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### Advantage – RM – 5:34

#### The advantage is racialized medicine –

#### Compulsory licenses for vaccines fail

Correa 21 [Carlos M. Correa, Director of the Center for Interdisciplinary Studies on Industrial Property and Economics and of the Post-graduate Course on Intellectual Property at the Law Faculty of International Centre for Trade and Sustainable Development, "04-2021, “Expanding the production of COVID-19 vaccines to reach developing countries Lift the barriers to fight the pandemic in the Global South,” South Center, https://www.southcentre.int/wp-content/uploads/2021/04/PB-92.pdf]/kn

On the first argument, it is worth noting how intellectual property, particularly patents, relates to the production and commercialization of COVID-19 vaccines. A study by the World Intellectual Property Organization (WIPO) found - already in 2012 – 11,800 patent families for different components of vaccines to prevent some infectious diseases.13 113 patent families relating to the mRNA technology used by several COVID-19 vaccines producers were identified in 2020; many of these patents have been applied for through the Patent Cooperation Treaty with numerous States included, which means that these will enter to national phase processing in many developing countries.14 Moderna, Inc., the producer of one mRNA based vaccine for COVID-19, is reported to hold “over 270 issued or allowed U.S. and foreign patents protecting mRNAbased technology, with over 600 worldwide pending patent applications. The company has identified at least seven granted U.S. patents that it alleges protect its COVID-19 mRNA-1273 vaccine”. 15 Although Moderna has pledged not to enforce its patents “while the pandemic continues”, it is unclear when it will consider that the pandemic is over.16 The company has been involved in litigation over three patents held by Arbutus Biopharma.17 Pfizer and its partner BioNTech have been sued by Allele Biotechnology and Pharmaceuticals, Inc. over the alleged infringement of a patent on a monomeric fluorescent protein used in assays of their COVID-19 vaccine.18 The US National Institute of Health has obtained a patent over a stabilized coronavirus spike protein that may impact the production and sale of at least 5 COVID-19 vaccines, including Moderna’s mRNA vaccine.19 The US patent office also granted a researcher at Tel Aviv University a patent for technology that could accelerate the development of a vaccine for COVID-19. 20 The second argument - the possible use of compulsory licenses, one of the important TRIPS flexibilities - ignores that issuing compulsory licenses takes time particularly if a previous negotiation with the patent holder is needed under the applicable law. In addition, it is often difficult to identify all the patents or other intellectual property rights covering a product or process, and patent applications are not published for 18 months after their filing. The waiver proposal provides a more functional and appropriate approach than individual and uncoordinated actions based on individual compulsory licenses. A waiver would allow “uninterrupted collaboration in the development and scale-up of production and supply of health products and technologies and collectively addresses the global challenge facing all countries”.21 In effect, compulsory licenses can only be granted case-by-case and productby-product and the manufacture of a vaccine encompasses a large number of components. Importantly, a compulsory license applies only to already granted patents and not to pending applications and, unless article 31bis of the TRIPS Agreement (as incorporated in 2017) is applied with its cumbersome requirements,22 a compulsory license can only be issued to predominantly supply the domestic market. 23 Further, in some jurisdictions the decision to grant a compulsory license may be appealed and its implementation suspended until a final decision is made. Finally, given the territorial character of patents, there would be a need to sim- ultaneously obtain compulsory licenses in several jurisdictions in order to put in place an efficient supply chain. The third argument - negative impact on innovation - is particularly weak in the context of the COVID-19 emergency as there is no market failure that inhibits return from innovation, the basic economic justification for the grant of intellectual property rights. The demand is huge - as the vaccines need to reach at least all the world adult population - and governments as well as COVAX are competing against each other to secure the supply of vaccines. In addition, the Western companies now supplying vaccines have received massive subsidies from governments. Thus, Moderna received nearly 1 US$ billion of taxpayers’ money to develop and produce the COVID-19 vaccine,24 Pfizer/BioNTech received US$ 445 million from the German government.25 Overall, the COVID-19 producers may have received around £6.5bn from governments while not-for-profit organizations have provided nearly £1.5bn.26 Public financing also reduced the risk of failure, as exemplified by the failed Merck/IAVI vaccine backed by the US Biomedical Advanced Research and Development Authority (BARDA).27 The fourth argument alludes to the need to obtain know-how, data, etc. to initiate the production of vaccines. This is correct, but access to these inputs may be impeded or limited rather than facilitated by the enforcement of intellectual property rights. In addition, there are many manufacturers in developed and developing countries28 that may produce COVID-19 vaccines, in some cases by repurposing plants used for the production of other biologicals. Access to know-how and data would allow them to move fast, but acquiring the needed skills would not be otherwise impossible if scientific and industrial support is available for the different phases of manufacturing (active ingredient, formulation, fill and finish). Much is needed to be done to achieve a stage in which vaccines and other products to face a pandemic are truly treated as global public goods. This will require a reform of the current research and development (R&D) model essentially based now on the appropriation through intellectual property rights of the outcomes of innovation. From a long-term perspective, such a paradigmatic change will also ask for a reinterpretation or revision of the TRIPS Agreement in order to allow, for instance, for a broader exception to patent rights for the export of pharmaceutical products.

#### The IP regime has wreaked havoc as it is built upon protecting profits over the lives of people - causing essential medicines to be inaccessible for millions

Vanni 3/23 [Amaka Vanni, Dr. Vanni obtained both her PhD and LLM degrees in International Economic Law from the University of Warwick, where her doctoral thesis was awarded the 2018 SIEL–Hart Prize in International Economic Law. She has BA(Hons) in International Relations and Politics from Keele University, where was awarded the Vice-Chancellor Partial Scholarship (2004-2007). Dr. Vanni currently teaches the undergraduate and postgraduate modules in intellectual property law. She is the current president of the African International Economic Law Network (AfIELN), editor of the African Journal of International Economic Law and a contributing editor of Afronomicslaw.org, the leading blog on the International Economic Law landscape as it relates to Africa and the Global South. Dr. Vanni is also a member of the IEL Collective, and a theme lead on philanthropic and social financing for the New Frontiers in International Development Finance (Nef Def) project, a multi-institutional collaborative effort. 3-23-2021, "On Intellectual Property Rights, Access to Medicines and Vaccine Imperialism," TWAILR, accessed 8-21-2021, https://twailr.com/on-intellectual-property-rights-access-to-medicines-and-vaccine-imperialism/] //kn \*TRIPS = The Agreement on Trade-Related Aspects of Intellectual Property Rights

From the onset, the TRIPS IP regime created imbalance between innovation, market monopoly, and medicines access, because it failed to take into consideration the health burden, development needs and local conditions of the various countries that make up the WTO. This has led to several issues. First, the market monopoly of IP rights, which allows the corporation to set the market for drugs, has created a privileged societal class with access to lifesaving medication distinguishing them from those excluded from access to available medications. This phenomenon is vividly illustrated in the HIV/AIDS crisis of the 1990s and early 2000s. While [HIV/AIDS patients in developed countries](https://core.ac.uk/download/pdf/33087557.pdf) were able to afford antiretroviral (ARVs) treatments, which had been developed, approved and patented as early as 1987, many patients in Africa and other parts of the developing world could not afford the approximately USD 12,000 per annum treatment at that time. By 2001, [approximately 2.4 million people in the region had died](https://www.nytimes.com/2001/04/20/world/drug-makers-drop-south-africa-suit-over-aids-medicine.html) of AIDS. The South African government intervened to reduce the cost of ARVs by amending its domestic patent laws to allow the authorization of parallel imports of patented pharmaceuticals and to encourage the use of generic drugs, but it was sued by the US industry group Pharmaceutical Research and Manufacturers of America (PhRMA). Though the lawsuit was eventually dropped, it highlights the measures pharmaceutical corporations, backed by some national governments, are willing to take to protect their profits at the cost of human lives. Significantly, we see how law (or the threat of legal action) is used not only to protect and expand the profitability of a certain kind of property but, as [Anjali Vats and Deidré Keller](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3050898) have taught us, also reveals IP law’s racial investments in whiteness and its continuing implications for racial (in)equality, particularly in the way it informs systems of ownership, circulation, and distribution of knowledge. Similarly, [Natsu Saito](https://digitalcommons.law.villanova.edu/vlr/vol45/iss5/11/) takes up the analysis of IP, race and capitalism by theorizing some of the ways in which ‘value’ in IP law concentrated in the hands of large corporations is calculated in terms of its profitability rather than what it contributes to the well-being of society. However, the proverbial chickens have come home to roost as even rich countries are beginning to feel the bite of the dysfunctional IP system. The issue of excessive pricing for medicines is a growing problem in developed countries as well and has now become the single biggest category of healthcare spending in these states, particularly the US. An empirical report by I-MAK reveals how excessive pharmaceutical patenting is extending monopolies and driving up drug prices. The report, for example, notes that over half of the top twelve drugs in the US have more than 100 attempted patents per drug. Specifically, the report revealed that Humira® by AbbVie (used in the treatment of Crohn’s disease and the US’s highest grossing drug) has been issued 130 patents. The drug costs [USD 44,000](https://www.nytimes.com/2018/01/06/business/humira-drug-prices.html) annually and generated more than USD 19.2 billion for the company in 2019 alone. The Report also notes that the first patent filed for Herceptin® – used in the treatment for certain breast and stomach cancers – was in 1985 but currently has pending patent applications that could extend its market monopoly for 48 more years. Meanwhile, Celgene has over 105 patents for its oral cancer drug Revlimid® (used in the treatment of multiple myeloma) extending its monopoly until the end of 2036 – a patent lifespan of 40 years. In addition to excessive patenting and pricing, we have also come to understand the power of [data](https://twailr.com/digital-colonialism-and-the-world-trade-organization/) in this context. Second, regulatory agencies worldwide require drugs to undergo safety and efficacy testing to ensure they are harmless before approval. These tests, known as clinical trials, involve human subjects and are costly because they can run up to three separate phases. The data collected during these clinical trials are the proprietary materials of the company conducting the tests. Because it is expensive and time-consuming, generic drug companies usually rely on the safety and efficacy data of brand name companies to seek regulatory approval as long as they can prove their generic version is chemically and biologically equivalent to the original. Relying on the test data of brand name companies reduces the production cost for generic medicines and allows for quicker market entry. However, recent years have seen a promotion of time-limited, legally mandated protection against the non-proprietary use of such data by generic companies. This is known as data exclusivity. Put differently, [data exclusivity](https://joppp.biomedcentral.com/articles/10.1186/s40545-017-0107-9) is a period when a generic company cannot use the clinical trial data of an innovator pharmaceutical company to receive regulatory approval for a generic medicine. In so doing, data exclusivity provides a layer of protection in addition to patent protection to further delay market entry of generic medicines. Data exclusivity periods vary depending on the jurisdiction. For example, it is twelve years in US and ten years in the EU. While the TRIPS Agreement does not create property rights over registration data, the US and the EU have continued to champion and export data exclusivity through free trade agreements, particularly for biologics. For example, the US Affordable Health Care for America Act in 2009 extended a [12-year exclusivity period for biologics](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3187345). This US interpretation for registration data was also included in the United States-Mexico-Canada Agreement (USMCA), which sought a 10-year data exclusivity for new biologics. However, after intense negotiations, the data exclusivity protection was reduced to [5 years for new pharmaceuticals](https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-00565-4). In this instance, we see a crystallising of Euro-American ideas of [property](https://digitalcommons.law.villanova.edu/vlr/vol45/iss5/11/) and a willingness to promote those property interests through the law, both domestic and international. In fact, [certain scholars](https://pubmed.ncbi.nlm.nih.gov/23581666/) assert that this pursuit of higher TRIPS standards is driven, in part, by the US desire to achieve levels of protection it anticipated from the TRIPS Agreement but failed to secure. Given the influence of the industry and its representative group, PhRMA, in seeking [stronger protection on a global scale](https://heinonline.org/HOL/LandingPage?handle=hein.journals/temple77&div=25&id=&page=), it is not surprising that the US’s post-TRIPS policies continue to rachet up standards in ways that undermine access to affordable medicines, and perpetuate social hierarchy and subordination. Third, patent practices in recent decades have seen pharmaceutical companies engaging in trivial and cosmetic tweaking of a drug whilst still reaping the benefit of 20 years of patent protection. This tweaking sometimes involves making minor changes to patented drugs, such as changes in mode of administration, new dosages, extended release, or change in color of the drug. These changes normally do not offer any significant therapeutic advantage even though pharmaceutical companies argue they provide improved health outcomes to patients. These additional patents on small changes to existing drugs, known as evergreening or patent thickets, block the early entry of competitive, generic medicines that drive medicine prices down. For example, while not mandated by TRIPS, many US led TRIPS-plus free trade agreements [have expanded the scope for evergreening](https://journals.sagepub.com/doi/pdf/10.1111/jlme.12014). These include the US-Jordan FTA (2000), US-Australia FTA (2004) as well as the US-Korea FTA (2007), which allow for the patenting of new forms, uses, or methods of using existing products. The cancer drug Gleevec**®,** owned by Novartis, is another example of how pharmaceutical companies often secure patents on new, more convenient versions with marginal therapeutic benefit to patients whilst blocking the entry of generic medicines. In 2013, Novartis’ patent application for Gleevec®– the β crystalline form of the salt imatinib mesylate – was [rejected by the Indian Supreme Court](https://spicyip.com/2013/04/supreme-court-rejects-bid-by-novartis.html) because it lacked novelty. However, the company has secured patents for this product in other jurisdictions such as the US and has maintained a high price of Gleevec there. But in India the price of Gleevec® was reduced from [approximately USD 2,200 to USD 88 for one month’s treatment](https://makemedicinesaffordable.org/five-years-after-the-indian-supreme-courts-novartis-verdict/) in the generic drugs market as a result of the 2013 Indian Supreme Court judgement. Novartis is not the only culprit. The depression drug Effexor® by Pfizer was granted an evergreen patent when the company introduced an extended-release version, Efexor-XR®, even though there was no additional benefit to patients. Eventually, the patent was declared invalid, but by then it had already cost an [estimated USD 209 million](https://theconversation.com/explainer-evergreening-and-how-big-pharma-keeps-drug-prices-high-33623) to Australian taxpayers and kept generic competition off the market for two and a half years. In another instance, Pfizer went on to secure an [additional patent for the Pristiq](https://www.lexology.com/library/detail.aspx?g=50b1a4a5-1f4e-4e95-9e35-cd0aaef827e6)®, which contained identical chemical compound as Efexor-XR®,and again with no added therapeutic benefit. These evergreening practices, of course, have material effects. Apart from delaying the entry of generic versions, they give brand-name pharmaceutical companies free reign in the market, which allows them to set the market price. Recent years have seen monopoly prices rise exorbitantly causing significant financial strain to patients, domestic healthcare services and even insurance companies in developed countries. A notorious example is Martin Shkreli, who in 2015 bought the rights to an anti-malarial drug, then raised the price by 5,000 per cent from a cost of [USD 13.50 to USD 750](https://www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html). Similarly, a [white paper](https://www.i-mak.org/wp-content/uploads/2020/10/Excess-Costs-Briefing-Paper-FINAL-2017-10-24-with-cover-rev.compressed.pdf) by I-MAK shows how excessive patenting and related strategies are driving families to overspend on lifesaving medicines. Celgene, the makers of Revlimid® raised the price of the drug by more than [50 per cent since 2012](https://medium.com/@tahir_5675/celgene-didnt-invent-revlimid-but-it-has-made-billions-from-overpatenting-7b71876ad0) to over USD 125,000 per year of treatment. Using the example of Solvadi® by Gilead, which costs USD 84,000 per treatment, Feldman notes the drug would cost the US Department of Defense [more than USD 12 billion](https://poseidon01.ssrn.com/delivery.php?ID=107064121121024002083085003006101002098014089077064041076071094098122002091113120094058057003006039016043112014118116085107100106078031069085001083107096069125096047093042123014122082089097079012017106071090110098068010006029096119030098103096114111&EXT=pdf&INDEX=TRUE) to treat all hepatitis-infected patients in US Veterans Affairs. But the US is not alone. In Europe, expensive drugs have prompted a growing backlash against pharmaceutical corporations. Reacting to these price hikes, [Dutch pharmacies](https://www.euronews.com/2019/03/08/dutch-join-backlash-at-expensive-drugs-by-making-their-own) are bypassing these exorbitant prices by preparing medicines in-house for individual patients. The broken IP system ranging from an extraordinarily low standard for granting patents to permissions of patent thickets around a single molecule has not only severely distorted the system of innovation, but they have also skewed access to life-saving drugs. As a result, prices for new and existing medicines are constantly rising, making essential medicines inaccessible for millions of people around the world.

#### Black and brown communities are disproportionally affected by our current system of IP law as many struggles to cover the cost of life-saving medication

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Time after time, Black and Brown people pay the price—either with our lives or through pain and suffering—because of systemic racial discrimination and the continued extraction of dollars from us. Nothing illustrates this truth more than COVID-19, which has been killing Black, Latinx and Indigenous people disproportionately because of lack of access to healthcare, safe housing and overrepresentation in what is now recognized as “essential work.” As researchers race to find potential cures for COVID-19, it’s already becoming clear that yet again, only certain people will have access to them. Before it even hits the market, Gilead Science set a heinous price for proposed COVID-19 treatment Remdesivir—over $3,000 per patient. This is just one example of the myriad of life-saving medication which Black and Brown people are denied via pricing. A new report, “[Poi$on](https://acrecampaigns.org/research_post/poison/),” shows that Black folks have twice the rate of hypertension, and twice the mortality rate for diabetes compared to white people. Additionally, Latinx people also have twice the rate of diabetes and are more likely to experience preventable diabetes-related kidney failure and vision loss. On top of this already glaring health disparity, the report finds that Black and Latinx people are more likely to ration medication due to cost, which causes a slew of other issues including heart disease, strokes, and kidney disease. Often, diabetic patients who ration medication have to undergo amputations that are completely preventable with reliable access to affordable medication, leading to what ProPublica has deemed an “[epidemic of amputations](https://features.propublica.org/diabetes-amputations/black-american-amputation-epidemic/)” in Black communities. The high cost of medication is not a coincidence. It’s the result of pharmaceutical companies having total control over their pricing. Of course, in the capitalist hellscape we live in, they always choose to put profits over people without oversight from our government. “Poi$on” also finds that there are some clearly identifiable bad actors here. Eli Lilly hiked the price of its insulin, Humalog, 30 times in just 20 years, including a 585 percent increase between 2001 and 2005. After buying the patent rights to two blood pressure drugs, Nitropress and Isuprel, Valeant Pharmaceutical immediately raised their prices by 212 percent and 525 percent, respectively. A Valeant spokesperson referred to its duty to “maximize the value” for shareholders as justification for this egregious and arbitrary leap in price. If it seems bananas that they’re able to do this, it is. The reason why? These pharmaceutical corporations have the authority to monopolize patents, and then do everything they can to abuse them. With no oversight on drug pricing, greedy pharma executives can gouge prices on a whim, willfully killing countless Black and Brown people in the name of profit. On top of abusing an already corrupt patent system, pharmaceutical companies assemble tangled webs of intellectual property protection that stifle truly innovative medical research, while keeping already hyper-inflated drug prices high. It hasn’t always been this way. Patent monopolies giving pharmaceutical companies control over pricing weren’t introduced until the 1960s, when right-wingers worked to empower corporations and wealthy investors by weakening public-sector regulations and consumer protections. These days, **the excuse for the high price**s of drugs is attributed to innovation or keeping the market competitive. But **the truth is that government-funded research has always been the backbon**e of medical breakthroughs—pharmaceutical companies profit by buying the patents and monopolizing public knowledge. Luckily, there are some clear solutions. First, and most urgently, our elected officials must ensure medications and vaccines for COVID-19 are offered free of charge. Second, the Department of Health and Human Services must designate systemic racism as a public health emergency, and issue reparations for past harms from the pharmaceutical industry. Third, the federal government must impose compulsory licensing to prevent further abuse of patents by big pharmaceutical companies that lead to monopoly and price gouging. And finally, we must push for measurable steps toward strengthening the public’s ownership of medicine. While everyone deserves access to free, comprehensive healthcare, including medication, the reality is that Black and Latinx communities are being torn apart by the pharmaceutical industry’s insistence on the greedy exploitation of our communities. Congress must step in with bold action plans. Our lives, quite literally, depend on it.

#### Specifically, COVID-19 has brought death and destruction upon these communities to exacerbate an already racist healthcare system within neoliberal institutions

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While the coronavirus (COVID-19) disease continues to destroy human lives and economies, the response to this paralyzing global pandemic has also brought to the fore the ingenuity of humanity. Within a few months of the pandemic, researchers in China, Germany, the United Kingdom, and the United States shared information on the genome sequence of COVID-19 to reveal the structures of key proteins that make up the new coronavirus. This particular scientific breakthrough could have taken years had these scientists not jointly collaborated by sharing findings and expertise. Furthermore, as COVID-19 devastation worsened and its global impact became known, partnerships emerged between several governments, research institutions, international organizations, private sector actors, and philanthropic institutions for the development of vaccines targeting the virus. Triumphantly, in the twelve months since COVID-19 was first detected, several vaccine candidates are being rolled out and many more are in clinical trial stages. While the response to COVID-19 has shown what can be accomplished when the world works together, it has also underscored three interrelated points. First, [the neoliberal framework](https://bostonreview.net/law-justice/jedediah-britton-purdy-amy-kapczynski-david-singh-grewal-how-law-made-neoliberalism) – including the critical role intellectual property (IP) law plays in constituting this form of civilisation – is an unsuitable model for delivering the goods needed to respond to global health emergencies. The current economic/market system does not allow for equitable responses to infectious diseases, particularly access to sufficient medical and health resources. This inequity was obvious in the early days of the pandemic when test kits, PPEs, and ventilation machines were being distributed on the basis of who could pay the most rather than who needed them the most. Second, the beggar-thy-neighbor response currently adopted by developed countries hurts everyone because failing to stop the spread of the virus globally allows more mutations, which makes existing vaccines less effective. As COVID-19 has shown, [no one is safe until everyone is safe](https://www.who.int/news-room/commentaries/detail/a-global-pandemic-requires-a-world-effort-to-end-it-none-of-us-will-be-safe-until-everyone-is-safe). Yet, despite this warning, the hoarding of vaccines by developed countries continues unabated and speaks to the wider racist capitalist system we live in. If anything, this crude accumulation of vaccines reinforces North-South economic and political dominance and marks, as [Onur Ince observes](https://onlinelibrary.wiley.com/doi/full/10.1111/ruso.12025), the conceptual locus of political violence operative in the global genealogy of capitalism. Third, while COVID-19 may endanger us all, it is far more costly to some than others. Numerous reports have shown how black and brown people are most impacted by the pandemic. In the United States, for example, indigenous Americans have the highest COVID-19 mortality rates nationwide while [African American communities](https://www.apmresearchlab.org/covid/deaths-by-race) have COVID-19 mortality that is 2.3 times higher than the rate for Asians and Latinxs, and 2.6 times higher than the rate for Whites. Similar [data is also emerging in the UK](https://www.health.org.uk/news-and-comment/charts-and-infographics/emerging-findings-on-the-impact-of-covid-19-on-black-and-min) where people from black and minority ethnic groups are at greater risk of dying from coronavirus. This means those groups suffer higher loss of life compared to other racial groups due to inequities in healthcare access as well as higher rate of pre-existing conditions. In other parts of the world, the most vulnerable and the economically marginalized such as those working in the informal sector and living in shanty towns are feeling the effects of the pandemic the most. In [Latin America and the Caribbean](https://rosanjose.iom.int/SITE/en/blog/how-does-covid-19-impact-migrant-domestic-workers), 70 per cent of domestic workers have been affected by the pandemic where most have stopped receiving income. In Ghana, residents of slums at Old Fadama – a suburb in Accra – were made [homeless](https://www.facebook.com/JoyNewsOnTV/videos/257537245373128/) when the government demolished their homes. The ensuing homelessness means there is little to no space of observing social distancing rules, access to running water and access to other resources to practice basic hygiene. Meanwhile in India, the [pandemic has unsurprisingly hit the country along caste lines](https://theconversation.com/indias-coronavirus-pandemic-shines-a-light-on-the-curse-of-caste-139550) where the Dalits are most impacted because many are poor and have limited access to healthcare. As [Kimberlé Williams Crenshaw](https://newrepublic.com/article/157537/blackness-preexisting-condition-coronavirus-katrina-disaster-relief) reminds us, the high number of minority deaths is not new. Rather, this crisis simply amplified racism and other forms of structural inequality as a pre-existing condition – an intersectional issue – where those disproportionately hurt are those who are already structurally marginalized. Thus, while recognising a broken global IP regime that triggered the scramble for vaccines, the racialized impact of the pandemic cannot be ignored, and it points to the entangled roots of race and capitalism. The rest of this analysis takes a close look at some of the legal, political and economic forces that have animated IP rights and access to COVID-19 vaccine. It will focus on how the entanglement of corporate capture of global IP regime, state complicity and vaccine imperialism have come together to shape public health responses to the pandemic. It underscores how the law, in this case international IP law, consistently shelters capital and operates as an expression to further corporate pharmaceutical interests. If there is a lesson to be gleaned from this pandemic, it is that intellectual property is not failing us but is functioning the way it is set up to do. As the [history of IP globalization](https://www.anu.edu.au/fellows/pdrahos/articles/pdfs/1995globalproprightsinfo_drahos.pdf) has shown, the World Trade Organization’s (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) is a transplant of the Euro-American model of property, driven by multinational corporations who used their respective national governments to underwrite and export their domestic IP claims. Therefore, it is unsurprising that this international legal regime employed to advance the interests of particular classes, nations and regions at the expense of others continues to reproduce extreme inequality with human costs.

#### Change is possible – thus, the ROB is to vote for a pragmatic shift to make medicine accessible for all.

Hale 18 [Zachary A. Hale, J.D., UA Little Rock, William H. Bowen School of Law, May 2018; Master of Public Service, Clinton School of Public Service, May 2018, 4-4-2018, "Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection," Arkansas Journal of Social Change and Public Service, accessed 8-30-2021, https://ualr.edu/socialchange/2018/04/04/patently-unfair/] //kn

The harmful effect of strict patents on life-saving pharmaceuticals is the most visible structural violence perpetrated by the international intellectual property system. Even those not informed in the particulars of patent law can see the injustice in allowing millions of preventable deaths in the name of protecting massive pharmaceutical companies. The clear and offensive moral implications of this particular strain of intellectual property protection have led multilateral organizations to approve of relaxation in the case of essential medicines.[42] Both the United Nations Special Rapporteur on the right to health and the United Nations Special Rapporteur in the field of cultural rights have alerted the international community to the tensions between exclusive production and essential public access.[43] Additionally, the Global Commission on HIV and the Law has called upon the United Nations to develop a special intellectual property regime to regulate the protection of medicines in a way that protects human rights.[44] The ability of patent-holding corporations to demand high prices for protected innovations has created avoidable public health crises around the world, and the current work towards improving this situation is challenged by agreements that aim to strengthen rather than relax international intellectual property protections. While pharmaceutical patent protection creates the most significant threats to fundamental human rights, it has also been the site of some of the most promising ideas for intellectual property reform.[45] The following section will explore alternative approaches to intellectual property protection that could expand access to technology and ensure the enjoyment of all human rights.

### Plan

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

### Solvency

#### Contention 2 is solvency –

#### The plan would be implemented based on patent buy-outs that would make medicine affordable for all countries.

Chaudhry 17 Faisal Chaudhry; Assistant Professor of Law & History; Hanley Institute Sustainability Scholar; 12‐1‐2017; Intellectual Property And The Global Crisis Of Non‐ Communicable Disease (December 1, 2017). North Carolina Journal Of Law And Tech‐ nology, Vol. 19, No. 2, 2017, Available At Ssrn: Https://Ssrn.Com/Abstract=3192074”; accessed 8‐30‐2021 // kn

The various qualifications outlined above are especially worth noting as we turn to the most careful of existing attempts to reckon with the access-incentivization dilemma in light of the developing world’s emerging NCD crisis. In his article on the topic, Keith Outterson distinguishes “neglected diseases” of the kind most readily associated with health crisis in low and middle-income countries from what he calls “global diseases.”141 Because global diseases affect rich and poor-country inhabitants alike, but the poor disproportionately, Outterson advocates that these conditions should be addressed through a system of what he calls “patent buy-outs.”142 Under such a system, only inhabitants of high-income countries would bear the cost of pharmaceutical patent rents.143 All patented drugs would then be offered to the other 84% of the world’s population at generic prices.144 This, Outterson argues, would create widespread public health gains by making medicines for all diseases more affordable in the developing world. At the same time, it would bring only a very slight decrease in global research and development cost recovery: as he notes, the more than 80% of patent-based cash flow undergirding such spending that now comes from sales within Organization for Economic Cooperation and Development countries would remain untouched.145 Indeed, it is in order to make up for even this slight deficit in the funds available for R&D spending that Outterson proposes the mechanism of patent buy-outs in the first place. 146 Accordingly, its explicit purpose is to “[restore] to the companies” lost revenues from the inability to sell above marginal cost in developing world markets.147 Outterson’s thoughtful proposal is notable for a number of reasons. Most of all, he is one of the few who have sought to address the drugs-for-the-developing world debate on a comprehensive basis by asking how to address both communicable and noncommunicable diseases. At the same time, the proposal is notable because it is premised on the assumption that even a minimal departure from the status quo guaranteeing high profits to pharmaceutical multinationals would be unacceptable. This is implicit in the very idea of a buy-out mechanism that seeks to srestore existing rents rather than some other negative, zero, or otherwise more constrained positive value above the margin. In this respect, one might say that what the proposal purports to give with one hand in terms of practical feasibility for addressing the ill effects of the patent system it takes away with the other.

#### Acting now is key - Cuba proves that medical diplomacy is possible – sharing knowledge and supplies not only combats the current system of capitalism but addresses artificial supply issues and distribution problems in the global south

Vanni 3/23 [Amaka Vanni, Dr. Vanni obtained both her PhD and LLM degrees in International Economic Law from the University of Warwick, where her doctoral thesis was awarded the 2018 SIEL–Hart Prize in International Economic Law. She has BA(Hons) in International Relations and Politics from Keele University, where was awarded the Vice-Chancellor Partial Scholarship (2004-2007). Dr. Vanni currently teaches the undergraduate and postgraduate modules in intellectual property law. She is the current president of the African International Economic Law Network (AfIELN), editor of the African Journal of International Economic Law and a contributing editor of Afronomicslaw.org, the leading blog on the International Economic Law landscape as it relates to Africa and the Global South. Dr. Vanni is also a member of the IEL Collective, and a theme lead on philanthropic and social financing for the New Frontiers in International Development Finance (Nef Def) project, a multi-institutional collaborative effort. 3-23-2021, "On Intellectual Property Rights, Access to Medicines and Vaccine Imperialism," TWAILR, accessed 8-21-2021, https://twailr.com/on-intellectual-property-rights-access-to-medicines-and-vaccine-imperialism/] //kn

What this pandemic makes clear is that the development discourse often touted by developed nations to help countries in the Global South ‘catch up’ is empty when the essential medicines needed to stay alive are deliberately denied and [weaponised](https://www.thebureauinvestigates.com/stories/2021-02-23/held-to-ransom-pfizer-demands-governments-gamble-with-state-assets-to-secure-vaccine-deal). Like the free-market reforms designed to produce ‘development’, IP deployed to incentivise innovation is yet another tool in the service of private profits. As this pandemic has shown, the reality of contemporary capitalism – including the IP regime that underpins it – is competition among corporate giants driven by profit and not by human need. The needs of the poor weigh much less than the profits of big business and their home states. However, it is not all doom and gloom. Countries such as India, China and Russia have stepped up in the distribution of vaccines or what many call ‘[vaccine diplomacy](https://www.theguardian.com/world/2021/feb/19/coronavirus-vaccine-diplomacy-west-falling-behind-russia-china-race-influence).’ Further, Cuba’s vaccine candidate [Soberana 02](https://www.cnbc.com/2021/02/23/soberana-02-cubas-covid-vaccine-could-be-made-eligible-for-tourists.html), which is currently in final clinical trial stages and does not require extra refrigeration, promises to be a suitable option for many countries in the global South with infrastructural and logistical challenges. Importantly, Cuba’s history of medical diplomacy in other global South countries raises hope that the country will be willing to share the know-how with other manufactures in various non-western countries, which could help address artificial supply problems and control over distribution. In sum, this pandemic provides an opportune moment to overhaul this dysfunctional global IP system. We need not wait for the next crisis to learn the lessons from this crisis.

#### The plan would be key to challenge current neoliberal structures within the global economy by making vaccines a force of social equality that will mitigate structural violence and economic conditions.

Paremoer 21 [Lauren Paremoer, Senior Lecturer in Political Studies at the University of Cape Town with a focus on global health governance, 3-11-2021, "A Pandemic of Vaccine and Technology Hoarding: Unmasking Global Inequality and Hypocrisy," Cairo Review of Global Affairs, https://www.thecairoreview.com/essays/a-pandemic-of-vaccine-and-technology-hoarding-unmasking-global-inequality-and-hypocrisy/Vaccine Apartheid ]/kn

From a technical point of view, patents might thus seem to be a small impediment to accessing vaccines. However, from a political and normative point of view, an IP waiver on the copyrights, industrial designs, patents and undisclosed information relevant to COVID-19 diagnostics, therapeutics, and vaccines is potentially revolutionary, as it reasserts political control over the market. This aspect of the waiver and the precedent it sets is perhaps why it is being resisted at all costs by big pharma and some powerful countries in the global North. Law functions as an important mechanism for regulating the interplay of public health and for-profit or private interest. The historical declarations cited above demonstrate that while legal reforms are a necessary component of addressing this crisis, they are insufficient. As argued by Australian social scientist Fran Baum, in addition to these reforms, an investment in “social vaccines” is needed: “A social vaccine is a process of social and political mobilization which leads to increased government and other institutions’ willingness to intervene with interventions, applied to populations rather than individuals, aimed at mitigating the structural social and economic conditions that make people and communities vulnerable to disease, illness and trauma. While medical vaccines help develop immunity against disease, social vaccines develop the ability of communities to resist and change social and economic structures and processes that have a negative impact on health and force governments to intervene and regulate in the interests of community health.” The vaccine apartheid has legalized racially based discrimination. Today, the TRIPS regime is implemented in a manner that means people suffer pain, discomfort, death and permanent disability because they do not have the money to pay for patented medicines, and because their governments cannot easily manufacture or import these medicines or their generic equivalents. The hoarding of vaccines in the global North, their “gifting” to the global South, and the profound hesitancy to support local manufacturing of a life-saving technology in these countries, are all part of a long and disturbing history of global capitalism, which has allowed a small group of elites the power “to foster life or disallow it to the point of death,” in the words of French philosopher Michel Foucault. It is exactly this necropolitics—this undemocratic concentration of power which dictates how people live and die—that was supposed to be challenged by the multilateral system born out of World War II and that the liberated nations of the Third World aimed to reshape. The TRIPS waiver offers an entry point for reversing this tide and must be supported as a matter of urgency. In tandem, we need transparent, multilateral mechanisms that allocate vaccines based on medical need—not purchasing power—and that allow governments of the global south meaningful participation in decisions about collective procurement and allocation of global vaccines supplies.

#### Challenging racist institutions within IP must be taken through a pluralistic epistemological process

Parthasarathy 20 [Shobita Parthasarathy, professor of public policy and director of the Science, Technology, and Public Policy programme at the University of Michigan in Ann Arbor and author of Patent Politics, 11-2-2020, "Racism is baked into patent systems," Nature Briefing, accessed 8-17-2021, https://www.nature.com/articles/d41586-020-03056-z] //kn (3:35 used)

Vats suggests that to become anti-racist, intellectual-property systems must make space for multiple forms of knowledge. I agree. But this requires more than rules that recognize epistemological diversity. We must rethink how intellectual property shapes high-tech industries and markets. After all, our ‘modern’ system privileges individual reward and recognition, private property and a nature–culture binary. Reading Vats’s book is an important step. So are efforts to empower Black and brown communities to protect their knowledge systems from Western commodification — for example, in the United Nations protocol for sharing access to and benefits of plant and animal material, which is up for reform next year. Scientists must approach experts from other knowledge systems humbly and as equals to learn about their innovations, rules, practices and values. Only then can we co-create a new generation of intellectual-property rights that can be truly respectful across communities and cultures.

### Framework

#### Contention 3 is framework -

#### The standard is minimizing oppression

#### [1] Policy focus - Ethical policymaking requires calculation of consequences

Gvosdev 5 – Rhodes scholar, PhD from St. Antony’s College, executive editor of The National Interest (Nikolas, The Value(s) of Realism, SAIS Review 25.1, pmuse, AG) 0:14

As the name implies, realists focus on promoting policies that are achievable and sustainable. In turn, the morality of a foreign policy action is judged by its results, not by the intentions of its framers. A foreign policymaker must weigh the consequences of any course of action and assess the resources at hand to carry out the proposed task. As Lippmann warned, Without the controlling principle that the nation must maintain its objectives and its power in equilibrium, its purposes within its means and its means equal to its purposes, its commitments related to its resources and its resources adequate to its commitments, it is impossible to think at all about foreign affairs.8 Commenting on this maxim, Owen Harries, founding editor of The National Interest, noted, "This is a truth of which Americans—more apt to focus on ends rather than means when it comes to dealing with the rest of the world—need always to be reminded."9 In fact, Morgenthau noted that "there can be no political morality without prudence."10 This virtue of prudence—which Morgenthau identified as the cornerstone of realism—should not be confused with expediency. Rather, it takes as its starting point that it is more moral to fulfill one's commitments than to make "empty" promises, and to seek solutions that minimize harm and produce sustainable results. Morgenthau concluded: [End Page 18] Political realism does not require, nor does it condone, indifference to political ideals and moral principles, but it requires indeed a sharp distinction between the desirable and the possible, between what is desirable everywhere and at all times and what is possible under the concrete circumstances of time and place.11 This is why, prior to the outbreak of fighting in the former Yugoslavia, U.S. and European realists urged that Bosnia be decentralized and partitioned into ethnically based cantons as a way to head off a destructive civil war. Realists felt this would be the best course of action, especially after the country's first free and fair elections had brought nationalist candidates to power at the expense of those calling for inter-ethnic cooperation. They had concluded—correctly, as it turned out—that the United States and Western Europe would be unwilling to invest the blood and treasure that would be required to craft a unitary Bosnian state and give it the wherewithal to function. Indeed, at a diplomatic conference in Lisbon in March 1992, the various factions in Bosnia had, reluctantly, endorsed the broad outlines of such a settlement. For the purveyors of moralpolitik, this was unacceptable. After all, for this plan to work, populations on the "wrong side" of the line would have to be transferred and resettled. Such a plan struck directly at the heart of the concept of multi-ethnicity—that different ethnic and religious groups could find a common political identity and work in common institutions. When the United States signaled it would not accept such a settlement, the fragile consensus collapsed. The United States, of course, cannot be held responsible for the war; this lies squarely on the shoulders of Bosnia's political leaders. Yet Washington fell victim to what Jonathan Clarke called "faux Wilsonianism," the belief that "high-flown words matter more than rational calculation" in formulating effective policy, which led U.S. policymakers to dispense with the equation of "balancing commitments and resources."12 Indeed, as he notes, the Clinton administration had criticized peace plans calling for decentralized partition in Bosnia "with lofty rhetoric without proposing a practical alternative." The subsequent war led to the deaths of tens of thousands and left more than a million people homeless. After three years of war, the Dayton Accords—hailed as a triumph of American diplomacy—created a complicated arrangement by which the federal union of two ethnic units, the Muslim-Croat Federation, was itself federated to a Bosnian Serb republic. Today, Bosnia requires thousands of foreign troops to patrol its internal borders and billions of dollars in foreign aid to keep its government and economy functioning. Was the aim of U.S. policymakers, academics and journalists—creating a multi-ethnic democracy in Bosnia—not worth pursuing? No, not at all, and this is not what the argument suggests. But aspirations were not matched with capabilities. As a result of holding out for the "most moral" outcome and encouraging the Muslim-led government in Sarajevo to pursue maximalist aims rather than finding a workable compromise that could have avoided bloodshed and produced more stable conditions, the peoples of Bosnia suffered greatly. In the end, the final settlement was very close [End Page 19] to the one that realists had initially proposed—and the one that had also been roundly condemned on moral grounds.

#### **[2] No m**oral intent/foresight distinction for states—it’s just avoiding responsibility.

David Enoch 7 [The Faculty of Law, The Hebrew University, Mount Scopus Campus, Jerusalem], “INTENDING, FORESEEING, AND THE STATE,” Legal Theory, 13 (2007), 69–99, pg. 90-1, beckert 0:15

The general difficulty of the intending-foreseeing distinction here stemmed, you will recall, from the feeling that attempting to pick and choose among the foreseen consequences of one’s actions those one is more and those one is less responsible for looks more like the preparation of a defense than like a genuine attempt to determine what is to be done. Hiding behind the intending-foreseeing distinction seems like an attempt to evade responsibility, and so thinking about the distinction in terms of responsibility serves to reduce even further the plausibility of attributing to it intrinsic moral significance. This consideration—however weighty in general—seems to me very weighty when applied to state action and to the decisions of state officials. For perhaps it may be argued that individuals are not required to undertake a global perspective, one that equally takes into account all foreseen con- sequences of their actions. Perhaps, in other words, individuals are entitled to (roughly) settle for having a good will, and beyond that let chips fall where they may. But this is precisely what stateswomen and statesmen—and certainly states—are not entitled to settle for.44 In making policy decisions, it is precisely the global (or at least statewide, or nationwide, or something of this sort) perspective that must be undertaken. Perhaps, for instance, an individual doctor is entitled to give her patient a scarce drug without think- ing about tomorrow’s patients (I say “perhaps” because I am genuinely not sure about this), but surely when a state committee tries to formulate rules for the allocation of scarce medical drugs and treatments, it cannot hide behind the intending-foreseeing distinction, arguing that if it allows45 the doctor to give the drug to today’s patient, the death of tomorrow’s patient is merely foreseen and not intended. When making a policy-decision, this is clearly unacceptable. Or think about it this way (I follow Daryl Levinson here):46 perhaps restric- tions on the responsibility of individuals are justified because individuals are autonomous, because much of the value in their lives comes from personal pursuits and relationships that are possible only if their responsibility for what goes on in the (more impersonal) world is restricted. But none of this is true of states and governments. They have no special relationships and pursuits, no personal interests, no autonomous lives to lead in anything like the sense in which these ideas are plausible when applied to individuals persons. So there is no reason to restrict the responsibility of states in anything like the way the responsibility of individuals is arguably restricted.47 States and state officials have much more comprehensive responsibilities than individuals do. Hiding behind the intending-foreseeing distinction thus more clearly constitutes an evasion of responsibility in the case of the former. So the evading-responsibility worry has much more force against the intending-foreseeing distinction when applied to state action than elsewhere.

#### [3] Aggregation across separate people is necessary and possible

Singer and Lazari-Radek 17 [philosophers], Singer, Peter and Katarzyna Lazari-Radek. Utilitarianism: A Very Short Introduction. New York: Oxford University Press, 2017. Beckert. Pg. 82-3 0:14

We could also understand the objection as saying that once we take seriously the separateness of persons, we cannot add up the sum of the good or bad things that may happen to each of them. This relates to the problem of interpersonal comparisons of utility, which we have already discussed, but it is not a reason for rejecting all aggregations of costs and benefits between separate people. Parfit refutes that view by asking us to imagine that we are searching for survivors in a building that collapsed in an earthquake. We find two people, A and B, trapped in the rubble, unconscious but alive. The only way to rescue both A and B is to push aside a piece of concrete that will then fall across B’s toe, breaking it. If we don’t do this, we can rescue B, who will be unharmed, but A will die. Those who hold that it is never justifiable to impose costs on one person to benefit another must say that we have to leave A to die, but surely that is not the right conclusion to draw. The fact that individuals are distinct does not prevent us from weighing up the costs and benefits of our actions to different individuals.

#### [4] Focus on existential risks is whiteness and is based on an epistemologically flawed logic that allows modern-day genocides

Matthews 15 [Dylan Matthews; One of the first employees at Vox and is now a senior correspondent. He focuses on global development, anti-poverty efforts, and macropolitical conflicts. Aug 10, 2015; “I spent a weekend at Google talking with nerds about charity. I came away … worried.”; <https://www.vox.com/2015/8/10/9124145/effective-altruism-global-ai>; \*bracketed for verbal statistical clarity\* //BWSWJ] 0:37

Lavigne was addressing attendees of the Effective Altruism Global conference, which she helped organize at Google's Quad Campus in Mountain View the weekend of July 31 to August 2. Effective altruists think that past attempts to do good — by giving to charity, or working for nonprofits or government agencies — have been largely ineffective, in part because they've been driven too much by the desire to feel good and too little by the cold, hard data necessary to prove what actually does good. It's a powerful idea, and one that has already saved lives. GiveWell, the charity evaluating organization to which effective altruism can trace its origins, has pushed philanthropy toward evidence and away from giving based on personal whims and sentiment. Effective altruists have also been remarkably forward-thinking on factory farming, taking the problem of animal suffering seriously without collapsing into PETA-style posturing and sanctimony. Effective altruism (or EA, as proponents refer to it) is more than a belief, though. It's a movement, and like any movement, it has begun to develop a culture, and a set of powerful stakeholders, and a certain range of worrying pathologies. At the moment, EA is very white, very male, and dominated by tech industry workers. And it is increasingly obsessed with ideas and data that reflect the class position and interests of the movement's members rather than a desire to help actual people. In the beginning, EA was mostly about fighting global poverty. Now it's becoming more and more about funding computer science research to forestall an artificial intelligence–provoked apocalypse. At the risk of overgeneralizing, the computer science majors have convinced each other that the best way to save the world is to do computer science research. Compared to that, multiple attendees said, global poverty is a "rounding error." I identify as an effective altruist: I think it's important to do good with your life, and doing as much good as possible is a noble goal. I even think AI risk is a real challenge worth addressing. But speaking as a white male nerd on the autism spectrum, effective altruism can't just be for white male nerds on the autism spectrum. Declaring that global poverty is a "rounding error" and everyone really ought to be doing computer science research is a great way to ensure that the movement remains dangerously homogenous and, ultimately, irrelevant. Should we care about the world today at all? EA Global was dominated by talk of existential risks, or X-risks. The idea is that human extinction is far, far worse than anything that could happen to real, living humans today. To hear effective altruists explain it, it comes down to simple math. About 108 billion people have lived to date, but if humanity lasts another 50 million years, and current trends hold, the total number of humans who will ever live is more like 3 quadrillion. Humans living during or before 2015 would thus make up only 0.0036 percent of all humans ever. The numbers get even bigger when you consider — as X-risk advocates are wont to do — the possibility of interstellar travel. Nick Bostrom — the Oxford philosopher who popularized the concept of existential risk — estimates that about 10^54 human life-years (or 10^52 lives of 100 years each) could be in our future if we both master travel between solar systems and figure out how to emulate human brains in computers. Even if we give this 10^54 estimate "a mere 1% chance of being correct," Bostrom writes, "we find that the expected value of reducing existential risk by a mere one billionth of one billionth of one percentage point is worth a hundred billion times as much as a billion human lives." Put another way: The number of future humans who will never exist if humans go extinct is so great that reducing the risk of extinction by 0.00000000000000001 percent can be expected to save 100 billion more lives than, say, preventing the genocide of 1 billion people. That argues, in the judgment of Bostrom and others, for prioritizing efforts to prevent human extinction above other endeavors. This is what X-risk obsessives mean when they claim ending world poverty would be a "rounding error." Why Silicon Valley is scared its own creations will destroy humanity There are a number of potential candidates for most threatening X-risk. Personally I worry most about global pandemics, both because things like the Black Death and the Spanish flu have caused massive death before, and because globalization and the dawn of synthetic biology have made diseases both easier to spread and easier to tweak (intentionally or not) for maximum lethality. But I'm in the minority on that. The only X-risk basically anyone wanted to talk about at the conference was artificial intelligence. The specific concern — expressed by representatives from groups like the Machine Intelligence Research Institute (MIRI) in Berkeley and Bostrom's Future of Humanity Institute at Oxford — is over the possibility of an "intelligence explosion." If humans are able to create an AI as smart as humans, the theory goes, then it stands to reason that that AI would be smart enough to create itself, and to make itself even smarter. That'd set up a process of exponential growth in intelligence until we get an AI so smart that it would almost certainly be able to control the world if it wanted to. And there's no guarantee that it'd allow humans to keep existing once it got that powerful. "It looks quite difficult to design a seed AI such that its preferences, if fully implemented, would be consistent with the survival of humans and the things we care about," Bostrom told me in an interview last year. This is not a fringe viewpoint in Silicon Valley. MIRI's top donor is the Thiel Foundation, funded by PayPal and Palantir cofounder and billionaire angel investor Peter Thiel, which has given $1.627 million to date. Jaan Tallinn, the developer of Skype and Kazaa, is both a major MIRI donor and the co-founder of two groups — the Future of Life Institute and the Center for the Study of Existential Risk — working on related issues. And earlier this year, the Future of Life Institute got $10 million from Thiel's PayPal buddy, Tesla Motors/SpaceX CEO Elon Musk, who grew concerned about AI risk after reading Bostrom's book Superintelligence. And indeed, the AI risk panel — featuring Musk, Bostrom, MIRI's executive director Nate Soares, and the legendary UC Berkeley AI researcher Stuart Russell — was the most hyped event at EA Global. Musk naturally hammed it up for the crowd. At one point, Russell set about rebutting AI researcher Andrew Ng's comment that worrying about AI risk is like "worrying about overpopulation on Mars," countering, "Imagine if the world's governments and universities and corporations were spending billions on a plan to populate Mars." Musk looked up bashfully, put his hand on his chin, and smirked, as if to ask, "Who says I'm not?" Russell's contribution was the most useful, as it confirmed this really is a problem that serious people in the field worry about. The analogy he used was with nuclear research. Just as nuclear scientists developed norms of ethics and best practices that have so far helped ensure that no bombs have been used in attacks for 70 years, AI researchers, he urged, should embrace a similar ethic, and not just make cool things for the sake of making cool things. What if the AI danger argument is too clever by half? What was most concerning was the vehemence with which AI worriers asserted the cause's priority over other cause areas. For one thing, we have such profound uncertainty about AI — whether general intelligence is even possible, whether intelligence is really all a computer needs to take over society, whether artificial intelligence will have an independent will and agency the way humans do or whether it'll just remain a tool, what it would mean to develop a "friendly" versus "malevolent" AI — that it's hard to think of ways to tackle this problem today other than doing more AI research, which itself might increase the likelihood of the very apocalypse this camp frets over. The common response I got to this was, "Yes, sure, but even if there's a very, very, very small likelihood of us decreasing AI risk, that still trumps global poverty, because infinitesimally increasing the odds that 10^52 people in the future exist saves way more lives than poverty reduction ever could." The problem is that you could use this logic to defend just about anything. Imagine that a wizard showed up and said, "Humans are about to go extinct unless you give me $10 to cast a magical spell." Even if you only think there's a, say, [1e-17] 0.00000000000000001 percent chance that he's right, you should still, under this reasoning, give him the $10, because the expected value is that you're saving 10^32 lives. Bostrom calls this scenario "Pascal's Mugging," and it's a huge problem for anyone trying to defend efforts to reduce human risk of extinction to the exclusion of anything else. These arguments give a false sense of statistical precision by slapping probability values on beliefs. But those probability values are literally just made up. Maybe giving $1,000 to the Machine Intelligence Research Institute will reduce the probability of AI killing us all by 0.00000000000000001. Or maybe it'll make it only cut the odds by 0.00000000000000000000000000000000000000000000000000000000000000001. If the latter's true, it's not a smart donation; if you multiply the odds by 10^52, you've saved an expected 0.0000000000001 lives, which is pretty miserable. But if the former's true, it's a brilliant donation, and you've saved an expected 100,000,000,000,000,000,000,000,000,000,000,000 lives. I don't have any faith that we understand these risks with enough precision to tell if an AI risk charity can cut our odds of doom by [1e-17] 0.00000000000000001 or by only [1e-65] 0.00000000000000000000000000000000000000000000000000000000000000001. And yet for the argument to work, you need to be able to make those kinds of distinctions. The other problem is that the AI crowd seems to be assuming that people who might exist in the future should be counted equally to people who definitely exist today. That's by no means an obvious position, and tons of philosophers dispute it. Among other things, it implies what's known as the Repugnant Conclusion: the idea that the world should keep increasing its population until the absolutely maximum number of humans are alive, living lives that are just barely worth living. But if you say that people who only might exist count less than people who really do or really will exist, you avoid that conclusion, and the case for caring only about the far future becomes considerably weaker (though still reasonably compelling). Doing good through aggressive self-promotion To be fair, the AI folks weren't the only game in town. Another group emphasized "meta-charity," or giving to and working for effective altruist groups. The idea is that more good can be done if effective altruists try to expand the movement and get more people on board than if they focus on first-order projects like fighting poverty. This is obviously true to an extent. There's a reason that charities buy ads. But ultimately you have to stop being meta. As Jeff Kaufman — a developer in Cambridge who's famous among effective altruists for, along with his wife Julia Wise, donating half their household's income to effective charities — argued in a talk about why global poverty should be a major focus, if you take meta-charity too far, you get a movement that's really good at expanding itself but not necessarily good at actually helping people. And you have to do meta-charity well — and the more EA grows obsessed with AI, the harder it is to do that. The movement has a very real demographic problem, which contributes to very real intellectual blinders of the kind that give rise to the AI obsession. And it's hard to imagine that yoking EA to one of the whitest and most male fields (tech) and academic subjects (computer science) will do much to bring more people from diverse backgrounds into the fold. The self-congratulatory tone of the event didn't help matters either. I physically recoiled during the introductory session when Kerry Vaughan, one of the event's organizers, declared, "I really do believe that effective altruism could be the last social movement we ever need." In the annals of sentences that could only be said with a straight face by white men, that one might take the cake. Effective altruism is a useful framework for thinking through how to do good through one's career, or through political advocacy, or through charitable giving. It is not a replacement for movements through which marginalized peoples seek their own liberation. If EA is to have any hope of getting more buy-in from women and people of color, it has to at least acknowledge that.

#### [5] Additionally, refuse the 1% risk doctrine and fear of extinction – collapses all policymaking

Meskill 09 (David, professor at Colorado School of Mines and PhD from Harvard, “The "One Percent Doctrine" and Environmental Faith,” Dec 9, <http://davidmeskill.blogspot.com/2009/12/one-percent-doctrine-and-environmental.html>) 0:20

Tom Friedman's piece today in the Times on the environment (http://www.nytimes.com/2009/12/09/opinion/09friedman.html?\_r=1) is one of the flimsiest pieces by a major columnist that I can remember ever reading. He applies Cheney's "one percent doctrine" (which is similar to the environmentalists' "precautionary principle") to the risk of environmental armageddon. But this doctrine is both intellectually incoherent and practically irrelevant. It is intellectually incoherent because it cannot be applied consistently in a world with many potential disaster scenarios. In addition to the global-warming risk, there's also the asteroid-hitting-the-earth risk, the terrorists-with-nuclear-weapons risk (Cheney's original scenario), the super-duper-pandemic risk, etc. Since each of these risks, on the "one percent doctrine," would deserve all of our attention, we cannot address all of them simultaneously. That is, even within the one-percent mentality, we'd have to begin prioritizing, making choices and trade-offs. But why then should we only make these trade-offs between responses to disaster scenarios? Why not also choose between them and other, much more cotidien, things we value? Why treat the unlikely but cataclysmic event as somehow fundamentally different, something that cannot be integrated into all the other calculations we make? And in fact, this is how we behave all the time. We get into our cars in order to buy a cup of coffee, even though there's some chance we will be killed on the way to the coffee shop. We are constantly risking death, if slightly, in order to pursue the things we value. Any creature that adopted the "precautionary principle" would sit at home - no, not even there, since there is some chance the building might collapse. That creature would neither be able to act, nor not act, since it would nowhere discover perfect safety. Friedman's approach reminds me somehow of Pascal's wager - quasi-religious faith masquerading as rational deliberation (as Hans Albert has pointed out, Pascal's wager itself doesn't add up: there may be a God, in fact, but it may turn out that He dislikes, and even damns, people who believe in him because they've calculated it's in their best interest to do so). As my friend James points out, it's striking how descriptions of the environmental risk always describe the situation as if it were five to midnight. It must be near midnight, since otherwise there would be no need to act. But it can never be five \*past\* midnight, since then acting would be pointless and we might as well party like it was 2099. Many religious movements - for example the early Jesus movement - have exhibited precisely this combination of traits: the looming apocalypse, with the time (just barely) to take action. None of this is to deny - at least this is my current sense - that human action is contributing to global warming. But what our response to this news should be is another matter entirely.

### Theory –

#### ---A] AFF gets 1ar theory - drop the debater - otherwise the neg can engage in infinite abuse, making debate impossible.

#### ---B] No 2nr theory – they can run infinite 2nr theory and sandbag the aff, means aff never wins

#### ---C] Aff RVIs – the 6-minute 2nr can collapse to a short shell and get away with infinite 1nc abuse via sheer brute force and time spent on theory.

#### ---D] Use competing interps – 1AR interps aren’t bidirectional and the neg should have to defend their norm since they have more time.

#### ---E] Fairness is a voter – debate is a competitive activity and needs both debaters to be on an equal playing field argumentatively.

(9 seconds left in 1ac but 20 secs for the shell)

### UV

#### The aff has no impact on innovation or the economy – public and government funding stops any risk and the demand is huge

Correa 21 [Carlos M. Correa, Director of the Center for Interdisciplinary Studies on Industrial Property and Economics and of the Post-graduate Course on Intellectual Property at the Law Faculty of International Centre for Trade and Sustainable Development, "04-2021, “Expanding the production of COVID-19 vaccines to reach developing countries Lift the barriers to fight the pandemic in the Global South,” South Center, https://www.southcentre.int/wp-content/uploads/2021/04/PB-92.pdf]/kn

The third argument - negative impact on innovation - is particularly weak in the context of the COVID-19 emergency as there is no market failure that inhibits return from innovation, the basic economic justification for the grant of intellectual property rights. The demand is huge - as the vaccines need to reach at least all the world adult population - and governments as well as COVAX are competing against each other to secure the supply of vaccines. In addition, the Western companies now supplying vaccines have received massive subsidies from governments. Thus, Moderna received nearly 1 US$ billion of taxpayers’ money to develop and produce the COVID-19 vaccine,24 Pfizer/BioNTech received US$ 445 million from the German government.25 Overall, the COVID-19 producers may have received around £6.5bn from governments while not-for-profit organizations have provided nearly £1.5bn.26 Public financing also reduced the risk of failure, as exemplified by the failed Merck/IAVI vaccine backed by the US Biomedical Advanced Research and Development Authority (BARDA).27