# **Framework**

#### **The Meta-Ethic is Moral Pluralism; Clashing viewpoints does not require the exclusion of one over another but instead the acceptance that both can be valuable ethical tools. Prefer**

#### **1] EFQ is true.**

**Wikiwand**. “Principle of Explosion.” Wikiwand, 0AD, [www.wikiwand.com/en/Principle\_of\_explosion](http://www.wikiwand.com/en/Principle_of_explosion). //Massa

The principle of explosion (Latin: ex falso (sequitur) quodlibet (EFQ), "from falsehood, anything (follows)", or ex contradictione (sequitur) quodlibet (ECQ), **"from contradiction, anything (follows)"), or the principle of** [**Pseudo-Scotus**](https://www.wikiwand.com/en/Pseudo-Scotus), is the law of [classical logic](https://www.wikiwand.com/en/Classical_logic), [intuitionistic logic](https://www.wikiwand.com/en/Intuitionistic_logic) and similar logical systems, according to which any statement can be proven from a contradiction.[[1]](https://www.wikiwand.com/en/Principle_of_explosion) That is, once a contradiction has been asserted, any proposition (including their negations) can be inferred from it. This is known as **deductive explosion**.[[2][3]](https://www.wikiwand.com/en/Principle_of_explosion) The proof of this principle was first given by 12th century French philosopher [William of Soissons](https://www.wikiwand.com/en/William_of_Soissons).[[4]](https://www.wikiwand.com/en/Principle_of_explosion) As a demonstration of the principle, **consider two contradictory statements – "All lemons are yellow" and "Not all lemons are yellow"**, and suppose that both are true. If that is the case, **anything can be proven**, e.g., **the assertion that "unicorns exist", by using the following argument:**

1. **We know** that **"All lemons are yellow"**, as it **has been assumed to be true.**
2. **Therefore**, the two-part statement **"All lemons are yellow OR unicorns exist” must also be true**, since the first part is true.
3. **However, since we know that "Not all lemons are yellow"** (as this has been assumed), **the first part is false, and hence the second part must be true, i.e., unicorns exist.**

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#### **2] There are infinite worlds, the aff is logical in one which is sufficient.**

#### **Vaidman 2 Vaidman, Lev, 3-24-2002, "Many-Worlds Interpretation of Quantum Mechanics (Stanford Encyclopedia of Philosophy)," No Publication,** [**https://plato.stanford.edu/entries/qm-manyworlds/**](https://plato.stanford.edu/entries/qm-manyworlds/) **-MWI: Multiple Worlds Interpretation**

#### **The reason for adopting the MWI is that it avoids the collapse of the quantum wave. (Other non-collapse theories are not better than MWI for various reasons, e.g., nonlocality of Bohmian mechanics; and the disadvantage of all of them is that they have some additional structure.) The collapse postulate is a physical law that differs from all known physics in two aspects: it is genuinely random and it involves some kind of action at a distance. According to the collapse postulate the outcome of a quantum experiment is not determined by the initial conditions of the Universe prior to the experiment: only the probabilities are governed by the initial state. Moreover, Bell 1964 has shown that there cannot be a compatible local-variables theory that will make deterministic predictions. There is no experimental evidence in favor of collapse and against the MWI.**

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#### **3] Dogmatism Paradox**

#### **Sorensen 06 Sorensen, Roy, Professor of Philosophy at Washington University in St. Louis. "Epistemic Paradoxes.” Stanford Encyclopedia of Philosophy. 21 June 2006.** [**https://plato.stanford.edu/entries/epistemic-paradoxes/**](https://plato.stanford.edu/entries/epistemic-paradoxes/)**. PeteZ**

#### **Saul Kripke’s ruminations on the surprise test paradox led him to a paradox about dogmatism. He lectured on both paradoxes at Cambridge University to the Moral Sciences Club in 1972. (A descendent of this lecture now appears as Kripke 2011). Gilbert Harman transmitted Kripke’s new paradox as follows: If I know that h is true, I know that any evidence against h is evidence against something that is true; I know that such evidence is misleading. But I should disregard evidence that I know is misleading. So, once I know that h is true, I am in a position to disregard any future evidence that seems to tell against h. (1973, 148)**

#### **4] Vote aff because it’s simple – evaluating responses to this is complicated so don’t**

**Baker 04’** [Baker, Alan, 10-29-2004, "Simplicity (Stanford Encyclopedia of Philosophy),"<https://plato.stanford.edu/entries/simplicity/>]

With respect to question (ii), there is an important distinction to be made between two sorts of simplicity principle. **Occam's Razor** may be formulated **as an epistemic principle: if theory T is simpler than theory T\*, then it is rational (other things being equal) to believe T rather than T\*.** Or it may be formulated as a methodological principle: if T is simpler than T\* then it is rational to adopt T as one's working theory for scientific purposes. These two conceptions of Occam's Razor require different sorts of justification in answer to question (iii). In analyzing simplicity, it can be difficult to keep its two facets—elegance and parsimony—apart. Principles such as Occam's Razor are frequently stated in a way which is ambiguous between the two notions, for example, **“Don't multiply postulations beyond necessity**.” Here it is unclear whether ‘postulation’ refers to the entities being postulated, or the hypotheses which are doing the postulating, or both. The first reading corresponds to parsimony, the second to elegance. Examples of both sorts of simplicity principle can be found in the quotations given earlier in this section.

#### **5] Empirics- Quantum superposition proves different ethics can exist simultaneously.**

**MIT ’19** (Emerging Technology from the arXiv archive page; Covers latest ideas from blog post about arXiv; 03/12/2019; “Emerging Technology from the arXiv archive page”;<https://www.technologyreview.com/2019/03/12/136684/a-quantum-experiment-suggests-theres-no-such-thing-as-objective-reality/>; *MIT Technology Review*; accessed: 11/19/2020; MohulA)

Back **in 1961, the Nobel Prize–winning physicist Eugene Wigner outlined a thought experiment that demonstrated** one of the **lesser-known paradoxes of quantum mechanics**. The experiment shows

how **the strange nature of the universe allows** two **observers**—say, Wigner and Wigner’s friend—**to experience different realities.** Since then, physicists have used **the** “Wigner’s Friend” **thought experiment** to **explore the nature of measurement** and to argue over whether objective facts can exist. That’s important because **scientists carry out experiments to establish objective facts. But if they experience different realities, the argument goes, how can they agree on what these facts might be?** That’s provided some entertaining fodder for after-dinner conversation, but Wigner’s thought experiment has never been more than that—just a thought experiment. Last year, however, physicists noticed that **recent advances in quantum technologies** have **made it possible to reproduce** the Wigner’s Friend test in a **real experiment**. In other words, **it ought to be possible to create different realities and compare them** in the lab to find out whether they can be reconciled. And today, Massimiliano Proietti at Heriot-Watt University in Edinburgh and a few colleagues say they have performed **this experiment** for the first time: they have **created different realities and compared them**. Their conclusion is that Wigner was correct—**these realities can be made irreconcilable so that it is impossible to agree on objective facts about an experiment.** Wigner’s original **thought experiment** is straightforward in principle. It begins with a single polarized photon that, when measured, **can have either a horizontal polarization or a vertical polarization**. But before the measurement, **according to the laws of quantum mechanics, the photon exists in both polarization states at the same time**—**a so-called superposition**. Wigner imagined a friend in a different lab measuring the state of this photon and storing the result, while Wigner observed from afar. Wigner has no information about his friend’s measurement and so is forced to assume that the photon and the measurement of it are in a superposition of all possible outcomes of the experiment. **Wigner can even perform an experiment to determine whether this superposition exists or not**. **This** is a kind of **interference experiment showing that the photon and the measurement are indeed in a superposition.** From Wigner’s point of view, **this is a “fact”—the superposition exists**. And this fact suggests that a **measurement cannot have taken place**. But this is in stark contrast to the point of view of **the friend, who has indeed measured the photon’s polarization and recorded it.** The friend **can** even **call** Wigner **and say the measurement has been done** (provided the outcome is not revealed). So **the two realities are at odds** with each other. “**This calls into question the objective status** of the facts established by the two observers,” say Proietti and co. That’s the theory, but last year Caslav Brukner, at the University of Vienna in Austria, came up with a way to re-create the Wigner’s Friend experiment in the lab by means of techniques involving the entanglement of many particles at the same time. The breakthrough that Proietti and co have made is to carry this out. “In a state-of-the-art 6-photon experiment, we realize this extended Wigner’s friend scenario,” they say. They use these six entangled photons to create two alternate realities—one representing Wigner and one representing Wigner’s friend. Wigner’s friend measures the polarization of a photon and stores the result. Wigner then performs an interference measurement to determine if the measurement and the photon are in a superposition. The experiment produces an unambiguous result. It turns out that **both realities can coexist even though they produce irreconcilable outcomes**, just as Wigner predicted. **That raises some fascinating questions that are forcing physicists to reconsider the nature of reality. The idea that observers can ultimately reconcile their measurements of some kind of fundamental reality is based on several assumptions**. **The first is that universal facts actually exist and that observers can agree on them.** But **there are other assumptions too**. **One is that observers have the freedom to make whatever observations they want**. **And another is that the choices one observer makes do not influence the choices other observers make**—an assumption that physicists call locality. If there is an objective reality that everyone can agree on, then these assumptions all hold. But Proietti and co’s result suggests that **objective reality does not exist**. In other words, the experiment suggests that **one or more of the assumptions—the idea that there is a reality we can agree on, the idea that we have freedom of choice, or the idea of locality—must be wrong.** Of course, there is another way out for those hanging on to the conventional view of reality. This is that there is some other loophole that the experimenters have overlooked. Indeed, physicists have tried to close loopholes in similar experiments for years, although they concede that it may never be possible to close them all. Nevertheless, the work has important implications for the work of scientists. “**The scientific method relies on facts, established through repeated measurements** **and agreed upon universally,** independently of who observed them,” say Proietti and co. And yet **in the same paper, they undermine this idea, perhaps fatally.** The next step is to go further: to construct experiments creating increasingly bizarre alternate realities that cannot be reconciled. Where this will take us is anybody’s guess. But Wigner, and his friend, would surely not be surprised.

#### **6] A trivial entity exists**

**Kabay 08** [Paul Douglas Kabay, (PhD thesis, School of Philosophy, Anthropology, and Social Inquiry) "A Defense Of Trivialism" The University Of Melbourne, 2008, https://minerva-access.unimelb.edu.au/handle/11343/35203, DOA:10-25-2017]

Let us define a trivial entity as an entity that instantiates every predicate, i.e. an entity of which **everything is true.** One of the things true of **a trivial entity** is that it **exists in a reality in which trivialism is true. Hence, if a trivial entity exists, then trivialism is true.** But is it true that there exists a trivial entity? Here is an argument for thinking that it is true: **1) Every being (or entity or object) is either trivial or nontrivial 2) It is not the case that every being is nontrivial 3) Hence, there exists a trivial being**

#### **7] The rules of logic claim that the only time a statement is invalid is if the antecedent is true, but the consequent is false.**

**SEP** [Stanford Encyclopedia of Philosophy.] “An Introduction to Philosophy.” Stanford University.<https://web.stanford.edu/~bobonich/dictionary/dictionary.html> TG Massa

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

**‘If the aff is winning, they get the ballot’ is a tacit ballot conditional which means denying the premise proves the conclusion that I should get the ballot.**

#### **8] Decision Making Paradox- in order to judge we need a decision-making procedure to determine it is a good decision. But to chose a decision-making procedure requires another meta level decision making procedure leading to infinite regress so just vote aff to break the paradox.**

#### **9] Liar’s Paradox – the resolution is always true**

**Camus** [Albert Camus (existentialist). “The Myth of Sisyphus.” Penguin Books. 1975(originally published 1942). Accessed 12/11/19. Pg 22. Copy on hand. Houston Memorial DX]

**The mind’s first step is to distinguish what is true from what is false. However, as soon as thought reflects on itself, what it first discovers is a contradiction.** Useless to strive to be convincing in this case. Over the centuries no one has furnished a clearer and more elegant demonstration of the business than Aristotle: “The often ridiculed consequence of these opinions is that they destroy themselves. **For by asserting that all is true we assert the truth of the contrary assertion and consequently** the falsity of our own thesis (for the contrary assertion does not admit that it can be true). **And if one says that all is false, that assertion is itself false. If we declare that solely the assertion opposed to ours is false or else that solely ours is not false, we are nevertheless forced to admit an infinite number of true or false judgments.** For the one who expresses a true assertion proclaims simultaneously that it is true, and so on ad infinitum.”

#### **10] Overthinking paradox- the 1NC is a form of unnecessary overthinking that prevents decisions to be made so don’t evaluate it - neg presumption is just a form of stalling**

**Wikipedia ND** [“Analysis Paralysis”. Wikipedia. No Date.<https://en.wikipedia.org/wiki/Bonini%27s_paradox>] //recut cohn // bracketed for ableist lang

Analysis paralysis (or paralysis by analysis) describes an individual or group process when **overanalyzing or overthinking a situation can cause forward motion or decision-making to become [frozen] "paralyzed", meaning that no solution or course of action is decided upon. A situation may be deemed too complicated and a decision is never made, due to the fear that a potentially larger problem may arise. A person may desire a perfect solution, but may fear making a decision that could result in error, while on the way to a better solution. Equally, a person may hold that a superior solution is a short step away, and stall in its endless pursuit, with no concept of diminishing returns.** On the opposite end of the time spectrum is the phrase extinct by instinct, which is making a fatal decision based on hasty judgment or a gut reaction.

#### **11] Yes AFC & Aff Presumption - 238 tournaments prove, most recent & wholistic analysis - put away your shah evidence ethics, this one is wholistic**

**Shah 21** [Sachin Shah Jan 2021, “A Statistical Analysis of the Impact of the Transition to Online Tournaments in Lincoln-Douglas Debate”, <http://nsdupdate.com/2021/a-statistical-analysis-of-the-impact-of-the-transition-to-online-tournaments-in-lincoln-douglas-debate-by-sachin-shah/>] //cohn

Although this sample is representative of “varsity Lincoln-Douglas” debate, it might not be representative of “competitive” debates due to the novice effect. Those just starting out or participating casually could skew the data because as a group they might excel on one side than the other. **One solution would be to only look at elimination rounds as the participants in these rounds are likely more apt at debating successfully on both sides. If there is a structural skew in favor of the negative, we would expect the side bias to be larger in elimination rounds.** **In** fact, of **online elimination rounds, the negative won a significant 56.03% of rounds** (p-value < 10^-4, 99% confidence interval [52.22%, 59.84%]). **Online tournaments have not made affirming any easier than in-person tournaments. It is also interesting to look at the trend over multiple topics. Of the 238 bid distributing tournaments from August 2015 to present**[**[7]**](http://nsdupdate.com/2021/a-statistical-analysis-of-the-impact-of-the-transition-to-online-tournaments-in-lincoln-douglas-debate-by-sachin-shah/#_ftn7)**, the negative won 52.32% of rounds (p-value < 10^-30, 99% confidence interval [51.84%, 52.81%]). Of elimination rounds, the negative won 55.79% of rounds (p-value < 10^-15, 99% confidence interval [54.08%, 57.50%]). This continues to suggest the bias might be structural and not topic specific as this analysis now includes 18 topics.** Although there are other factors that can influence if the affirmative debater or the negative debater is more likely to win in a given round (such as skill level), **the negative almost certainly retains an advantage in competitive Lincoln-Douglas debate.** **Given this advantage, the affirmative may be justified in being granted a substantive advantage to compensate for the structural skew. This could take various forms such as granting the affirmative presumption ground, tiny plans, or framework choice.** Whatever form chosen should be tested to ensure the skew is not unintentionally flipped.

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## Some assorted arguments

**1] 1AR theory is legit – anything else means infinite abuse – drop the debater, competing interps, no rvis– 1AR is too short to make up for the time trade-off – no RVIs or 2NR theory and paradigm issues– 6 min 2NR means they can brute force me every time.**

#### **2]Affirm, [a] Ought is defined as having sufficient reason because all instances of ought are just indexed to sufficient reason in particular contexts (i.e. moral, legal, logical, etc). That affirms since if every reason is equally invalid, that means any reason is a sufficient reason to justify an action. [b] Negation by contradiction – Both P and not P cannot be true simultaneously, which means proving not P is false proves P true, meaning lack of sufficient reason for not P justifies P. [c] Strat skew – there are an infinite number of NIBs the neg can read to trigger permissibility that aren’t grounded in the topic which explodes limits and encourages the neg to spread out the aff to collapse on permissibility. [d] 1AR flexibility – the neg has infinitely more ground since they aren’t constrained by the topic, 30 min to prep the perfect 1nc, and a 2n collapse which requires the 1ar to have more strategic options like permissibility triggers. [e] Resolved is defined as firmly determined -** [**https://www.lexico.com/en/definition/resolved**](https://www.lexico.com/en/definition/resolved)**,**

#### **3] The negative may only garner offense from one theoretical violation [A] k2 education because one shell means we can quickly go back to substance [B] checks bad interps because the negative is forced to read an interpretation which is more likely to have actual abuse [C] The term spike is incoherent and infinitely regressive, my entire case is a spike and at both the top and bottom of the doc [D] They must refer to me as ‘Jeremiah’ in their theoretical violations or else they are incoherent and inaccurate meaning I can’t engage**

## 

## **Only an agonistic deliberative model accepts ongoing confrontation as legitimate rather than oppositional. Thus, the standard is promoting agonistic deliberation.** [Procedural Framework, Weigh with scope magnitude etc, general offense constitutes whoever is most consistent with promoting deliberation]

#### **Prefer**

#### **1] Performativity- Responding to our framework concedes the validity of agonism since that in and of itself is a process of contestation that agonism would say is valuable and necessary for spaces like debate to function.**

#### **2] TJFS- A] Inclusion – Agonism definitionally is a procedural for allowing almost any argumentation in the debate space which controls the internal link to inclusion which is an impact multiplier B] Resource Disparities- Discursive frameworks ensure big squads don’t have a comparative advantage since debates become about quality of arguments rather than quantity and require a higher level of analytic thinking that small schools have.**

#### **3] Value – procedural decisions have infinite value because they allow agents to take steps to reduce harms under any index. To shut down an avenue for pragmatic discourse necessitates foreclosing all possible decisions in that situation except a static theory we can’t change. Kills the net most value – alternative theories with massive impacts can’t be considered.**

#### **4] Value Pluralism- Other ethical theories rely on minimalistic criteria as their foundation, our framework resolves this by using these criteria to better inform our judgments**

**LaFollete 2K**

"Pragmatic Ethics" [Hugh LaFollette](http://www.hughlafollette.com/index.htm) In [Blackwell Guide to Ethical Theory](http://www.hughlafollette.com/papers/b-guide.htm) 2000. Hugh LaFollette is Marie E. and Leslie Cole Professor in Ethics at the University of South Florida St. Petersburg. He is editor-in-chief of The International Encyclopedia of Ethics

Employs criteria, but is not criterial The previous discussions enable us to say more precisely why pragmatists reject a criterial view of morality. Pragmatism's core contention that **practice** is primary in philosophy **rules out** the hope of logically prior **criteria**. Any meaningful criteria evolve from our attempt to live morally – in deciding what is the best action in the circumstances. **Criteria** are not discovered by pure reason, and they **are not fixed**. As ends of action, they are always revisable. **As we obtain new evidence** about ourselves and our world, and as our worlds changes, **we find** that **what was appropriate** for the old environment **may not be conducive to** survival in **the new** one. A style of teaching that might have been ideal for one kind institution (a progressive liberal arts college) at one time (the 60s) may be wholly ineffective in another institution (a regional state university) at another time (the 80s). But that is exactly what we would expect of an evolutionary ethic. Neither could criteria be complete. **The moral world is complex and changeable. No** set of **criteria could give us universal answers about how we should behave in all circumstances.** If we cannot develop an algorithm for winning at chess, where there are only eighteen first moves, there is no way to develop an algorithm for living, which has a finitely large number of "first moves." Moreover, while the chess environment (the rules) stays constant, our natural and moral environments do not. We must adapt or fail. While there is always one end of chess -- the game ends when one player wins – the ends of life change as we grow, and **as** our **environments change**. Finally, we cannot resolve practical moral questions simply by applying criteria. We do not make personal or profession decisions by applying fixed, complete criteria. Why should we assume we should make moral decisions that way? Appropriates insights from other ethical theories Nonetheless, there is a perfectly good sense in which a pragmatic ethic employs what we might call criteria, but their nature and role dramatically differ from that in a criterial morality (Dewey 1985/1932) . **Pragmatic criteria** are not external rules we apply, but **are tools we use in making informed judgements**. They embody learning from previous action, they express our tentative efforts to isolate morally relevant features of those actions. These **emergent criteria can become integrated into our habits,** thereby **informing** the **ways** that **we react to**, think about, and imagine **our worlds** and our relations to others. This explains why pragmatists think other theories can provide guidance on how to live morally. Standard moral theories err not because they offer silly moral advice, but because they misunderstand that advice. **Other** moral **theories can** help us **isolate** (and habitually focus on) **morally relevant features** of action. And pragmatists take help wherever they can get it. Utilitarianism does not provide an algorithm for deciding how to act, but it shapes habits to help us "naturally" attend to the ways that our actions impact others. Deontology does not provide a list of general rules to follow, but it sensitizes us to ways our actions might promote or undermine respect for others. Contractarianism does not resolve all moral issues, but it sensitizes us to the need for broad consensus. That is why it is mistaken to suppose that the pragmatist makes specific moral judgements oblivious to rules, principles, virtues, and the collective wisdom of human experience. The pragmatist absorbs these insights into her habits, and thereby shapes how she habitually responds, and how she habitually deliberates when deliberation is required. This also explains why criterial moralities tend to be minimalistic. They specify minimal sets of rules to follow in order to be moral. Pragmatism, on the other hand, like virtue theories, is more concerned to emphasize exemplary behavior – to use morally relevant features of action to determine the best way to behave, not the minimally tolerable way.

#### **5] Rule Following Paradox- There is nothing inherent to a rule that tells us how we ought to follow it, regardless of how correct the rule is. Only deliberation accounts for the diversity of interpretations of our norms.**

#### **6] Resolves Skepticism- a) Discussion between many bodies means that moral uncertainty can be deliberated and resolved. b) Truth only makes sense in groups of people so only they can prescribe action**

#### **7] Negating affirms because it assumes that the 1ac is a statement that is worthy of contestation which means our arguments are legitimate.**

# **Offense**

#### **The negative and I affirm the resolution resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.**

#### **1] IP laws prioritize uniformity and predictability as a method of homogenizing knowledge and refusing experimentation.**

**Wu 14** [Tim Wu (Julius Silver Professor of Law, Science and Technology at Columbia University). “Intellectual Property Experimentalism By Way of Competition Law”. Columbia Law School. 2014. Accessed 8/16/21.<https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2843&context=faculty_scholarship> //Xu]

**The goals of uniformity and predictability has had its clearest implications at the international level. Unlike competition law, which varies significantly between OECD nations, over the last several decades all of the IP laws have become subject to a much stronger and geographically broader web of harmonizing international agreements, on multinational, regional and bilateral levels. The general aim of these treaties is to homogenize the world’s IP regimes, reducing or eliminating geographical variation.** All of the major laws are the subject of longstanding global treaties specifying minimum protections (The Berne and Paris conventions), which were fortified in 1994 by the addition of an intellectual property agreement to the World Trade Organization, and further strengthened by numerous bilateral treaties since then. And of course the World Trade Organization, unlike the informal organizations common to competition law, has the power to punish deviations from the intellectual property treaties with serious trade sanctions. The pattern can also be observed at the national level. Both in Europe and the United States the last few decades have witnessed many important measures taken to create uniformity. In the United States, a single appeals court, the Federal Circuit, has heard the nation’s appeals in patent cases since 1982 in an effort to bring greater uniformity to the patent law. Though proposals for constructing a uniform patent court akin to the Federal Circuit in the European Union have been unsuccessful so far,26 the European Patent Convention, founded in 1973, provides a common application for the prosecution of patents in each of the member states.27 In short, stronger protection of uniform rights has been the clear trajectory of the intellectual property laws over the last few decades. That tendency is sharply at odds with the predispositions of the competition laws. The dichotomy I am suggesting here is, of course, not absolute. In certain areas of the competition law, one can sense the influence of a vested rights theory, in, for example, the resistance to breakups of dominant terms, even if the economic case for doing so might be quite strong. And there are areas in IP law, like the American fair use doctrine (a judicial and scholarly favorite), which have, in fact, served as important outlets for judicial tinkering in the face of changing conditions. For example the famous Sony decision, blessing the VCR, broke with prevalent copyright doctrine, arguably as a reaction to perceived technological necessity.28 Similarly, following a decade of bad press, Congress, the courts, and the American Patent Office have begun to make adjustments with American patent law. An example is the new post-grant review process, which includes a particular provision targeted at business method patents. **Nonetheless it would be hard to describe the intellectual culture of**  **either the intellectual property laws as truly committed to experimental improvement of the law.** It would be even harder to describe competition law as devoted to the protection of fundamental rights. We are left with a divergence in intellectual cultures with broad implications for just about every advanced economy in the world. IV. USING ANTITRUST FOR PATENT EXPERIMENTALISM AT THE UNITED STATES SUPREME COURT **I believe there is a need for a more experimentalist approach to the intellectual property laws, and particularly to the patent laws.** The law, I believe, needs better mechanisms not simply to celebrate its successes, but to correct its errors, both specific and general. **One way this might be achieved is to act within the structure and institutions of the laws themselves;** as just discussed, this is a project underway in certain respects. **But the other path is to rely on the competition laws as a kind of oversight and adjustment mechanism for the intellectual property laws.**

#### **2] Previous IP expansion ignored agonistic discussion, by rolling back homogenized WTO IP we allow every state to debate about and choose their own method.**

**Lanjouw 03** [Jean 0. Lanjouw, Brookings Institution, Center for Global Development, and University of California at Berkeley, “ Innovation Policy and the Economy, Volume 3” Janurary 03, <https://www.nber.org/system/files/chapters/c10794/c10794.pdf> //cohn]

Recent agreements involving intellectual property will result in a significant extension in the global patent rights available to pharmaceutical firms. **At the close of the Uruguay round of the General Agreement on Tariffs and Trade (GATT) in 1994, members agreed to a common set of international rules against a background of long-running bilateral pressure on selected developing countries to strengthen their patent laws.**' **Many developing countries have excluded pharmaceutical innovations from patent protection**, offering only very brief protection for 92 Lanjouw new manufacturing processes. **Now all** **members of the** World Trade Organization **(WTO) are expected to implement new laws that look very much like** those in the **U.S. and Europe**, if they have not done so already.2 **The implications of this expansion of rights, and the question of whether the global framework for intellectual property is now appropriate, have been sources of continuing, often intense disagreement.** The initial debate in the context of the GAIT negotiations revolved around whether intellectual property was even a legitimate subject for a trade treaty. Those in favor of its inclusion finally prevailed in the form of the TRIPS component of the Agreement Establishing the World Trade Organization (Trade-Related aspects of Intellectual Property, Annex 1C). The issue was reawakened as the public became more aware of the rapid spread of HIV/AIDS, together with the discovery of expensive patented drugs to treat the disease. **Today there continues to be widespread criticism of the international framework for patent rights laid down** in TRIPS as it applies to pharmaceuticals. **Views in the developing world range from uneasy acceptance to outright rejection**, and the potential effect of the new regime on health in these countries has also raised active concern elsewhere.3 **It is important that the divergent interests involved in this debate arrive at a more** broadly **acceptable system**. **The simple fact that the TRIPS-based global architecture has generated such resistance is damaging in a variety of ways.** Pressure groups are driving changes to the system of patent rights and using targeted campaigns to lower particular drug prices. Regardless of the merits of individual results, this is a process of change that is both costly and extremely unpredictable in its effect. The uncertainty this creates about future markets and pricing opportunities is itself a strong deterrent to private sector involvement in drug research for the developing world. Dissatisfaction with the patent system in the realm of health may also spill over into a distrust of the intellectual property system more generally. This possibility should concern anyone who considers patents to be an important stimulus to innovative effort. **Finally, regardless of what treaties are signed and laws passed in the poorer countries, reliable and consistent patent systems there can only be established with local support.**4 Effective enforcement cannot be imposed from the outside. Unfortunately, the debate over drug patents in poor countries has become very polarized, which makes finding an acceptable system dif- Intellectual Property and Pharmaceuticals in Poor Countries 93 ficult. Positions tend towards two endpoints. At one end are those who support the current move toward a system where all countries have the same form of intellectual property laws, and where the protection afforded pharmaceutical inventors is at the level now available in the developed countries. At the other end are those who view the higher prices sustained by pharmaceutical patents as too burdensome in poor countries and advocate either no patents for drugs in the developing world or expansive compulsory licensing provisions.