I affirm: Resolved: the member nations of the WTO ought to reduce intellectual property protections for medicines. My value is morality, as the word “ought” in the resolution indicates a moral obligation.

As defined by the World Intellectual Property Organization:

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

<https://www.wipo.int/about-ip/en/>

Pure reason is constitutive of agents. **Gobsch 1:**

**In** us **human beings**, however, **pure reason is of itself practical, if all goes well:** ideally, **the laws from the representation of which we act are therein known by us to be the laws that explain why we act at all. 6 They are practical laws**. Thus **defined**, a practical law is **[as] a self-applying law**: its application in the activity that constitutes a human being’s existence does not, if all goes well, have conditions the satifaction of which could possibly remain to be explained by other laws. So it cannot be hypothetical, **it will be categorical: it will be law in virtue of no other law. As law, however, it will govern belonging in the totality that has no outside, the world. So there can only be one such law.** 7 In its necessary singularity, this law, then, is lawness itself, reason; or **as Kant puts it: “pure reason, practical of itself, is here immediately lawgiving**

Gobsch, Wolfram. “The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love to Overcome It.” Published by University of Arkansas Press. *Philosophical Topics, Volume 42, Number 1, Spring 2014, pp. 177-200 (Article).*

But we aren’t reasoning robots; reason is coupled with sensibility. **Gobsch 2:**

To act as a human being is to actualize pure reason, if all goes well. But **no human being is pure reason. Human beings are rational** animals. **So they are** animals, **sensible** organisms, **too. Sensibility is a** receptive capacity of representation: a **capacity to represent objects through being affected by them**. Affection happens at a time and a place. So sensible organisms are spatiotemporal beings. And **affection depends on the existence of its object**. So sensibility is a capacity whose actualization has conditions the satisfaction of which cannot be the work of this capacity itself. Therefore, sensibility is limited by whatever else satisfies these conditions. And so it is a particular capacity, a capacity with a specific form. But if a capacity of representation is limited and particular, then its object—the content of its act in general—must be limited and particular, too: its object cannot be that which is, simply as such. It is for this reason that **sensibility differs infinitely from reason**, the unconditioned capacity, and that **no sensible organism can be pure reason**, so that the definition of a human being unites reason and sensibility as two distinct determinations.

To exist as an animal is, typically, to be engaged in sensible activity.11 So although human beings exist, if all goes well, through actualizing pure reason, **sensibility will have to play a role in their rational practical activity. A merely prudentially rational animal**, should such a thing be possible at all, **would be determined to act by sensible desire**. Reason would merely serve to direct it toward happiness. In a human being, however, reason is, if all goes well, of itself practical. And so the role of sensible desire cannot be that of the determinant, the motor, of human practical activity. As the activity of a rational animal, human activity, too, is oriented toward happiness. But **the subjective principles of a human being’s practical activity**, principles which, as such, determine the manner in which its orientation toward happiness becomes practical, are acts of free choice: **acts of a capacity to “be determined to actions by pure will**,”12 maxims, as Kant calls them. As conditioned by the moral law, **such maxims presuppose their subject’s acknowledgment of her own happiness as prima facie good: as to be pursued at all in the activity of pure reason.**13 In this acknowledgment, a human being constitutes herself as a person: as individualized pure reason, as a particular manifestation of the moral law. Through her maxims, a person, a human being as a particular manifestation of pure reason, determines the character of her pursuit of happiness. And so it is **in her maxims**, her acts of free choice, **a human being rationally displays her sensible nature: the individuality and finitude that make her an animal.**

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The ethical community is the solution. **Gobsch 3:**

**To act from one’s consciousness of nothing but the moral law is to act autonomously,** it is to give this law to oneself: it is to act in such a way as to therein also constitute and preserve oneself as a being who is acting from nothing but one’s consciousness of this law. So **for me to be related to you** as one person to another 185 **in my acting from such respect for the moral law is for me to give the law to both of us and to** therein **receive it from you who is equally giving it to both of us.** So **as members of our ethical community, each of us acts in such a way as to constitute and preserve herself and therein the other as a person who acts from nothing but her consciousness of the moral law.** In this sense, **an act from respect for the moral law, conceived as the principle of an ethical community, is a** joint or **general act of the will.** So **in ethical life, the willing itself is relational.**

Gobsch, Wolfram. “The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love to Overcome It.” Published by University of Arkansas Press. *Philosophical Topics, Volume 42, Number 1, Spring 2014, pp. 177-200 (Article).*

Thus, the standard is consistency with the ethical community. Prefer additionally,

1. Bindingness: any system of ethics must be applicable to the nature of the subject which takes action under the framework. For example, imposing a set of premises on a dog that would guide them towards action, one of which involved speaking English, wouldn’t be a valid syllogism for the dog to follow because the syllogism is not applicable to its nature. Because the ethical community is founded on the basis of reason and sensibility, the two constitutive characteristics of the subject, it is thus applicable to the nature of the subject, which other frameworks fail to account for.
2. Performativity: our ability to debate in this round is reliant on our ability to self-legislate, which validates the very premise of the ethical community. We are using reason to make arguments while also being affected by our surroundings and what each of us is saying because we’re not debating in a vacuum.
3. Evil is seen as misrecognition and immersion in vanity. **Gobsch 4:**

In granting the necessity of human evil the same objectivity as the necessity of the possibility of the highest good, **Hegel** goes even further: he **conceives of the activ-ity whose end is the highest good, the activity of pure reason, as an activity that is**, objectively speaking, **nothing but the activity of overcoming evil. “Evil,”** Hegel writes, **“retention of the finite,” “vanity,” is “the ultimate immersion into [spirit’s] own subjectivity and [its] innermost contradiction and therefore [its] turning- Point, ”** which is to say that spirit, rational activity, “is itself nothing but this: the act of the nullification of nullity, **the frustrating of vanity** [das Vereiteln des Eitlen] within itself.” 54To say that rational activity is itself nothing but the frustration of vanity within itself is not to say, as Kant would have it, that the activity of pure reason, should it find itself confronted with vanity, as something alien to its objective nature, would consist in the activity of frustrating it. Rather, it is to say that **rational activity is in itself nothing but the activity of overcoming evil.** Therefore, **to acknowledge the objectivity of the necessity of human evil is to attribute to the human being the capacity to** actually **know that pure reason is** of itself **practical in** her **activity, which is** the activity of **overcoming evil.** 55

Gobsch, Wolfram. “The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love to Overcome It.” Published by University of Arkansas Press. *Philosophical Topics, Volume 42, Number 1, Spring 2014, pp. 177-200 (Article).*

**OFFENSE**

**The claim that “intellectual property protections ensure we recognize the self-legislation of others” doesn’t disprove the thesis of the aff, since IP protections for medicines inherently remove access for others, and thus are not permitted by the framework, as it takes away those individuals’ self-legislating rights. Because IP protections inhibit the ability of others in the community to self-legislate, it is prohibited under the framework.**

**Intellectual property protections are an indication that some individuals deserve greater access to, in this case, a life-saving product. The notion that there should be barriers in the way of someone receiving medicine just because “someone else discovered it'' and thus deserves its monopoly is an act of vanity. Sonderholm:**

The libertarian defense of IPRs have recently come under attack (Hollis and Pogge 2008: 63; Pogge 2010: 190). The objection is that **libertarianism**, with its strong **emphas[izes]**is on **rights to individual freedom and private property, [and] is inconsistent with IPRs**. What **such rights** do is namely to **enable individuals** (innovators) **to unilaterally place limits on the personal freedom of others and on what they may do with property they have legitimately acquired. IPRs on a particular medicine is**, for example, **a de facto legal limitation on what other people may do with their legitimately acquired possessions** (chemicals), and this is not something that libertarianism can consistently sanction. **At** its **best,** what **the libertarian argument can yield** is only **that medical innovators have strong property rights on the concrete**, physical **tokens of their innovation** (pills, powders, liquids etc.). **The argument cannot yield the conclusion that innovators also have property rights on the** innovation type (the **idea**⁄formula for the medicine) (Hollis and Pogge 2008: 65).

Sonderholm, Jorn. "Ethical issues surrounding intellectual property rights." Philosophy Compass 5.12 (2010): 1107-1115. [bracketed for grammatical clarity]

**IPP protections consistently favor the well-off and create an inescapable cycle for the underprivileged where branded medicines are too expensive, out-of-pocket spending increases as the national income decreases, and generic medicines don’t exist.**

**Ahmadiani and Nikfar 16:** The right to health as a basic human right- and access to medicine as a part of it- have been a matter of attention for several decades. Also the responsibilities of different parties- particularly pharmaceutical companies- in realization of this right has been emphasized by World Health Organization. **This is while many companies find no incentive for research and development of medicines related to rare diseases.** Also some **legal structures such as “patent agreements”** clearly **cause huge difficulties for access to medicine in many countries. High prices of brand medicine and no legal production of generics can increase** the **catastrophic costs- as well as morbidity-mortality of medication in lower income countries.** Here we evidently review the current challenges in access to medicine and critically assess its legal roots. How societies/governors can make the pharmaceutical companies responsible is also discussed to have a look on possible future and actions that policy makers- in local or global level- can take. Responsibilities of pharmaceutical companies with regard to human rights have been matter of debates for many years. In August 2008, the Secretary-General of United Nations published a report which mentioned that **over 2 billion people all over the world do not have sufficient access to essential medicine** [[1](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR1)]. The message was clear, **two billion people** (about one third of the world population at the time) **were in danger of death or major harm to their health as a result of the lack of access to essential medicines, either because of not enough attention from pharmaceutical companies, or because the state parties could not fulfill their obligation in regards to essential medicines.** Now after a couple of years it might be still a question that, what the responsibilities of different parties (such as pharmaceutical companies, governments, NGOs, world organizations etc.) are for solving this problem, and how we can assure that the realization of access to essential medicines takes place? This paper will discuss these questions briefly from a human rights perspective, and we will try to find and summarize some legal solutions for controversies and complexities in this field. **Huge part of barriers in access to medicine returns to patent law and its consequences.** Although patent law generally has been used for centuries [[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR2)], **the manifestation of TRIPS agreement in 1994 turned it to a new form of challenge. This agreement force the World Trade Organization (WTO) members to take action for protecting intellectual property rights, which entails that any patented product should be produced, imported, sold or used under permission of the patent owner** [[3](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR3)]. **This includes medicine, thus the production of each medicine is initiated with a period of monopoly in the market** with the highest possible price. **In this period there will be no low price generic drugs in the market after signing the agreement by one state (for those drugs which are still under patent), and hence, patients should provide the expensive branded medicine either out of pocket or** by using their **insurance. The problem will rise** up when it comes to a developing country **where population not only have lower economic status, but also lower health status and higher needs to medicine.** According to WHO, life expectancy in developed countries was 1.7 fold higher than developing countries in 2002, showing a 32-years gap in life expectancy between these societies [[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR4)]. Also, data shows that infectious diseases such as TB have a negative relationship with GDP per capita of the country [[5](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR5)] (also see Fig [1](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/figure/Fig1/)). These health measures make it obvious that **in developing countries there is a higher need to medical technologies which many of them are under patent.** At the same time, **health insurance coverage is usually poor in these countries and patients often have to pay for the branded medicine out of their own pockets. Evidence shows that the lower the national income is, the higher the out of pocket share of health spending will be** [[6](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR6)]. With higher needs and lower economic ability, providing branded medicine will result in a large load of expenditure for states, catastrophic expenditures for patients [[7](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/#CR7)] and increase of mortality and/or morbidity because of low access to medicine (see Fig [2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4855755/figure/Fig2/)).

Ahmadiani, Saeed, and Shekoufeh Nikfar. “Challenges of access to medicine and the responsibility of pharmaceutical companies: a legal perspective.” *Daru : journal of Faculty of Pharmacy, Tehran University of Medical Sciences* vol. 24,1 13. 4 May. 2016, doi:10.1186/s40199-016-0151-z

**The very definition of medicines indicates it is a means by which an individual can have a fulfilling life. The failure to recognize others in the community as equally deserving of that right, while keeping it for oneself for the purposes of maintaining one’s own life of fulfillment, is a form of misrecognition. WHO:**

**The WHO** Constitution (1946) **envisages “…the highest attainable standard of health as a fundamental right of every human being.” Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality as well as to providing for the underlying determinants of health**, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality. **A States’ obligation to support the right to health – including through the allocation of “maximum available resources”** to progressively realise this goal - **is reviewed through** various **international human rights mechanisms, such as the Universal Periodic Review, or the Committee on Economic, Social and Cultural Rights.** In many cases, the right to health has been adopted into domestic law or Constitutional law. **A rights-based approach** to health **requires that health policy** and programmes **must prioritize the needs of those furthest behind first towards greater equity**, a principle that has been echoed in the recently adopted 2030 Agenda for Sustainable Development and Universal Health Coverage. (1) **The right to health must be enjoyed without discrimination on the grounds of** race, age, ethnicity or **any** other **status. Non-discrimination and equality requires states to take steps to redress any discriminatory** law, **practice** or policy. Another feature of rights-based approaches is meaningful participation. Participation means ensuring that national stakeholders – including non-state actors such as non-governmental organizations – are meaningfully involved in all phases of programming: assessment, analysis, planning, implementation, monitoring and evaluation. “The right to the highest attainable standard of health” implies a clear set of legal obligations on states to ensure appropriate conditions for the enjoyment of health for all people without discrimination. The right to health is one of a set of internationally agreed human rights standards, and is inseparable or ‘indivisible’ from these other rights. This means **achieving the right to health is** both **central to**, and dependent upon, **the realisation of other human rights**, to food, housing, work, education, information, and participation. The right to health, as with other rights, includes both freedoms and entitlements: Freedoms include the right to control one’s health and body (for example, sexual and reproductive rights) and to be free from interference (for example, free from torture and non-consensual medical treatment and experimentation). **Entitlements include the right to a system of health protection that gives everyone an equal opportunity to enjoy the highest attainable level of health.** Focus on disadvantaged populations Disadvantage and **marginalization serve to exclude certain populations in societies from enjoying good health.** Three of the world’s most fatal communicable diseases – malaria, HIV/AIDS and tuberculosis – disproportionately affect the world’s poorest populations, and in many cases are compounded and exacerbated by other inequalities and inequities including gender, age, sexual orientation or gender identity and migration status. Conversely the burden of non-communicable diseases – often perceived as affecting high-income countries – is increasing disproportionately among lower-income countries and populations, and is largely associated with lifestyle and behaviour factors as well as environmental determinants, such as safe housing, water and sanitation that are inextricably linked to human rights. **A focus on disadvantage also reveals evidence of those who are exposed to greater rates of ill-health and face significant obstacles to accessing quality and affordable healthcare, including indigenous populations.** While data collection systems are often ill-equipped to capture data on these groups, reports show that these populations have higher mortality and morbidity rates, due to noncommunicable diseases such as cancer, cardiovascular diseases, and chronic respiratory disease. **These populations may also be the subject of** laws and **policies that further compound their marginalization and make it harder for them to access healthcare** prevention, **treatment**, rehabilitation and care services.

WHO. “Human rights and health.” 29 December 2017. https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health.

**UNDERVIEW**

1) Per the WTO:

**“The World Trade Organization (WTO) deals with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.”**

The World Trade Organization. *The WTO.* Accessed September 3, 2021. <https://www.wto.org/english/thewto_e/thewto_e.htm>

And, constitution level standards that define the basic nature of an organization supersede more specific standards because the former define the nature of the institution. For instance in the US laws are voided if they are deemed unconstitutional. Thus for the purpose of analyzing obligations of the WTO greatest weight is given to the organization’s constitutive aims rather than to any specific rule or policy. You can vote aff based solely on the fact that the WTO’s own goal is to ensure trade flows as freely as possible, and because IP protections create patent “walls” and “thickets”, they inherently create obstacles to free trade.

2) I get 1AR theory: a) otherwise the 1NC could be infinitely unfair and I would have no way of checking back b) the 1AR is time-crunched with only 4 minutes to respond to 7 minutes of NC offense and extend the entire aff which means I need some way to check back c) Reciprocity both debaters should be able to initiate theory and have offense on that layer.

3) Presumption affirms: A) Any reason affirming is harder is a reason to vote aff on presumption because in the case of a tie I was the better debater, 1) 7-4-6-3 time skew, 2) aff has to extend offense twice, more chances to make mistakes 3) neg gets proactive theory in the first speech, aff can only be reactive B) We’re cognitively biased to maintain the squo so err on the side of change to rectify perceptual judge skew C) We presume statements true unless proven false—if I told you my name was Ria you’d believe me unless told otherwise. Conspiracy theories don’t respond: 1) The resolution isn’t a conspiracy and 2) People assume conspiracies are true—the only reason we dismiss them as absurd is if we have prior knowledge that refutes them.

4) The role of the ballot is truth testing because A) Isomorphism: alternative RTBs aren’t binary win/loss, and thus cannot function in debate B) Constitutivism: the ballot and tab software present decision as aff/neg, not who best achieves some good value. Also, “affirm” is “**To state that** (**a proposition**, or part of a proposition) **is true**; to give as an affirmative proposition,”[1] and negate is “**to deny the** existence or **truth of**; to deny.”, which independently proves truth testing C) Coordination, tournaments provide focal points for debaters by announcing a topic, giving it salience. Absent that focal point, debate is impossible since the chance of our being prepared to debate the same thing is literally zero.