economy, ie., who is doing this in a way that gets notice in our circles? Who is addressing the problems of micro-fascism that arise with party systems (there’s a reason that it was the Negri & Hardt contingent, not the Badiou contingent that has been the heart of the occupy movement). At least the ecologists are thinking about these things in these terms because, well, they think ecologically. Sadly we need something more, a melding of the ecologists, the Marxists, and the anarchists. We’re not getting it yet though, as far as I can tell. Indeed, folks seem attracted to yet another critical paradigm, Laruelle. I would love, just for a moment, to hear a radical environmentalist talk about his ideal high school that would be academically sound. How would he provide for the energy needs of that school? How would he meet building codes in an environmentally sound way? How would she provide food for the students? What would be her plan for waste disposal? And most importantly, how would she navigate the school board, the state legislature, the federal government, and all the families of these students? What is your plan? What is your alternative? I think there are alternatives. I saw one that approached an alternative in Rotterdam. If you want to make a truly revolutionary contribution, this is where you should start. Why should anyone even bother listening to you if you aren’t proposing real plans? But we haven’t even gotten to that point. Instead We’re like underpants gnomes, saying “revolution is the answer!”without addressing any of the infrastructural questions of just how revolution is to be produced, what alternatives it would offer, and how we would concretely go about building those alternatives. Masturbation. “Underpants gnome” deserves to be a category in critical theory; a sort of synonym for self-congratulatory masturbation. We need less critique not because critique isn’t important or necessary– it is –but because we know the critiques, we know the problems. We’re intoxicated with critique because it’s easy and safe. We best every opponent with critique. We occupy a position of moral superiority with critique. But do we really do anything with critique? What we need today, more than ever, is composition or carpentry. Everyone knows something is wrong. Everyone knows This system is destructive and stacked against them. Even the Tea Party knows something is wrong with the economic system, despite having the wrong economic theory. None of us, however, are proposing alternatives. Instead we prefer to shout and denounce. Good luck with that.

**For all these reasons I AFFIRM. I’m now open for cross-examination.**