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### Adv- Accessibility

#### IPR only drives patents towards profitable diseases- they don’t increase innovation or investment in the developing world

Mike 19 Mike, Jennifer (Assistant Professor Of Law American University of Nigeria)"A re‐evaluation of the framework for the protection of patents, women’s health in Nigeria and the issue of accessing pharmaceutical innovation in Africa: Designing strategies for medicines." The Journal of World Intellectual Property 22.3-4 (2019): 162-204./SJKS

A pronounced area where the patent‐as‐incentive argument has failed to secure or facilitate innovation is in the area of R&D of diseases predominant in developing countries (Malpani, Heineke, & Kamal‐Yanni, 2008, p. 6; Mueller‐Langer, 2013, 186;Torreele, Usdin, & Chirac, 2004).58 Even where treatments were initially researched and produced, there is the still the issue of the availability of appropriate new drugs to treat infectious diseases due to increasing resistance to existing treatments (Laxminarayan et al., 2006, pp. 1031–1032). The nonavailability of medicinal treatments for infectious and tropical diseases predominantly affecting people in the developing parts of the world is more commonly known as the issue of drug availability for “neglected” tropical diseases (NTD; Hestermeyer, 2007, pp. 161–162). NTDs have been identified as diseases that “affect almost exclusively poor and powerless people living in rural parts of low‐income countries.” (Hunt et al., 2007, p. 3; Kindhauser, 2003). Accordingly, “[w]hile they cause immense suffering and often life‐long disabilities, these diseases rarely kill and therefore do not receive the attention and funding of high‐mortality diseases like AIDS, tuberculosis and malaria.” (Claude & Weston, 2006, p. 205). Patent law is relevant to this discussion because available patent protection for pharmaceuticals has not resulted in substantial increased benefits in drug development and production of essential drugs to improve access to medicines for the treatment of “neglected diseases” in developing countries (CIPR, 2002, p. 32). A large and growing body of literature points to the failure of the patent‐based incentive to facilitate the availability of adequate medicines, particularly for diseases afflicting poorer parts of developing countries (Condon & Sinha, 2008; Maskus, 2012, pp. 263‐26; MSF, 2005; Müller‐Langer, 2009, pp. 17–19; Chirac & Torreele, 2006, pp. 1560–1561; Zuniga, Marks, & Gostin, 2013, p. 314, Médecins Sans Frontières (MSF), 2012). For example, The WHO's Commission on Intellectual Property Rights, Innovation and Public Health (CIPIH), 2006 explains that “[w]here the market has very limited purchasing power, as is the case for diseases affecting millions of poor people in developing countries, patents are not a relevant factor or effective in stimulating and bringing new products to market.” (WHO, 2006, p. 22). Assessing this economic reality further, the CIPIH concludes that [f]or developing countries, where the demand is weak—but not the need—there is little incentive to develop new or modified interventions appropriate to the disease burden and conditions of the country (p. 23). The Special Rapporteur on human rights to health in his mission statement to the WTO (Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; Hunt, 2004) further wrote: The commercial motivation of intellectual property rights encourages research, first and foremost, towards “profitable” diseases, while diseases that predominantly affect people in poor countries—such as river blindness—remain under‐researched (para 42). The lack of research into specific diseases or appropriate medicines affecting women, with specific requirements such as reproductive or sexual health, has also been noted. Drawing a similar observation as CIPIH, Oxfam stated that even the existing health treatments may not be appropriate for particular groups of patients such as women and children with special needs (Malpani et al., 2008, p. 1 and 16). For example, little research has been directed to the effect of ARV on women who are pregnant or lactating (p. 7). Thus there is another issue of R&D of drugs to cater for the particular needs of women. A pertinent issue in the unavailability of treatments for NTDs is the question of whether or not the TRIPS Agreement and its patent protection play an important role in encouraging pharmaceutical innovation for these diseases. Commonly argued, the extension of patent rights for pharmaceuticals in TRIPS has failed to boost research for drugs that satisfy the health needs of developing countries (Chon, 2006, p. 2821). Considering the current challenges for the availability and accessibility of drugs for neglected diseases, several authors and organisations have called into question the relevance of patents in the TRIPS Agreement on pharmaceutical R&D and global health (Hubbard & Love, 2004, pp. 0147–0148; Leoni & Sandroni, 2011, pp. 2–18; Malpani et al., 2008, p. 1; Oguamanam, 2010, pp. 4–5).59 In 2006, CIPIH concluded that there was “no evidence that implementation of the TRIPS Agreement in developing countries will significantly boost R&D in pharmaceuticals” and “insufficient market incentives” in developing countries are identified as factors for this conundrum (WHO, 2006, p. 85). El Said and Kapczynski, 2011 (pp. 1–2) further argue that the world's pharmaceutical market share in developing countries is low for increased marginal value resulting from stronger patent protection; hence the benefit of a patent is unlikely to outweigh the impact on access. While it would be overstating the importance of a patent to expect that it is the only factor that can spur the degree of necessary investment in R&D to address the disease problems of developing countries, the argument, as above, holds that it offers incentive for researchers and pharmaceutical companies to undertake important drug discovery ventures. There were reasons to believe that the introduction of patent law in developing countries would facilitate FDI, lead to an increase in innovation for the pharmaceutical companies and enlarge the incentive to undertake important research (Hestermeyer, 2007, p. 162; Braga & Fink, 1998, p. 538, Deere, 2009, 9; Fink & Braga, 2005, 19‐34). The success of innovative efforts is thus greater when inventions are protected. However, the dearth of investment in products to tackle diseases predominately affecting people in developing countries calls into question the justification of the incentive argument for patent rights in developing countries. The current situation leads some scholars to argue that the welfare benefits of introducing a global regime of minimum patent law through the instrumentality of the TRIPS Agreement is negative or yet to materialise (Hestermeyer, 2007, p. 163).

#### Developing countries create thriving pharmaceutical industries without product patents- generic, cheaper and accessible drugs proliferate

‘T Hoen 09 ‘t Hoen, Ellen FM (international medical activist. She is an expert in medicines policy and intellectual property law and has been a consultant to a number of countries and international organisations). The global politics of pharmaceutical monopoly power: drug patents, access, innovation and the application of the WTO Doha Declaration on TRIPS and public health. DiemenAMB, 2009./SJKS

Before TRIPS, many developing countries did not grant pharmaceutical product patents and/or they limited patent terms, which allowed a generic industry and competition to flourish. Generic companies made relatively new products available in developing countries; these products would have been costly or unavailable had they been patent-protected. India’s 1970 Patents Act, for example, provided for process patents but not product patents; this law encouraged the development of a generics industry that reverse-engineered its own versions of new medicines that were often patented elsewhere. Developing countries have for many years relied on countries such as India, Egypt, Israel, Jordan, Brazil, and Argentina for their supply of affordable medicines. Developing countries that did not grant pharmaceutical product patents at the date of application of the TRIPS Agreement (1st January 2000) were allowed under the transitional rules to delay the implementation of product patents until 2005.2 Countries that made use of this transition period were, however, obliged to have “mailbox” provisions to receive patent applications during the transition (For further discussion of mailboxes, see Section 5.3.6).3 India was one of the few countries to make full use of the TRIPS Agreement’s transition provisions. Following the full implementation of TRIPS on January 1st 2005 in India and several other developing countries that did not previously grant pharmaceutical patents, reverse engineering is no longer possible. As a result, access to affordable new drugs is expected to become more difficult. Successful AIDS programmes such as those of Brazil and Thailand were possible, in part, because key pharmaceuticals were not patent-protected and could be produced locally at much lower costs. These are primarily ‘1st line’ drugs, which are used when patients first begin AIDS treatment. The production of ARVs in Brazil created a larger market for ARV active pharmaceutical ingredients (API), making it possible for Indian companies to start production of ARVs in large volumes; the resulting economies of scale allowed for dramatically reduced prices. In Figure 2 the white bars represent products that could be produced in Brazil because they were not patent protected there. Brazil’s purchasing power reduced the price of the API on the global market. Most of the ARVs currently available at affordable prices come from India. In 2008, an estimated 3 million people in low and middle income countries received ARV therapy for HIV/AIDS. It is estimated that approximately 60% of the ARVs come from India, including up to 80% of first-line treatments (Nguimfack, personal communication, 2008). Furthermore, in 87 developing countries, 70% of the treatment for patients purchased by the United Nations Children’s Fund (UNICEF), International Dispensary Association (IDA), the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) and the Clinton Foundation, comes from Indian suppliers. MSF purchases 80% of its ARVs in India for projects in over 30 countries. The purchase by the US President’s Emergency Plan for AIDS Relief (PEPFAR) of Indian ARVs resulted in cost-savings of up to 90%, and 91% of the generic ARVs approved by the US Food and Drug Administration (US FDA) for PEPFAR are from India (MSF 2007). However these medicines were brought on to the market in the pre-TRIPS era. Today, all products may be subject to at least 20 years of patent protection in all but the LDCs and a few non-WTO Members. Because TRIPS implementation will affect both producers in key manufacturing countries and countries that depend on these manufacturers for raw materials, prices will remain high and access to new medicines will become more problematic for populations in the developing world. Generic producers will also be blocked from developing fixed-dose combinations or paediatric formulations until the relevant patents on the individual components of the combinations expire. Second-line ARVs, used to treat patients for whom 1st line drugs are no longer effective, were more recently developed and therefore are widely patented; they tend to be far more expensive than 1st line treatments.

#### Local production creates quality accessible medicines, universal healthcare, increases innovation and caters to regional needs- its empirically proven

WHO 21 World Health Organization (WHO), 2021, WHO Resolution on Strengthening Local Production of Medicines and Other Health Technologies to Improve Access. https://healthpolicy-watch.news/wp-content/uploads/2021/01/Zero-Draft-resolution-on-Strengthening-Local-Production-of-Medicines-and-Other-Health-Technologies-to-Improve-Access-Dec-042020.pdf./SJKS

The current interest in local production of medicines and other health technologies by Member States is significant as a strategy to improve access to quality‐assured affordable medicines and other health technologies, achieve universal health coverage and reduce dependency on imports to strengthen national health security, as well as to catalyze local capacity for innovation, strengthen capacity of the health workforce and stimulate a knowledge‐based economy and social development. It is important to note that improved access can be attained not only by a reduction in price, but also by, for example, reducing lead time to the supply chain, and adapting existing products (such as developing heat‐stable formulations) or transferring technology to build local production capability to meet specific local needs. Local production can cater to the demand of medicines and other health technologies to treat diseases that disproportionately affect low‐ and middle‐income countries(LMICs),such as neglected tropical diseases and malaria. Some of benefits in promoting local production has been evident among Member States; for instance, China has demonstrated certain progress and success with implementing their strategies to promote local production. China’s local pharmaceutical manufacturing industry not only benefitted national universal health coverage but has also grown to become the world’s leading producer and exporter of active pharmaceutical ingredients by volume and accounted for ~20% of the total global API output. In Bangladesh, local pharmaceutical manufacturers supply ~98% of the local demand for medicines and export to 145 countries worldwide. In 2007, India and Thailand embarked on a project to develop capacity in local production of influenza vaccines through technology transfer due to concerns of the lack of reliable access to a sufficient number of doses via importation in the event of a pandemic. By 2015, local production capacity of pandemic influenza vaccine in India and Thailand reached 20 million and 1.5 million doses, respectively. In 2018, Indian vaccine manufacturers supplied the majority of procured vaccines by volume (> 65%) in all regions except the European Region. As of January 2020, Indian vaccine manufacturers attained WHO prequalification of 50 vaccines and Thai vaccine manufacturers attained 1 WHO‐prequalified vaccine. Indeed, local production could cater to local/regional needs. In Brazil, where the presence of schistosomiasis, leishmaniasis and other neglected tropical diseases is among the highest in the Region of the Americas (e.g. over 1.5 million people requiring preventive chemotherapy annually for schistosomiasis in 2018), the local manufacturer (Immunobiological Technology Institute) supplies the public sector with reagent kits for diagnosis of AIDS, leptospirosis, leishmaniasis, Chagas disease, and schistosomiasis. In the case of malaria, where an estimated 200 million cases of malaria (about 92% of the global cases) were in the African Region, one manufacturer in the United Republic of Tanzania produces long‐lasting insecticidal bednets and supplies locally and within Africa via procurement supported by The Global Fund.

### Adv- Pandemics

#### Increasing manufacturing creates rapid pandemic responses in the developing world

Sell 21 Sell, Tara Kirk (Senior Scholar at the Johns Hopkins Center for Health Security and an Assistant Professor in the Department of Environmental Health and Engineering at the Johns Hopkins Bloomberg School of Public Health), et al. "Building the global vaccine manufacturing capacity needed to respond to pandemics." Vaccine (2021)./SJKS

Traditionally, pharmaceutical products are manufactured at scale in centrally located sites. Centralized production provides economies of scale, but it also results in single points of failure in vaccine supply chains and geographic concentration of production. The majority (~80%) of vaccines are manufactured by five large pharmaceutical companies in the US and Europe: GlaxoSmithKline (USA), Merck (USA), Novartis (Switzerland), Pfizer (UK), and Sanofi Pasteur (France) [[7]](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7903906/#b0035). Thus many regions lack significant vaccine manufacturing capacity, and are often the areas where vaccines are needed most, due to higher prevalence of endemic diseases or heightened risk of outbreaks. Distributed manufacturing, in contrast, produces final products close to the end user. Advances in DNA/RNA synthesis, 3D printing, mini-labs, and product design would make distributed manufacturing feasible for a wider range of vaccines around the world. Many of these technologies would enable not only decentralized production but also the flexibility to rapidly transition between different product lines. A new regulatory approach would be needed as well, combined with processes for local testing and quality assurance. Vaccine companies would need to share IP in new ways for their products to be produced in a distributed way. Implemented at mass scale, distributed manufacturing could provide not only value for routine use but also benefits for pandemic response. Routine units could switch to provide emergency capacity during a pandemic immediately following regulatory approval. Although distributed manufacturing is unlikely to match the economies of scale afforded by centralized production soon, advances in distributed manufacturing could expand options for rapid, flexible production of vaccines for frontline workers or at-risk populations.

#### Diversifying manufacturing is key to solve future disruptions.

EPR 20 European Pharmaceutical Review (leading publication for information on technologies in drug discovery and manufacturing) 4/1/20, COVID-19 update: coronavirus and the pharmaceutical supply chain. https://www.europeanpharmaceuticalreview.com/article/116145/covid-19-update-coronavirus-and-the-pharmaceutical-supply-chain/SJKS

While the effects of coronavirus are overwhelmingly negative, Duffy suggested there could be one positive as a result of COVID-19: that companies may begin to spread production across different markets, limiting the effects of future disruptions: “I think the next six months are going to be extremely interesting because companies are going to have to look at shifting manufacturing from impacted markets to less impacted markets. A few pharmaceutical companies have already released statements saying they are trying to shift manufacturing or compensate for market disruptions by increasing manufacturing elsewhere.” He suggested this could be problematic in the short-term, as an increasing number of markets are impacted by COVID-19 and the process to establish pharmaceutical manufacturing facilities is lengthy due to the tight regulations and the need for precise capabilities. In order to do this Duffy said that pharma companies will have to use and expand production at existing facilities in other markets. However, “in the long-term enterprises are going to have to diversify out their manufacturing capacity across a number of markets. Where manufacturing is highly concentrated right now, such as in China or India, that is probably not going to be the case in five years.” Duffy concluded: “I think over the long term, businesses across several markets are going to be looking at whether it makes sense to have lots of factories in any one market or if they should be attempting to diversify by building factories elsewhere.”

#### **Future pandemics ensure extinction – covid was just the beginning.**

Diamandis 21 [Eleftherios; Lunenfeld-Tanenbaum Research Institute, Mount Sinai Hospital, Toronto, Canada. Department of Laboratory Medicine and Pathobiology, University of Toronto, Toronto, Canada. Department of Pathology and Laboratory Medicine, Mount Sinai Hospital, Toronto, Canada. Department of Clinical Biochemistry, University Health Network, Toronto, Canada. PhD, MD; “The mother of all battles: Viruses vs. humans. Can humans avoid extinction in 50-100 years?” 4/14/21; Preprints; Ask for PDF] Justin

\*\*We do not endorse any ableist language

Viruses evolve continuously, eventually leading to variants that are more transmissible and some times more lethal than the original strains. The SARS-CoV-2 is a good contemporary example. Multiple variants of SARS-CoV-2 are rapidly spreading and are becoming dominant in certain geographic areas (15, 16). For example, the B.1.1.7 variant (United Kingdom) has 23 mutations and 17 amino acid changes; variant 501Y.V2 (South Africa) has 23 mutations and 17 amino acid changes and P.1 variant (Brazil) has approximately 35 mutations with17 amino acid changes. New variants with additional mutations could become able to evade our currently available vaccines by weakening the ability of vaccine-induced antibodies to neutralize/block viral entry, and by strengthening the ability of the virus to enter the cells via surface receptors.

How CoVID-19 and possibly other viruses affect the brain

In general, viral invasion of the central nervous system may be achieved by several routes, including transsynaptic transfer across infected neurons, entry via the olfactory nerve, infection of vascular endothelium, or leukocyte migration across the blood-brain barrier. SARS-CoV-2 invades endothelial cells via transmembrane angiotensin-converting enzyme 2 (ACE2) receptor binding and a subsequent proteolytic event, facilitated by transmembrane protease serine 2 (TMPRSS2) (17). Is there evidence that SARS-CoV-2 can enter the brain? The answer is yes (18). One route is by migrating from the cribriform plate along the olfactory tract (19) or through vagal pathways, as already mentioned. Another route may include viral entry into brain capillary endothelial cells via the ACE2 pathway. Viral RNA was detected in medulla and cerebellum by reverse transcription polymerase chain reaction. However, viral proteins seem to be absent from neurons and glial cells. Consequently, the adverse events of the virus on the brain, including altered neurotransmission and neuronal damage are likely mediated by neuroinflammation and hypoxic injury through cytokines and other pro-inflammatory mediators.

SARS-CoV-2 and possibly other viruses can affect the senses

Viruses can affect our senses. For example, SARS-CoV-2 causes anosmia (loss of smell) and ageusia (loss of taste) in 40-70% of COVID-19 patients (20). Other neurological symptoms include headache, stroke, impairment of consciousness, seizure, anxiety and encephalopathy. Current evidence suggests that SARS-CoV-2-related anosmia may be a new viral syndrome specific to COVID-19. This syndrome is likely mediated by intranasal inoculation of SARSCoV-2 into the olfactory neural circuitry. Since the olfactory sensory neurons do not express ACE2 receptor, the likely explanation for the loss of smell is damage of accessory cells supporting these neurons Although anosmia is not lethal or a severe disease, other neurological damage such as blindness could be devastating (21, 22) Adverse Senarios Fifty years ago, one adverse scenario was presented in the film “the Andromeda strain”, which describes a pandemic caused by a pathogen of extraterrestrial origin (23). Here, is an alternative scenario that involves a hypothetical endogenous virus. A prophage, which was residing dormant for years in the genome of the commensal gut bacterium Bifidobacterium infantis suddenly, and without an apparent reason, has undergone induction and started to produce viral proteins, which were subsequently assembled into whole phages. After cell lysis, these phages infected other, neighboring cells. This cycle was repeated many times and millions of free virions were released, some entering the systemic circulation (viremia). Some virions were able to reach the lung endothelium and through an as yet unknown receptor, entered the endothelial cells and started replicating and lysing these cells. The resulting mucous caused the host to cough, thus facilitating transfer of the virus to other humans through aerosol droplets. Soon, the virus was able to infect, first hundreds, then thousands, then millions of other unsuspected people through coughing and sneezing. The virus was able to travel all over the world, since the pulmonary manifestations were mild and most infected individuals thought it was a common flu or a similar ailment. Scientists isolated the virus that caused this flu-like disease and determined from its genomic sequence that it was a novel member of influenza virus B, which usually causes seasonal flu. Despite the pandemic nature of the infection, nobody died and governmental bodies were not highly concerned. Six months later, one individual reported weakening of his of vision, which, within3 months progressed to total blindness. This unusual form of blindness quickly spread to other people until scientists performed epidemiological studies, which linked the blindness to the previously mentioned mild flu. Soon afterwards, scientists isolated and identified the virus from brains of blind and subsequently succumbed individuals and confirmed that the sequence matched the virus that caused the unusual flu. More elaborate studies had shown that there was an unusual and very severe neuroinflammation around the occipital lobe of the brain (Brodmann area 17), an area that is responsible for interpretation of visual signals arriving from the optic nerve. Several therapeutics were tried but none was proven to be effective. Twelve months into the pandemic, 10 million people lost their vision and within 18 months, and without any success in developing therapies or a vaccine, the blindness had spread to whole nations. Blindness The selection of blindness as a chronic consequence of an acute pandemic was deliberate. In 1995, Portuguese author Jose Saramago published a fictional novel entitled “Blindness” (ISBN:9780151002511) which contributed to him winning the Nobel Prize in literature in 1998. Blindness is a highly detailed story of a mysterious mass epidemic that caused blindness of a whole nation, and the social breakdown that followed. The blindness pandemic, in many respects, is reminiscent of the COVID-19 pandemic. Blindness caused widespread panic, anarchy and government lock-downs. The life of the blind people was characterized by filthiness, aggressive manners, disrespect of others and a struggle to survive by any possible means. The breakdown of society was near total. Law and order, social services, government, schools, etc., could no longer function. Families have been separated and cannot find one another. People squat in abandoned buildings and scrounge for food. Violence, disease, and despair threaten to overwhelm human coping. One of Saramago’s quotes, describing life after blindness, is reproduced here “Perhaps humanity will manage to live without eyes, but then it will cease to be humanity, the result is obvious...”. Other ailment

Acute pandemics could cause many other chronic diseases that can threaten the sustainability of our present society. Although COVID-19 causes loss of smell and taste, these are considered non- life-threatening ailments. However, in the long run, permanent absence of smell and taste will mean loss of innumerable current pleasures associated with consumption of food and drinks. Clearly, loss of hearing will not be compatible with current societal functions or human achievements. Acute viral diseases are also associated with innumerable organ-specific diseases such as heart, kidney and reproductive failures, and disturbance of other vital functions that can paralyze our current society economy and culture. Even a minor weakening of our memory (mild cognitive impairment) could result in chaotic situations that authors of fiction, like Saramago, can attempt to describe in detail before this happens.

Epilogue

Humans take for granted what they currently have and enjoy. Perhaps we did not realize that the spectacular advances of the human race are dependent of a number of potentially volatile abilities (senses, brain function etc.) and that even one loss, or diminution of such abilities, could be detrimental, causing collapse of our civilization. The COVID019 pandemic helped us to realize that we may be sitting on a time bomb which may explode, if we continue disturbing the current equilibrium between humans and our other planetary partners. In addition to viruses of rather exotic origin, like SARS-CoV-2, billions of other viruses and other infectious agents in our gut and skin are waiting for the right time to attack us. The lessons learned from COVID-19 should be a wake -up call for humans to stop disturbing the equilibrium with actions that favor the well-being of humans, but put in danger the existence of other inhabitants of planet earth. Last but not least. Artists are always ahead of scientists in seeing things coming. On this occasion, the rock band R.E.M. released a song 30 years ago entitled “It's the end of the world as we know it (and I feel fine)”. **They are likely not far off their prediction!**

### Adv- Chinese Dependency

#### Over reliance on China for drugs is at an all-time high globally and leads to serious access concerns

Horner 20 Rory Horner (Senior Lecturer, Global Development Institute, University of Manchester), 5/25/2020, The world needs pharmaceuticals from China and India to beat coronavirus. https://theconversation.com/the-world-needs-pharmaceuticals-from-china-and-india-to-beat-coronavirus-138388/SJKS

This globalisation of the pharmaceutical industry has led to fears of over-reliance on particular sources of supply, especially China, for APIs. Such concern has been particularly prominent in the US. Last year a representative of the Defence Health Agency argued that “the national security risks of increased Chinese dominance of the global API market cannot be overstated”. The state of America’s reliance on China for pharmaceuticals was documented in a book by health researchers Rosemary Gibson and Janardan Prasad Singh which highlighted that the last manufacturing plant for aspirin in the US closed in 2002, while the last acetaminophen (paracetamol) manufacturing plant in Europe closed in 2008. India also gets most of its APIs from China – an issue of concern for its government, which has had a task force investigating this issue. The country once had considerable self-reliance in production of APIs, dating back to the establishment of two state-owned pharmaceutical companies in the 1950s and 1960s. But in recent decades there are stricter environmental controls, which many believe has limited this aspect of the industry in India. China also has cheaper land, electricity and higher volumes of production. So now India relies on China for about 70% of its supply of APIs. And for some well known drugs, such as paracetamol, amoxicillin and ibuprofen, India is almost 100% dependent on China. While the US, Europe and India have worried about over-reliance on China, Africa is most dependent of all on the global pharmaceutical supply chain. Effectively all APIs and 80-90% of the finished medicines consumed on the continent are imported – mostly from India.

#### Reliance on China for drugs decks military readiness, creates overdependence, and threatens national security

Edney 19 Anna Edney (Reporter at Bloomberg), 8/5/2019, Pentagon Sees Security Threat in China’s Drug-Supply Dominance, Bloomberg, https://www.bloomberg.com/news/articles/2019-08-05/pentagon-sees-security-threat-in-china-s-drug-supply-dominance/SJKS

The Trump administration sees the increasing use of Chinese-made active ingredients in drugs taken by U.S. troops and civilians as a national security risk. China has become the world’s largest supplier of active pharmaceutical ingredients, or API, providing key components to drugmakers worldwide. But a yearlong recall of tainted heart drugs taken by millions of Americans is prompting U.S. national security officials to ask whether China’s growing role in the pharmaceutical supply chain could pose a threat to the health of military personnel. “The national security risks of increased Chinese dominance of the global API market cannot be overstated,” Christopher Priest, the acting deputy assistant director for health care operations and Tricare for the Defense Health Agency, told a U.S.-China advisory panel last week in Washington. The Defense Health Agency manages much of the health care of military members, including prescription drugs. Concerns about the safety and efficacy of Chinese-made drugs are rising at a time of heightened trade tensions between Washington and Beijing. Last week, Trump unveiled plans for new tariffs on Chinese goods; China plans to [halt imports of U.S. crops](https://www.bloomberg.com/news/articles/2019-08-05/china-hits-back-at-trump-with-weaker-yuan-halt-on-crop-imports) in response. The yuan sank on Monday against the dollar. The National Security Council is looking into Chinese drug manufactuing and trying to identify the most at-risk medications, Priest told the [U.S.-China Economic and Security Review Commission](https://www.federalregister.gov/agencies/u-s-china-economic-and-security-review-commission) in Washington, without elaborating. The National Security Council declined to comment. The Defense Health Agency is supposed to use drugs that comply with the Trade Agreements Act, a 1979 law that requires many federal purchases to be made in the U.S. or another compliant country. China isn’t on the approved list, but the agency has waivers for almost 150 drugs they otherwise wouldn’t be able to procure, Priest said. The TAA covers only finished products, not their components. Many drugs taken by military members and civilians have active ingredients made in China. While drugmakers typically don’t disclose where every molecule in a pill comes from, the recall of contaminated blood-pressure drugs has shown that many of their active components originated in Chinese factories. **Rocket Fuel** Larry Wortzel, a member of the U.S.-China commission and a military retiree, said four of his blood-pressure medications were recalled in three months. Wortzel’s pills, versions of a drug called valsartan, were manufactured in India but had active ingredients from China. “They were contaminated with rocket fuel,” Wortzel said. “I imagine active people have the same problem. This affects the readiness of our troops.” The recalled valsartan contained a probable carcinogen known as NDMA, a manufacturing byproduct once used to make rocket fuel and also found in grilled and cured meats. Priest called the recalls “a never-ending saga” and a “wake-up call.” The recalls began in July 2018 with valsartan made by China’s [Zhejiang Huahai Pharmaceutical Co.](https://www.bloomberg.com/quote/600512:CH) The U.S. Food and Drug Administration has largely blamed the company’s manufacturing process for creating the NDMA, which went undetected for as long as four years. Drugmakers in other countries who used similar processes have also had to recall blood-pressure pills. Some valsartan purchased by the Defense Logistics Agency and later recalled was TAA-compliant, said Patrick Mackin, a spokesman for the DLA. The agency manages the supply chain for the U.S. military, including ensuring pharmaceuticals make their way to military treatment facilities. With valsartan in shortage, according to the FDA, the agency sought a TAA waiver for valsartan on July 15, Mackin said. A Bloomberg [investigation](https://www.bloomberg.com/news/features/2019-01-29/america-s-love-affair-with-cheap-drugs-has-a-hidden-cost) this year detailed doubts among U.S. health officials about the data generic-drug companies, including Zhejiang Huahai and others involved in the valsartan recalls, use to prove their products are safe and effective. “We wouldn’t have our aircraft carriers and nuclear submarines built in China, and for very important medications, we really should look at what it takes to purchase based on value not just price,” Rosemary Gibson, the author of the book “China Rx,” told the commission. “We want cheap, we can buy cheap. But what’s missing from the whole equation is quality.” **Shortage Fears** Quality isn’t the only concern. Shortages could also arise from attempts by the Chinese to cut off supply, particularly amid the U.S.-China trade standoff. “If China shut the door on exports, our hospitals would cease to function, so this has tremendous urgency,” Gibson said. Priest said pharmaceutical companies should be compelled, using the buying power of the entire federal government, to maintain the infrastructure to make drugs without relying on countries like China. The House Energy and Commerce Committee is [investigating](https://www.bloomberg.com/news/articles/2019-06-28/congress-raises-doubts-about-fda-ability-to-police-drug-supply) the FDA’s ability to police foreign manufacturing. The committee’s leaders asked the agency for more information on the valsartan recall in June, including about a dispute between senior officials and an agency inspector who raised [red flags](https://www.bloomberg.com/news/features/2019-01-30/chinese-heart-drug-valsartan-recall-shows-fda-inspection-limits) at Zhejiang Huahai more than a year before the NDMA was detected. The panel also asked the Government Accountability Office to look at the FDA’s oversight of foreign drug manufacturing. “Shame on us for not paying attention to something so critical and assuming, which has been the orthodoxy for a long time, that the industry would regulate itself,” Benjamin Shobert, senior associate for international health at The National Bureau of Asian Research, told the commission.

### Plan

#### Plan text: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

#### Enforcement through eliminating product patents solve- empirically proven through India to lower prices, create generics, and foster innovation

He 2019 He, Juan (Graduate Student Graduate School at Shenzhen Tsinghua University) . "Indian Patent Law and Its Impact on the Pharmaceutical Industry: What Can China Learn from India?." Innovation, Economic Development, and Intellectual Property in India and China. Springer, Singapore, 2019. 251-269./SJKS

The *Report on the Revision of the Patent Law* submitted by the Patent Law Amendment Commission in 1959,[34](https://link.springer.com/chapter/10.1007/978-981-13-8102-7_11#Fn34) which was led by Shri Justice N. Rajagopala Ayyangar, pointed out that at that time foreigners held 80% to 90% of India’s patents, of which 90% of the patented products were not manufactured in the Indian territory. Foreign companies could block the production of their patented drugs in India, causing the stagnation of the Indian domestic pharmaceutical industry. Thus, the Commission believed that the patent system had been used by multinational corporations to monopolize the market, especially in the food, pharmaceutical, and chemical industries. Market monopolies also led to high product prices. Therefore, the Commission recommended that only methods or processes in the abovementioned fields be patentable, as opposed to the Indian Patents and Designs Act of 1911, which granted patent to both product and process inventions in the pharmaceutical sector. This suggestion was adopted by the Patents Act of 1970, which has laid the foundation for the boom in India’s generic drug industry. According to the Patents Act of 1970, no patent shall be granted in respect of claims for substances intended for use or capable of being used as medicine or drug or relating to substances prepared or produced by chemical processes. The reason that the Patents Act of 1970 only grants method patents in the fields of pharmaceuticals and chemicals is because product patents have an inhibitory effect on other related research, as they can prevent others from obtaining the same products through different methods. Once product patents are granted to drugs, patentees can control the production of patented drugs and thereby unreasonably raise the prices of essential medicines.[35](https://link.springer.com/chapter/10.1007/978-981-13-8102-7_11#Fn35) Thus, the rejection of the drug product patents guaranteed that India’s generic companies could produce drugs with the same or similar composition through reverse engineering and avoid being accused of infringement. India denied product patents in the pharmaceutical sector until the expiration of the transition period of the TRIPS Agreement on January 1, 2005. The rejection of product patents in the pharmaceutical sector for more than 30 years has created an opportunity for the development of the generic drug industry in India. After comparing drug prices among India, the United Kingdom, Malaysia, and Nigeria, before and after the Indian Patents Act of 1970, R.B. Saxena, consultant at the Indian Council for Research on International Economic Relations, found[36](https://link.springer.com/chapter/10.1007/978-981-13-8102-7_11#Fn36) that the prices of pharmaceutical products in India were highest before the enactment of the Patents Act of 1970 and that in 1987 the prices in India for commonly used drugs, such as analgin tablets, doxycycline capsules, diazepam tablets, and metronidazole tablets, were low compared to those of other countries. The research also found that some of the important new drugs could be introduced into India with a time lag ranging between only 4 and 6 years. Thus, Saxena pointed out that the changes relating to process patenting incorporated in the Indian Patents Act of 1970 had benefited Indian consumers in terms of prices paid for drugs and medicines and, meanwhile, it also became possible to produce many new pharmaceutical products in India much faster than what could have been otherwise.

#### R&D doesn’t justify high prices- Germany and Switzerland empirically prove only granting process patents is the key differentiator

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Witnesses for the pharmaceutical industry justified high prices with the need to invest in R&D. In defence of aggressive brand name promotion, they also asserted that generic medicines were of inferior quality and that advertising was an essential means of providing information to the medical profession. Pharmaceutical companies still use the same arguments today in response to their critics. However, in the early 1960s they did not impress the Senate Subcommittee. For example, the testimonies that high drug prices in the US were needed to pay for R&D did not convince the committee, as European originator companies had carried out R&D for many of the drugs but still sold them in their home markets for a fraction of the US price. Instead, the Subcommittee found that patenting practices were a determining factor when comparing European and US drug prices. European countries generally took the position that drugs were too important to public health to allow private monopolies, and product patents were not available for drugs. Germany and Switzerland, both leaders in drug research, only granted process patents, which allowed others to make competing products using new processes. This greater freedom to produce resulted in greater price competition in Europe (Kefauver 1965:56-57).

#### Only the plan can solve covid access – inequalities heighten the risk of mutations and uneven development.

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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 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.

### 1AC – Framing

#### The standard is maximizing expected wellbeing.

#### 1] Actor spec—governments must use util because they don’t have intentions and are constantly dealing with tradeoffs—outweighs since different agents have different obligations—takes out calc indicts since they are empirically denied.

#### 2] Death is bad and outweighs – a] agents can’t act if they fear for their bodily security which constrains every ethical theory, b] it destroys the subject itself – kills any ability to achieve value in ethics since life is a prerequisite which means it’s a side constraint since we can’t reach the end goal of ethics without life

#### 3] Pleasure and pain are the starting point for moral reasoning—they’re our most baseline desires and the only things that explain the intrinsic value of objects or actions

Moen 16, Ole Martin (PhD, Research Fellow in Philosophy at University of Oslo). "An Argument for Hedonism." Journal of Value Inquiry 50.2 (2016): 267.

Let us start by observing, empirically, that **a widely shared judgment about intrinsic value** and disvalue **is that pleasure is intrinsically valuable and pain is intrinsically disvaluable**. On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues. This inclusion makes intuitive sense, moreover, for **there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels**, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have. “Pleasure” and “pain” **are** here **understood inclusively**, as encompassing anything hedonically positive and anything hedonically negative. 2 The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values. If you tell me that you are heading for the convenience store**, I might ask: “What for**?” This is a reasonable question, for when you go to the convenience store you usually do so, not merely for the sake of going to the convenience store, but for the sake of achieving something further that you deem to be valuable. You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. **The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good**. 3 As Aristotle observes: “**We never ask** [a man] **what** his **end is in being pleased, because we assume that pleasure is choice worthy in itself**.”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that **if something is painful, we have a sufficient explanation of why it is bad**. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value**. Although **pleasure and pain thus seem to be good candidates for intrinsic value and disvalue**, several objections have been raised against this suggestion: (1) that pleasure and pain have instrumental but not intrinsic value/disvalue; (2) that pleasure and pain gain their value/disvalue derivatively, in virtue of satisfying/frustrating our desires; (3) that there is a subset of pleasures that are not intrinsically valuable (so-called “evil pleasures”) and a subset of pains that are not intrinsically disvaluable (so-called “noble pains”), and (4) that pain asymbolia, masochism, and practices such as wiggling a loose tooth render it implausible that pain is intrinsically disvaluable. I shall argue that these objections fail. Though it is, of course, an open question whether other objections to P1 might be more successful, I shall assume that if (1)–(4) fail, we are justified in believing that P1 is true itself a paragon of freedom—there will always be some agents able to interfere substantially with one’s choices. The effective level of protection one enjoys, and hence one’s actual degree of freedom, will vary according to multiple factors: how powerful one is, how powerful individuals in one’s vicinity are, how frequent police patrols are, and so on. Now, we saw above that what makes a slave unfree on Pettit’s view is the fact that his master has the power to interfere arbitrarily with his choices; in other words, what makes the slave unfree is the power relation that obtains between his master and him. The difﬁculty is that, in light of the facts I just mentioned, there is no reason to think that this power relation will be unique. A similar relation could obtain between the master and someone other than the slave: absent perfect state control, the master may very well have enough power to interfere in the lives of countless individuals. Yet it would be wrong to infer that these individuals lack freedom in the way the slave does; if they lack anything, it seems to be security. A problematic power relation can also obtain between the slave and someone other than the master, since there may be citizens who are more powerful than the master and who can therefore interfere with the slave’s choices at their discretion. Once again, it would be wrong to infer that these individuals make the slave unfree in the same way that the master does. Something appears to be missing from Pettit’s view. If I live in a particularly nasty part of town, then it may turn out that, when all the relevant factors are taken into account, I am just as vulnerable to outside interference as are the slaves in the royal palace, yet it does not follow that our conditions are equivalent from the point of view of freedom. As a matter of fact, we may be equally vulnerable to outside interference, but as a matter of right, our standings could not be more different. I have legal recourse against anyone who interferes with my freedom; the recourse may not be very effective—presumably it is not, if my overall vulnerability to outside interference is comparable to that of a slave— but I still have full legal standing.68 By contrast, the slave lacks legal recourse against the interventions of one speciﬁc individual: his master. It is that fact, on a Kantian view—a fact about the legal relation in which a slave stands to his master—that sets slaves apart from freemen. The point may appear trivial, but it does get something right: whereas one cannot identify a power relation that obtains uniquely between a slave and his master, the legal relation between them is undeniably unique. A master’s right to interfere with respect to his slave does not extend to freemen, regardless of how vulnerable they might be as a matter of fact, and citizens other than the master do not have the right to order the slave around, regardless of how powerful they might be. This suggests that Kant is correct in thinking that the ideal of freedom is essentially linked to a person’s having full legal standing. More speciﬁcally, he is correct in holding that the importance of rights is not exhausted by their contribution to the level of protection that an individual enjoys, as it must be on an instrumental view like Pettit’s. Although it does matter that rights be enforced with reasonable effectiveness, the sheer fact that one has adequate legal rights is essential to one’s standing as a free citizen. In this respect, Kant stays faithful to the idea that freedom is primarily a matter of standing—a standing that the freeman has and that the slave lacks. Pettit himself frequently insists on the idea, but he fails to do it justice when he claims that freedom is simply a matter of being adequately (and reliably) shielded against the strength of others. As Kant recognizes, the standing of a free citizen is a more complex matter than that. One could perhaps worry that the idea of legal standing is something of a red herring here—that it must ultimately be reducible to a complex network of power relations and, hence, that the position I attribute to Kant differs only nominally from Pettit’s. That seems to me doubtful. Viewing legal standing as essential to freedom makes sense only if our conception of the former includes conceptions of what constitutes a fully adequate scheme of legal rights, appropriate legal recourse, justiﬁed punishment, and so on. Only if one believes that these notions all boil down to power relations will Kant’s position appear similar to Pettit’s. On any other view—and certainly that includes most views recently defended by philosophers—the notion of legal standing will outstrip the power relations that ground Pettit’s theory.

#### 4] Extinction outweighs

MacAskill 14 [William, Oxford Philosopher and youngest tenured philosopher in the world, Normative Uncertainty, 2014]

The human race might go extinct from a number of causes: asteroids, supervolcanoes, runaway climate change, pandemics, nuclear war, and the development and use of dangerous new technologies such as synthetic biology, all pose risks (even if very small) to the continued survival of the human race.184 And different moral views give opposing answers to question of whether this would be a good or a bad thing. It might seem obvious that human extinction would be a very bad thing, both because of the loss of potential future lives, and because of the loss of the scientific and artistic progress that we would make in the future. But the issue is at least unclear. The continuation of the human race would be a mixed bag: inevitably, it would involve both upsides and downsides. And if one regards it as much more important to avoid bad things happening than to promote good things happening then one could plausibly regard human extinction as a good thing.For example, one might regard the prevention of bads as being in general more important that the promotion of goods, as defended historically by G. E. Moore,185 and more recently by Thomas Hurka.186 One could weight the prevention of suffering as being much more important that the promotion of happiness. Or one could weight the prevention of objective bads, such as war and genocide, as being much more important than the promotion of objective goods, such as scientific and artistic progress. If the human race continues its future will inevitably involve suffering as well as happiness, and objective bads as well as objective goods. So, if one weights the bads sufficiently heavily against the goods, or if one is sufficiently pessimistic about humanity’s ability to achieve good outcomes, then one will regard human extinction as a good thing.187 However, even if we believe in a moral view according to which human extinction would be a good thing, we still have strong reason to prevent near-term human extinction. To see this, we must note three points. First, we should note that the extinction of the human race is an extremely high stakes moral issue. Humanity could be around for a very long time: if humans survive as long as the median mammal species, we will last another two million years. On this estimate, the number of humans in existence in the The future, given that we don’t go extinct any time soon, would be 2×10^14. So if it is good to bring new people into existence, then it’s very good to prevent human extinction. Second, human extinction is by its nature an irreversible scenario. If we continue to exist, then we always have the option of letting ourselves go extinct in the future (or, perhaps more realistically, of considerably reducing population size). But if we go extinct, then we can’t magically bring ourselves back into existence at a later date. Third, we should expect ourselves to progress, morally, over the next few centuries, as we have progressed in the past. So we should expect that in a few centuries’ time we will have better evidence about how to evaluate human extinction than we currently have. Given these three factors, it would be better to prevent the near-term extinction of the human race, even if we thought that the extinction of the human race would actually be a very good thing. To make this concrete, I’ll give the following simple but illustrative model. Suppose that we have 0.8 credence that it is a bad thing to produce new people, and 0.2 certain that it’s a good thing to produce new people; and the degree to which it is good to produce new people, if it is good, is the same as the degree to which it is bad to produce new people, if it is bad. That is, I’m supposing, for simplicity, that we know that one new life has one unit of value; we just don’t know whether that unit is positive or negative. And let’s use our estimate of 2×10^14 people who would exist in the future, if we avoid near-term human extinction. Given our stipulated credences, the expected benefit of letting the human race go extinct now would be (.8-.2)×(2×10^14) = 1.2×(10^14). Suppose that, if we let the human race continue and did research for 300 years, we would know for certain whether or not additional people are of positive or negative value. If so, then with the credences above we should think it 80% likely that we will find out that it is a bad thing to produce new people, and 20% likely that we will find out that it’s a good thing to produce new people. So there’s an 80% chance of a loss of 3×(10^10) (because of the delay of letting the human race go extinct), the expected value of which is 2.4×(10^10). But there’s also a 20% chance of a gain of 2×(10^14), the expected value of which is 4×(10^13). That is, in expected value terms, the cost of waiting for a few hundred years is vanishingly small compared with the benefit of keeping one’s options open while one gains new information.

#### 5] Util is key to debates about IP.

Kar 19 [Mohit; Writer at the Original Position; “Utilitarianism in the Context of Intellectual Property,” The Original Position; 9/18/19; <https://originalpositionnluj.wordpress.com/2019/09/18/utilitarianism-in-the-context-of-intellectual-property/>] Justin

Jeremy Bentham is known as the founder of modern utilitarianism. He believed in production of the greatest possible quantity of happiness, on the part of those whose interest is in view. With regards to intellectual property, he had opined that inventors and authors should be given absolute privilege over their work, which would ensure they get remunerated duly for their work, thus leading to further creative actions being taken by them. In this article, the author will make an analysis of the utilitarian theory as proposed by Jeremy Bentham and its interplay with Intellectual Property.

According to utilitarians, the main purpose of property rights is the maximization of common well-being.[i] According to Jeremy Bentham, the common well-being here mentioned is the good for the greatest number of people in a population. He defined the principle of utility as carrying an object of production of maximum happiness in a given time in a particular society.[ii]

The wealth of a society consists of the cumulative wealth of each of its individual members. The most effective way to increase individual wealth is to leave the management of wealth to the individual himself, since – between the individual and the government – it is the individual who can best manage his own wealth. The society gains benefits because the increase in individual wealth is also the increase of collective wealth. Sharing this wealth is managed by the government, through taxes. Bentham argued that the value of outcome of a society is positive if the total quantity of pleasure gained by each individual under its influence is greater than the total quantity of pain.[iii] Thus, Bentham put stress on the happiness and wealth of individuals in a society.

Jeremy Bentham’s utilitarianism advocates the maximization of common well-being and the proper use of resources available. To show us a practical point of view, he criticized the kind of trade strategies where a country prevents the purchase of cheaper products from another country only to protect its market. In his opinion, to pay more for a product that can be manufactured elsewhere with the same quality standards only to favor the national industry is a waste of resources.[iv] Bentham believed that trade barriers to foreign imports cannot increase trade and commerce in a particular country.[v] He termed it as a necessary evil which would give rise to monopolies and lower the quality of production.[vi]

Transposing this theory to intellectual property rights, for the maximization of common welfare to be made, the legislators should strike a balance between, the monopoly of rights to stimulate creation and giving access to the population to inventions. Bentham defended the idea of ​​a limited period of protection for patents and he believed in the absolute privilege of the inventor, so that the latter can recover the amounts invested during the inventive process, while being paid for his creative activity.[vii] The right must also help the inventor since without any laws to protect him; any third party could copy his invention and thus enjoy his work without any compensation being granted. The logic to defend the monopoly stems from the fact that, without the latter, the inventor would not be encouraged to put his product or invention on the market. In this case, it would be the society that would have lost wealth which could have been added to the common well-being. In the name of enriching common well-being, Bentham stresses the importance of patents in a society and even argues that their concession should be a free service offered to inventors.[viii]

The contemporary version of this theory has been presented to us by William Landes and Richard Posner in two separate works, one on copyright and the other on trademark law.[ix] Economic analysis of intellectual property rights presented by these two authors demonstrates that the protection of intellectual property may be too expensive for society and it limits the use of products. If we extrapolate a little, this contemporary utilitarian vision can assert that the products by intellectuals should be easily copied since the copies of a product do not prevent the use of the same product by several people.

William Landes and Richard Posner consider the creative process as divided into two parts.[x] If we use a book as an example, its production is split between the part comprising author’s time and effort plus publishing costs, and the second part includes publication and distribution costs of the book. Generally, it is the first of these two elements that demands the most investment. The second will be more or less expensive, depending on the quantity of copies that will be produced. When the work is complete, its reproduction does not require any investment at the creative level. Hence, they stated that striking a correct balance between access and incentives is one of the central problems of copyright law.[xi] In this way, as already mentioned, the lack of remuneration of creators for the exploitation of their works may have as a consequence the diminution of the cultural wealth of a society, given that the creators will not have the desire to continue to create unless paid. It is important to note that the lack of protection conferred by copyright would not change this problem. In a society where copyright protection does not exist, a book could be easily copied without the act of copying being considered an offense. When the contemporary utilitarian vision is applied, it indicates that the benefits that they bring to a society are: It makes it easier for consumers to choose the product which has the qualities corresponding most to its needs. Since consumers already know the brand, they should not search among a whole range of products available on the market; It encourages producers to maintain good quality of their products, because consumers associate the product quality with the brand attached to it; It improves the language. Landes and Posner believe that the brands create new words that end up being incorporated in the lexicon of the language.[xii]

Suppose the utilitarian theory – that of Bentham, or Posner’ and Landes’ – would be applied to intellectual property as it stands today: the benefits that would be brought to society by this analysis would be the incentive for creativity, the optimization of production and the disappearance or diminution of similar inventions made by different individuals.

Among these three advantages, we can consider the incentive to creation as the most important. In this case, the monopoly guaranteed by intellectual property stimulates creation in a society and, especially with regard to patents; inventions will bring more happiness and pleasure to society in general. This justifying argument is in harmony with Bentham’s utilitarianism. The problem here is that no one really knows what kind of invention would bring more or less happiness or pleasure to the society. Moreover, the term “monopoly concession” for patents, trademarks and copyright is not based on any empirical or objective study and is rather random.

Optimization of production sees ownership monopolies intellectual property as a “service” to society since data from sale indicates the products for which the company has the most need. This approach could even justify increasing the period of protection of intellectual property products. The logic here is that the decrease in the protection period or even the removal of the protection would deprive the producers of information that enables them to optimize their production. Thereby, the withdrawal or diminution of protection could even be considered harmful to society. However, if we do not impose limitations to this theory, the result could be a disparity of investments in intellectual property over investments in other areas, such as education and health, as well as in general research activities.

CONCLUSION

Utilitarianism, as it stands today, is intimately linked to the information obtained from the use of intellectual property monopolies. The goal is to avoid duplication of production. The problem in this case is that in a society which values ​​and encourages the production of new patents and new technologies, the plethora of patents complicates the process. This finding is based on the fact that new inventions normally rely on existing patents and the production of a new patented product will require a large number of licenses before it can begin. As Richard Posner said in his blog: ‘Patents are a source of great social costs, and only occasionally of commensurate benefits. Most firms do not actually want patents; for those firms, the costs involved in obtaining licenses from patentees are not offset by the prospect of obtaining license fees on their own patents.’

#### Outweighs –

#### A] Most articles about IP are written through util – means other frameworks can never engage with core questions of the lit and decks predictability – equal topic lit means fair ground.

#### B] TJFs first – substance begs the question of a framework being good for debate – fairness is a gateway issue to deciding the winner and education is the reason schools fund debate.

### Underview

#### 1] Aff gets 1AR theory since the neg can be infinitely abusive and I can’t check back. It’s drop the debater since the 1ar is too short to win both theory and substance. No RVI or 2NR paradigm issues since they’d dump on it for 6 minutes and my 3-minute 2AR is spread too thin. Competing interps since reasonability is arbitrary and bites judge intervention.

#### 2] Apocalyptic images challenge dominant power structures to create futures of social justice

Jessica Hurley 17, Assistant Professor in the Humanities at the University of Chicago, “Impossible Futures: Fictions of Risk in the Longue Durée”, Duke University Press, https://read.dukeupress.edu/american-literature/article/89/4/761/132823/Impossible-Futures-Fictions-of-Risk-in-the-Longue

If contemporary ecocriticism has a shared premise about environmental risk it is that genre is the key to both perceiving and, possibly, correcting ecological crisis. Frederick Buell’s 2003 From Apocalypse to Way of Life: Environmental Crisis in the American Century has established one of the most central oppositions of this paradigm. As his title suggests, Buell tells the story of a discourse that began in the apocalyptic mode in the 1960s and 70s, when discussions of “the immanent end of nature” most commonly took the form of “prophecy, revelation, climax, and extermination” before turning away from apocalypse when the prophesied ends failed to arrive (112, 78). Buell offers his suggestion for the appropriate literary mode for life lived within a crisis that is both unceasing and inescapable: new voices, “if wise enough….will abandon apocalypse for a sadder realism that looks closely at social and environmental changes in process and recognizes crisis as a place where people dwell” (202-3). In a world of threat, Buell demands a realism that might help us see risks more clearly and aid our survival.¶ Buell’s argument has become a broadly held view in contemporary risk theory and ecocriticism, overlapping fields in the social sciences and humanities that address the foundational question of second modernity: “how do you live when you are at such risk?” (Woodward 2009, 205).1 Such an assertion, however, assumes both that realism is a neutral descriptive practice and that apocalypse is not something that is happening now in places that we might not see, or cannot hear. This essay argues for the continuing importance of apocalyptic narrative forms in representations of environmental risk to disrupt conservative realisms that maintain the status quo. Taking the ecological disaster of nuclear waste as my case study, I examine two fictional treatments of nuclear waste dumps that create different temporal structures within which the colonial history of the United States plays out. The first, a set of Department of Energy documents that use statistical modeling and fictional description to predict a set of realistic futures for the site of the Waste Isolation Pilot Plant in New Mexico (1991), creates a present that is fully knowable and a future that is fully predictable. Such an approach, I suggest, perpetuates the state logics of implausibility that have long undergirded settler colonialism in the United States. In contrast, Leslie Marmon Silko’s contemporaneous novel Almanac of the Dead (1991) uses its apocalyptic form to deconstruct the claims to verisimilitude that undergird state realism, transforming nuclear waste into a prophecy of the end of the United States rather than a means for imagining its continuation. In Almanac of the Dead, the presence of nuclear waste introjects a deep-time perspective into contemporary America, transforming the present into a speculative space where environmental catastrophe produces not only unevenly distributed damage but also revolutionary forms of social justice that insist on a truth that probability modeling cannot contain: that the future will be unimaginably different from the present, while the present, too, might yet be utterly different from the real that we think we know.¶ Nuclear waste is rarely treated in ecocriticism or risk theory, for several reasons: it is too manmade to be ecological; its catastrophes are ongoing, intentionally produced situations rather than sudden disasters; and it does not support the narrative that subtends ecocritical accounts of risk perception in which the nuclear threat gives rise to an awareness of other kinds of threat before reaching the end of its relevance at the end of the Cold War.2 In what follows, I argue that the failure of nuclear waste to fit into the critical frames created by ecocriticism and risk theory to date offers an opportunity to expand those frames and overcome some of their limitations, especially the impulse towards a paranoid, totalizing realism that Peter van Wyck (2005) has described as central to ecocriticism in the risk society. Nuclear waste has durational forms that dwarf the human. It therefore dwells less in the economy of risk as it is currently conceptualized and more in the blown-out realm of deep time. Inhabiting the temporal scale that has recently been christened the Anthropocene, the geological era defined by the impact of human activities on the world’s geology and climate, nuclear waste unsettles any attempt at realist description, unveiling the limits of human imagination at every turn.3 By analyzing risk society through a heuristic of nuclear waste, this essay offers a critique of nuclear colonialism and environmental racism. At the same time, it shows how the apocalyptic mode in deep time allows narratives of environmental harm and danger to move beyond the paranoid logic of risk. In the world of deep time, all that might come to pass will come to pass, sooner or later. The endless maybes of risk become certainties. The impossibilities of our own deaths and the deaths of everything else will come. But so too will other impossibilities: talking macaws and alien visitors; the end of the colonial occupation of North America, perhaps, or a sudden human determination to let the world live. The end of capitalism may yet become more thinkable than the end of the world. Just wait long enough. Stranger things will happen.¶

#### 3] Policy education is key to advocacy – that outweighs on portable skills.

Nixon 2KMakani Themba-Nixon, Executive Director of The Praxis Project. “Changing the Rules: What Public Policy Means for Organizing.” Colorlines 3.2, 2000.

Getting It in Writing Much of the work of framing what we stand for takes place in the shaping of demands. By getting into the policy arena in a proactive manner, we can take our demands to the next level. Our demands can become law, with real consequences if the agreement is broken. After all the organizing, press work, and effort, a group should leave a decision maker with more than a handshake and his or her word. Of course, this work requires a certain amount of interaction with "the suits," as well as struggles with the bureaucracy, the technical language, and the all-too-common resistance by decision makers. Still, if it's worth demanding, it's worth having in writing-whether as law, regulation, or internal policy. From ballot initiatives on rent control to laws requiring worker protections, organizers are leveraging their power into written policies that are making a real difference in their communities. Of course, policy work is just one tool in our organizing arsenal, but it is a tool we simply can't afford to ignore. Making policy work an integral part of organizing will require a certain amount of retrofitting. We will need to develop the capacity to translate our information, data, stories that are designed to affect the public conversation [and]. Perhaps most important, we will need to move beyond fighting problems and on to framing solutions that bring us closer to our vision