## 1AC

### Framing

#### Ethics must begin a priori:

#### [A] Naturalistic fallacy – experience only tells us what is since we can only perceive what is, not what ought to be. But it’s impossible to derive an ought from descriptive premises, so there needs to be additional a priori premises to make a moral theory.

#### [B] Empirical uncertainty – evil demon could deceive us, dreaming, simulation, and inability to know others’ experience make empiricism an unreliable basis for universal ethics. Outweighs since it would be escapable since people could say they don’t experience the same.

#### [C] Constitutive Authority – practical reason is the only unescapable authority because to ask for why we should be reasoners concedes its authority since it uses reason – anything else is nonbinding and arbitrary.

#### Next, the relevant feature of reason is universality – any non-universalizable norm justifies someone’s ability to impede on your ends i.e. if I want to eat ice cream, I must recognize that others may affect my pursuit of that end and demand the value of my end be recognized by others which also means universalizability acts as a side constraint on all other frameworks. It’s impossible to will a violation of freedom since deciding to do would will incompatible ends since it logically entails willing a violation of your own freedom

#### Thus, the standard is consistency with the categorical imperative. Prefer:

#### [1] Performativity—freedom is the key to the process of justification of arguments. Willing that we should abide by their ethical theory presupposes that we own ourselves in the first place. Thus, it is logically incoherent to justify a standard without first willing that we can pursue ends free from others.

#### [2] Consequences Fail: [A] Every action has infinite stemming consequences, because every consequence can cause another consequence so we can’t predict or calculate. [B] Aggregation fails – suffering is not additive can’t compare between one migraine and 10 head aches

#### [3] Only universalizable reason can effectively explain the perspectives of agents – that’s the best method for combatting oppression.

Farr 02 Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.

**One** of the most popular **criticism**s **of Kant’s moral philosophy is that it is too formalistic.**13 That is, the universal nature of the categorical imperative leaves it devoid of content. Such a principle is useless since moral decisions are made by concrete individuals in a concrete, historical, and social situation. This type of criticism lies behind Lewis Gordon’s rejection of any attempt to ground an antiracist position on Kantian principles. The rejection of universal principles for the sake of emphasizing the historical embeddedness of the human agent is widespread in recent philosophy and social theory. I will argue here on Kantian grounds that **although a distinction between the universal and the concrete is** a **valid** distinction, **the unity of the two is required for** an understanding of human **agency.** The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. **Kant is** often **accused of making the moral agent an abstract, empty**, noumenal **subject. Nothing could be further from the truth. The Kantian subject is** an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. **The** very **fact that I cannot simply satisfy my desires without considering the rightness** or wrongness **of my actions suggests that my empirical character must be held in check** by something, or else I behave like a Freudian id. My empiri- cal character must be held in check **by my intelligible character**, which is the legislative activity of practical reason. It is through our intelligible character that **we formulate principles that keep our** empirical **impulses in check.** The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally signiﬁcant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. **The Formula of Universal Law enjoins no more than that we act only on maxims that are open to others also.**16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individ- ual think beyond his or her own particular desires. The individual is not allowed to exclude others **as** rational **moral agents** who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. **Hence,** the **universalizability** criterion **is a principle of consistency and** a principle of **inclusion.** That is, in choosing my maxims **I** attempt to **include the perspective of other moral agents.**

#### [4] Ethical frameworks are topicality interpretations of the word ought so they must be theoretically justified. Prefer on resource disparities—focusing on evidence and statistics privileges debaters with the most preround prep excluding lone-wolfs who lack huge evidence files. A debater under my framework can easily be won without any prep since minimal evidence is required. That controls the internal link to other voters because a pre-req to debating is access to the activity.

#### 5] Drop them if they read ethics based in preservation–it creates a survival-at-all-costs mentality that justifies violence and makes debate unsafe.

**Callahan 73** Daniel Callahan, Fellow at the Institute of Society and Ethics, 1973 The Tyranny of Survival, Pages 91-93) SJCP//JG

The value of survival could not be so readily abused were it not for its evocative power. But abused it has been. In the name of survival, all manner of social and political evils have been committed against the rights of individuals, including the right to life. The purported threat of Communist domination has for over two decades, fueled the drive of militarists for ever-larger defense budgets, no matter what the cost to other social needs. During World War II, native Japanese Americans were herded, without due process of law, into detention camps. This policy was later upheld by the Supreme Court in Korematsu v. United States (1944) in a general consensus that a threat to national security can justify acts otherwise blatantly unjustifiable. The survival of the Aryan race was one of the official legitimizations of Nazism. Under the banner of survival, the government of South Africa imposed a ruthless apartheid, heedless of the most elementary human rights. The Vietnamese war has been one of the greatest of the many absurdities tolerated in the name of survival, the destruction of villages in order to save them. But it is not only in a political setting that survival has been evokes as a final and unarguable value. The main rationale B.F. Skinner offers in Beyond Freedom and Dignity for the controlled and conditioned society is the need for survival. For Jaques Monod, in Chance and Necessity, survival requires that we overthrow almost all known religious, ethical, and political system. In genetics, the survival of the gene pool has been put forward as grounds for a forceful prohibition of bearers of offensive genetic traits from marrying and bearing children. Some have suggested we do the cause of survival no good by our misguided medical efforts to find means to find means by which those suffering from such common genetically based diseases as diabetes can live a normal life and thus procreate more diabetics. In the field of population and environment, one can do no better than to cite Paul Ehrlich, whose works have shown a high dedication to survival, and in its holy name a willingness to contemplate governmentally enforced abortions and a denial of food to starving populations of nations which have not enacted population-control policies For all these reasons, it is possible to counterpoise over against the need for survival a "tyranny of survival." There seems to be no imaginable evil which some group is not willing to inflict on another for the sake of survival, no rights, liberties or dignities which it is not ready to suppress. It is easy, of course, to recognize the danger when survival is falsely and manipulatively invoked. Dictators never talk about their aggressions, but only about the need to defend the fatherland, to save it from destruction at the hands of its enemies. But my point goes deeper than that. It is directed even at legitimate concern for survival, when that concern is allowed to reach an intensity which would ignore, suppress or destroy other fundamental human rights and values. The potential tyranny of survival as a value is that it is capable, if not treated sanely, of wiping out all other values. Survival can become an obsession and a disease, provoking a destructive singlemindedness that will stop at nothing. We come here to the fundamental moral dilemma. If, both biologically and psychologically, the need for survival is basic to man, and if survival is the precondition for any and all human achievements, and if no other rights make much sense without the premise of a right to life - then how will it be possible to honor and act upon the need for survival without, in the process, destroying everything in human beings which makes them worthy of survival. To put it more strongly, if the price of survival is human degradation, then there is no moral reason why an effort should be make to ensure that survival. It would be the Pyrrhic victory to end all Pyrrhic victories.

### Advocacy

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

#### Enforcement is to eliminate all IPR for medicines

Baker 16 Brook Baker (Professor of Law, Northeastern University. He is a senior policy analyst for Health GAP (Global Access Project) and is actively engaged in campaigns for universal access to treatment, prevention, and care for people living with HIV/AIDS, especially expanded and improved medical treatment. He has written and consulted extensively on intellectual property rights, trade, access to medicines and medicines regulatory policy, including with the African Union, NEPAD, Uganda, ASEAN, Thailand, Indonesia, Venezuela, CARICOM, UK DfID, the World Health Organization, the Millennium Development Goals Project, the Global Fund to Fight AIDS, Tuberculosis and Malaria, Open Society Institute, UNDP, UNITAID, the Medicines Patent Pool, the Global Commission on HIV and the Law, and others).  and Health GAP, Contribution to the United Nations Secretary-General's High-Level Panel on Access to Medicines, February 26, 2016, http://www.unsgaccessmeds.org/inbox/2016/2/26/z73kpodxk4jw96mhqe2tivq0sdl g3v/

This contribution explicitly supports and is supplemental to the R&D Agreement contribution submitted by MSF, KEI, and others that focuses on rationalizing and strengthening incentives, and legal frameworks for R&D, that promote innovation and access to health technologies. However, this contribution focuses primarily on access and calls for the dismantling of global, regional, bilateral, and national IP regimes that negatively impact the global community’s access needs. It focuses on patents, the most obvious and important source of exclusivity for right holders, but also on data and regulatory market exclusivities and linkages, trade secret law, and trademark and copyright protections, which are increasingly embedded in operating systems of diagnostics and other health technologies. At present, the vast majority of countries are members of the World Trade Organization. As members, they are subject to the minimum standards of IP protections set forth in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). Although there are transition periods that still apply to least developed country members, most WTO members are now subject to the whole panoply of IPRs and IP enforcement mechanisms set forth in TRIPS. As such, for IP barriers to be dismantled on health technologies, it will be necessary to amend or otherwise supersede TRIPS’s application to those technologies. The proposed non-application of TRIPS to medical technologies could be accomplished as follows: Article 6bis: Exhaustion and Non-Application to Medical Technologies 1. For the purposes of dispute settlement under this Agreement, subject to the provisions in Articles 3 and 4 nothing in this Agreement shall be used to address the issue of exhaustion of intellectual property rights. 2. Nothing in this Agreement shall apply to medical technologies as defined. Definition of medical technologies: pharmaceutical and biologic products, vaccines, diagnostics, and related health technologies. Article 7bis Right to health and other objectives The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare and to the fulfillment of the human right to health, and to a balance of rights and obligations. Members shall not implement the Agreement in a manner that weakens the promotion or protection of the right to health and of access to health technologies. Article 13 bis Exemptions, limitations and exceptions Members shall confine limitations and exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the interests of the right holder. This section shall not apply to copyrights, trademarks and related rights embedded in health technologies, including the systems of internet or other transmission of health-related information from a health technology elsewhere. Article 27(1) bis Subject to the provisions of paragraph 2, 3, 6, and 7, patents shall be available, whether for products or processes, in all fields of technology, except health technologies, provided that they are new, involve an inventive step and are industrially applicable. Article 27(4) bis Members shall exclude health technologies. Article 39.3bis 3. Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves considerable effort, shall protect such data against unfair commercial use. In addition, Members shall need not protect such data against disclosure, except where such disclosure is necessary to protect the public in the public interest, or unless steps are taken to ensure that the data are protected from unfair commercial use. In addition to amending the TRIPS Agreement, it will be necessary to formally amend multiple regional and bilateral trade and economic partnership agreements and investment treaties/provisions. Many regional and bilateral trade agreements contain IPR provisions similar to those in the TRIPS Agreement and/or provisions that are TRIPS-plus. These agreements are binding on parties, so to achieve the desired IPR reform, such agreements need to be amended to remove IPR protections on health technologies. There are far too many such agreements to list or discuss, but reform must be undertaken. Similarly, it will be necessary to reform the WIPO Patent Cooperation Treaty to exempt health technologies from patent filings and to do the same with respect to the Harare Protocol (relating to the African Regional Intellectual Property Organization), the Bangui Agreement (relating to the African Intellectual Property Organization), the Eurasian Patent Convention (affecting the Eurasian Patent Organization), and any other relevant regional patent processing entities. Addressing agreements on IPRs is not enough unless investment agreements are also amended to remove investor protections on health technologies. Just as there was a carve-out for Tobacco in the recently negotiated Trans-Pacific Partnership Agreement (however imperfect), there could be a new and stronger carve out for health technologies. At present, more and more investment agreements directly cover IPRs and give foreign investor rights to bring private investor-state-dispute-settlement (ISDS) claims directly to private arbiters. These new IPR enforcement rights are particularly dangerous as they give right holders powers to directly challenge government IP policy and decisions that adversely impact their expectation of unbridled profits, as is currently claimed in the US$500 million Eli Lilly v. Canada ISDS case. To complete the reform process, it will be necessary to revise IP laws at the national level to incorporate the health technology exclusion. This will be an enormous undertaking technically and politically, even more so where IP is constitutionally protected. Even in these circumstances, if the interests of inventors and creators are adequately protected under a new R&D incentive system, then constitutional requirements may well be satisfied. Similarly, protecting the interests of creators and sometimes inventors under international human rights regimes does not require resort to IPRs. The economic and attributional interests of inventors and creators can be met through other means.

### Offense

#### 1] The categorical imperative rejects the idea of intellectual property as it suppresses freedom by preventing others from innovating and suppressing speech in the name of a copyright.

Pievatolo 10 Pievatolo, Maria. “Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?” *Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?*, 7 Feb. 2010, bfp.sp.unipi.it/chiara/lm/kantpisa1.html. SJEP

In the Metaphysics of Morals, Kant seems to take for granted that the objects of real rights are only corporeal entities or res corporales: «Sache ist ein Ding, was keiner Zurechnung fähig ist. Ein jedes Object der freien Willkür, welches selbst der Freiheit ermangelt, heiß daher Sache (res corporalis)». [32](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2478823) Theoretically, however, such a negative definition could have been appropriate to incorporeal things as well. According to Kant, the rightful possession of a thing should be distinguished from its sensible possession. Something external would be rightfully mine «only if I may assume that i could be wronged by another's use of a thing even though I am not in possession of it» (AA.06 [245:13-16](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/245.html)). The rightful possession is an intelligible, not sensible, relation. I can claim that my bicycle is mine only if I am entitled to require that nobody takes it even when I leave it alone in the backyard. Kant's theory of property is very different from Fichte's principle of property as explained in his 1793 essay, according to which we are the rightful owners of a thing, the appropriation of which by another is physically impossible. For this reason, according to Fichte, the originality of the exposition entitles an author to claim a rightful property on his work. Is it really so obvious that originality implies property? Property is a comfortable social convention that allows us to avoid to quarrel all the time over the use of material objects. It is so comfortable just because it is physically possible to appropriate things; we do not need to invoke property when something cannot be separated from someone. I say both that my fingerprints or my writing style are "mine" and that my bicycle is "mine". But these two "mine" have a different meaning: the former is the "mine" of attribution; the latter is the "mine" of property. The former can be used to identify someone, and conveys the historical circumstance that something is related exclusively to someone; the latter points only to an accidental relation with an external thing, if we consider it from a physical point of view. It is possible to lie on a historical circumstance, by plagiarizing a text, i.e. by attributing it to a person who did not wrote it. However, properly speaking, no one can "steal" the historical connection between "my" writing style and me: the convention of property is useless, in this case. Besides, if Fichte's principle were the only justification of property right, it would undermine the very concept of it: as it is physically possible to "attribute" my bicycle to another, when I leave it alone in the backyard, everyone would be entitled to take it for himself. As Kant would have said, a legal property right cannot be founded on sensible situations, but only on intelligible relations. Although he defines things as res corporales, Kant determines the rightful possession of a thing as a possession without detentio, by ignoring all its sensible facets. Such a possession - a possession of a thing without holding it - is exerted on an object that is "merely distinct from me", regardless of its position in space and time. Space and time, indeed, are sensible determinations and should be left out of consideration. According to the postulate of practical reason with regard to rights, property is justified by a permissive law of reason: [33](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533469) if a rightful possession were not possible, every object would be a res nullius and nobody would be entitled to use it. Kant implicitly denies that a res nullius can be used by everyone at the same time. His tacit assumption suggests that the objects of property, besides being distinct from the subjects, are excludable and rivalrous as well, just like the res corporales. Kant asserts that something external is mine if I would be wronged by being disturbed in my use of it even though I am not in possession of it (AA.6, [249:5-7](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/249.html)). If property is a merely intelligible relation with an object that is simply distinct from the subject, we have no reason to deny that such an object might be immaterial as well, just like the objects of intellectual property. Why, then, does Kant refrain from using the very concept of it? According to him, a speech is an action of a person: it belongs to the realm of personal rights. A person who is speaking to the people is engaging a relationship with them; if someone else engages such a relationship in his name, he needs his authorization. The reprinter, as it were, does not play with property: he is only an agent without authority. Speeches, by Kant, cannot be separated from persons: he has seen the unholy promised land of intellectual property without entering it. According to Kant, before the acquired rights, everyone has a moral capacity for putting others under obligation that he calls innate right or internal meum vel tuum (AA.06, [237:24-25](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/237.html)). The innate right is only one: freedom as independence from being constrained by another's choice, insofar it can coexist with the freedom of every other in accordance with a universal law. Freedom belongs to every human being by virtue of his humanity: in other words, it has to be assumed before every civil constitution, because it is the very possibility condition of law. Freedom implies innate equality, «that is, independence from being bound by others to more than one can in turn bind them; hence a human being's quality of being his own master (sui iuris), as well as being a human being beyond reproach (iusti) since before he performs any act affecting rights he has done no wrong to anyone, and finally his being authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it - such things as merely communicating his thoughts to them.» (AA.06, [237-238](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/237.html)) [34](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533617) In spite of his intellectual theory of property, [35](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533628) Kant does not enter in the realm of intellectual property for a strong systematic reason. Liberty of speech is an important part of the innate right of freedom. It cannot be suppressed without suppressing freedom itself. If the ius reale were applied to speeches, a basic element of freedom would be reduced to an alienable thing, making it easy to mix copyright protection and censorship. [36](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533656) Property rights are based on the assumption that its objects are excludable and rivalrous and need to be appropriated by someone to be used. We cannot, however, deal with speeches as they were excludable and rivalrous things that need to be appropriated to be of some use, because excluding people from speeches would be like excluding them from freedom. Therefore, Kant binds speeches to the persons and their actions, and limits the scope of copyright to publishing, or, better, to the publishing of the age of print: the Nachdruck is unjust only when someone reproduces a text without the author's permission and distributes its copies to the public. If someone copies a book for his personal use, or lets others do it, or translates and elaborates a text, there is no copyright violation, just because it is not involved any intrinsic property right, but only the exercise of the innate right of freedom. The boundary of Kant's copyright is the public use of reason, as a key element of a basic right that should be recognized to everyone. Kant does not stick to the Roman Law tradition because of conservatism, but because of Enlightenment.

#### 2] Property rights can’t be universalizable when they forgo the opportunity for an individual to access their own freedom. Medical patents restrict an individual to pursue freedom from death by foreclosing treatment.

Merges 11 Merges, Robert P. *Justifying Intellectual Property*. Harvard University Press, 2011. SJEP

Under Kant’s Universal Principle of Right (UPR), “laws secure our right to external freedom of choice to the extent that this freedom is compatible with everyone else’s freedom of choice under a universal law.”8 As I ex- plained in Chapter 3, Kant’s theory of property rights expresses a special instance of this general principle: property is widely available, yet denied when individual appropriation interferes with the freedom of others. Kant says that although the need for robust property drives the formation of civil society, property rights are nonetheless subject to this “universalizing” principle. Under the operation of the UPR, property rights are constrained: they must not be so broad that they interfere with the freedom of fellow citizens. In a Kantian state, individual property is both necessary—to pro- mote autonomy and self-development; see Chapter 3—and necessarily re- stricted under the UPR.9 Death is the ultimate restraint on autonomy; there is no more “self” to guide after a person dies. So when a claim to property by person A leads to the death of [a]person B, Kant’s Universal Principle would seem to rebut that claim. As with other issues, however, Kant’s views in this regard are not so simple. In particular, he expressed complex views on the legal defense of “necessity,” which bears a close resemblance to the property-limiting prin- ciple I am attributing to him here.10 Kant says, in effect, that in at least one important example of necessity—where A kills B, or at least puts B in im- mediate grave danger, to save A’s own life—one who commits a necessary act is *culpable* but not *punishable.*11 As with so much in the Kantian canon, there is a great deal of debate over just what Kant was trying to say about necessity. One view—at least as plausible as most others, and more plausible than some—holds that Kant thought of necessity as something like an excuse or defense: a wrong act is not made right by necessity, but it is insulated from formal legal liability.12 This view, well described by among others the Kant scholar Arthur Ripstein, depends on the distinction between formal, positive law (“external,” in Kant’s terminology; see Chap- ter 3) and “internal” morality. Property for Kant is an absolute right, and taking it without permission is always objectively wrong. But at the same time, some takings are not punishable by the state because they fall outside the proper bounds of legitimate lawmaking. Because Kant did not explicitly discuss the necessity defense as it per- tains to property rights, any application of his thinking to the case of phar- maceutical patents can only be speculation. Even so, there is one point to make. As I explained in some detail in Chapter 3, there is generally a high degree of symmetry between Kant’s thinking on law and his theory of property. The UPR is a good example; as I explained in Chapter 3, the idea that property can extend only up to the point that it interferes with the freedom of others is simply one specific application of the general Kantian take on law and freedom. Thus, the analysis of the pharmaceutical patents problem would turn on the issue of property’s effect on the freedom of those suffering from treatable diseases. To put it simply, it is difficult to be sure of the exact conclusion Kant would reach with regard to the issue, but I am sure that the analysis would turn on the freedom-restricting qualities of pharmaceutical patents. It is hard to know the right answer, but not hard to pose the right question: should property extend so far as to cut off or restrain the freedom of those who might be treated? In my view, the freedom of disease sufferers is so constrained that the property rights in pharmaceutical patents must give way. As I said, this is not the only plausible reading of Kant’s Universal Principle with respect to the problem at hand. But I think it is the best reading, and it is certainly the best I can do, given Kant’s text and the problem of pharmaceutical patents as I understand it.

#### 3] Property rights minimize the opportunity of innovation which limits individual freedom through creating monopolies. They also limit the use of tangible objects such as medicines for good purposes.

Cernea and Uszkai 12 Cernea, Mihail-Valentin, and Radu Uszkai. *The Clash between Global Justice and Pharmaceutical Patents: A Critical Analysis*. 2012, the-clash-between-global-justice-and-drug-patents-a-critical-analysis.pdf. SJEP

To make this point clearer, we regard property as an ethical institution which emerged in the context of reiterated conflict between agents for tangible goods. A useful analogy would be, for example, the particular way in which David Hume discusses the emergence of justice in the context of scarcity in which agents pursue their own interests4 . As a result, the purpose of property rights would be that of avoiding or minimizing the possibility of conflict and that of increasing the costs of free-riding or trespassing. Let’s take the following example which will illustrate better our point. Assume that X is a philosophy student and has a copy of Immanuel Kant’s Groundwork of the Metaphysics of Morals. Y is a college of him but he does not have the book. They both have to write an essay on Kant’s categorical imperative. Because Y does not have the book, let’s assume that he decides, whether by the use of coercion or fraud to take his book. As a result, the theft leaves X without his property because tangible goods are rivalrous in consumption. Both student can’t, at the same time but in a different place read about Kant’s categorical imperative from the same copy. Now a different example: suppose X invents a new way of harvesting corn and Y harvests his corn accordingly. This situation is quite different in comparison to the case we presented earlier, because Y does not leaves X without either his new harvesting mechanisms which he created but neither without the idea behind the mechanism. It would be hard to say that Y stole something from X because the consumption of intangible goods such as ideas does not have the same rivalrous property as a copy of a book written by Kant. Actually, the existence of the patent system fosters the scarcity of ideas. In this context patents represent unjustified state-granted monopolies. Moreover, intellectual property rights have another profound immoral consequence: it limits the use of tangible objects which we acquired fully in line with market rules.

#### 4] IPP unjustifiably restricts agents from setting and pursuing ends in healthcare because patents prevent people from taking part in scientific advancements in medicine – that violates freedom in multiple ways

**Hale 18** (Zachary Hale, 4-4-2018, accessed on 8-22-2021, The Arkansas Journal of Social Change and Public Service, "Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection - The Arkansas Journal of Social Change and Public Service", <https://ualr.edu/socialchange/2018/04/04/patently-unfair/>) BHHS AK

Although the right to the protection of “moral and material interests resulting from any scientific, literary, or artistic production,”[32] is a human right as defined in the UDHR and the ICESCR, the current system of intellectual property protection conflicts with and even violates rights that are considered to be fundamental to human life. Although intellectual property instruments are certainly used to violate essential civil and political freedoms like the freedom of expression, and economic and social freedoms like the freedom to share in the scientific advancements of society, the most blatant violations of human rights caused by intellectual property protection occur in the fields of nutrition, healthcare, and culture.[33] Of these essential entitlements, the rights to food and health are made even more significant by their relationship to the most fundamental of all human rights: the right to life.

### UV

#### [1] Presumption and permissibility affirm –

#### [a] Statements are true before false since if I told you my name, you’d believe me.

#### [b] Epistemics – we wouldn’t be able to start a strand of reasoning since we’d have to question that reason.

#### [c] Otherwise we’d have to have a proactive justification to do things like drink water.

#### [d] If anything is permissible, then definitionally so is the aff since there is nothing that prevents us from doing it.

#### 2] 1AR theory is legit otherwise the neg can be infinitely abusive and there would be no way to check back against that.

#### Competing interps – rzn is artbitrary and invites judge intervention and race to the top

#### 1AR theory is drop the debater – a 4 minute 1AR doesn’t have time to win both theory and substance – you must be punished.

#### No RVI on 1AR theory-It would be impossible to check back against neg abuse because the 2NR could just spend 6 minutes railing on the theory debate and the aff couldn’t win

### Adv- Covid

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

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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.

#### Yes scale-up for covid.

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Currently many idle suppliers can’t begin vaccine production until they upgrade and repurpose existing manufacturing capacity for new technology. Opponents often argue that this step is the true barrier to rapid scale-up. One high-profile detractor, BIO President and CEO Michelle McMurry-Heath, argues that “handing [needy countries] the blueprint to construct a kitchen that — in optimal conditions — can take a year to build will not help us stop the emergence of dangerous new Covid variants.”

This argument ignores two core truths: In many cases, manufacturing capacity needs only repurposing which can take mere months. And Covid-19, at the current global response and vaccination rates, will be a threat for years.

Both truths suggest that we pass the blueprint and build the kitchen.

Facilitating structures to transfer technology and capacity are already in place. The WHO launched the mRNA technology transfer hub model last month to provide manufacturers in low- and middle-income countries with the financial, training, and logistical support needed to scale up vaccine manufacturing capacity. Scores of manufacturers in these countries have already expressed interest. This initiative, however, requires recipient manufacturers to acquire the IP necessary for mRNA technologies— which is currently missing.

#### Corona escalates security threats that cause extinction – cooperation thesis is wrong.

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

The Challenge: Multiple Existential Threats

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

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

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

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

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

A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies.

In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon.

To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with cascading effects on the risk of nuclear war.

### Adv- Vaccine Diplomacy

#### American vaccine diplomacy is failing in Latin America – that allows for Chinese influence. Only the plan can return the world back to a US led order.

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Once again, history seems to be repeating itself. The United States, along with the world’s other rich and mostly Western countries, continue to be accused of hoarding medical supplies, having purchased one billion surplus vaccine doses (more than is required to vaccinate their citizens). In their absence, China—and, to a lesser extent, Russia—have rushed to take advantage of the vaccine gap in the Global South, particularly in Latin America and the Caribbean. A lack of leadership from Washington in sharing vaccines and their intellectual property (IP) earlier in the pandemic has allowed its geopolitical competitors to take advantage of Latin America’s desperate need to acquire scarce vaccines. Although the region represents only eight percent of the global population, it has experienced nearly one-third of all COVID-19 deaths. Historical precedent demonstrates this is not the first time that Washington’s international moral standing has been damaged during a global health crisis, due to the lack of political will to share lifesaving drugs and other vital resources. However, this time around, unlike in such past episodes, there will be concrete geopolitical consequences to Washington’s inaction.

In recent years, the U.S. has lost significant political and economic influence among its southern neighbors; without swift remedial action, its geopolitical rivals may cement such losses through their campaigns of vaccine diplomacy. To rebuild its influence in the region, Washington will need to muster the political will to increase Latin America and the Caribbean’s access to vaccines and develop a sound strategy for its own vaccine diplomacy. Already, some countries in the region have been sufficiently strong-armed by other global powers, the implications of which could be damaging for U.S. interests. As the world transitions into the next stage of the pandemic, those nations that continue to be most ravaged by COVID-19 will likely continue to remember which countries provided them with aid and succor in their time of need.

History repeats itself

In 1981, the first cases of acquired immunodeficiency syndrome (AIDS) were reported; the following decade was defined by a devastating global AIDS epidemic (which would eventually be recognized as a pandemic). Analogous to how Latin America and the Caribbean have borne disproportionately the burden of COVID-19, Africa was hit hardest by the AIDS epidemic. Many parallels can be drawn between the international handlings of both the COVID-19 and AIDS pandemics.

By the late 1980s, once antiretroviral therapies (ARV) were approved by the U.S. Food and Drug Administration (FDA), AIDS deaths in the U.S. began to decline immediately. Nevertheless, high levels of AIDS-related deaths in Africa continued for another decade. Africa’s enduring fight against AIDS was largely due to the cost of ARVs, which, at the time, were priced at USD $10,000 per person annually—completely out of reach for most developing countries.

Pharmaceutical companies argued that the drug’s high selling price was necessary to procure a return on its investment in the research and development (R&D) of the ARV, and that pricing the drugs at a marginal cost would maximize consumer surplus while also halting future development in the industry.

When pricing a drug, a pharmaceutical company needs to factor-in several costs: 1) the cost of R&D for drugs that never enter the market; 2) clinical trials necessary to comply with regulatory requirements; 3) and the marketing cost of promoting the new drug. While the original price of the patented ARV was USD $10,000 per patient per year, the price of the generic version, manufactured by the Indian pharmaceutical company Cipla, was only USD $1.00 per day.

During the AIDS pandemic, since many developing countries were members of the World Trade Organization (WTO), they were forbidden from importing generic pharmaceutical products because in order to maintain compliance with regulations imposed by the Trade Related Aspects of Intellectual Property (TRIPS) agreement. Western pharmaceutical companies—the owners of the IP rights for the medications—blocked access to generic ARV drugs out of fear that the importation of these generic alternatives would ultimately threaten their net profitization. Despite the protests of the pharmaceutical industry, India and South Africa continued to compete with and defy the U.S. and the WTO (a body in which powerful industrialized economies—those of the U.S., Europe, and Japan—wield disproportionate influence).

Drug companies eventually sued to keep lifesaving therapies out of the hands of dying AIDS-sufferers in Africa, a state of affairs that engendered a forceful reaction from international activists. After years of political pressure, Washington was forced to yield, eventually pushing for the relaxation of stringent IP protections for ARVs, making generic versions of the drugs more accessible and affordable. Despite its eventual concession, the perception that the U.S. had fought bitterly to prioritize pharmaceutical company profits over human lives in the Global South only helped bolster negative narratives surrounding the Western superpower.

However, unlike the unipolarity that characterized the 1990s and early 2000s, the U.S. is no longer the only global superpower, and the humanitarian decisions it makes now—during a new global health crisis—have the potential to be hugely consequential for the country’s influence and image. Similar to its trajectory at the height of the AIDS crisis, Washington only recently voiced its desire to back the WTO patent waiver proposal, having come under tremendous international pressure. Granted, the U.S. backed a patent waiver for COVID-19 vaccines much faster than it did for ARVs in the 1980s. However, having been presented with a rare opportunity to make amends for past moral missteps—by eliminating vaccine IP protections to ensure that affordable, generic versions of COVID-19 vaccines could be manufactured en masse around the world—the U.S. once again hesitated, limiting opportunities for developing nations to recover from the pandemic and again amplifying criticisms of the United States.

Backed by over 100 developing countries, India and South Africa are once again leading the current fight to eliminate IP protections. India and South Africa filed a waiver with the WTO requesting a temporary suspension of patent obligations under TRIPS (Sections 1, 4, 5, and 7 of Part II) so that developing countries can access vaccines in a timely manner. The intent of this effort is to boost domestic manufacturing capacity by facilitating the widespread production of generic versions of COVID-19 vaccines, evening the odds with respect to global vaccine procurement and accessibility. The waiver would also allow developing countries to procure vaccines more expeditiously, either by producing them themselves or by streamlining the cumbersome institutional and legal requirements of importing pharmaceutical products from other countries that possess the necessary manufacturing capacity.

After months of pushback from activists and political leaders, the U.S. finally expressed its support for patent waivers, with several key Western powers (notably France and the European Union (EU)) following suit. However, Germany—a major political player in the patent waiver debate due to its powerful pharmaceutical sector—continues to oppose the move. Other European countries remain similarly split on the patent waiver proposal, reflecting the fact that any patent waiver proposal will still requires extensive negotiation (in order for it to be accepted, there must be unanimous consent among WTO members).

Political leaders and activists continue to call on the West to support the waiving of IP protections, noting that current projections anticipate that wealthy countries will be able to immunize their entire populations by the end of 2021, while developing countries will only see the same results in the next three to four years. Unlike the AIDS pandemic, COVID-19 has generated not only massive medical concerns, but also a global economic crisis: vaccination campaigns in richer countries have already allowed them to begin to rebuild their economies, while mass unemployment and lockdowns continue to strangle the economies of many developing nations. Increasing the supply and accessibility of vaccines in the developing world will undoubtedly facilitate a faster, and more equal, economic recovery. Continuing to allow the virus to spread unencumbered throughout the Global South, however, will only increase the likelihood of further viral mutations, possibly jeopardizing the efficacy of existing vaccines and further perpetuating already grave economic and medical concerns.

Washington’s initial unwillingness to cross the pharmaceutical industry has undeniably damaged the moral standing of the United States. Moreover, this decision also created a humanitarian void eagerly filled by Beijing and Moscow, as they actively seek to position themselves as the benefactors of the most COVID-19-stricken region of the world: Latin America and the Caribbean. To date, Russian and Chinese vaccine diplomacy have already led to economic, diplomatic, and political losses being felt by Washington; this trend, if allowed to continue, will only further limit U.S. regional influence with its neighbors to the south.

A lack of strategy and political will

In the absence of an effective vaccine diplomacy strategy from Washington, and with the perpetuation of its current nationalistic vaccine policy, some of the pharmaceutical companies that the U.S. so readily protects have pushed countries throughout Latin America and the Caribbean into the waiting arms of Beijing and Moscow. While some Latin American countries have received a few vaccines from Western companies, most nations in the region continue to struggle to obtain doses. Pfizer, a U.S. pharmaceutical company, was accused of bullying Latin American countries during vaccine procurement negotiations, using its own leverage to attempt to force desperate nations to offer sovereign assets—such as their embassies—as collateral. Pfizer’s efforts resulted in a lost deal with Argentina, which has continued to grow increasingly closer to China.

While the U.S. possesses a surplus of COVID-19 vaccines, it has failed to develop an effective, far-reaching donation strategy. Only recently did the Biden administration announce its plans to ship 80 million vaccines—a small portion of its surplus supply—abroad. Of the initial 25 million doses destined to be distributed internationally, 19 million will be donated to the largely mismanaged UN-backed COVAX program, with only six million of these COVAX doses designated for Latin America and the Caribbean. In comparison, China alone has donated or sold over 165 million vaccines to Latin America, with countries like Chile and Uruguay having vaccinated 80 and 63 percent of their populations, respectively, with Chinese vaccines.

The administration of U.S. President Joe Biden previously donated a total of 4.2 million AstraZeneca vaccines to Canada and Mexico, the first vaccines that the U.S. had sent abroad. Still, this relatively modest donation was preceded by repeated calls from prominent Latin American leaders for President Biden to donate vaccines to U.S. allies in Latin America. Mexican President Andrés Manuel López Obrador (AMLO) was notably rebuffed in his request for shipments of U.S. vaccines, being told by the Biden administration that it was prioritizing the vaccination of the American public (despite the fact that Washington had already bought enough vaccines to inoculate the entire U.S. population several times over). Colombia President Iván Duque of Colombia, a country that is a key regional ally, has also called for the Biden administration to aid countries in the Western Hemisphere that are struggling to procure vaccines.

By contrast, some Latin American officials have described easier negotiations, cheaper prices, and overall better terms in their successful agreements with Russia and China. Last year, for example, Beijing offered a USD $1 billion loan to Latin American nations to help finance their purchasing of Chinese-made vaccines—an offer that was well-received by recipient countries. Due to a lack of vaccine support and assurance from Washington, countries are growing closer to Beijing and Moscow, succumbing to rival geopolitical powers that do not align with the diplomatic and economic interests of the United States.

Brazil remains one of the countries hardest hit by the COVID-19 pandemic. Despite President Jair Bolsanaro’s anti-science tendencies and hawkish stance towards Beijing, however, his government has still proven susceptible to the influence of China. Earlier this year, a New York Times report brought attention to the Bolsonaro government’s arrangement to allow Huawei, the Chinese telecommunications giant, to participate in upcoming biddings for contracts to construct Brazil’s 5G network. (Under the Trump Administration, Brazil had been one of the 50 countries to agree to the Clean Network Initiative—an agreement that committed signatories to forbidding Huawei from being involved in their 5G networks, due to national security concerns.) The announcement came after Brazil’s telecommunications minister, Fábio Faria, traveled to Beijing to meet with Huawei executives. Recounting his trip, Faria was quoted as saying that he had taken “advantage of the trip to ask for vaccines.” This development aligns with recent warnings from the U.S. Southern Command Chief Admiral Craig Faller, who claimed, during a U.S. Senate Armed Services Committee hearing, that China was using its vaccine leverage to push for Huawei’s integration into Latin America’s 5G networks.

In the absence of Washington, several countries have increased their engagement with China and Russia (or have at least been pressured to). Paraguay and Guyana, for instance, have been pushed by China to switch their official diplomatic recognition from Taiwan (Republic of China, or ROC) to China (People’s Republic of China, or PRC) and to increase bilateral trade relations. Colombia, historically one of Washington’s closest allies in Latin America, uncharacteristically applauded Beijing’s efforts to promote human rights at the United Nations Human Rights Council, only one week after it received half a million doses of a Chinese-made vaccine. In Mexico, Beijing and Moscow also scored points; after securing a second shipment of Chinese vaccines, Mexico announced it would expand its “strategic partnership” with China. With respect to Russia, when (AMLO) tested positive for COVID-19 in January, he received a call from Russian President Vladimir Putin, wishing his Mexican counterpart a quick recovery. Shortly thereafter, AMLO announced that Mexico would receive a shipment of 24 million Russian vaccines and that he had invited Putin to visit Mexico, which would mark the Russian leader’s first visit to the country in nearly a decade. These developments are especially relevant when considering the fact that, before President Biden announced the sharing of the U.S. supply of AstraZeneca vaccines with Mexico, he had initially rejected AMLO’s call for assistance.

In Bolivia, Putin has curried favor with President Luis Arce. President Arce’s political leanings are reminiscent of those of his predecessor, Evo Morales, who had an especially close relationship with Moscow; it would be reasonable to expect, therefore, that Arce may be similarly keen to deepen Moscow’s relationship with La Paz. After donating a large supply of vaccines to Bolivia, Putin sought out Arce to discuss the possible revival of several key Russian projects in the country: among them, the reactivation of a suspended nuclear power plant project, Russian development of Bolivia’s natural gas reserves, and investments in the country’s extensive lithium deposits (lithium being a mineral key to the global transition to clean energy, as it is a vital component in the production of high capacity batteries in both civilian and military hardware). In 2019, Russian businesses were beaten by other firms in the rush to invest in Bolivia’s nascent lithium industry; however, Arce has recently announced plans for new lithium projects that have received interest from both Russian and American companies.

Throughout Latin America and the Caribbean, Russia has continued to sign vaccine deals in an effort to increase its influence. Russia’s vaccine diplomacy has primarily been a soft power push, unlike China’s more brazen “wolf warrior” diplomacy. Nevertheless, it represents a re-establishment of a foothold in the region that Russia (and its predecessor, the USSR) has not boasted since the Cold War.

While some countries, like Mexico and Bolivia, appear genuinely interested in deepening their ties with U.S. geopolitical rivals, it is widely recognized that most other nations of Latin America and the Caribbean are being squeezed politically by vaccines. If Latin America is not offered a practical alternative, it will likely continue to conduct business with Moscow and Beijing, thus incurring more debts of gratitude to global powerhouses eager to expand their economic and political influence through vaccine diplomacy.

A forward-thinking strategy

To this point, the U.S. has been significantly outpaced by China and Russia when it comes to building and strengthening relations with its Latin American and Caribbean neighbors. The dynamic surrounding COVID-19 vaccine distribution is evocative of another era of recent history when the U.S. abandoned the suffering of the developing world for the sake of profit-maximizing pharmaceutical companies. With Latin America and the Caribbean being the region hardest hit in the world by the COVID-19 pandemic—much as Africa was at the height of the AIDS pandemic—the U.S. is only undermining its moral standing and regional influence by failing to more readily extend a helping hand.

As the war against COVID-19 reaches a détente in the U.S., the Biden administration should make this issue a top priority. First, the U.S. needs to aggressively push its Western partners to back the IP patent waiver at the WTO in order to push forward a patent proposal that will help increase vaccine production capacity worldwide. Doing so will demonstrate to the world that Washington has the political will to defy the wishes of the powerful pharmaceutical industry and and re-establish its leadership role among the Western powers.

#### It's not over – Latin America is still skeptical of Chinese aid but lack of US presence means it’s the only choice – try or die to capitalize on this weakness.

Kneip 8/10 [Lucie; Student at the University of Notre Dame studying Political Science and Global Affairs. Her research interests include U.S. foreign policy and democratization, civil and criminal warfare, and the intersection of religion and politics; “China’s Vaccine Diplomacy in Latin America,” The Diplomat; 8/10/21; <https://thediplomat.com/2021/08/chinas-vaccine-diplomacy-in-latin-america/>] Justin

Chinese vaccine diplomacy in Latin America has skyrocketed in recent months. In preparation for the Copa America tournament, Sinovac donated 50,000 vaccines to the South American football governing body CONMEBOL. Beijing is investing in vaccine diplomacy to enhance its regional soft power. It’s time for the United States to pay more attention to a region that it often takes for granted.

Latin America and the Caribbean have registered over a million deaths from COVID-19, and new variants continue to drive economic shutdowns in Colombia and Trinidad and Tobago. While the United States’ $4 billion commitment to the World Health Organization’s COVAX initiative outstrips every other international donor, logistical obstacles and Western pharmaceutical companies’ need to prioritize U.S. government contracts have slowed down vaccine distribution.

Meanwhile, China has raced to fill the vaccine gap, and they’ve been successful. According to the Council of Americas, the majority of all vaccines administered in Latin America are sourced from Beijing. True, Uruguay, Costa Rica, and the Dominican Republic have questioned the efficacy of Chinese Sinovac inoculations, and a Chilean study found that Sinovac was only 54 percent effective in preventing contagion, while Pfizer and Moderna record much higher efficacy. Yet the speed and scale of Beijing’s vaccine campaign has forced governments to accept the less-effective Chinese vaccine; there are few alternatives on offer.

President Xi Jinping is already using vaccine diplomacy to advance other Chinese interests. China has pressured Honduras and Paraguay to sever diplomatic ties with Taiwan in order to receive Chinese vaccines, and successfully pushed Brazil to reverse its ban on telecom giant Huawei’s 5G network project.

Vaccine diplomacy is only the newest instance of increased Chinese trade and investment in Latin America. Meanwhile, Washington continues to entangle itself in exploits in distant regions rather than prioritizing ties in its own neighborhood. Latin American policymakers are growing increasingly disillusioned with Washington’s inattention to regional development and progress. Honduran chief cabinet coordinator Carlos Alberto Madero sums up the increasing frustration: “The Honduran people… see that China is helping its allies and we start to ask ourselves why ours are not helping us.” The pandemic is still raging in the region, and Washington has an opportunity to rebound by increasing the pace of vaccine donations.

#### Chinese influence ends the liberal order.

Cossu 7/16 [Elena; Early-stage researcher for the MSCA Innovative Training Network FATIGUE, PhD candidate in economics at Corvinus University of Budapest and recently finished her year as a visiting researcher at University College London and at the European Bank for Reconstruction and Development. Elena comes from a place culturally in between Germany and Italy. She has also had experience working in Greece, France, Latin America, Thailand, and Hungary. Elena is passionate about political and economic inequalities between states, and about understanding what prevents the political and economic convergence of different peripheries of the world; “In Latin America, Chinese vaccine diplomacy is directly challenging US’s declining authority,” Scroll.in; 7/16/20; <https://scroll.in/article/1000114/in-latin-america-chinese-vaccine-diplomacy-is-directly-challenging-uss-declining-authority>] Justin

It is impossible to enter a room these days without talking about Covid-19 vaccines. If, however, you happened to be talking to Latin Americans, you would notice an unusual pattern: considerable gratitude towards China for its vaccine rollout.

It is gratitude, moreover, that is very hard to find in Europe or the United States. The reason is simple: the number of vaccines provided by China to countries in need is truly impressive.

During a global vaccine shortage, China has been able to provide 252 million doses to the world. This includes the majority of total doses made available to Latin American countries.

Six national or regional entities can produce and distribute a consistent number of vaccines: Europe, the United States, China, South Korea and India. China has distributed the highest number, and almost half (42%) of these have gone outside its own country.

As of May, no other country can match this figure. Most countries are focused primarily on achieving their own herd immunity first.

Even more striking is the fact that the United States is exporting a mere 1% of its vaccines, almost solely to Canada and Mexico. In May, the US pledged to increase its exported doses by 100 million by the end of the year. Yet even if it had achieved this goal, it would not be even half of the Chinese figure. Chinese vaccine diplomacy in Latin America is challenging US authority in the region, at a time when US influence is in visible decline.

Declining ‘Washington Consensus’

The rationale behind American policy towards Latin America has long been that unstable neighbours (especially Communist ones) destabilise the region. In extreme cases, this has resulted in US involvement in various regime changes in Latin America. But the more frequently used mechanism of influence, especially since the end of the Cold War, has been economic diplomacy.

The main tool for this has been the infamous Washington Consensus. The logic of this was very simple: a state-led economic model is a bad thing. An “economist approved” liberal model should therefore solve all Latin America’s problems. It did not work out like that.

Despite good intentions, the International Monetary Fund and World Bank programmes did not alleviate Latin America’s problems. On the contrary, the Washington Consensus is often cited as having fuelled a resurgence of populism in Latin America. It is also held responsible for the succession of left-wing governments in the 1990s known as the Pink Tide.

Five of the nations subject to the Washington Consensus (Argentina, Brazil, Chile, Mexico and Venezuela) even displayed authoritarian tendencies. In the mid-2010s the region experienced a so-called Blue Tide: the rise of liberal governments to counterbalance the previous left-wing ones. This phenomenon was also considered a long-term consequence of the chronic failure of US economic diplomacy on the continent.

Today, Latin America still struggles with political instability and high levels of inequality. The United States’ top-down approach has failed. What is more, cooperation has dramatically declined because of the Trump administration’s approach and the US’s own internal problems.

Rising Chinese power

In this context, China has seen the Covid crisis as an opportunity to reinforce its ambitions as a rising power trying to exert more influence in the international order.

A scheduled $8 trillion for project infrastructure in sixty-eight countries through the New Silk Road programme vividly captures its approach. Brazil, Venezuela, Ecuador and Bolivia already have partnership projects with China and Mexico is considering joining one.

The US and Chinese tools for economic diplomacy are very similar in practice, yet fundamentally different in philosophy.

The US strategy is based on individualism

#### Collapse of the liberal order causes extinction.

Yulis 17 [Max; Major in PoliSci, Penn Political Review; “In Defense of Liberal Internationalism,” Penn Political Review; 4/8/17; <http://pennpoliticalreview.org/2017/04/in-defense-of-liberal-internationalism/>] // Re-Cut Justin

Over the past decade, international headlines have been bombarded with stories about the unraveling of the post-Cold War world order, the creation of revolutionary smart devices and military technologies, the rise of militant jihadist organizations, and nuclear proliferation. Indeed, times are paradoxically promising and alarming. In relation to treating the world’s ills, fortunately, there is a capable hegemon– one that has the ability to revive the world order and traditionally hallmarked human rights, peace, and democracy. The United States, with all of its shortcomings, had crafted an international agenda that significantly impacted the post-WWII landscape. Countries invested their ambitions into security communities, international institutions, and international law in an effort to mitigate the chances of a nuclear catastrophe or another World War. The horrors and atrocities of the two Great Wars had traumatized the global community, which spurred calls for peace and the creation of a universalist agenda. Today, the world’s fickle and declining hegemon still has the ability, but not the will, to uphold the world order that it had so carefully and eagerly helped construct. Now, the stakes are too high, and there must be a mighty and willing global leader to lead the effort of diffusing democratic ideals and reinforcing stability through both military and diplomatic means. To do this, the United States must abandon its insurgent wave of isolationism and protectionism, and come to grips with the newly transnational nature of problems ranging from climate change to international terrorism.

First, the increase in intra-state conflict should warrant concern as many countries, namely in Africa and the Middle East, are seeing the total collapse of civil society and government. These power vacuums are being filled with increasingly ideological and dangerous tribal and non-state actors, such as Boko Haram, ISIS, and Al-Shabaab. Other bloody civil wars in Rwanda, Sudan, and the Congo have contributed to the deaths of millions in the past two decades. As the West has seen, however, military intervention has not been all that successful in building and empowering democratic institutions in the Far East. A civil crusade, along with the strengthening of international institutions, may in fact be the answer to undoing tribal, religious, and sectarian divisions, thereby mitigating the prospects of civil conflict. During the Wilsonian era, missionaries did their part to internationalize the concept of higher education, which has contributed to the growth of universities in formerly underdeveloped countries such as China and South Korea.[1] In addition, the teachings of missionaries emphasized the universality of humanity and the oneness of man, which was antithetical to the justifications for imperialism and the rampant sectarianism that plagued much of the Middle East and Africa.[2] Seeing that an increase in the magnitude of human casualty is becoming more of a reality due to advancements in military technology and the increasing outbreaks of civil war, international cooperation and the diffusion of norms that highlight the importance of stable governance, democracy, and human rights is the only recourse to address the rise in sectarian divides and civil conflicts. So long as the trend of the West’s desire to look inward continues, it is likely that nation states mired in conflict will devolve into ethnic or tribal enclaves bent on relying on war to maintain their legitimacy and power. Aside from growing sectarianism and the increasing prevalence of failed states, an even more daunting threat come from weapons that transcend the costs of conventional warfare.

The problem of nuclear proliferation has been around for decades, and on the eve of President Trump’s inauguration, it appeared that Obama’s lofty goal of advocating for nonproliferation would no longer be a priority of American foreign policy.[3] In addition, now that the American president is threatening to undo much of the United States’ extensive network of alliances, formerly non-nuclear states may be forced to rearm themselves. Disarmament is central to liberal internationalism, as was apparent by the Washington Naval Treaty advocated by Wilson, and by the modern CTBT treaty. The reverse is, however, being seen in the modern era, with cries coming from Japan and South Korea to remobilize and begin their own nuclear weapon programs.[4] A world with more nuclear actors is a formula for chaos, especially if nuclear weapons become mass-produced. Non-state actors will increasingly eye these nuclear sites as was the case near a Belgian nuclear power plant just over a year ago.[5] If any government commits a serious misstep, access to nuclear weapons on the behalf of terrorist and insurgent groups will become a reality, especially if a civil war occurs. States with nuclear weapons require domestic stability and strong security, which is why states such as Israel, North Korea, and Pakistan could be in serious trouble in the event of a domestic uprising or military coup. The disarmament of all states is essential for human survival, and if it is not achieved, then a world full of nuclear weapons and an international system guided by realpolitik could give rise to nuclear warfare. In today’s world, nuclear weapons leave all states virtually defenseless. But, for nuclear deproliferation to become a cornerstone of the global agenda, a pacifying and democratic power must rise to the limelight to advocate the virtues of peace, stability, and human rights.

#### Yes transition wars---both sides miscalculate.

Min-hyung Kim 20. Department of Political Science and International Relations, Kyung Hee University, Seoul, South Korea. “A real driver of US–China trade conflict: The Sino–US competition for global hegemony and its implications for the future” Emerald Insight. 02-04-2019. <https://www.emerald.com/insight/content/doi/10.1108/ITPD-02-2019-003/full/html> // Re-Cut Justin

Underlying these arguments for an inevitable war between the two superpowers is PTT. PTT originally formulated by Organski (1958) posits that **war is likely** when the power of the dominant state in the international system (i.e. hegemon) is **declining** and that a dissatisfied rising challenger **substantially reduces the power gap between the hegemon and itself**. Unlike balance of power theory, PTT argues that the war is most likely when there is near power parity between a dominant state and a rising and dissatisfied challenger (Organski and Kugler, 1980, pp. 19-20)[5]. A rising power here is generally dissatisfied with the existing international order and **initiates war against a declining hegemon in order to impose orders that are more favorable to itself** (Organski 1958, pp. 364-367). Layne (2018, p. 110) put these power transition dynamics quite succinctly as follows: “Over time, however, the relative power of states changes, and eventually the international order no longer reflects the actual distribution of power between or among the leading Great Powers. When that happens, the legitimacy of the prevailing order is called into question, and it will be challenged by the rising power(s).” And when the balance of power between a dominant state and a rising challenger changes sufficiently, a new order replaces an old one typically **by a hegemonic war** (2018, p. 104). Paying close attention to the **growing Sino–US competition** over hegemony in the twenty-first century, therefore, Shirk (2007, p. 4), China specialist, argues that “History teaches us that rising powers are likely to provoke war.” On the other hand, scholars like Gilpin (1981) contend that the power transition war between great powers is likely to occur when a hegemonic state whose power is declining due to imperial overstretch[6] views “**preventive war as the most attractive means of eliminating the threat** posed by challengers” (Ned Lebow and Valentino, 2009, p. 391), although they do acknowledge that there might be some “ways to prolong the period of its power preponderance vis-à-vis the rising challenger, so that the rapidly rising power will not dare to challenge the hegemonic leadership” (Kim and Gates, 2015, p. 221). In this case, the initiator of war is a declining hegemon, rather than a rising challenger. The declining hegemon who fears a rising challenger’s overtaking its power in the near future **sees war as a better option** than other options of maintaining its hegemony such as reducing its commitments abroad and appeasing a rising challenger.