# Libertarianism AC

[brackets for clarification]

IP(P/R)=intellectual property (protections/rights)

WTO=World Trade Organization

### 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.

#### 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.

#### Thus the standard is consistency with the libertarian state of non-interference.

#### 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 her 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 specificity – 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] Goodness is intrinsic to actions, not their consequences – if a thief breaks into a home to find a person chocking and gives them a heimlich, that doesn’t make it right to break into the home.

#### 5] Consequences can’t prescribe actions since we can only observe the consequences of an actions after it’s already taken place.

#### 6] Problem of induction means morality must be intrinsic to actions.

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.

#### 7] Aggregation fails – pain is incommunicable, since each person has their own scale of pain and we can’t experience each other’s feelings.

### 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 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 are state interferences on the free market that hinder competition, create state protected monopolies, and increase taxes.

Shaffer 13 [Butler D. Shaffer, Butler D. Shaffer was an American author, law professor and speaker, known for his numerous libertarian books and blog articles for LewRockwell.com. He was a Professor of Law Emeritus at the Los Angeles-based Southwestern University School of Law, Mises Institute, “A Libertarian Critique of Intellectual Property,” December 2013, Section – Libertarian Critique of Intellectual Property]/ lm

Among men and women of libertarian sentiments, one would expect to find a presumption of opposition to the idea that a monopolist of legal violence could create property interests that others would be bound in principle to respect. I would go even further and assert that only human beings—“persons”—should be respected as property owners; that treating corporations, political institutions, and other abstractions as artificial “persons” represents a source of conflict we ought to reject. So considered, the state becomes seen for what it is: an organizational tool of violence that is able to accomplish its purposes only through the willingness of its victims to accord it legitimacy. Such a practice allows lifeless fictions to transcend—and thus demean—the importance of individual human beings.

If IP claims can only be created by coercive political systems, could such interests be defended under libertarian principles? In a stateless society, would IP be recognized alongside claims to real estate and chattels as property interests worthy of respect? At the early common law—and until 1977 in America—a limited copyright principle existed. A person who had written a book or a poem, placed it in her desk drawer, and it was later removed by another and published without her consent, maintained a common law copyright to her work. If, however, the author had the work published—which meant, as the word implies, made “public”—she lost such a copyright, the act of publication being treated as an abandonment of control over her claim of ownership. The question arose, of course, as to what constituted a “publication” of the work: sending a copy to a publisher to review would not.

In order to extend copyright protection to authors and publishers beyond the common law limits, Congress enacted copyright statutes. Such legislation was grounded in Article I, Section 8 of the Constitution, which provides, among other powers, “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” This constitutional authority created, in a legal monopolist of violence [are], the power to create in others monopoly property interests that did not otherwise exist, and would be enforced through the coercive powers of the state. Our legal system has long understood monopolies to be creatures of the state,[[4]](file:///C:\Program%20Files%20(x86)\NeatReader\resources\app.asar\build-app\index.html?bookGuid=94a63505-6664-4193-8298-47f43c5119e2&ownerWindowId=2&openRequestFrom=inside#fn4) a status that provided the recipient protection from would-be competitors. The incompatibility of such an interest with libertarian principles should be apparent.

The common law system got it right: because the essence of ownership is found in the capacity to control some resource in furtherance of one’s purposes, such a claim is lost once a product has been released to the public. The situation is similar to that of a person owning oxygen that is contained in a tank, but loses a claim to any quantity that might be released—by a leaky valve—into the air.

There are many other costs associated with IP that rarely get attention in cost-benefit analyses of the topic. One has to do with the fact that the patenting process, as with government regulation generally, is an expensive and time-consuming undertaking that tends to increase industrial concentration. Large firms can more readily incur the costs of both acquiring and defending a patent than can an individual or a small firm, nor is there any assurance that, once either course of action is undertaken, a successful outcome will be assured. Thus, individuals with inventive products may be more inclined to sell their creations to larger firms. With regard to many potential products, various governmental agencies (e.g., the EPA, FDA, OSHA) may have their own expensive testing and approval requirements before new products can be marketed, a practice that, once again, favors the larger and more established firms.

#### 3] IP 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?

#### 4] IP interferes with freedom of speech and expression.

Moore and Hinma 18 [Moore, Adam and Ken Himma, "Intellectual Property", The Stanford Encyclopedia of Philosophy (Winter 2018 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/win2018/entries/intellectual-property/>.]/ lm

4.4 The Free Speech Argument against Intellectual Property

According to some, promoting intellectual property rights is inconsistent with our commitment to freedom of thought and speech (Nimmer 1970; Hettinger 1989; Waldron 1993). Closely associated with this argument is the position that individuals have a right to knowledge and intellectual property institutions interfere with this basic right. Hettinger argues that intellectual property “restricts methods of acquiring ideas (as do trade secrets), it restricts the use of ideas (as do patents), and it restricts the expression of ideas (as do copyrights)—restrictions undesirable for a number of reasons” (Hettinger 1989). Hettinger singles out trade secrets as the most troublesome because, unlike patents and copyrights, they do not require disclosure.

#### 5] IP interferes with the freedom of individual scientists to do research.

Wright 14 [Jared M. Wright, PhD, 2020 Ph.D. in Sociology, Purdue University, IN Dissertation: Digital Contention: Collective Action Processes in Social Movements for Internet Rights and Freedom (Chair: Dr. Rachel L. Einwohner) 2012 M.A. in Sociology (Dean’s List), University of Houston, TX Master’s Thesis: Digital Contention: Anonymous and the Freedom of Information Movement (Chair: Dr. Helen Rose Ebaugh) 2006 B.A. in General Studies (Cum Laude), Lamar University, TX, The Digital Sociology Blog, “A Marxian View of Intellectual Property,” October 13, 2014, [https://jaredmwr.wordpress.com/2014/10/13/a-marxian-view-of-intellectual-property/]/](https://jaredmwr.wordpress.com/2014/10/13/a-marxian-view-of-intellectual-property/%5d/) lm

But the greatest threat of IP is not simply exploiting laborers and underpaying employees; it is the threat to freedom. This is imposed on all levels of society by the modern corporate bourgeois elites. “When a group of scientists stops working on a protein molecule because [of] there are too many intellectual property rights that surround the use of the molecule, a basic freedom, the freedom to research, has been interfered with” (Drahos & Braithwaite 2002:3). We all have a vested interest in seeing certain public health research take place, such as research into the genes that cause breast and ovarian cancer. Yet these very genes, known as BRCA1 and BRCA2 are now the intellectual property of the Myriad Corporation, who first discovered them (Drahos & Braithwaite 2002). Companies are legally entitled to protect the discoveries and inventions of their employees as intellectual property, but when such rights infringe upon the freedom of other researchers to even access the human genes that cause diseases, it is a loss for us all.

Intellectual property rights strongly favor the corporate elites in society, and more and more have come into conflict with basic freedoms and rights that are part of the common good. “The danger to basic rights posed by intellectual property regulation is not an obviously visible danger. Rather it is a danger based on the quiet accretion of restrictions – an accretion hardly visible because it is hidden behind technical rule-making, mystifying legal doctrine, and complex bureaucracies, all papered over by seemingly plausible appeals to the rights of inventors and authors and the need to encourage innovation” (Drahos & Braithwaite 2002:4).

#### Consequences don’t matter under my framework, but I’ll give you them anyways. IP for medicines directly cause billions to suffer and millions to die every year. Outweighs on probability, cyclicality, timeframe, scope and severity.

Oxfam 01 [Oxfam, iatp, “Cut Cut the Cost Patent Injustice: How World Trade Rules Threaten the Health of Poor People,” February 2001, [https://www.iatp.org/sites/default/files/Cut\_the\_Cost\_-\_Patent\_Injustice\_How\_World\_Trad.htm]/](https://www.iatp.org/sites/default/files/Cut_the_Cost_-_Patent_Injustice_How_World_Trad.htm%5d/) lm

Public health in industrialised countries is being transformed by breathtaking medical advances. Major breakthroughs in the detection and treatment of disease are increasing life-expectancy and reducing vulnerability to sickness. But over the course of the next year, around 11 million people, most of them in developing countries, will die from preventable and treatable infectious diseases. This is the equivalent of 30,000 deaths each day. Almost half of the victims will be children under the age of five. The vast majority will be poor. Many millions more will suffer protracted bouts of sickness and disability, with devastating impact on levels of poverty and vulnerability.

The health gap between rich and poor countries is reinforcing wider inequalities in income and opportunity, and undermining efforts to meet internationally agreed human development targets. Much of the premature death and disability associated with infectious disease could be avoided, and the health gap closed, if poor people had access to affordable medicines. Yet those most in need are least able to afford treatment. Across the developing world, household poverty, inadequate public spending, and weak public-health infrastructures combine to place effective treatment beyond the means of the poor. According to the World Health Organisation (WHO), some two billion people in developing countries lack regular access to vital medicines. Moreover, infectious diseases do not respect national borders. The wider international community will also suffer from problems associated with the failure to meet public-health challenges in poor countries, such as slow growth and increased poverty.

Pipeline threats: implications for treatment of drug-resistant diseases

Most of the drugs that will come on stream as the new WTO rules are implemented have been developed with a view to patenting and marketing in rich countries. This has created unwarranted complacency about the implications of TRIPS for developing countries. In reality, many of the new anti-bacterial drugs now being developed could bring enormous benefits to poorer countries, provided that they are delivered on affordable terms. This is especially true with respect to the treatment of drug-resistant strains.

Drug-resistance poses an enormous threat to poor communities across the developing world. It means that illness is less susceptible to treatment, and that the costs of treatment increase - in some cases dramatically. The danger is that, in the absence of competition from generic-drugs producers, new patented drugs will be placed far beyond the means of the poor. Examples of drug resistance include:

Pneumonia (3.5 million deaths annually). Formerly effective front-line medications used to combat pneumonia and other respiratory tract infections now fail in the treatment of over 70 per cent of chest infections, according to a WHO study. Trials for several drugs potentially effective against resistant forms of pneumonia are now in an advanced stage. These drugs, which will be patented, include faropenem (Bayer) and levaquine (RW Johnson). One of the most promising drugs in this area is Ketek, the first in a new generation of antibiotics which is proving highly effective against pneumonia and influenza. Aventis is expected to launch the patented version of the drug in 2001. Restrictions on the development of generic versions will place it beyond the means of most sufferers in poor countries.

Diarrhoea (2.2 million deaths annually). Shigella is a highly virulent microbe responsible for half of all episodes of bloody diarrhoea in young children. It is directly responsible for an estimated 375,000 child deaths. In the past, many deaths from diarrhoea could be easily controlled with cheap generic drugs such as co-trimoxazole or ampicillin. However, resistance to these drugs is now very common (in over three-quarters of all cases in Tanzania, for example). Ciprofloxacin is one of the most effective of these drugs. The patented version is marketed by Bayer in Pakistan and in South Africa (where the patent has been filed) at prices respectively eight and twelve times higher than the generic version in India. Restrictions on the availability of generic ciprofloxacin resulting from more stringent patent rules would have grave public-health consequences. Several drugs relevant to the treatment of diarrhoea are now on trial.

Malaria (1.1 million deaths annually). Resistance to the lowest-cost front-line treatment, chloroquine, is now widespread in over 70 countries where the disease is a major killer, and resistance to sulfadoxine/pyrimethamine is growing. GSK’s Malarone has proved 98 per cent effective in the treatment of drug-resistant malaria. However, it is too expensive for most patients. Competition from generic producers is not permitted due to its patented status.

Gonorrhoea (62 million new cases annually). The development of anti-microbial resistance in gonorrhoea has been described by the WHO as ‘one of the major health care disasters of the 20th Century’. It has made gonorrhoea a driving force in the HIV/AIDS epidemic. Effective treatment is available in the form of ciprofloxacin and ceftriaxone (patented by Roche). However, the costs of effective treatment are relatively high. As with all sexually transmitted infection, women are particularly susceptible, with untreated gonorrhoea greatly enhancing the risk of HIV/AIDS infection, infertility, and miscarriages.

There are other examples of the potential costs which may be associated with patenting. Drugs on trial for the treatment of hepatitis (such as Entecavir, produced by Bristol-Myers Squibb) and viral meningitis, along with other anti-infective drugs and vaccines, offer potential benefits for developing countries, even though they have been developed with the US market in mind. But these benefits will be lost if prices in developing countries reflect the application of strict patent protection.

### Advocacy

#### Thus I affirm, The Member Nations of the WTO ought to reduce IPP for medicines by replacing the current system with a Weak-Type Protection system that is consistent with libertarianism. 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.

Click any member to see key information on trade statistics, WTO commitments, disputes, trade policy reviews, and notifications.

### Underview

#### 1] Aff gets 1ar theory, otherwise 1n can be infinitely abusive. 1n theory is RVI b/c 1ar 4 min time crunch is too short to fend off theory and win substance. No 2NR RVI, or theory since they’d dump on it for 6 minutes and my 3-minute 2AR is spread too thin.

#### 2] Presumption and permissibility affirm – you assume statements true until proven otherwise, i.e. if I told you my name was Leo you’d believe it, and we don’t need proactive justifications to do things like drink water.

#### 3] 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.

#### 4] TJF’s outweigh – every standard is an interp of the word ‘ought’ in the resolution, thus frameworks must be internally justified and theoretically legitimate. Prefer libertarianism – A] if every debate was util big schools would just outprep and win every rnd, which excludes small school debaters and lone wolves – inclusion outweighs because it’s constitutive of education and necessary for debate’s existence. B] Non-deontological frameworks are irresolvable because they have no bright line for ethical violations and require us to arbitrary measures of things like pain and pleasure which create massive margin of errors that kill impact calculus. C] the neg must concede aff framework, anything else moots 6 mins of AC and creates 7-13 min time skew, frames out all my ground, and generates infinite and non reciprocal strat skew, which is an unsustainable model of debate.