# Libertarianism AC v3

[brackets for clarification]

WTO= World Trade Organization

IP(P/R)=Intellectual Property (Protections/Rights)

### Framing

#### Ethics must begin with the rational capacity to set ends, which necessitates recognizing that capacity in others – that means treating people as ends in themselves.

Korsgaard 83 Two Distinctions in Goodness Author(s): Christine M. Korsgaard Source: The Philosophical Review , Apr., 1983, Vol. 92, No. 2 (Apr., 1983), pp. 169-195 Published by: Duke University Press on behalf of Philosophical Review Stable URL: <http://www.jstor.com/stable/2184924>

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action, he or she [they] supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). In order 17A much fuller treatment of the ideas of this section is in my paper "Kant's Formula of Humanity," forthcoming in Kant-Studien. 181 This content downloaded from 98.148.2.15 on Sat, 29 Aug 2020 20:12:58 UTC All use subject to h CHRISTINE M. KORSGAARD for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a suffi- cient condition of their goodness. Kant considers what this might be: it cannot be an object of inclination, for those have only a conditional worth, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). It cannot be the inclinations themselves because a rational being would rather be free from them. Nor can it be external things, which serve only as means. So, Kant asserts, the uncondi- tionally valuable thing must be "humanity" or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happi- ness of others-the ends that they choose-and, in general, to make the highest good our end.

#### For ethics to be binding it must be a-priori, universal, and based in reason.

#### 1] Problem of regress – I can keep asking ‘why should we value this’ to other frameworks, which falls to moral skepticism; the only value which solves this is ‘reason,’ as to ask for a reason to value reason, you concede reason’s authority.

#### 2] Universality – for ethics to be objective it must be universal; 1+1=2 can’t be true for me but not for you.

#### 3] Action Theory – Every action can be broken down to infinite movements. Only reason can unify the parts of an action into one, thus all action collapses to reason.

#### 4] Is-ought gap – external conditions can never prescribe action since no set of is statements can ever prove we ought to do something objectively.

#### 5] Culpability – you can only have responsibility over your actions if you freely choose them – if I rob a bank that’s bad but if someone forces me at gunpoint it’s not.

#### Bindingness outweighs a] for the resolution to be true or false it must be binding, otherwise the round is irresolvable, b] it presupposes bindingness since ought implies moral obligations, and c] otherwise people could just ignore ethics and do whatever they want.

#### Thus the standard is consistency with Libertarianism –

#### Prefer –

#### 1] Universality necessitates that freedom must be unconditionally respected.

Sorens 17 Jason Sorens, 2-10-2017, "Immanuel Kant and the Philosophy of Freedom," No Publication, <https://fee.org/articles/immanuel-kant-and-the-philosophy-of-freedom/>

The Categorical Imperative The moral law takes the form of an unconditional or categorical imperative. It says, for instance, “Do not murder, even if you can achieve your goals by doing so.” It’s not a hypothetical imperative like “if you don’t want to burn your hand, don’t touch the hot stove,” or “if you don’t want to go to jail, don’t murder.” It commands our wills regardless of what our particular goals are. Kant thinks all particular moral commands can be summed up in a fundamental, categorical imperative. It takes three forms. I’ll mention two of them here. The equal freedom of each individual is perfectly consistent with the utmost inequality in the degree of possessions. One form of the categorical imperative focuses on the notion that human beings are special because of our capacity for moral responsibility. Kant assumes that this capacity gives each individual human being a dignity, not a price. What that means is that we must not trade off the legitimate rights and interests of any human being for anything else. We must not treat other people or ourselves as means only to some other end, but always as ends in ourselves. The other, perhaps more frequently cited form of the imperative is highly abstract: “Always act according to that maxim that you can will as a universal law of nature.” In other words, think about the principle or rule that justifies your action; then figure out whether it’s universalizable. If so, it is an acceptable principle or rule for you to follow; if not, it is not. “Steal when I can gain an advantage thereby” [stealing] is not universalizable because it implies that others may steal from me, that is, take what I own against my will. But I cannot will against my own will. Rights and Freedoms Now, this understanding of the dignity of the individual human being implies that persons have rights, in other words, that we have an enforceable duty to respect the freedoms of all persons. So we can’t trample on the freedoms of one person to help one or many others (contra the “act utilitarians”). For instance, it would be wrong to kill one healthy person to distribute [t]he[i]r organs to several sick people, even if doing so was necessary to [would] save two or more lives. Each person has a dignity that must not be trampled, no matter what. (Another misunderstanding of Kant says that he thinks your intentions are the only thing that matter and you can ignore the consequences of your actions. To the contrary, to ignore consequences is to act with ill intent. Consequentialists differ from Kant in believing that only aggregate consequences of actions need be taken into account. Kant’s political theory is individualistic, while consequentialist theories are inevitably collectivist.) In an essay titled “Theory and Practice” (short for a much longer title), Kant gives an overview of his political theory. Once a civil state has been established to secure our rights, he says, No one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a general workable law — i.e. he must accord to others the same right as he enjoys himself. Kant, therefore, endorses the law of equal freedom, that everyone should have maximum freedom to pursue happiness consistent with the like freedom of everyone else, or what some libertarians have called the “Non-Aggression Principle.” This principle applies under government, not just in the state of nature. The only justification for coercion in his philosophy seems to be [is] the defense of self or others. The equal freedom of each subject in a civil state, Kant says, “is, however, perfectly consistent with the utmost inequality of the mass in the degree of its possessions, whether these take the form of physical or mental superiority over others, or of fortuitous external property and of particular rights (of which there may be many) with respect to others.” Kant is no Rawlsian; he is a classical liberal who realizes that liberty upsets patterns and should be preserved in spite of (or because of) that. In the same essay, Kant endorses Locke’s view of the social contract. A legitimate state with a right to rule can emerge only after unanimous consent to the initial contract. To do otherwise would be to violate the non-consenters’ rights. We now know that unanimous consent to the social contract has rarely occurred in human history, and so Kant’s strong theory of individual rights sets us up for a rejection of political authority. If we reject political authority, the largest state we can possibly justify is a minimal state, and, according to some, not even that. Kantian Liberalism Kant’s moral philosophy justifies extremely strong individual rights against coercion. The only justification for coercion in his philosophy seems to be the defense of self or others. His ideal government, therefore, seems to be extremely limited and to allow for the free play of citizens’ imaginations, enterprise, and experiments in living.

#### 2] The structure of action necessitates that freedom is the first and primary good.

Gewirth 84 [Alan Gewirth, () "The Ontological Basis of Natural Law: A Critique and an Alternative" American Journal of Jurisprudence: Vol. 29: Iss. 1 Article 5, 1984, https://scholarship.law.nd.edu/ajj/vol29/iss1/5/]

Let me briefly sketch the main line of argument that leads to this conclusion. As I have said, the argument is based on the generic features of human action. To begin with, every agent acts for purposes [t]he[y] regards as good. Hence, [t]he[y] must regard as necessary goods the freedom and well being that [is] are the generic features and necessary conditions of his action and successful action in general. From this, it follows that every agent logically must hold or accept that he has rights to these conditions. For if he were to deny that he has these rights, then he would have to admit that it is permissible for other persons to remove from him the very conditions of freedom and well-being that, as an agent, he must have. But it is contradictory for him to hold both that he must have these conditions and also that he may not have them. Hence, on pain of self-contradiction, every agent must accept that he has rights to freedom and well-being. Moreover, every agent must further admit that all other agents also have those rights, since all other actual or prospective agents have the same general characteristics of agency on which he must ground his own right-claims. What I am saying, then, is that every agent, simply by virtue of being an agent, must regard his freedom and well being as necessary goods and must hold that he and all other actual or prospective agents have rights to these necessary goods. Hence, every agent, on pain of self-contradiction, must accept the following principle: Act in accord with the generic rights of your recipients as well as of yourself. The generic rights are rights to the generic features of action, freedom, and well-being. I call this the Principle of Generic Consistency (PGC), because it combines the formal consideration of consistency with the material consideration of the generic features and rights of action.

#### 3] Actor spec – governments use libertarian conceptions of the state when implementing policies.

Ripstein 15 [Arthur Ripstein (Professor of Law and Philosophy at the University of Toronto). “Just War, Regular War, and Perpetual Peace” (2015). AS 7/16/15] lm

Sophisticated contemporary legal systems work either implicitly or explicitly with some version of this Kantian idea of the state as a public rightful condition. Constitutional courts review legislation to make sure that it is properly within the state's legitimate mandate, and throughout the world recent awareness of problems of institutional corruption reflect the recogni[ze]tion of the fundamental importance of the distinction between properly public and improperly private purposes in the internal management of states. Conversely, its widely appreciated that the proper role of the state is not simply to bring about as much good as possible in the world, and that states have a special responsibility to their own citizens and residents.

#### 4] Reject consequences – a] we can only observe the consequence of an action after it has occurred which means they can’t prescribe actions, b] the problem of induction precludes looking at consequences and undermines causality.

Vickers 14 [John Vickers, 2014, The Problem of Induction, https://plato.stanford.edu/entries/induction-problem/]

The original problem of induction can be simply put. It concerns the support or justification of inductive methods; methods that predict or infer, in Hume's words, that “instances of which we have had no experience resemble those of which we have had experience” (THN, 89). Such methods are clearly essential in scientific reasoning as well as in the conduct of our everyday affairs. The problem is how to support or justify them and it leads to a dilemma: the principle cannot be proved deductively, for it is contingent, and only necessary truths can be proved deductively. Nor can it be supported inductively—by arguing that it has always or usually been reliable in the past—for that would beg the question by assuming just what is to be proved.

#### c] aggregation fails – pleasure and pain are incommunicable, since each person has their own scale of pain and we can’t experience each other’s feelings, d] resolvability – margin of errors make weighing impossible, only libertarianism solve by having a brightline for ethical violations, e] actions have infinite cascading consequences which effect vast numbers of people, f] reliability – the best studies prove, ‘experts’ predicting consequences fail.

Menand 5 Louis Menand (the Anne T. and Robert M. Bass Professor of English at Harvard University) “Everybody’s An Expert” The New Yorker 2005 http://www.newyorker.com/magazine/2005/12/05/everybodys-an-expert

“Expert Political Judgment” is not a work of media criticism. Tetlock is a psychologist—he teaches at Berkeley—and his conclusions are based on a long-term study that he began twenty years ago. He picked two hundred and eighty-four people who made their living “commenting or offering advice on political and economic trends,” and he started asking them to assess the probability that various things would or would not come to pass, both in the areas of the world in which they specialized and in areas about which they were not expert. Would there be a nonviolent end to apartheid in South Africa? Would Gorbachev be ousted in a coup? Would the United States go to war in the Persian Gulf? Would Canada disintegrate? (Many experts believed that it would, on the ground that Quebec would succeed in seceding.) And so on. By the end of the study, in 2003, the experts had made 82,361 forecasts. Tetlock also asked questions designed to determine how they reached their judgments, how they reacted when their predictions proved to be wrong, how they evaluated new information that did not support their views, and how they assessed the probability that rival theories and predictions were accurate. Tetlock got a statistical handle on his task by putting most of the forecasting questions into a “three possible futures” form. The respondents were asked to rate the probability of three alternative outcomes: the persistence of the status quo, more of something (political freedom, economic growth), or less of something (repression, recession). And he measured his experts on two dimensions: how good they were at guessing probabilities (did all the things they said had an x per cent chance of happening happen x per cent of the time?), and how accurate they were at predicting specific outcomes. The results were unimpressive. On the first scale, the experts performed worse than they would have if they had simply assigned an equal probability to all three outcomes—if they had given each possible future a thirty-three-per-cent chance of occurring. Human beings who spend their lives studying the state of the world, in other words, are poorer forecasters than dart-throwing monkeys, who would have distributed their picks evenly over the three choices.

### Offense

#### Now affirm –

#### 1] IP is not legitimate property and it directly conflicts with freedom – multiple warrants.

Long 95 [Roderick T. Long, American professor of philosophy at Auburn University with a PhD in philosophy from Cornell, 1995, “The Libertarian Case Against Intellectual Property Rights,” Free Nation, [http://freenation.org/a/f31l1.html]/](http://freenation.org/a/f31l1.html%5d/) lm

The Ethical Argument Ethically, property rights of any kind have to be justified as extensions of the right of individuals to control their own lives. Thus any alleged property rights that conflict with [freedom] this moral basis — like the "right" to own slaves — are invalidated. In my judgment, intellectual property rights also fail to pass this test [as]. To enforce copyright laws and the like is to prevent people from making peaceful use of the information they possess. If you have acquired the information legitimately (say, by buying a book), then on what grounds can you be prevented from using it, reproducing it, trading it? Is this not a violation of the freedom of speech and press? It may be objected that the person who originated the information deserves ownership rights over it. But information is not a concrete thing an individual can control; it is a universal, existing in other people's minds and other people's property, and over these the originator has no legitimate sovereignty. You cannot own information without owning other people. Suppose I write a poem, and you read it and memorize it. By memorizing it, you have in effect created a "software" duplicate of the poem to be stored in your brain. But clearly I can claim no rights over that copy so long as you remain a free and autonomous individual. That copy in your head is yours and no one else's. But now suppose you proceed to transcribe my poem, to make a "hard copy" of the information stored in your brain. The materials you use — pen and ink — are your own property. The information template which you used — that is, the stored memory of the poem — is also your own property. So how can the hard copy you produce from these materials be anything but yours to publish, sell, adapt, or otherwise treat as you please? An item of intellectual property is a universal. Unless we are to believe in Platonic Forms, universals as such do not exist, except insofar as they are realized in their many particular instances. Accordingly, I do not see how anyone can claim to own, say, the text of Atlas Shrugged unless that amounts to a claim to own every single physical copy of Atlas Shrugged. But the copy of Atlas Shrugged on my bookshelf does not belong to Ayn Rand or to her estate. It belongs to me. I bought it. I paid for it. (Rand presumably got royalties from the sale, and I'm sure it wasn't sold without her permission!) The moral case against patents is even clearer. A patent is, in effect, a claim of ownership over a law of nature. What if Newton had claimed to own calculus, or the law of gravity? Would we have to pay a fee to his estate every time we used one of the principles he discovered? "... the patent monopoly ... consists in protecting inventors ... against competition for a period long enough to extort from the people a reward enormously in excess of the labor measure of their services, — in other words, in giving certain people a right of property for a term of years in laws and facts of Nature, and the power to exact tribute from others for the use of this natural wealth, which should be open to all." (Benjamin Tucker, Instead of a Book, By a Man Too Busy to Write One: A Fragmentary Exposition of Philosophical Anarchism (New York: Tucker, 1893), p. 13.) Defenders of patents claim that patent laws protect ownership only of inventions, not of discoveries. (Likewise, defenders of copyright claim that copyright laws protect only implementations of ideas, not the ideas themselves.) But this distinction is an artificial one. Laws of nature come in varying degrees of generality and specificity; if it is a law of nature that copper conducts electricity, it is no less a law of nature that this much copper, arranged in this configuration, with these other materials arranged so, makes a workable battery. And so on. Suppose you are trapped at the bottom of a ravine. Sabre-tooth tigers are approaching hungrily. Your only hope is to quickly construct a levitation device I've recently invented. You know how it works, because you attended a public lecture I gave on the topic. And it's easy to construct, quite rapidly, out of materials you see lying around in the ravine. But there's a problem. I've patented my levitation device. I own it — not just the individual model I built, but the universal. Thus, you can't construct your means of escape without using my property. And I, mean old skinflint that I am, refuse to give my permission. And so the tigers dine well. This highlights the moral problem with the notion of intellectual property. By claiming a patent on my levitation device, I'm saying that you are not permitted [can’t] to use your own knowledge to further your ends. By what right? Another problem with patents is that, when it comes to laws of nature, even fairly specific ones, the odds are quite good that two people, working independently but drawing on the same background of research, may come up with the same invention (discovery) independently. Yet patent law will arbitrarily grant exclusive rights to the inventor who reaches the patent office first; the second inventor, despite having developed the idea on his own, will be forbidden to market his invention. Ayn Rand attempts to rebut this objection: "As an objection to the patent laws, some people cite the fact that two inventors may work independently for years on the same invention, but one will beat the other to the patent office by an hour or a day and will acquire an exclusive monopoly, while the loser's work will then be totally wasted. This type of objection is based on the error of equating the potential with the actual. The fact that a man might have been first, does not alter the fact that he wasn't. Since the issue is one of commercial rights, the loser in a case of that kind has to accept the fact that in seeking to trade with others he must face the possibility of a competitor winning the race, which is true of all types of competition." (Ayn Rand, Capitalism: The Unknown Ideal (New York: New American Library, 1967), p. 133.) But this reply will not do. Rand is suggesting that the competition to get to the patent office first is like any other kind of commercial competition. For example, suppose you and I are competing for the same job, and you happen to get hired simply because you got to the employer before I did. In that case, the fact that I might have gotten there first does not give me any rightful claim to the job. But that is because I have no right to the job in the first place. And once you get the job, your rightful claim to that job depends solely on the fact that your employer chose to hire you. In the case of patents, however, the story is supposed to be different. The basis of an inventor's claim to a patent on X is supposedly the fact that he has invented X. (Otherwise, why not offer patent rights over X to anyone who stumbles into the patent office, regardless of whether they've ever even heard of X?) Registering one's invention with the patent office is supposed to record one's right, not to create it. Hence it follows that the person who arrives at the patent office second has just as much right as the one who arrives first — and this is surely a reductio ad absurdum of the whole notion of patents. The Economic Argument

#### 2] IP for medicines is inconsistent with libertarian property rights.

Richman 12 [Sheldon Richman, Sheldon Richman is a Research Fellow at The Independent Institute, The American Conservative, “Patent Nonsense,” January 18th, 2012, [https://www.theamericanconservative.com/articles/patent-nonsense/]/](https://www.theamericanconservative.com/articles/patent-nonsense/%5d/) lm

But contrary to Rand and Spooner, there is a distinction between physical objects and ideas that is crucial to the property question. Two or more people cannot use the same pair of socks at the same time and in the same respect, but they can use the same idea—or if not the same idea, ideas with the same content. That tangible objects are scarce and finite accounts for the emergence of property rights in civilization. Considering the nature of human beings and the physical world they inhabit, if individuals are to flourish in society they need rules regarding thine and mine. But “ideal objects” are not bound by the same restrictions. Ideas can be multiplied infinitely and almost costlessly; they can be used nonrivalrously.

If I articulate an idea in front of other people, each now has his own “copy.” Yet I retain mine. However the others use their copies, it is hard to see how they have committed an injustice.

Contrary to Rand, ideas, while inherent in purposeful human action, have no role in establishing ownership. If I own the inputs of productive effort, that suffices to establish that I own the output. If I build a model airplane out of wood and glue, I own it not because of any idea in my head, but because I owned the wood, the glue, and myself. On the other hand, if Howard Roark’s evil twin trespasses on your land and, using your materials, builds the most original house ever imagined, he would not be the rightful owner. You would be, and—bad law notwithstanding—you would have the objective moral right to use the design.

In practical terms, when one acquires a copyright or a patent, what one really acquires is the power to ask the government stop other[s] people from doing harmless things with their own property. IP is thus inconsistent with the right to property.

This objection exposes what is at stake in IP: [is] monopoly power granted by the state. In fact, patents originated as royal grants of privilege, while copyright originated in the power to censor. This in itself doesn’t prove these practices clash with liberty, but their pedigrees are indeed tainted.

Property rights arose to grapple with natural scarcity; “intellectual property” rights were invented to create scarcity where it does not naturally exist.

Don’t patents encourage innovation and therefore bestow incalculable benefits on all us? This crosses the boundary from justice to utilitarian considerations. The concern here is not with rewards to the innovator but with the good of society. What does the IP opponent say?

### Advocacy

#### Thus I affirm, The Member Nations of the WTO ought to reduce IPP for medicines. Definitions in doc.

Hopper 13 [Hopper, Zachary, Zachary Hopper is a professor in the Philosophy department at Georgia State University, "Thomas Pogge And The Two Types Of Libertarian." Thesis, Georgia State University, 2013. [https://scholarworks.gsu.edu/philosophy\_theses/133]/](https://scholarworks.gsu.edu/philosophy_theses/133%5d/) lm

The tension between strong physical property rights and intellectual property rights is a legitimate concern for libertarians, and perhaps it is this tension that has caused many libertarians to abandon the pro-IP ship. However, this tension is not, in and of itself, enough to show that libertarianism is necessarily inconsistent with intellectual property rights. Contrary to what Pogge argues, the tension between a strong natural right to tangible property and intellectual property protection only shows one thing: that intellectual property rights, in any form that allows innovators control over all physical tokens of their innovation type, are inconsistent with libertarianism. And this view, as noted above, is only a problem for the status quo libertarian. The revisionist libertarian, on the other hand, proposes an alternative system of IPP that is consistent with the libertarian values of freedom and rights to tangible property. Jonathan Trerise argues in favor of a system of IPP called Weak-Type Protection (WTP). He explains WTP as “the view that one has ownership over one’s original token(s), as well as a claim right on the rivalrous uses of copies of one’s original token(s)” (IPTJ 124). Trerise maintains that a WTP system of intellectual property protection is preferable to Strong-Type Protection systems, like the current pharmaceutical patent regime, which he believes are unjustified because of their infringements on individual liberty. A rivalrous use of an object occurs when someone uses the object such that the availability or value of the object to another person is reduced. For instance, my use of an acre of land is rivalrous because it prevents others from using that land. However, my use of the wind to fly a kite is non-rivalrous, since others may use the same resource for their own purposes. The advantage of WTP is twofold: WTP allows one to own ideas in that others are not free to copy and profit from those copies, thereby impacting your ability to make a profit. WTP also does not, in contrast to STP, restrict one’s ability to make independent and yet qualitatively identical items; that is, WTP regards the causal history of putative copies as relevant to determining their status as ownables. (IPTJ 124)

In the case of pharmaceuticals, a WTP system of intellectual property protection allows pharmaceutical innovators to profit from their innovations, as they retain weak-type rights over their innovations. However, a WTP system does not absolutely prohibit others from making and using copies of the innovation. Innovators who independently arrive at the same innovation have no claim against one another under a WTP system. A WTP system of intellectual property is, I maintain, an example of a system of IPP that can be endorsed by the revisionist libertarian. Under a WTP system, if I were to invent a vaccine for Chagas disease, I would have intellectual property rights to this vaccine type, as well as physical property rights to each vaccine token I produced. However, I would be unable to prevent others from producing, owning, and using their own vaccine tokens for Chagas disease, even if they directly copied my vaccine. The only restriction I could place on others would be to prohibit rivalrous uses of their tokens of my Chagas disease vaccine. Primarily, this restriction would prohibit others from directly copying (e.g. through reverse engineering) and selling my vaccine, since that would reduce the value of my vaccine. But it would not prohibit an individual from selling the Chagas disease vaccine she created independent of my vaccine, even if the two were identical.14

Furthermore, on a WTP system I would have no claim against someone who, inspired by my Chagas disease vaccine, created and sold her own vaccine type, even if it bore a striking similarity to my vaccine. Instances of “creative inspiration,” as Trerise notes, would be the most difficult kind of case for WTP to handle. It does not seem that this difficulty would prove insurmountable, though, since the current international IPP regime is far more complicated than a WTP system, and it manages to deal with similar difficulties. Although I would not have a right to market-exclusivity under a WTP system, I would still have intellectual property rights to my vaccine type, since I mixed my labor with materials I fairly appropriated.16 Of course, a WTP system like Trerise’s would need to be fleshed out in considerable detail before being implemented in the real world, but this brief sketch is enough to show how such a system would operate, and to prove that libertarianism can generate intellectual property rights and endorse strong natural rights to physical property.

The freedom this system allows would have a significant impact on the world’s poor. Under a WTP system, non-governmental organizations would be permitted to produce and distribute essential medicines to the poor, so long as they did not impact the ability of pharmaceutical corporations to make a profit. To avoid taking profits from patentees, NGOs might, for example, require recipients of medicines under patent to prove that they are unable to pay the market price for medicines. With increased access to essential medicines, the global poor would enjoy greater human rights protection under a WTP system than under the status quo. So by Pogge’s own normative principles, a WTP system of intellectual property is a plausible alternative to the Health Impact Fund.

#### ‘reduce’

Merriam Webster 21 “Reduce.” Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/reduce. Accessed 8 Aug. 2021.

Definition of reduce

[transitive verb](https://www.merriam-webster.com/dictionary/transitive)

1a: to draw together or cause to converge : [CONSOLIDATE](https://www.merriam-webster.com/dictionary/consolidate) reduce all the questions to one

b(1): to diminish in size, amount, extent, or number reduce taxes reduce the likelihood of war

#### ‘intellectual property’

WIPO [World Intellectual Property Organization, IP, “What is Intellectual Property?” https://www.wipo.int/about-ip/en/]/lm

What is Intellectual Property?

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

IP is protected in law by, for example, [patents](https://www.wipo.int/patents/en/), [copyright](https://www.wipo.int/copyright/en/) and [trademarks](https://www.wipo.int/trademarks/en/), which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.

#### ‘medicines’

Merriam Webster 21 [“Medicine.” Merriam-Webster.com Dictionary, Merriam-Webster, [https://www.merriam-webster.com/dictionary/medicine. Accessed 11 Aug. 2021.]/](https://www.merriam-webster.com/dictionary/medicine.%20Accessed%2011%20Aug.%202021.%5d/) lm

medicine [noun](https://www.merriam-webster.com/dictionary/noun) med·​i·​cine | \ ˈme-di-sən , British usually ˈmed-sən \ Definition of medicine 1a: a substance or preparation used in treating disease cough medicine b: something that affects well-being he's bad medicine— Zane Grey

#### ‘members nations of WTO’

WTO 16 [World Trade Organization, Understanding the WTO: The Organization, “Members and Observers,” July 29th, 2016, [https://www.wto.org/english/thewto\_e/whatis\_e/tif\_e/org6\_e.htm]/](https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm%5d/) lm

Members and Observers

164  members since 29 July 2016 , with dates of WTO membership.

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#### ‘WTO’

WTO [World Trade Organization, About WTO, “What is the WTO?” [https://www.wto.org/english/thewto\_e/whatis\_e/whatis\_e.htm]/](https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm%5d/) lm

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business.

[Who we are](https://www.wto.org/english/thewto_e/whatis_e/who_we_are_e.htm)

There are a number of ways of looking at the World Trade Organization. It is an organization for trade opening. It is a forum for governments to negotiate trade agreements. It is a place for them to settle trade disputes. It operates a system of trade rules. Essentially, the WTO is a place where member governments try to sort out the trade problems they face with each other.

[What we do](https://www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm)

The WTO is run by its member governments. All major decisions are made by the membership as a whole, either by ministers (who usually meet at least once every two years) or by their ambassadors or delegates (who meet regularly in Geneva).

[What we stand for](https://www.wto.org/english/thewto_e/whatis_e/what_stand_for_e.htm)

The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. But a number of simple, fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system.

[Overview](https://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm)

The World Trade Organization — the WTO — is the international organization whose primary purpose is to open trade for the benefit of all.

### Underview

#### 1] Aff gets 1ar theory, otherwise 1n can be infinitely abusive. 1ar theory is DTD and competing interps – fairness is voter b/c it’ debate is a game, if it’s unfair no-one will want to play, controls the internal link to education.

#### 2] Prefer ideal-theory – it’s inevitable and frames non-ideal judgments which means everything collapses.

**Arvan 14** Posted by Marcus Arvan on 05/03/2014 at 11:05 AM What's not wrong with ideal theory http://philosopherscocoon.typepad.com/blog/2014/05/whats-not-wrong-with-ideal-theory.html#sthash.rHY1Rv7v.dpuf

This is fallacious. I entirely agree that it is important not to confuse the things that Wedgwood mentions, and that philosophers who work in ideal theory often do confuse those things -- but none of this shows that ideal theory is methodologically flawed. It shows, at most, that many people have done it badly! Wedgwood then writes of certain "theoretical mistakes" he sees in ideal theory: For evaluative and normative theorizing, what is most important is to articulate a plausible conception of what it is for one item in the relevant category to be better than another. I think this is just wrong. I don't think "the most important thing" in normative theorizing is to know "what is better than what." That is an important thing to know, but to say it is the most important thing -- without argument -- is simply an assertion. Here, instead, is what I want to say: There are many important things in normative theorizing. We should want to know what is better than what. But that is not all. We have every reason to want to know what would be best. To ignore ideal theory -- without argument for why "what is best" is not something worth knowing -- is to arbitrarily set aside an important question as irrelevant. Second, I do not think that we can [not] specify what is better than what without at least some ideal in the background. To say that it would be better for people of different races to have equal rights than for one race to have more than others is to say that it is more ideal. But, what is it to say that something is more ideal? It is to say that it is closer to some ideal. Thus, I say (along with Rawls), the idea what we can do "nonideal theory" without ideal theory is nonsense. Any attempt to do nonideal theory inevitably -- if only tacitly -- appeals to ideals.

#### 3] The burden of the aff is to defend the truth of the res as a general principle – LD rules prove.

Nelson 8 Adam Nelson (Director of Lincoln-Douglas Debate at the Harker School) “Towards a Comprehensive Theory of LD” The Lincoln-Douglas Debate Theory Journal April 15th 2008 http://ldtheoryjournal.blogspot.com/2008/04/towards-comprehensive-theory-of-ld-adam.html

But the NFL’s new Lincoln Douglas Debate Event Description explicitly repudiates such a model by placing parallel burdens amongst one of the hallmarks of the activity: No question of values can be determined entirely true or false. This is why the resolution is desirable. Therefore neither debater should be held to a standard of absolute proof. No debater can realistically be expected to prove complete validity or invalidity of the resolution. The better debater is the one who, on the whole, proves his/her [their] side of the resolution more valid as a general principle.2 And the truth-statement model of the resolution imposes an absolute burden of proof on the affirmative: if the resolution is a truth-claim, and the affirmative has the burden of proving that claim, in so far as intuitively we tend to disbelieve truth-claims until we are persuaded otherwise, the affirmative has the burden to prove that statement absolutely true. Indeed, one of the most common theory arguments in LD is conditionality, which argues it is inappropriate for the affirmative to claim only proving the truth of part of the resolution is sufficient to earn the ballot.

#### That means PIC/Ks and CPs dont negate since they don’t disprove the aff as a general principle. Cx checks all T and theory, solves shells on aff abuse and incentivizes substance over friv theory dumps.

#### 4] The advocacy is a conditional statement which asserts the consequent is true based on certain assumptions, but proving the antecedents false doesn’t disprove the aff.

Stanford [Stanford University, “An Introduction to Philosophy,” Abbreviated Dictionary of Philosophical Terminology, [https://web.stanford.edu/~bobonich/dictionary/dictionary.html]/](https://web.stanford.edu/~bobonich/dictionary/dictionary.html%5d/) lm

Conditional statement: an “if p, then q” compound statement (ex. If I throw this ball into the air, it will come down); p is called the antecedent, and q is the consequent.  A conditional asserts that if its antecedent is true, its consequent is also true; any conditional with a true antecedent and a false consequent must be false.  For [but] any other combination of true and false antecedents and consequents, the conditional statement is true.

#### That means a] presume aff since neg has a higher burden to disproving a conditonal, you assume statements true until proven otherwise, i.e. if I told you my name was Leo you’d believe it, and we wouldn’t be able to start a strand of reasoning otherwise. b] permissibility affirms, otherwise we’d need proactive justification to do things like drink water, c] PICs, CPs and Ks don’t negate since they fail to meet neg burden – i.e. proving net-benefits and kritiking assumptions doesn’t disprove the consequent.

### Advantage

#### IPP for medicines deny access to COVID vaccines, increasing risks of mutations – limited approaches fail, only the aff can solve.

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According to Duke Global Health Innovation Center, which monitors COVID-19 vaccine purchases, rich nations representing just 14 per cent of the world population have bought up to 53 per cent of the most promising vaccines so far. As of 4 July 2021, the high-income countries (HICs) purchased more than half (6.16 billion) vaccine doses sold globally. At the same time, the low-income countries (LICs) received only 0.3 per cent of the vaccines produced. The low and middle-income countries (LMICs), which account for 81 per cent of the global adult population, purchased 33 per cent, and COVAX (COVID-19 Vaccines Global Access) has received 13 per cent.10 Many HICs bought enough doses to vaccinate their populations several times over. For instance, Canada procured 10.45 doses per person, while the UK, EU and the US procured 8.18, 6.89, and 4.60 doses per inhabitant, respectively.11

Consequently, there is a significant disparity between HICs and LICs in vaccine administration as well. As of 8 July 2021, 3.32 billion vaccine doses had been administered globally.12 Nonetheless, only one per cent of people in LICs have been given at least one dose. While in HICs almost one in four people have received the vaccine, in LICs, it is one in more than 500. The World Health Organization (WHO) notes that about 90 per cent of African countries will miss the September target to vaccinate at least 10 per cent of their populations as a third wave looms on the continent.13 South Africa, the most affected African country, for instance, has vaccinated less than two per cent of its population of about 59 million. This is in contrast with the US where almost 47.5 per cent of the population of more than 330 million has been fully vaccinated. In Sub-Saharan Africa, vaccine rollout remains the slowest in the world. According to the International Monetary Fund (IMF), at current rates, by the end of 2021, a massive global inequity will continue to exist, with Africa still experiencing meagre vaccination rates while other parts of the world move much closer to complete vaccination.14

This vaccine inequity is not only morally indefensible [and] but also clinically counter-productive. If this situation prevails, LICs could be waiting until 2025 for vaccinating half of their people. Allowing most of the world’s population to go unvaccinated will also spawn new virus mutations, more contagious viruses leading to a steep rise in COVID-19 cases. Such a scenario could cause twice as many deaths as against distributing them globally, on a priority basis. Preventing this humanitarian catastrophe requires removing all barriers to the production and distribution of vaccines. TRIPS is one such barrier that prevents vaccine production in LMICs and hence its equitable distribution.

TRIPS: Barrier to Equitable Health Care Access

The opponents of the waiver proposal argue that IPR are not a significant barrier to equitable access to health care, and existing TRIPS flexibilities are sufficient to address the COVID-19 pandemic. However, history suggests the contrary. For instance, when South Africa passed the Medicines and Related Substances Act of 1997 to address the HIV/AIDS public health crisis, nearly 40 of world’s largest and influential pharma companies took the South African government to court over the violation of TRIPS. The Act, which invoked the compulsory licensing provision, allowed South Africa to produce affordable generic drugs.15 The Big Pharma also lobbied developed countries, particularly the US, to put bilateral trade sanctions against South Africa.16

Similarly, when Indian company Cipla decided to provide generic antiretrovirals (ARVs) to the African market at a lower cost, Big Pharma retaliated through patent litigations in Indian and international trade courts and branded Indian drug companies as thieves.17 Another instance was when Swiss company Roche initiated patent infringement proceedings against Cipla’s decision to launch a generic version of cancer drug, “erlotinib”. Though the Delhi High Court initially dismissed Roche's appeal by citing “public interest” and “affordability of medicines,” the continued to pressure the generic pharma companies over IPR. 18 Likewise, Pfizer’s aggressive patenting strategy prevented South Korea in developing pneumonia vaccines for children.19

A recent document by Médecins Sans Frontières (MSF), or Doctors Without Borders, highlights various instances of how IP hinders manufacturing and supply of diagnostics, medical equipment, treatments and vaccines during the COVID-19 pandemic. For instance, during the peak of the COVID-19 first wave in Europe, Roche rejected a request from the Netherlands to release the recipe of key chemical reagents needed to increase the production of diagnostic kits. Another example was patent holders threatening producers of 3D printing ventilators with patent infringement lawsuits in Italy.20 The MSF also found that patents pose a severe threat to access to affordable versions of newer vaccines.21

The opponents of the TRIPS waiver also argue that IP is the incentive for innovation and if it is undermined, future innovation will suffer. However, most of the COVID-19 medical innovations, particularly vaccines, are developed with public financing assistance. Governments spent billions of dollars for COVID-19 vaccine research. Notably, out of $6.1 billion in investment tracked up to July 2021, 98.12 per cent was public funding.22 The US and Germany are the largest investors in vaccine R&D with $2.2 billion and $1.5 billion funding.

Private companies received 94.6 per cent of this funding; Moderna received the highest $956.3 million and Janssen $910.6 million. Moreover, governments also invested $50.9 billion for advance purchase agreements (APAs) as an incentive for vaccine development. A recent IMF working paper also notes that public research institutions were a key driver of the COVID-19 R&D effort—accounting for 70 per cent of all COVID-19 clinical trials globally.23 The argument is that vaccines are developed with the support of substantial public financing, hence there is a public right to the scientific achievements. Moreover, private companies reaped billions in profits from COVID-19 vaccines.

One could argue that since the US, Germany and other HICs are spending money, their citizens are entitled to get vaccines first, hence vaccine nationalism is morally defensible. Nonetheless, it is not the case. The TRIPS Agreement includes several provisions which mandates promotion of technology transfer from developed countries to LDCs. For instance, Article 7 states that "the protection and enforcement of IP rights should contribute to the promotion of technological innovation and the transfer and dissemination of technology, to the mutual advantage of producers and users of technical knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations."24 Similarly, Article 66.2 also mandates the developed countries to transfer technologies to LDCs to enable them to create a sound and viable technological base. The LMICs opened their markets and amended domestic patent laws favouring developing countries’ products against this promise of technology transfer.

Another argument against the proposed TRIPS waiver is that a waiver would not increase the manufacturing of COVID-19 vaccines. Indeed, one of the significant factors contributing to vaccine inequity is the lack of manufacturing capacity in the global south. Further, a TRIPS waiver will not automatically translate into improved manufacturing capacity. However, a waiver would be the first but essential step to increase manufacturing capacity worldwide. For instance, to export COVID-19 vaccine-related products, countries need to ensure that there are no IP restrictions at both ends – exporting and importing. The market for vaccine materials includes consumables, single-use reactors bags, filters, culture media, and vaccine ingredients. Export blockages on raw materials, equipment and finished products harm the overall output of the vaccine supply chain. If there is no TRIPS restriction, more governments and companies will invest in repurposing their facilities.

Similarly, the arguments such as that no other manufacturers can carry out the complex manufacturing process of COVID-19 vaccines and generic manufacturing as that would jeopardise quality, have also been proven wrong in the past. For instance, in the early 1990s, when Indian company Shantha Biotechnics approached a Western firm for a technology transfer of Hepatitis B vaccine, the firm responded that “India cannot afford such high technology vaccines… And even if you can afford to buy the technology, your scientists cannot understand recombinant technology in the least.”25 Later, Shantha Biotechnics developed its own vaccine at $1 per dose, and the UNICEF (United Nations Children’s Emergency Fund) mass inoculation programme uses this vaccine against Hepatitis B. In 2009, Shantha sold over 120 million doses of vaccines globally.

India also produces high-quality generic drugs for HIV/AIDS and cancer treatment and markets them across the globe. Now, a couple of Indian companies are in the last stage of producing mRNA (Messenger RNA) vaccines.26 Similarly, Bangladesh and Indonesia claimed that they could manufacture millions of COVID-19 vaccine doses a year if pharmaceutical companies share the know-how.27 Recently, Vietnam also said that the country could satisfy COVID-19 vaccine production requirements once it obtains vaccine patents.28 Countries like the United Arab Emirates (UAE), Turkey, Cuba, Brazil, Argentina and South Korea have the capacity to produce high-quality vaccines but lack technologies and know-how. However, Africa, Egypt, Morocco, Senegal, South Africa and Tunisia have limited manufacturing capacities, which could also produce COVID-19 vaccines after repurposing.

Moreover, COVID-19 vaccine IPR runs across the entire value chain – vaccine development, production, use, etc. A mere patent waiver may not be enough to address the issues related to its production and distribution. What is more important here is to share the technical know-how and information such as trade secrets. Therefore, the existing TRIPS flexibilities, such as compulsory and voluntary licensing, are insufficient to address this crisis. Further, compulsory licensing and the domestic legal procedures it requires is cumbersome and not expedient in a public health crisis like the COVID-19 pandemic.

India’s Role in Ensuring Vaccine Equity India's response to COVID-19 at the global level was primarily two-fold. First, its proactive engagements in the regional and international platforms. Second, its policies and programmes to provide therapeutics and vaccines to the world. Since the beginning of the COVID-19 pandemic, India has been advocating international cooperation and policy coordination in fighting it. For instance, in April 2020, India co-sponsored a UN resolution that called for fair and equitable access to essential medical supplies and future vaccines to COVID-19. Later, in October 2020, India also put pressure on developed countries with a joint WTO proposal for TRIPS waiver. India’s Vaccine Maitri initiative also aims vaccine equity. As of 29 May 2021, India has supplied 663.698 lakh doses of COVID-19 vaccines to 95 countries. It includes 107.15 lakh doses as a gift to more than 45 countries, 357.92 lakh doses by commercial sales, and 198.628 lakh doses to the COVAX facility.29 The COVAX initiative aims to ensure rapid and equitable access to COVID-19 vaccines for all countries, regardless of their income level. India has decided to supply 10 million doses of the vaccine to Africa and one million to the UN health workers under the COVAX facility. India has also removed the IPR of Covaxin that would help platforms like C-TAP once WHO and developed countries’ regulatory bodies approve the vaccine. If agreed, the waiver would benefit India in many ways. First, more vaccines will help the country to control the pandemic and its recurring waves. Second, it will be a boost to India's pharma industry, particularly the generic medicine industry. According to the Biotechnology Innovation Organization, 834 unique active compounds are involved in the current R&D of COVID-19 therapeutics, vaccines, and diagnostics. It means that thousands of new patents are awaited, and that will hinder India's ability to produce COVID-19 related medical products. Only through a waiver, this challenge can be addressed. Similarly, scientists note that mRNA is the future of vaccine technology. However, manufacturing mRNA vaccines involves complex processes and procedures. Only a very few Indian manufacturers have access to this technology; however, that too is limited. Once Indian companies have access to mRNA technology, it will help country’s generic medicine industry and boost India’s economy. Therefore, even if the WTO agrees on a waiver for a period shorter than proposed, India should accept it. In addition, mRNA vaccines can be produced in lesser time compared to the traditional vaccines. While traditional vaccines’ production takes four to five months, mRNA needs only six to eight weeks. Access to this technology will be vital for India in expediting the fight against COVID-19 and future pandemics. Finally, a waiver may strengthen India's diplomatic soft power. At present, what hinders India's Vaccine Maitri initiative is the scarcity of vaccines at home. On the other hand, China is increasing its standing in Africa, South America and the Pacific through vaccine diplomacy. The WHO approval of the Chinese vaccines and lack of access to vaccines by most developing countries, opens up huge space for China to do its vaccine diplomacy. Here, India should convince its Quad partners, particularly Australia and Japan, who oppose the waiver that vaccine production in developing countries through TRIPS waiver will enable the grouping to deliver its pledged billion doses of COVID-19 vaccine in the Indo-Pacific region. In short, the proposed waiver, if agreed, will help India in addressing the public health crisis by producing more vaccines and distributing them at home; economically, by boosting its generic pharmaceutical industry, and diplomatically, providing vaccines to the developing and least-developed countries. Therefore, India should use all available means and methods, from trade-offs to pressurising, to make the waiver happen.

#### Failure to vaccinate and prevent new waves of COVID now pushes us over the brink to nuclear war – cooperation thesis wrong.

Recna 21 [Research Center for Nuclear Weapon Abolition; Nagasaki, Japan; “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report,” Journal for Peace and Nuclear Disarmament; 5/28/21; <https://www.tandfonline.com/doi/full/10.1080/25751654.2021.1890867>]

The Challenge: Multiple Existential Threats

The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come.

The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5

Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order.

In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply.

The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the existential risks posed by retaining these capabilities – are all up for redefinition.

A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts,