# Debunking Myth Of The Western Intellectual Property Rights Regime

## Based On The Poly-Existentials Reference Model

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This is a DRAFT. It reflects work in progress.

# Contents

# Chapter 1

# Dynamics Of The Western IPR Mistake

## 1.1 About Dynamics Of Unrecognized Global Mistakes

There are many things for which right and wrong are very real. When right and wrong can be reached based on logic, they are absolute. Such rights and wrongs are not a matter of opinion, personal, societal or global beliefs.

It is not unusual for global beliefs to be wrong and counter to basic logic. By "global beliefs" or "societal beliefs" we mean spheres of consensus that are global or societal in scope. People are often born into such wrong global/societal beliefs and ordinary people are often unable to follow correct basic logic when they have been brainwashed from birth.

In due course some unrecognized societal mistakes can be recognized and understood. When looked at in historic terms, they become obvious.

Such historic global and societal mistakes include:

- Earth is center of universe
- Earth is flat
- American ownership rules for African humans

But when we are in the middle of contemporary societal global mistakes, clear vision is often hard to come by. So, there are some global and societal mistakes that remain unrecognized by masses and societies.

Unrecognized global mistakes in due course become faith.

As Hellman puts it:

> Faith-based reasoning led the Inquisition to hold fast to a complex and convoluted Ptolemaic model of the universe rather than accept the simpler explanation proffered by Copernicus.

Faith is not necessarily true, no matter how firmly held.

Some examples of such contemporary global and societal fundamental mistakes include:

- Western Intellectual Property Rights is legitimate and universal
- Global warming is not real or is not serious

By "global fundamental mistakes" we mean the types of mistakes that put all of us in danger. Some global mistakes can, in due course, put humanity in danger. The Western Intellectual Property Rights Regime is one such example.

Some global mistakes are not very harmful – they result in sub-optimum societal/global human environments. "Ill Conception of The Metric System" and "Backwards-ness Of Internet Domain Notation" are some such examples.

Contemporary global mistakes often result in entrenched vested interests. Such deep economic interests often prevent people's willingness to hear and follow basic logic.

In all cases, it is good to follow basic logic and understand these basic global mistakes.

Those for whom recognition of falsehood of such global/societal beliefs is difficult, can profit from remembering the history of American slavery of Africans. We expand on this in Section 2 – Ownership Mistakes: Western Slavery And The Western IPR Regime.

## 1.2 Historical Genesis And Evolution Of Intellectual Property

Intellectual property originated in grants of monopoly from the state and received its legitimacy from that source, the public debate over its legitimacy shifted radically in the late Eighteenth Century.

The history of Copyright, Patent and Trademark predates by a great deal the collective misnomer of Intelectual Property. See Section 3.3 – So-Called Western Intellectual Property Rights: A Rigged Misnomer –, for more information.

Here we provide a brief summary of the history of Copyright, Patent, Trademark and IP.

### 1.2.1 History Of Trademark Law

In Section ?? – ?? –, we provide an overview of trademark law.

History of trademark is generally very Western.

In trademark treatises it is usually reported that blacksmiths who made swords in the Roman Empire are thought of as being the first users of trademarks. The first trademark legislation was passed by

the Parliament of England under the reign of King Henry III in 1266, which required all bakers to use a distinctive mark for the bread they sold.

The first modern trademark laws emerged in the late 19th century. In France the first comprehensive trademark system in the world was passed into law in 1857. England and The U.S. followed suite shortly after that.

### 1.2.2 History Of Copyright Law

In Section ?? – ?? –, we provide an overview of copyright law.

History of copyright law is generally very Western.

Copyright came about with the invention of the printing press and with wider literacy. As a legal concept, its origins in Britain were from a reaction to printers' monopolies at the beginning of the 18th century. The English Parliament was concerned about the unregulated copying of books and passed the Licensing of the Press Act 1662, which established a register of licensed books and required a copy to be deposited with the Stationers' Company, essentially continuing the licensing of material that had long been in effect.

The Copyright Clause of the United States Constitution (1787) authorized copyright legislation.

The 1886 Berne Convention first established recognition of copyrights among sovereign nations, rather than merely bilaterally. Under the Berne Convention, copyrights for creative works do not have to be asserted or declared, as they are automatically in force at creation: an author need not "register" or "apply for" a copyright in countries adhering to the Berne Convention. As soon as a work is "fixed", that is, written or recorded on some physical medium, its author is automatically entitled to all copyrights in the work, and to any derivative works unless and until the author explicitly disclaims them, or until the copyright expires. The Berne Convention also resulted in foreign authors being treated equivalently to domestic authors, in any country signed onto the Convention. The UK signed the Berne Convention in 1887 but did not implement large parts of it until 100 years later with the passage of the Copyright, Designs and Patents Act of 1988. Specially, for educational and scientific research purposes, the Berne Convention provides the developing countries issue compulsory licenses for the translation or reproduction of copyrighted works within the limits prescribed by the Convention. This was a special provision that had been added at the time of 1971 revision of the Convention, because of the strong demands of the developing countries. The United States did not sign the Berne Convention until 1989.

Iran is a non-signatory to WTO (Western Trade Organization) copyright laws.

### 1.2.3 History Of Patent Law

In Section ?? – ?? –, we provide an overview of patent law.

History of patent law is generally very Western.

Patents were systematically granted in Venice as of 1450, where they issued a decree by which new and inventive devices had to be communicated to the Republic in order to obtain legal protection against potential infringers. The period of protection was 10 years. As Venetians emigrated, they

sought similar patent protection in their new homes. This led to the diffusion of patent systems to other countries.

By the 16th century, the English Crown would habitually abuse the granting of letters patent for monopolies. After public outcry, King James I of England (VI of Scotland) was forced to revoke all existing monopolies and declare that they were only to be used for "projects of new invention". This was incorporated into the Statute of Monopolies (1624) in which Parliament restricted the Crown's power explicitly so that the King could only issue letters patent to the inventors or introducers of original inventions for a fixed number of years. The Statute became the foundation for later developments in patent law in England and elsewhere. James Puckle's 1718 early autocannon was one of the first inventions required to provide a specification for a patent.

Important developments in patent law emerged during the 18th century through a slow process of judicial interpretation of the law. During the reign of Queen Anne, patent applications were required to supply a complete specification of the principles of operation of the invention for public access. Legal battles around the 1796 patent taken out by James Watt for his steam engine, established the principles that patents could be issued for improvements of an already existing machine and that ideas or principles without specific practical application could also legally be patented. Influenced by the philosophy of John Locke, the granting of patents began to be viewed as a form of intellectual property right, rather than simply the obtaining of economic privilege.

The English legal system became the foundation for patent law in countries with a common law heritage, including the United States, New Zealand and Australia. In the Thirteen Colonies, inventors could obtain patents through petition to a given colony's legislature. In 1641, Samuel Winslow was granted the first patent in North America by the Massachusetts General Court for a new process for making salt.

The modern French patent system was created during the Revolution in 1791. Patents were granted without examination since inventor's right was considered as a natural one.

The first Patent Act of the U.S. Congress was passed on April 10, 1790, titled "An Act to promote the progress of useful Arts". The first patent was granted on July 31, 1790,

### 1.2.4 History Of Intellectual Property

The term Intellectual Property is an after thought. The history of trademark, copyright and patent were well established before the very first introduction of the term "Intellectual Property".

The first known use of the term intellectual property dates to 1769, when a piece published in the Monthly Review used the phrase. The first clear example of modern usage goes back as early as 1808, when it was used as a heading title in a collection of essays.

The German equivalent was used with the founding of the North German Confederation whose constitution granted legislative power over the protection of intellectual property (Schutz des geistigen Eigentums) to the confederation. When the administrative secretariats established by the Paris Convention (1883) and the Berne Convention (1886) merged in 1893, they located in Berne, and also adopted the term intellectual property in their new combined title, the United International Bureaux for the Protection of Intellectual Property.

The organization subsequently relocated to Geneva in 1960, and was succeeded in 1967 with the

establishment of the World Intellectual Property Organization (WIPO) by treaty as an agency of the United Nations. According to Lemley, it was only at this point that the term really began to be used in the United States (which had not been a party to the Berne Convention), and it did not enter popular usage there until passage of the Bayh-Dole Act in 1980.

## 1.3 Multi-Disciplinary Discrediting Of The Western So-Called IPR Regime

Westerners adopted the IPR regime without much understanding and logic.

To take away those most basic natural human rights of "Applying Knowledge" and "Copying" demands solid logic and proof on the side of those who want to take away these rights. Those who believe in the Western IPR regime need to convince those who reject it. Not the other way around.

In the last 200 years, a colossal mistake has been made by Westerners. Ownership and capitalism were extended into the realm of poly-existentials, creating Intellectual Property Rights.

Many generations have been born into this mistake and now the mistake has become default truth for many Westerners.

So, to deal with Western IPR in the West we need more than logic. Below, we address some of the entrenched fallacies associated with the Western IPR regime.

To those that are not born into the IPR mistake or who can think for themselves, the simple logic of "Nature Of Poly-Existentials" that we presented above would be more than sufficient. The conclusion is obvious and simple: The Western IPR Regime should be abolished.

But, it is naive to imagine that sound logic and correct philosophy can be the basis for abolishment of the Western IPR Regime.

This is because of a number of a reasons, including:

- Intellectual Property Rights regime is now an integral part of Western cultures. Even after it becomes obvious that the Western intellectual property rights regime is corrupt, economic interests will keep it in place. In many ways this parallels the history of Slavery in America.
- Western societies are primarily economically driven. Correct philosophy, harmony with nature, logic, and Halaal and Haraam; generally (if not always) remain fringe concepts for Westerners.
- The Proprietary model is fully entrenched. And the course for using the proprietary model for internal and external exploitation is already fully charted.

As with any other social structure with the benefactors being in power, and the victims seeing the structure as normal, it is very difficult to change the status quo. Those promoting the Intellectual Property Rights Regime have a vested interest in maintaining the system and will do so at all cost. Abolishment of the Western IPR Regime must begin with bringing a level of understanding of the exploitation and conflict with nature of the IPR to those being disadvantaged by the system.

Calling for abolishment of the Western IPR regime is reasonable. But in practical terms we should recognize that it won't be abolished. So, in parallel for that call we should work on cures to this Western disease.

Our exposition in this part is polemic. This is not a debate. Nature is against the Western IPR regime and we are on the side of nature.

# Chapter 2

# Ownership Mistakes: Western Slavery And The Western IPR Regime

Horrible things happen when a society gets its ownership rules wrong.

For the Anglo-American culture, a recent acknowledged ownership mistake is slavery of Africans in America.

The Anglo-American culture is in the midst of making another ownership mistake: That of the ownership of poly-existentials. This time things are more subtle and more difficult to understand, as the victims and oppressors are less obvious.

The Western so-called Intellectual Property Rights (IPR) regime (Western copyright and patent law) is a sin of our time, the same way that Western slavery was a sin of the West's previous generations.

## 2.1 Parallels Between Western Slavery And The Western IPR Regime

The parallel that we draw here is in the context of distorted or proper "ownership rules" – not cruelty or kindness. When we use the words "Slave" and "Slavery", we are purely focused on the property and ownership aspect of a human by another human.

American/Western slavery of Africans is rooted in the American belief of white superiority and black inferiority. Based on that belief Americans/Westerners could then regard blacks as subhuman and therefore "ownable". And, the revered United States Constitutional Convention could at most get to The Three-Fifths Compromise. Atrocities and involuntary servitude are then derivatives of ownership. It is the notion of ownership laws that should be the focus.

In the case of slavery of Africans in America, the primary common thought is the cruelty exercised by White Americans/Europeans against Black Africans. That cruelty and racism was cemented through the distortion of Laws of Ownership. Thus, even though in the case of slavery, cruelty and racism are commonly viewed as dominant; it is really the distortion of Laws of Ownership which should be viewed as the causal mistake. In the context of parallels between western slavery and the western

IPR regime, our focus is distortion of ownership rules first and the cruelty that it cultivates second. In the case of the Western IPR regime, the cruelty is not as immediately visible. Yet it is very real as well. In fact, we will argue that the harm of the Western IPR regime will be far greater than that of slavery – as the victims are more numerous and that recognition of the cruelty is latent.

To understand our point, in the context of slavery of Africans in America; the reader should view distortion of ownership rules primary and cruelty and racism as secondary. Needless to say exploitation of some by some-others, in the form of economic justifications (that are full of externalities), is what drives that distortion of ownership rules which then results in enduring cruelty and injustice.

In this section we focus on some parallels between Western slavery And Western intellectual property rights regime.

We draw these parallels to show that the harm and dangers of Western IPR ownership mistake surpass the previous Western ownership mistake (Western Slavery).

Slavery had been practiced all over the world for thousands of years, but never before had so many people from one continent been transported to another against their will. American's formality and form of ownership was unique. The current size and make up of American prisons are also very unique and exceptional. When we speak of "Western Slavery", it is this particular form of ownership and slavery that we are pointing to.

It is not savagery and lack of humanity of American society that is the point we wish to make in this section. We provide these example to draw attention to long term ramifications of Western ownership mistakes in general and the current Western IPR regime mistake in particular. American Slavery is the previous now well understood Western ownership mistake.

Below we go through various aspects of these colossal Western mistakes that have obvious parallels and similarities.

## 2.2 Things That Should Not Be Owned

Both Western Slavery and Western IPR regime are about owning what should not be owned.

This obvious simple concept is not one that you arrive to through business and economics. It is based on basic philosophy, logic, ethics and respect for nature.

### 2.2.1 Ownership Of Human Beings

Western Slavery was about very formal ownership of human beings. Despite full formality, Western Slavery was without regard for ramifications of interbreeding with what you own. And the question of ownership of your own child.

Today, a First Lady of America, Michelle Obama, has no comment about her own genealogy. At the age of six, Melvinia, who was Michelle Obama's great-great-great grandmother, was passed on as **property** (valued at $475 ) to Paterson's daughter and son-in-law - Christianne and Henry Shields - after his death in 1852. Some years later, when she was still a teenager, she gave birth to a boy, Dolphus T Shields. Dolphus was recorded in the census as "mulatto" - denoting one white and one

black parent. The identity of the father is not known, though the fact that his surname was Shields suggests he may have been a member of the family that **owned** Melvinia.

In the 19th century, in America, human beings were formally owned. Interbreeding with one's property was common place and the master's own child became property again. On this scale and in this form, all of this is exceptionally American.

So, now in the 21st century, for the very first time we have the descendants of a salve as America's First Lady. The ancestors of the President himself, Barack Obama, do not seem to have been slaves. Americans have not yet chosen a descendant of their slaves as President.

Note here that the modern term "African-American" is quite confusing. Both Michelle Obama and Barack Obama are called African-Americans. Barack Obama is a descendant of Africans who chose to become American. Just like the Irish-Americans (say John F. Kennedy). Michelle Obama is a descendant of African slaves. Michelle Obama and her ancestors did not have much of a choice for becoming American.

### 2.2.2 Ownership Of Poly-Existentials

Assignment of ownership to what exists in nature in multiples (poly-existentials) is in conflict with nature and violates nature. That sort of fundamental violation of nature tears the fabric of humanity.

## 2.3 Short Term Economic Benefits

Both Western slavery and Western IPR regime have managed to produce benefits to a select few. Consider the following as anecdotes:

### 2.3.1 Slaves And The Cotton Economy

The rise of "King Cotton" as the defining feature of southern life revitalized slavery. The promise of cotton profits encouraged a spectacular rise in the direct importation of African slaves in the late 18th century and early 19th century. 250,000 new slaves arrived in the United States from 1787 to 1808, a number equal to the entire slave importation of the colonial period.

Cotton also contributed to the national economy. The crop comprised more than half the total value of domestic exports in the period 1815-1860, and in 1860, earnings from cotton paid for 60 percent of all imports. Cotton also built up domestic capital, attracted foreign investment, and contributed to the industrial growth. In the early 1800s, northeastern merchants began channeling commercial profits into industrial production of cloth (using cotton).

So, much American prosperity was built on the back of African slaves. In that economic process, Americans destroyed an entire continent and an entire people (cultures, languages, customs, etc.).

Economics is inherently full of externalities.

### 2.3.2 Viagra Patents and Pfizer

In the American economic model, the single most revealing measure of an innovation's economic value is the market's response to it. On this measure, Viagra offers a striking example: Sales of the drug grew very rapidly after launch, and those of its competitors fell dramatically.

All of Viagra profits are anchored in a set of patents.

The target for Viagra is the 50 year old man who is having trouble and is very willing to pay for his trouble.

So, we can see how the Western patent system, has focused innovation and creativity amongst drug makers to exactly where the money is.

But what about the real patient, the sick, who has to pay for the artificial scarcity that the patent system creates?

Economics is inherently full of externalities.

## 2.4 Long Term Economic Costs

With economics you usually have to worry about two things. First is externality and second is short term benefits vs long term costs.

These economic considerations apply to both Western Slavery and Western IPR regime.

### 2.4.1 Descendant Of Slaves and the Make Up Of The US Prison System

Today descendants of Africans made slaves, [1], who Anglo-American culture now labels the African-American men, are 14% of the population of men in the U.S.

Today, descendants of Africans made slaves, represent over 40% of America's prison population.

All of this is uniquely and exceptionally American.

So, to the old masters, the descendants of Africans made slaves have now become less economically attractive.

### 2.4.2 Never Ending Patent Wars and Aggregate Costs Of Artificial Scarcity

Many have come to conclude that patents are stifling innovation.

"patent assertion entities," better known as patent trolls, whose business model consists of holding many low-quality patents and suing infringers, real or otherwise. The trolls threatened to sue more than 100,000 companies in 2012. Some seem like little more than extortion rackets. They prey on smaller businesses by claiming, for example, that a jewelry boutique is violating a patent every time it scans a document. One study concludes that defendants paid $29 billion in 2011 to trolls, four times what they paid in 2005.

[1] (2005 statistics)

Patents have now become a lawyers' game.

## 2.5 When Mistakes Become So Very Chic

A common characteristic of sin of the time is that it becomes common and desirable.

### 2.5.1 Holding Slaves Was Fashionable Then

The more slaves you had, the more powerful you appeared.

Lawyers specializing in legalities of Slavery were very well paid.

Many of the American presidents of that era were slave owners.

### 2.5.2 Holding Patents and Copyright Is Fashionable Now

Holding patents and copyright is viewed today as prestigious. Even academics put the list of their patents on their resumes and their web sites.

Lawyers specializing in legalities of IPR are very well paid now.

Many of the American presidents of this era are copyright holders. Much of President Obama's net worth is through his copyrighted books. Even, Bush Junior, recognized how he can cash his shares through the Western IPR regime.

As engineers, we don't hold neither patents nor restrictive copyrights. Instead, we offer our services as Patent Assassins and collaborate in legal defense against patent assertions. That is not considered chic, we know!

## 2.6 America's Founding Fathers and the US Constitution

Many Americans take the US constitution very seriously and regard "America's Founding Fathers" as reverend.

The US Constitution has been exceptionally wrong both with respect to Slavery and IPR.

These catastrophic mistakes of the US Constitution are fundamentally rooted in the economic nature of this document. Above all, US Constitution is a business plan – by the business-man for the business-man. "Freedom" is included in that business plan as a business ingredient. Individual Freedom in due course will be extended to include Corporate Freedom. Freedom of the weak is viewed as a source of income.

The American two layers model of law and economics is very simple. And in that simple two layered model, one important purpose of law is to accommodate economics. People are viewed as economic creatures. And society is the collection of economic creatures and their economic dynamics. A very simple and effective business plan.

Human beings born into this colossal American business plan – The US Constitution –, in no time become economic creatures. They become Americanized.

To pay lip service to any remaining human needs of economic creatures, individualistic freedom becomes the main pillar of American morality. Conveniently, the US Constitution and the American economic model celebrates individual freedoms. Based on those individualistic freedoms, the sophisticated American corporation is then well positioned to manipulate the naive American individual – that simple economic creature. With that form of American morality in place, the American corporation then demands those individualistic freedoms for itself. The American model then amounts to a complete collection of economic creatures (people and corporations alike). Should such a collection be called a society? What is American society?

Humans are to be first right and wrong (halaal and haraam) oriented and only after that, they should be economically oriented. Right and wrong are often orthogonal to economics and profit, as externality is an inherent characteristic of economics.

The notion of focusing on right and wrong instead of economics is generally foreign to Americans.

### 2.6.1 Slavery And The US Constitution

Slavery is seen in the US Constitution in a few key places.

The first is in the Enumeration Clause, where representatives are apportioned. Each state is given a number of representatives based on its population - in that population, slaves, called "other persons," are counted as three-fifths of a whole person. This compromise was hard-fought, with Northerners wishing that slaves, legally property, be uncounted, much as mules and horses are uncounted. Southerners, however, well aware of the high proportion of slaves to the total population in their states, wanted them counted as whole persons despite their legal status. The three-fifths number was a ratio used by the Congress in contemporary legislation and was agreed upon with little debate.

In Article 1, Section 9, Congress is limited, expressly, from prohibiting the "Importation" of slaves, before 1808. The slave trade was a bone of contention for many, with some who supported slavery abhorring the slave trade. The 1808 date, a compromise of 20 years, allowed the slave trade to continue, but placed a date-certain on its survival.

The Fugitive Slave Clause is the last mention. In it, a problem that slave states had with extradition of escaped slaves was resolved. The laws of one state, the clause says, cannot excuse a person from "Service or Labour" in another state. The clause expressly requires that the state in which an escapee is found deliver the slave to the state he escaped from "on Claim of the Party."

So, here we have America's founding fathers, speaking of how all men are created equal during the day and then banging their slaves at night. And who knows who is to own the results of all that banging – their own children.

So, now early in the 21st century, some African American are seeking to prove a genetic link to James Madison.

This of course provides a window for understanding the character of America's founding fathers – and by extension a window to the character of American society.

### 2.6.2 Copyright And Patents In The US Constitution

US Constitution Article I, Section 8, Clause 8, reads:

> The Congress shall have power ...
>
> To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

The heart of the mistake of the authors of the US Constitution is that writings and discoveries of authors and inventors are poly-existentials.

Restricting poly-existential by grants of exclusive right in fact hinders progress of science and useful arts.

In other words, lack of understanding of America's founding fathers as to how science and useful arts progress has now become a disease –even more grave than slavery – that the American society has to live with.

## 2.7 Role And Place Of Religions

Both Slavery and IPR are questions of ownership.

Questions of ownership are proper domain of religions.

### 2.7.1 Slavery In Christianity Vs. Slavery In Islam

To recognize the part played by the Christian churches in the slave trade one may consider the following anecdotes. Many priests themselves carried on slave-trading, especially in Angola, and many others owned slaves in the Americas. The only reason the Catholic church give for its action was that it was trying to save African souls by baptizing the slaves. The Protestants were worse, for they did not even make it clear that they accepted that the Africans had a soul. Instead, they supported the view that the African slave was a piece of property like a furniture or a domestic animal. There is no part of the history of Christian church which was more disgraceful than its support of the Atlantic slave-trade.

When ships loaded with human cargo sailed from Christian countries to Western hemisphere, Christian priests used to bless the ship in the name of Almighty and admonish the slaves to be obedient. It never entered into their minds to admonish the masters to be kind to the slaves.

Islam's historical record with respect to slavery is much cleaner than Christianity's record.

Malcolm X said that Islam was the "true religion of black mankind" and that Christianity was "the white man's religion" that had been imposed upon African Americans by their slave-masters.

In a Christian country, Cassius Marcellus Clay, Jr., chose to become Muhammad Ali.

Islam's approach to the question of slavery was more philosophical, ethical and societal. And less economic.

### 2.7.2 IPR In Christianity Vs. IPR In Islam

For the most part Christianity has been silent on the question of IPR.

Islam on the other hand, and Shiite tradition in particular, has been quite explicit in rejecting the Western IPR regime.

Imam Khomeini's Fatwa in particular is succinct in declaring the fundamental invalidity of Western Copyright and Patent law.

For a description of the basis for rejection of the Intellectual Property Rights regime by Iranian ethicists, see *Iran's Theological Research on Intellectual Property Rights* [2].

The Christian clergy needs to wake up. Similar to slavery, the Western Intellectual Property Rights is a critical ownership topic that needs to be directly addressed by the Church based on morality and theology – not economics.

## 2.8 Core Of The Character Of The Origin – Americans and Westerners

Without any doubt Slavery in general as it was practiced by all throughout history is very different from American Slavery as it was practiced in the last 500 years.

There must be something very unique and exceptional about the American character that has produced these results.

### 2.8.1 Core Of The American Character In The 18th Century – (Slavery)

With a snap shot of the American society in the late 18th century we make the following observations:

- A strong belief in extreme individualism
- A strong belief in business and economics leading to raw capitalism and supremacy of markets
- A strong belief in American exceptionalism and moral superiority

### 2.8.2 Core Of The American Character In The 21st Century – (Intelectual Property)

The American characteristic have really not changed much over time. If anything the inhuman side of those characteristic have simply grown.

With a snap shot of the American society in the 21st century we make the following observations:

- A strong belief in extreme individualism

- A strong belief in raw capitalism and supremacy of economics and markets
- A strong belief in American exceptionalism and moral superiority
- A strong belief in freedom of corporations and the unbound power of corporations
- A strong belief in the American right for imperialism and neo-colonialism

Above all, copyright and patents have become a vehicle for accumulation and concentration of wealth and power in Corporations.

The American model is in fact very simple. It is that of economic creatures existing in an industrial context governed by raw capitalism and a legal system whose purpose is to protect that economic model. There is a big distance between this American model and humanity.

It is very natural for all of that to progress to the point where much of the rest of the world views the core of the American character as that of a morally bankrupt self-absorbed bully.

As an imperialist and neo-colonialist strategy, Americans are now imposing the Western Intellectual Property regime as the universal regime.

With respect to IPR, should the rest of the world subscribe to the American model or should it be rejected it in full?

Does the rest of the world want to be like Americans?

Do other societies want to end up where the American society is today?

## 2.9 End Of Western Slavery Vs. End Of Western IPR

### 2.9.1 End Of American Slavery

Too many slave children of slave masters, started to tear the society apart.

For many generations, male slave masters were banging their female slaves. That produced many children of slave masters whom by American definition of ownership were not their children but their property. This accumulated to the point where the numbers got out of hand.

There was no other way but to end it. And even then, there was a war.

American Slavery did not end because American Masters were persuaded or because they understood any mistake.

And after its end, the magnitude of its real harm and the significance, the scope and the scale of this mistake has never been recognized and acknowledged by the Westerners. The crimes were never acknowledged. The criminals were never punished and the victims were never recognized and compensated. The African holocaust has never been acknowledged by Americans and Westerners.

Those are part of cost and consequences of the previous American ownership mistake.

### 2.9.2 End Of American IPR

American IPR is now the basis of much of the American economy (which in this case is same as American society).

American presidents can't wait to get out of the office, have a book written and receive their copyright royalties. That is entrenched at a very high level and very widely.

Through Western IPR more and more power and capital is being concentrated in Western corporations. Corpocracy is the model that rules America.

American IPR regime will not end because Americans would be persuaded. American IPR regime will not end because Americans would understand their mistake.

Cost and consequences of the IPR mistakes are far greater than the previous American ownership mistakes. With IPR, the scope of the damage is not limited to any locality. Another holocaust is in the making. This time it is our souls – not our bodies – that are being gradually exterminated and the scope of the extermination is global.

Humanity is at risk.

# Chapter 3

# Debunking The Myth Of Western IPR Regime

Western IPR regime has been in place for over 200 years and produced a set of economical and societal results.

From a human perspective, these results are generally very negative. But Westerners portray the results as very positive. They point to their exploitative economic success as proof and require that their model be considered universal. They do so by propagating various myth.

In this section we identify such myth and debunk each of them with logic and truth.

To view the Western IPR Regime as any sort of authoritative law or enduring order is unreasonable.

It has been in practice for a very short period of time (about 200 years) and the scope of its territoriality is primarily the western world.

While the self-congratulating Westerners may consider their IPR Regime as some basis, the rest of the world more reasonably views the Western IPR Regime as an experiment.

The results of the past 200 years of this experiment have made it clear that despite the hype, it is a failed experiment.

## 3.1 Westerners Own Recognition Of Fallacies Of The Western IPR Regime

Some in the West have recognized the fraudulence of Intellectual Property Rights and have pointed out some of the problems.

The Western IPR debate amounts to an individual's rightful claim to the product of his labor vs undeserved monopoly privilege granted by government. In the Western perspective two important principles are to be balanced as legal protection of intangible works butts up against free expression and exchange of ideas.

Our Eastern perspective is simple and crisp. The "Poly-Existentials Reference Model" that we developed in Chapter ?? – ??, permits us to prove that poly-existentials are unownable (through grants of monopoly privileges) and therefore the Western IPR regime should be abolished. There is no need to debate anything.

Some notable examples of Western cases against Western IPR are:

**What is Property?** by Boudewijn Bouckaert, [4].

Bouckaert correctly points out that scarcity is a fundamental requirement for property rules. The subjects of IP (poly-existentials) are inherently not scarce and therefore IP is un-needed and invalid.

Bouckaert also debunks various arguments that have been put forward to justify IP.

We summarize and include some of his thoughts and his text in this chapter.

**Are Patents And Copyrights Morally Justified? The Philosophy Of Property Rights And Ideal Objects** by Tom G. Palmer, [9].

Palmer introduces the concept of "Ideal Objects" in the context of IP analysis. Ideal Objects are similar or perhaps equivalent to pure Poly-Existentials. He refers to Mono-Existentials as Tangible Objects, Material Objects and Physical Objects.

Palmer, however, fails to fully build the complete model that is needed to surround poly-existentials and does not focus on multi-possessibility. He also does not acknowledge that the scope of mono-existentials is broader than that of matter. We had fully developed the poly-existential reference model presented in Chapter ?? – ?? –, prior to reading [9]. Our model of poly-existentials is independent of Palmer's ideal objects.

Equipped with the concept of "Ideal Objects", Palmer is able to easily and comfortably debunk various arguments that have been put forward to justify IP.

We summarize and include some of his thoughts and his text in this chapter.

**Against Intellectual Property** by Brian Martin, [8].
https://mises.org/library/against-intellectual-property-0

Martin also correctly debunks various arguments that have been put forward to justify IP. We also use some of his thoughts and text.

**Against Intellectual Property** by N. Stephan Kinsell, [7].
http://www.uow.edu.au/~bmartin/pubs/98il/

Kinsell builds on [4] with respect to scarcity and on [9] with respect to "Ideal Objects". For the most part he covers the same thoughts that Bouckaert and Palmer had covered but sometimes more clearly.

We summarize and include some of his thoughts and his text in this chapter as well.

**Does intellectual property lead to economic growth? Insights from a novel IP dataset** by E. Richard Gold, Jean-Frédéric Morin, Erica Shadeed, [6].

> Gold et al. point out that causality of IP on economic growth remains indeterminable and the placebo effects of IP are to be taken seriously.
>
> We summarize and include some of their thoughts and their text in this chapter

**Against Intellectual Monopoly** by Michele Boldrin and David K. Levine, [3].

> Boldrin and Levine examine both the evidence and the theory of IP. They conclude that creators' property rights can be well protected in the absence of intellectual property, and that IP does not increase either innovation or creation. Intellectual property is an unnecessary evil.

These Western analysis have a number of things in common. They all amount to symptoms analysis and do not go to the root of the problem. They do not explicitly and strongly call for the abolition of IPR. They also do not move towards the right solutions – Halaalness of Poly-Existentials. And in the current Western environment where very powerful entities are in control of economy, legislation and Western society, such opposition amounts to academic naggings. In this document, we want to do more than that.

Nevertheless, it is clear that even in the West there is a large size awareness of the notion that the IPR regime is a grave mistake. Many Westerners have reached the correct conclusion that: there is no such thing as a right to own intangible ideas and, therefore, the whole regime of grants of monopoly is an unjust and outdated political construct that should be tossed aside.

Yet these Western awarenesses are not profound. As Demings puts it:

> "A system cannot understand itself. The transformation requires a view from outside."

The profound understanding of the fraudulence of the Western IPR regime needed to come from Easterners. The Poly-Existentials Reference Model represents the Eastern perspctive of focusing on the society (through the possessed) and not the indiviual (through the artificial owner).

In the next sections, we point to various failures of the IPR experiment and focus on the aspects of the IPR regime that impact our profession – software and internet engineering.

## 3.2 Promoting Creativity and Innovation: IPR Is A Failed Experiment

According to the US department of commerce
http://www.uspto.gov/news/publications/copyrightgreenpaper.pdf:

> Copyright law in the United States is founded on the Constitutional goal of "promoting the Progress of Science and useful Arts" by providing exclusive rights to creators. Protection by copyright law gives creators incentives to produce new works and distribute them to the public. In doing so, the law strikes a number of important balances in delineating what can be protected and what cannot, determining what uses are permitted without a license, and establishing appropriate enforcement mechanisms to combat piracy, so that all stakeholders benefit from the protection afforded by copyright.

So, the American model is based on the assumption that by restricting and assigning ownership to useful poly-existentials, you can create a competitive environment which is superior (in economic and societal terms) to the natural collaborative environment of multi-possessablity of poly-existentials.

This of course is pure theory. There was no proof of this theory when the US Constitution was written. So, at best IPR in the US Constitution was an experiment. It is a failed experiment in that there is now absolute total proof that, for poly-existentials, the natural collaborative model is superior to the American competitive model.

We present the proof in the domain of Software in the general context of "Proprietary Software" vs. "Non-Proprietary Software" and in the specific context of "Microsoft Windows" vs. "Debian GNU/Linux".

So, according to the American model of US Constitution, software engineers would not produce good new code unless they can restrict their code with American copyright law. Indeed Bill Gates and Microsoft created world's largest virus the American way – based on the US Constitution. But, how about Debian GNU/Linux? Why did software engineers built that? Why do Debian GNU/Linux software engineers choose to reject the American model of US Constitution? How did they manage to collaborate on such huge scale to stand against the American giant – Microsoft?

The mere fact that Debian GNU/Linux exists demonstrates that the American model of IPR in the US Constitution is a failed experiment.

In terms of functionality let's say that Debian GNU/Linux is as good as Microsoft Windows – in fact it is superior.

In terms of usage, today, the overwhelming majority of internet infrastructure and internet application services use Linux.

But that is not the whole picture. Separate from functionality, there is the question of manner-of-existence of software and its ramifications for users and society.

There are two basic manner-of-existence of software.

**Proprietary-Haraam Software:** Governed by Western IPR laws and models which:

- Are restricted by the Western patent regime
- Are restricted by the Western copyright regime
- Are internally opaque

**Libre-Halaal (Non-Proprietary) Software:** Governed by Libre-Halaal laws and models of poly-existentials which:

- Are Libre-Halaal poly-existentials which are not restricted by the Western patent regime
- Are Libre-Halaal poly-existentials which are not restricted by the Western copyright regime
- Are required to be internally transparent

In practice, today there are two established models for the manner-of-existence of software.

1. The Proprietary-Haraam Software Model.

   This model is exemplified by Microsoft Windows. It is based on a competitive development model, and dominated by American companies. It is protected and rooted in the corrupt Western so-called Intellectual Property Rights regime, in particular the twin ownership mechanisms of patent and copyright. It is opaque and prevents software users from knowing what their software is doing. Its distribution is controlled by its producer.

2. The Libre-Halaal (Non-Proprietary) Software Model.

   This model is exemplified by Debian GNU/Linux. It is based on a collaborative development model where software engineers worldwide work collectively to move the software forward. It rejects the corrupt Western so-called Intellectual Property Rights regime of patent and copyright. It considers the right to copy and the right to apply knowledge as basic human rights. It is internally transparent and permits software users through the software engineering profession to know exactly what their software is doing. Its distribution is unrestricted.

Understanding the net societal ramifications of these models is simple: The opaque and proprietary Microsoft Windows is counter to user interests in terms of autonomy and privacy. The transparent and collaborative Debian GNU/Linux supports user interests in terms of autonomy and privacy.

The above is the concrete result of 30 years of experimentation where the American model of US Constitution have been supporting the likes of Microsoft.

Imagine where we could be if this failed experiment was recognized for what it is and the US government were to support the unimagined winner – the likes of Debian GNU/Linux.

The notion that copyright and patent law in the American model of US Constitution are promoting creativity and innovation and fostering aggregate economic growth is a total fallacy.

The net result comparisons of Western IPR model of the Proprietary-Haraam software vs the Libre-Halaal (Non-Proprietary) software model in the context of humanity makes it clear that the Western IPR regime is a failed experiment.

## 3.3 So-Called Western Intellectual Property Rights: A Rigged Misnomer

The term Intellectual Property Rights is a fashionable collective label for patents, copyright, and trademarks. These are all branches of Western law for restricting poly-existentials.

The widespread use of the term “intellectual property” became “chic” following the 1967 founding of the World “Intellectual Property” Organization (WIPO). The “W” in WIPO is fraudulent. It really stands for “West” and WIPO really represents the pushers of copyrights, patents, and trademarks.

In Section 2 – Ownership Mistakes: Western Slavery And The Western IPR Regime –, we mentioned that history of copyright, patents and trademarks predates the notion of intellectual property. The notion of intellectual property was added later towards a particular agenda.

Palmer in [9] notes:

> Intellectual property originated in grants of monopoly from the state and received its legitimacy from that source. the public debate over its legitimacy shifted radically in the late Eighteenth Century. As Fritz Machlup and Edith Penrose note, "those who started using the word property in connection with inventions had a very definite purpose in mind: they wanted to substitute a word with a respectable connotation, 'property,' for a word that had an unpleasant ring, 'privilege.'"

The switch and shift in the popular conception of patents and copyrights to property of any sort is a trick that we wish to call on.

Let's take IPR letter by letter and see how the whole thing is a rigged Misnomer.

### 3.3.1 Intellectual

The general term "Intellectual Property Rights" is meant to appear chic, fashionable and wholesome. The word "Intellectual" is part of that scheme.

Copyright law applies as much to an academic paper as it applies to a pornographic movie or a pornographic photo.

Now, what is that is Intellectual about porn?

The Copyright aspect of IPR is with regard to act of copying not about what is being copied.

Intellectual Property Rights regime pushers think that by calling it "Intellectual" it becomes Intellectual.

The term "Intellectual" in IPR has been put there to facilitate the usual Western marketing agenda.

### 3.3.2 Property

The word "Property" in "Intellectual Property Rights" has been deliberately put there to mis-lead.

Western copyright, patent and trademark laws are restrictive machineries only applicable to poly-existentials. Property only has a meaningful context with mono-existentials.

The term "property" suggests considerations of copyright, patents and trademarks similar to how we think of property rights for mono-existentials (material things). Anyone familiar with both physical property law and copyright law, patent law, and trademark law knows that the two models are not philosophically compatible.

The term "Property" in IPR has been put there to facilitate the usual Western marketing agenda.

### 3.3.3 Rights

The term "Rights" in IPR has been deliberately put there as an attempt to legitimize what is inherently illegitimate.

Western copyright, patent and trademark laws from their very beginning were at most an experiment. They amount to restricting natural rights of many in favor of artificial rights of few.

When the Rights that are granted conflict with nature, the whole thing is a sham.

### 3.3.4 Recognize IPR As A Misnomer – Consider Alternative Names

Since Intellectual Property Rights is a rigged misnomer towards a particular agenda, we should reject it – not use it.

But by now the Intellectual Property Rights (IPR) label has become pervasive.

Through out this document and elsewhere, we usually qualify it with Western as Western Intellectual Property Rights regime. This clarifies that we are dealing with something that is non-universal and that Intellectual Property Rights involves Western propaganda.

Additionally, we sometimes qualify it with "So-Called". "The So-Called Western Intellectual Property Rights" then communicates our recognition of IPR as a rigged misnomer and also our rejection of this label.

Sometimes we prefix IPR with Western and also postfix IPR with "regime", resulting into "Western IPR Regime", indicating that we are dealing with a West imposed agenda driven set of rules.

Where applicable we simply avoid the IPR term and explicitly refer to the relevant branch of law: copyright, patent, trademark or secrecy.

## 3.4 Copying Is Neither Theft Nor Piracy – Copying Is Copying

There is universal consensus on what theft is and what theft is not. All Ibrahimic religions include "Thou shalt not steal".

In the model of mono-existentials and poly-existentials that we described above "theft is denial of possession to the owner." Theft only applies to mono-existentials. Theft does not apply to poly-existentials. If I copy yours, you still have yours. I just have one more.

Large American corporations individually and collectively in the form of associations have been engaging in propaganda towards creating harsh and negative connotations for unauthorized copying.

For example, the Motion Picture Association of America (MPAA) says:

> What is "piracy?"
>
> Piracy is theft and includes the unauthorized copying, distribution, performance or other use of copyrighted materials. With regard to film and television, the term primarily relates to downloading, uploading, linking to, or otherwise providing access to unauthorized copies of movies, television shows or other copyrighted content on the Internet and making and/or selling unauthorized copies of DVDs and Blue Ray discs. You can learn more about different forms of intellectual property theft ...

Now, what Motion Picture Association of America (MPAA) is doing is completely unethical. People at MPAA – and anyone who attempts to equate copying with piracy or theft – should be ashamed of themselves.

Piracy is typically an act of robbery or criminal violence at sea. Piracy has nothing to do with Unauthorized Copying. Even in the silly American legal system, punishment for Piracy is very different from Unauthorized Copying.

Theft does not apply to poly-existentials. Even in the silly American legal system, punishment for Theft is very different from Unauthorized Copying.

In very simple terms, the following song: http://questioncopyright.org/minute_memes/copying_is_not_theft says it.

The lyrics are:

> Copying is not theft.
> Stealing a thing leaves one less left.
> Copying it makes one thing more;
> that's what copying's for.
> Copying is not theft.
> If I copy yours you have it too.
> One for me and one for you.
> That's what copies can do.
> If I steal your bicycle you have to take the bus,
> but if I just copy it there's one for each of us!
> Making more of a thing, that is what we call "copying",
> Sharing ideas with everyone.
> That's why copying is FUN!

We should not permit the likes of MPAA to define words for us. Any time that you hear anyone use the word "Theft" or "Piracy" in the context that MPAA wants to define these, let them know that we reject their vocabulary.

## 3.5 Falacy: Copyright Law Restricts Plagerism

Martin, in [8], puts it this way:

> Many intellectual workers fear being plagiarised and many of them think that intellectual property provides protection against this. After all, without copyright, why couldn't someone put their name on your essay and publish it? Actually, copyright provides very little protection against plagiarism. So-called "moral rights" of authors to be credited are backed by law in many countries but are an extremely cumbersome way of dealing with plagiarism. Plagiarism means using the ideas of others without adequate acknowledgment. There are several types of plagiarism. One is plagiarism of ideas: someone takes your original idea and, using different expression, presents it as their own. Copyright provides no protection at all against this form of plagiarism. Another type of plagiarism is word-for-word plagiarism, where someone takes the words you've written—a book, an essay, a few paragraphs or even just a sentence—and, with or without minor modifications, presents them as their own. This sort of plagiarism is covered by

> copyright—assuming that you hold the copyright. In many cases, copyright is held by the publisher, not the author.
>
> In practice, plagiarism goes on all the time, in various ways and degrees, and copyright law is hardly ever used against it. The most effective challenge to plagiarism is not legal action but publicity. At least among authors, plagiarism is widely condemned. For this reason, and because they seek to give credit where it's due, most writers do take care to avoid plagiarising. There is an even more fundamental reason why copyright provides no protection against plagiarism: the most common sort of plagiarism is built into social hierarchies. Government and corporate reports are released under the names of top bureaucrats who did not write them; politicians and corporate executives give speeches written by underlings. These are examples of a pervasive misrepresentation of authorship in which powerful figures gain credit for the work of subordinates. Copyright, if it has any effect at all, reinforces rather than challenges this sort of institutionalised plagiarism.

To frame this in concrete terms, consider the following real case:

> WASHINGTON, Sept. 17, 1987 — Senator Joseph R. Biden Jr., fighting to salvage his Presidential campaign, today acknowledged "a mistake" in his youth, when he plagiarized a law review article for a paper he wrote in his first year at law school. Mr. Biden insisted, however, that he had done nothing "malevolent," that he had simply misunderstood the need to cite sources carefully. And he asserted that another controversy, concerning recent reports of his using material from others' speeches without attribution, was "much ado about nothing."

Note that there is no mention of copyright anywhere in Biden's case. What Biden had done never caused any harm or challenge to anyone's copyright monopoly.

## 3.6 Fallacy: Western IPR Regime Is Universal

Poly-existentials are global and universal, but monopolistic restriction of poly-existentials in the form of Western IPR regime is not universal and should not become global.

Many societies fully reject the basic concept of patents and copyright. Yet, the Western Intellectual Property ownership regime is portrayed by Westerners as universal and global.

Replicability and multi-possessablity of poly-existentials knows no boarders. Therefore unless universal, any national laws of ownership of poly-existentials result into diminishing intersocietal relations.

Poly-existence is global in nature, therefore, Western IPR is extraterritorial. The Western IPR regime has become an instrument of neo-colonialism in the era of global trade. West is issuing its currency and is forcing East to accept it. The "W" in WIPO stands for West not the World.

Outside of the Western model of mostly economic analysis of merits of IPR, there are other considerations.

For Iranians for example, acceptance or rejection of merits of Western Intellectual Property Rights Regime, above all, is a moral and ethical question. Not a business or economics question.

In the American/Western utilitarian model, the maximand is usually wealth. In the Iranian/Eastern utilitarian model, the goal can usually be characterized as "justice-as-order" – where societal health and justice can be considered the maximand. In the Iranian/Eastern model the perspective is that of no particular maximand but the creation of an overarching order and environment in which people can either individually or through collaboration realize their desired ends with clarities that permit resolution of conflicts over resources.

For a description of the basis for rejection of the Intellectual Property Rights regime by Iranian ethicists, see *Iran's Theological Research on Intellectual Property Rights* [2].

Imam Khomeini's Fatwa in particular is succinct in declaring the fundamental invalidity of Western Copyright and Patent law.

Iran is a non-signatory to WTO (Western Trade Organization) copyright laws, but crisp full rejection of the concept of Copyright and Patent as was explicitly stated by Imam Khomeini has not been asserted again.

Moving towards a society based on halaal manner-of-existence of software requires crisp declarations that fully invalidate western intellectual property rights regime. See, www.halaalsoftware.org for an initial formulation.

Western IPR Regime is very American and very Western. Portraying Western IPR Regime as anything other than limited local law is a fallacy.

Today's Internet has been shaped by American values. And this is the root cause of the problem. In particular, the American Internet model is based on:

- Supremacy of business and economics – Leaving no room for societal, social, philosophical or moral considerations.
- Errant American copyright and patent law sourced from the US Constitution – Ramification of such grave ownership mistakes are complex and long lasting. But, they can be even more harmful than the previous American ownership mistake – American slavery.
- Elimination or marginalization of role of Professions (Internet Engineering) in society.
- Corpocracy – Where collaboration of Corporation and Government results in manipulation and control of the People.
- Over emphasis of individualism and personal freedom – out of balance against mass manipulation of individuals by corporations and health of society and humanity.

Internet has become an instrument to exploit other societies and cultures.

Patents and copyright are Western constructs. Even if they were to be a fit for Western societies, they can be total misfit to other societies.

They have been promoted as a universal concept, They are not. Patents and copyright have been pushed on other societies through globalization, neocolonialism and ... Swallowing the IPR regime

has become price of entry into the likes of worldbank. Many West-Toxicated Japanese, Chinese, Indian, Iranians, etc have taken IPR at face value.

Sharing of knowledge, ideas, poetry, music, etc. are more dominant in many Eastern societies.

## 3.7 Does Intellectual Property Lead To Economic Growth?

Gold et al. in [6], note:

> While policymakers often make bold claims as to the positive impact of intellectual property (IP) rights on both developed and developing country economies, the empirical literature is more ambiguous. IP rights have both incentive and inhibitory effects that are difficult to isolate in the abstract and are dependent on economic context.

As Eastern nations economically grow, the West pushes the Western IPR regime in the name of an agent for growth into their economies. So, IP and economically growth become intertwined.

Gold et al. in [6], further note:

> Finally, we examined and compared the effect of increased formal IP levels on growth and vice versa. We found that growth has a greater effect on IP than IP on growth, further supporting the idea that politics and belief, rather than direct economic effect, explain the virtuous cycle between IP and growth.

Gold et al. cite a large number of studies which can neither prove nor disprove that IP directly causes economic growth.

## 3.8 IP Rituals: Formal IP vs Practiced IP vs Enforced IP

Usually, theory and practice are different both in theory and in practice. This also applies the IP both in theory and as practiced.

In the conext of any society/country there are three measures for a country's IP protections.

**Formal IP**: IP protection according to its explicit IP laws

**Practiced IP**: IP related activities as actually practiced

**Enforced IP**: IP protection according to if/how it is enforced

In the West in general and in America in particular, IP rituals typically goes like this:

- Some guy comes up with an idea.

- He runs his idea by seed investors and gets some money at which time he becomes more of a formal entrepreneur.
- They then apply for patents.
- With the application for the patents in their hand, they then go to some Venture Capitalists (VCs) to get more money.
- If they get more money they then move their idea forward.
- Sometimes the venture is successful and sometimes it is not.

Very often their patents ends up being of no use. The patents are hardly ever enforced.

In the above IP rituals, note that patents and VCs are directly linked. Entrepreneurs apply for the patents, because VCs require it. Without VCs, patents are usually useless because without the VC's money, a real entrepreneur could not (would not) enforce his patents – as he is not a troll. Patents are an integral part of the VC game.

Another common IP ritual in America is that of patent trolls. The troll company obtains the rights to one or more patents in order to profit by means of licensing or litigation, rather than by producing its own goods or services.

And sometimes patents are actually used in fights amongst companies.

All of these have costs. And we are somehow to believe that in the aggregate these costs are all worth it – because the abstract unproven and theoretical invention incentives make up for the costs.

In Eastern countries, when Formal IP has been established, Practiced IP is often just for foreign investors' comfort and Enforced IP is there just like unused weapons.

In the end, a great deal of potential harm remains dormant – just like unused weapons.

Unused weapons accumulate. And at some point, there will be patent wars just so that unused patent weapons are used. These patent wars will likely not be limited to inter-corporation battles. We may well see patent wars between countries.

## 3.9 On IP Placibos And Self-Fulfilling Prophecies

Gold et al. in [6] note:

> The underlying intuition of a placebo, or self-fulfilling prophecy, is well described by Merton as follows: "A false definition of the situation evoking behavior which makes the originally false conception come true". The danger with these situations is that they lead to strong claims that are false. As Merton explains, "the prophet will cite the actual course of events as proof that he was right from the beginning". In other words, the defining characteristic of a placebo is that it is the very consequences of the belief that make reality conform to the initial belief and that believers "fail to understand how their own belief has helped to construct that reality". The economics literature has its own

> treatment of placebos and self-fulfilling prophecies. These arise in economies presenting multiple potential equilibria in which untested expectations non-trivially determine the equilibrium into which they eventually fall. These expectations "are unrelated to the preferences, endowments or production set of any individual, and yet come to influence the forecast and actions of economic decision-makers" . We can regard economic outcomes as the sum of two distinct effects: (i) direct (structural) effects and (ii) indirect (behavioral) effects. A growth model with strong indirect effects would exhibit placebo characteristics. Where different groups of individuals hold beliefs based on distinct yet false conceptions – such as one group believing in the effect of sunspots and another in those of "moonspots" – each will find "factual" support for their beliefs, leading to increased faith (and, hence, stability) in the false belief.
>
> A policymaker who knows that economic growth is driven by indirect, rather than direct, effects of IP has greater room to increase growth by exerting influence on individuals' beliefs and behavior rather than through increasing levels of IP protection. For example, she could focus on changing beliefs – through education – or on inducing the same behavior through other means at a lower cost. Yu suggests that a self-fulfilling prophecy lay in China's decision to embrace higher levels of IP protection (facially, at least) in the late 1970s after it opened its markets to foreign trade. He argues that while this increased protection had no direct effect on growth, inevitably some sectors and regions would see economic growth after (but not causally related to) the change. Observers then wrongly attributed this growth to the direct effect of IP and called for even greater levels of IP protection. "And," Yu notes, "the cycle would repeat itself". Our theory generalizes and adds precision to Yu's suggestion. It holds that IP as written in formal laws – rather than how these laws operate in practice – has less of a direct role in influencing growth than thought. Instead, a group of foreign investors, believing (even if falsely) that IP always drives growth, invest in countries that adopt these laws without necessarily engaging the IP system itself (e.g. by actually obtaining, defending, and licensing IP rights). There are various reasons why such actors may hold these beliefs even in the absence of direct economic effects, ranging from the symbolic – higher levels of IP protection signal a pro-investor policy environment – to the mystical – that IP will inevitably lead the country to higher rates of growth. In the end, the result is the same: actors' faith in the growth effects of increased IP protection drives investment and thus leads to growth despite the absence of direct causality.

Gold et al. in [6] conclude that:

> [The presented results] are consistent with the placebo theory that states that a belief in the positive effects of increases in levels of IP protection on growth drive both formal IP and investments made in an economy.

What Gold et al. fail to recognize is that their analogy between IP and placebo is off in one very important respect. With respect to the placebo effect, they make it clear that IP is unnecessary – and they are correct in that regard. However, the placebo is designed to be harmless, but IP is harmful and evil.

Economists should note that economic analysis is always full of externalities. And this economic placebo causes a great deal of societal harm.

## 3.10 IP As Unnecessary Evil

Even though IP does not have any economic and inventive effect, its negative societal impacts are very real.

In the previous section we focussed on pointing out that IP is unnecessary. It acts as a placebo in the context of self-fulfilling prophecies. If it had been just that, we could have lived with it.

But the net impact of IP on society and humanity is very negative. IP is hostile to liberty – the credit side of IP is ownership and its debit side is freedom. IP weakens real and tangible property. Indirectly, IP empowers the corporation and enslaves the individual. Indirectly, IP erodes autonomy and privacy.

IP is unnecessary evil.

## 3.11 Mistaken Justifications For Ownership Of Poly-Existentials

Arguments for and against has been presented in various scholarly work some of which we reproduce below.

### 3.11.1 Burden Of Proof Is On Those Who Advocate Intellectual Property

The well established laws of ownership of mono-existentials are well established and hardly disputed.

Western IP as laws of ownership of poly-existentials on the other hand is very controversial and disputed. It is for this reason that we needed to create the "Poly-Existential Reference Model" to demonstrate invalidity of IP laws.

Credibility of ownership laws for mono-existentials and for poly-existentials are very different.

Bouckaert, in [4] points to this:

> ... reveals one remarkable characteristic in the evolution of continental legal doctrine: its rather "spontaneous" and international character. By spontaneous I mean that the evolution toward a relative consensus about the property concept was not organized from a single center. It was neither the product of a brilliant Lycurgean legislator or the outcome of the action of an organized social group. The growing consensus about the property concept evolved from a dialogue among learned jurists from different parts of the European continent. This dialogue was an ongoing intellectual process lasting several centuries. The jurists of France, the Netherlands, Spain, Germany, and Italy consulted foreign texts, commented on them, and gradually refined their theoretical approach. Although this spontaneous origin of the property concept does not provide a conclusive argument for its rightness, it reveals at least its intersubjective and intertemporal character. The least we can say is that the property theory of the continental legal tradition passed through a test of a multitude of critical insights of learned and experienced legal scholars. For this reason, it is legitimate to assign to such a gradually evolved

> theory a presumption of rightness and to charge its opponents with the burden of proof about the contrary.

From the perspective of religions as well, there is universal concensus on ownership of mono-existentials and what theft is and what theft is not. All Ibrahimic religions (and other major religions) include "Thou shalt not steal". Additionaly, Eastern perspective in ownership of mono-existentials is same as the Western perspective.

Therefore with regard to the existing laws of ownership of mono-existentials we start with the presumption of rightness and assign the burden of proof about the contrary to the opponents.

Bouckaert, in [4], further elaborates:

> With regard to the debate on intellectual property, the question arises whether this presumption of rightness by tradition can be extended to this kind of property. Is it possible to allot intellectual property the same traditional weight as corporeal property goods? The history of the origin of the several kinds of intellectual property on the continent suggests a negative answer to this question. The origin of intellectual property rights has its historical roots in deliberate interventions by political authorities rather than in the spontaneously evolved continental legal tradition.

There is nothing approaching the notion of IP in any of the Ibrahimic religions (or other major religions). Additionaly, Eastern perspective in ownership of poly-existentials differs greatly from the Western IP perspective.

Therefore with regard to the existing Western IP laws we should start with the presumption that poly-existentials should not be owned and assign the burden of proof about the contrary to the opponents.

Furthermore, IP laws amounts to taking away basic natural rights of people. The burden of proof should be on those who wish to take away such basic natural rights.

Additionally, sharing poly-existentials still allows the original possessor to use them. Therefore, the burden of proof should lie on those who argue for intellectual property.

In the following sections, after debunking arguments in favor of IP, we reiterate that we have not been persuaded and that they have failed in fulfilling the burden of proof.

### 3.11.2 Debunking The Labor Theory Of Property

Many defenses of intellectual property rights are grounded in the natural law right to the fruit of one's labor. Just as one has a right to the crops one plants, so one has a right to the ideas one generates and the art one produces.

For mono-existentials, the fruit of one's labor is a mono-existential which is ownable. It is the work product that may be ownable (property) not the work (labor).

That is not the case with poly-existentials. Neither labor nor poly-existentials is ownable.

Further, IP's claimed protection of labor is problematic in a number of ways. Some of which we describe in the following sections.

#### 3.11.2.1 IP Arbitrarily Protects Some Labor But Not Other

The types of labor that is protected by IP are arbitrary.

Kinsella, in [7] points to this:

> One problem with the [labor-based or] creation-based approach is that it almost invariably protects only certain types of creations— unless, that is, every single useful idea one comes up with is subject to ownership (more on this below). But the distinction between the protectable and the unprotectable is necessarily arbitrary. For example, philosophical or mathematical or scientific truths cannot be protected under current law on the grounds that commerce and social intercourse would grind to a halt were every new phrase, philosophical truth, and the like considered the exclusive property of its creator. For this reason, patents can be obtained only for so-called "practical applications" of ideas, but not for more abstract or theoretical ideas. Rand agrees with this disparate treatment, in attempting to distinguish between an unpatentable discovery and a patentable invention. She argues that a "scientific or philosophical discovery, which identifies a law of nature, a principle or a fact of reality not previously known" is not created by the discoverer. But the distinction between creation and discovery is not clearcut or rigorous. Nor is it clear why such a distinction, even if clear, is ethically relevant in defining property rights. No one creates matter; they just manipulate and grapple with it according to physical laws. In this sense, no one really creates anything. They merely rearrange matter into new arrangements and patterns. An engineer who invents a new mousetrap has rearranged existing parts to provide a function not previously performed. Others who learn of this new arrangement can now also make an improved mousetrap. Yet the mousetrap merely follows laws of nature. The inventor did not invent the matter out of which the mousetrap is made, nor the facts and laws exploited to make it work.
>
> ...
>
> Both the inventor and the theoretical scientist engage in creative mental effort to produce useful, new ideas. Yet one is rewarded, and the other is not. In one recent case, the inventor of a new way to calculate a number representing the shortest path between two points – an extremely useful technique – was not given patent protection because this was "merely" a mathematical algorithm. But it is arbitrary and unfair to reward more practical inventors and entertainment providers, such as the engineer and songwriter, and to leave more theoretical science and math researchers and philosophers unrewarded. The distinction is inherently vague, arbitrary, and unjust.

#### 3.11.2.2 IP Protection Of Labor Can Be Undercut/Spoiled

Furthermore, even with Western IPR in play, the view that labor should result in ownership is not the case. Consider what Leggett argued, in the case of authorship,

> Two authors, without concert or intercommunion, may describe the same incidents, in language so nearly identical that the two books, for all purposes of sale, shall be the

> same. Yet one writer may make a free gift of his production to the public, may throw it open in common; and then what becomes of the other's right of property?"

The same argument can be extended, of course, to inventions.

### We Are Not Persuaded

Both Palmer and Kinsella further discredit merits of "The Labor Theory Of Property Argument" in [9] and [7].

The labor theory of property argument in favor of IP has not persuaded us. The labor theory of property argument in favor of IP is a farce.

We too are not persuaded that such arguments justify us limiting our natural rights to copy and to apply knowledge. Hence, the Western IPR regime remains erroneous and invalid.

## 3.11.3 Debunking The Length Of Time Adjustment Argument

Some believe that Western IP regime is generally correct and it just needs to be adjusted with regard to the term of the protection to be less restrictive to better balance rights vs liberties.

This is an arbitrary argument. Adopting any limited term for IP rights, requires arbitrary rules.

For example, in the US, patents last for twenty years from the filing date, while copyrights last, in the case of individual authors, for seventy years past the author's death. No one can seriously maintain that nineteen years for a patent is too short, and twenty-one years too long.

How are we going to be adjusting the term of the protection? Who will be deciding those? Why would they be any better or worse than any other durations?

One problem with any of these approaches to validating IP is that it necessarily involves arbitrary distinctions with respect to what classes of creations (labor) deserve protection, and concerning the length of the term of the protection.

The absurdity of the basic IP argument becomes more clear by widening the scope of IP, and by lengthening its duration to avoid making such arbitrary distinctions.

Kinsella, in [7] addresses this:

> And by extending the term of patents and copyrights to infinity, subsequent generations would be choked by ever-growing restraints on their own use of property. No one would be able to manufacture—or even use—a light bulb without getting permission from Edison's heirs.
>
> ...
>
> Such unbounded ideal rights would pose a serious threat to tangible-property rights, and would threaten to overwhelm them. All use of tangible property would by now be impossible, as every conceivable use of property, every single action, would be bound to infringe upon one of the millions of past, accreted IP rights, and the human race would die of starvation.

> ...
>
> The remaining advocates of IP all qualify their endorsement by limiting the scope and/or terms of IP rights, thus adopting the ethically arbitrary distinctions noted above.

Consider this "Time Limit Adjustment Argument" in the context of the parallels with slavery that we described earlier. Imagine of an argument that would have gone like this: "slavery is fine, we just need to threat the slaves better and keep them as slaves for not as long."

The time limit adjustment argument is obviously ridiculous.

#### We Are Not Persuaded

The length of time adjustment argument in favor of IP has not persuaded us. The length of time adjustment argument in favor of IP is a farce.

We too are not persuaded that such arguments justify us limiting our natural rights to copy and to apply knowledge. Hence, the Western IPR regime remains erroneous and invalid.

### 3.11.4 Debunking The Utilitarian Argument

Advocates of IP often justify it on utilitarian grounds. Utilitarians hold that the "end" of encouraging more innovation and creativity justifies the seemingly immoral "means" of restricting the freedom of individuals to use their physical property as they see fit.

This would be based on the assumption that wealth or utility could be maximized by adopting certain legal rules. Unless this assumption is proved correct no conclusions are of any consequence. In fact we believe that this assumption is false.

But for now, let us suppose that it is correct.

Kinsella, in [7] addresses this:

> Even then, this does not show that these rules are justified. For example, one could argue that net utility is enhanced by redistributing half of the wealth of society's richest one percent to its poorest ten percent. But even if stealing some of A's property and giving it to B increases B's welfare "more" than it diminishes A's (if such a comparison could, somehow, be made), this does not establish that the theft of A's property is justified. Wealth maximization is not the goal of law; rather, the goal is justice—giving each man his due. Even if overall wealth is increased due to IP laws, it does not follow that this allegedly desirable result justifies the unethical violation of some individuals' rights to use their own property as they see fit.
>
> ...
>
> It is debatable whether copyrights and patents really are necessary to encourage the production of creative works and inventions, or that the incremental gains in innovation outweigh the immense costs of an IP system.
>
> Econometric studies do not conclusively show net gains in wealth. Perhaps there would even be more innovation if there were no patent laws; maybe more money for research

> and development (R&D) would be available if it were not being spent on patents and lawsuits. It is possible that companies would have an even greater incentive to innovate if they could not rely on a near twenty-year monopoly.
>
> ...
>
> It is not clear that society is better off with relatively more practical invention and relatively less theoretical research and development.
>
> ...
>
> We must remember that when we advocate certain rights and laws, and inquire into their legitimacy, we are inquiring into the legitimacy and ethics of the use of force. To ask whether a law should be enacted or exist is to ask: is it proper to use force against certain people in certain circumstances? It is no wonder that this question is not really addressed by analysis of wealth maximization.
>
> Utilitarian analysis is thoroughly confused and bankrupt: talk about increasing the size of the pie is methodologically flawed; there is no clear evidence that the pie increases with IP rights. Further, pie growth does not justify the use of force against the otherwise legitimate property of others. For these reasons, utilitarian IP defenses are unpersuasive.

#### We Are Not Persuaded

Both Palmer and Kinsella further discredit merits of "Utilitarian IP Argument" in [9] and [7].

The utilitarian argument in favor of IP has not persuaded us. The utilitarian argument in favor of IP is a farce.

We too are not persuaded that such arguments justify us limiting our natural rights to copy and to apply knowledge. Hence, the Western IPR regime remains erroneous and invalid.

### 3.11.5 Debunking The Reserved Rights Argument

Recognizing the limitations of contract law on poly-existentials that we outlined in Section **??** and recognizing that restricting the poly-existential component of mixed-existential imposes on its mono-existential component, some IP advocates shift from a purely contractual approach to a "reservation of rights" approach in which property rights in mono-existentials tangible resources are seen as a divisible bundle of rights.

Kinsela in [7] describes this in some detail:

> For example, under the standard bundle-of-rights view, a landowner can sell the mineral estate to an oil company while retaining all rights to the surface, except for an easement (servitude) granting passage to a neighbor and a life estate (usufruct) granting use of the surface estate to his mother. Drawing on the bundle-of-rights notion, the "reservation of rights" approach holds that a type of "private" IP can be privately generated by creatively "reserving rights" to reproduce tangible items sold to purchasers. Rothbard, for example, argues that one can grant conditional "ownership" (of "knowledge") to another, while "retaining the ownership power to disseminate the knowledge of the

> invention." Or, Brown, the inventor of an improved mousetrap, can stamp it "copyright" and thereby sell the right to each mousetrap except for the right to reproduce it. Like the real rights accompanying statutory IP, such "reservations" allegedly bind everyone, not just those who have contracted with the original seller. Thus, third parties who become aware of, purchase, or otherwise come into possession of the restricted item also cannot reproduce it—not because they have entered into a contract with Brown, but because "no one can acquire a greater property title in something than has already been given away or sold." In other words, the third party acquires a tangible thing—a book or a mousetrap, say—but it is somehow "missing" the "right-to-copy" part of the bundle of rights that "normally" constitutes all rights to the thing. Or, the third party acquires "ownership" of information, from a person who did not own the information and, thus, was not entitled to transmit it to others.

The implications of such a view are troubling. Palmer in [9] writes:

> The separation and retention of the right to copy from the bundle of rights that we call property is problematic. Could one reserve the right, for example, to remember something? Suppose that I wrote a book and offered it to you to read, but I had retained one right: the right to remember it. Would I be justified in taking you to court if I could prove that you had remembered the name of the lead character in the book?

Both Palmer and Kinsella further discredit merits of "Reserved Rights Argument" in [9] and [7].

#### We Are Not Persuaded

The reserved rights argument has not persuaded us. The reserved rights argument is a farce.

We too are not persuaded that such arguments justify us limiting our natural rights to copy and to apply knowledge. Hence, the Western IPR regime remains erroneous and invalid.

# Chapter 4

# Ramifications Of Western IPR Mistake And Roots Of The Mistake

## 4.1 IPR Ramifications: Amplification Of Power Of Corporations And Corporate-Personhood

Ramifications of Intellectual Property Rights (IPR) ownership mistake are very grave. They put humanity in danger.

In an abstract sense, the victim is the poly-existential which is being restricted. More tangibly, it is the people who suffer from the artificial scarcity of the poly-existential.

This artificial scarcity takes the form of the ill person whose life depends on the medication who's patent holder makes it unaffordable; of Indian farmers to whom access to their most versatile resource, the neem tree, is being restricted by chemical companies' patents; and of all the people who want to share digital literature or music or art or software who are unable to because of restrictive laws surrounding ownership of poly-existentials.

Thus, all of humanity is victimized and oppressed by the scarcity created by patent and copyright holders.

It is in humanity's interest to abolish the Western IPR regime.

Widespread adoption of IPR in America and in the West has created certain environments and certain trends which have already destroyed many human institutions in Western societies.

Such destructions are often not pure ramifications of the IPR regime. The IPR regime is being used by Corporations to destroy individuals and professions.

In this model, IPR has become a vehicle for concentration of wealth and power in corporations.

## 4.2 The Paralyzing Effects Of Western IPR On Health Of Professions

Each profession has a responsibility to society towards protecting a certain aspect of life.

Here we are using the term "profession" in the way it is understood in the East.

The notion of a "profession" in the West consists of training and the acquisition of specialized skills, to perform specialized work, to create monetary income. The responsibility of a profession towards society at large does not factor significantly in this. Western society is mostly, if not totally, economically driven. The Western model of economically driven individuals existing within an industrial context considers only money and self-interest. Such broader concepts as society, profession, responsibility and respect are very weak in the Western model.

In the East the word "profession" carries a greater meaning. It includes the Western meaning of a specialized skill set to perform work of value to others. But it also includes an agenda of trust and responsibility. The professional person is entrusted by society to maintain guardianship over an important aspect of life. Based on proper execution of this responsibility, the profession is respected.

The primary author of this essay, attests that: for him as an engineer it is only in Iran that he is called "Mr. Engineer Banan." That has never happened to him in America, Canada, England, France, or anywhere else in his travels throughout the Western world.

So it is in this Eastern sense that we are here speaking of "professional responsibility."

An indirect consequence of the Western IPR regime is empowerment of Financiers, Corporations and Corpocracy.

An indirect consequence of the Western IPR regime is detriment of Professions, society and individual.

A particularly powerful tool of business to dominate and crush professions is the so called Intellectual Property regime. The recognition that by rejecting Patents, Copyrights and the norms of trade secrecy many professions can protect themselves against business dominance is badly absent in most professions.

Journalism can be more productive and resistant to business corruption by rejecting copyright and adopting copyleft. Pharmaceutical, Bio-Medicine and Medicine can be more productive and resistant to business corruption by rejecting patents and adopting the patent-free model.

The software engineering profession has already demonstrated how by adopting the copyleft and patent-free models it can resist dominance by business. GNU/Linux has stood up against the Microsoft monopoly.

The principles of the software engineering profession's collaborative model can be reapplied to many other professions.

In essence the solution is in properly defining poly-existential capitalism.

Consider the Software Engineering profession, which is hindered by the Western so-called Intellectual Property Rights (IPR) regime. As engineers instead of being able to freely collaborate, we are enticed to compete. Instead of collectively inventing and innovating towards the good of society, the Western IPR model pushes us to individually reinvent.

Software and Internet Services have become an integral and critical component of societal functioning, and the consequences for humanity are enormous. Of fundamental importance in this regard is what we will call the *manner of existence* of software.

We present the Halaal *manner of existence* of software and Internet services in: "Defining Halaal Software and Defining Halaal Internet Services" [1] – available on-line at:
http://www.bycontent.net/PLPC/120041 . The Western IPR regime adversely impacts our ability to produce Libre-Halaal software and Internet services.

It is for this reason that we are writing this paper. While poly-existentials are far broader than software, we emphasis software in this presentation for two reasons. First, we are software engineers. Second, the collaborative and cumulative and usage orientation of software (as a poly-existential) permits us to demonstrate the natural power of poly-existentials in contrast to Western so-called Intellectual Property Rights (IPR) regime. This of course is demonstrated in success of the Libre-Halaal GNU/Linux in contrast to the proprietary MS Windows.

## 4.3 Loss of Autonomy and Privacy

The dynamics and the environment that Western patents and copyright have created naturally leads to creation of proprietary software and proprietary internet services.

In the Proprietary American Digital Ecosystem (Internet Application Services as they exist today), the individual's autonomy and privacy are being crushed. A deal has been made. Users free-of-charge get: email, calendar, address book, content publication, and Facebook friends. In return, American corporations get: semantic analysis of email, spying with consent, traffic, logs and trail analysis and behavior cross referencing.

A new currency has been created. The user's autonomy and privacy is now the implicit Internet currency. For now, the established business model is that of translation of the individual's privacy into targeted advertising. That business model will naturally grow in scope. The debit side of this new currency is civilization and humanity.

Today, the world is largely unaware of this. The public is completely oblivious to the perils of the proprietary Internet model, and happily entrusts its personal data, its privacy, its freedoms and its civil liberties to proprietary business interests. And the people whose responsibility it is to safeguard the public interest – government, and the engineering profession – are asleep at the wheel.

The existing proprietary digital ecosystem is well on its way towards the destruction of humanity. Under immediate threat of destruction are the privacy of the individual, and the autonomy of the individual.

Loss of autonomy and privacy are symptoms of the basic model of the Proprietary American Digital Ecosystem. At societal level, autonomy and privacy can not be preserved just with new technology. There are no band-aid technical solutions.

## 4.4 Western IPR Regime: An instrument of neo-colonialism

Westerners have been exploiting their fake so-called intellectual assets (copyrights and patents) as an instrument to dominate other peoples and cultures.

Poly-existence is global in nature, therefore, Western IPR is extraterritorial. The Western IPR regime has become an instrument of neo-colonialism in the era of global trade. West is issuing its currency and is forcing East to accept it. The "W" in WIPO stands for West not the World.

Outside of the Western model of mostly economic analysis of merits of IPR, there are other considerations.

For Iranians for example, acceptance or rejection of merits of Western Intellectual Property Rights Regime, above all, is a moral and ethical question. Not a business or economics question.

For a description of the basis for rejection of the Intellectual Property Rights regime by Iranian ethicists, see *Iran's Theological Research on Intellectual Property Rights* [2].

Imam Khomeini's Fatwa in particular is succinct in declaring the fundamental invalidity of Western Copyright and Patent law.

Iran is a non-signatory to WTO (Western Trade Organization) copyright laws, but crisp full rejection of the concept of Copyright and Patent as was explicitly stated by Imam Khomeini has not been asserted again.

Moving towards a society based on halaal manner-of-existence of software requires crisp declarations that fully invalidate western intellectual property rights regime. See, www.halaalsoftware.org for an initial formulation.

Western IPR Regime is very American and very Western. Portraying Western IPR Regime as anything other than limited local law is a fallacy.

This exploitation starts by demanding that Western IPR be considered universal. Most forms of umbrella economic relationship with the West demands recognition of the Western values of copyrights and patents.

The exploited economically weaker nations are then subjected to these flawed beliefs through West-Toxication at societal level and through economic strong-arming.

The net result is that the exploited is now forced to recognize West's fake currencies of Patents and Copyrights which the Westerner has plenty of and in which the exploited is poor.

Americans/Westerners are imposing these mistaken views on the East.

Poly-existence is global in nature, therefore, Western IPR is extraterritorial. The Western IPR regime has become an instrument of neo-colonialism in the era of global trade. West is issuing its currency and is forcing East to accept it. The "W" in WIPO stands for West not the World.

## 4.5 Americanism: Root Of The Western IPR Problem

To better understand the Western IPR we may profit from better understanding the culture of those who created and who are promoting IPR. We label the ideology of those who created and are pro-

moting IPR, “Americanism”.

By Americanism, we are referring to a particular established model of economic creatures existing in an industrial context. We will refer to the American spheres of consensus that we describe in this section which has shaped the core of American character as ”The Proprietary American Regime” – and sometimes just ”The American Regime” or “Americanism”. We refer to the model as “Americanism” and we call those who believe in and exercise this model “Americanists”. We draw a clear distinction between being an American National and being Americanist. It is the belief system and not Americans as individuals that we are referring to – while recognizing that the core of character of most American individuals shapes the American Regime and is shaped by it. Furthermore, the belief system that we call Americanism physically and geographically spans far further than the United States of America. Many through out the world have been inflicted by this disease and are “Americanized”.

Western IPR assumes that human beings are essentially economic creatures and that if they are not economically rewarded they will not engage as much in activities that progress science and useful arts. Western IPR assumes that human beings are competition oriented and collaborative values are inferior to competition for advancement of science and useful arts.

Economics is the study of what people do when nothing more important than money is at stake. Even though twenty first century planet earth is too primitive to be generally governed by anything but economics, there are variations for the place of economics in societies. Western IPR is fully rooted in economics. The Western IPR regime was created and is being promoted in this American context.

Right and wrong are often orthogonal to economics and profit, as externality is an inherent characteristic of economics. Our model for humanity is inherently complex and intertwines: religion, morality, ethics, economics, law, language, culture, society and nature. Western IPR is not rooted in harmony with nature, morality or ethics.

To pay lip service to any remaining human needs of economic creatures, individualism and individualistic freedom becomes the main pillar of Western morality. Conveniently, the Western economics model celebrates individual freedoms. Based on those individualistic freedoms, the sophisticated Western corporation is then well positioned to manipulate the naive Western individual. With that form of Western morality in place, the Western corporation then demands those individualistic freedoms for itself. The American/Western legal system then kicks in and formalizes the Western legal notions of “corporate personhood”. The Western model then amounts to a complete collection of economic creatures (people and corporations alike). Should such a collection be called a society? What is Western society? It is inside of this model that the Western IPR regime has thrived.

The concepts and laws of IPR has been shaped by Proprietary American values. And this is the root cause of the problem. In particular, the Proprietary American model is based on:

- Supremacy of business and economics – Leaving no room for societal, social, philosophical or moral considerations in the base fabric of society.
- Unbounded Corporations. The Corporation, an entity whose sole purpose is to generate profit is permitted to do all that it pleases and in many respects is considered equivalent with human individuals. This model reduces humans to the level of Corporations – greed driven psychopaths.

- Elimination or marginalization of role of Professions (Internet Engineering) in society.
- Corpocracy – Where collaboration of Corporation and Government results in manipulation and control of the People.
- Extreme Individualism – Rampant Self-Toxication At Epidemic Levels. Stressing personal freedoms, out of balance against significance of health of society and humanity, play well into manipulation of individuals by corporations.
- Uses of IPR as an instrument to exploit other societies and cultures. Based on American Exceptionalism.

These dynamics are such that Proprietary American model puts not just America, but the entirety of human civilization in danger.

The American model is being portrayed to the world as universal. It is not. There is more to the world than the American Regime. The American Regime has produced well understood results for other crucial aspects of life that the civilized world has fully rejected. Much of the world wishes to be separate from the American Regime. In the spirit of combating west-toxication «غرب زدگی», [5], Imam Khomeini, captured this difference in a short crisp sentence: "basis of everything for the donkey too is its economics" – «الاغ هم زیربنای همه چیزش اقتصادش است». [1]

Americanism is inherently exploitative. It often results into short term prosperity for its practitioners at a cost to others. Sometimes the practitioners don't recognize that they are also the others.

Consider how Americans eat. The American "Food Inc." model has turned the American farmer into instruments of agro-business machinery of patented economic processes. Partaking food by humans has been turned into manipulation of the economic creatures by the business. Human beings have been turned into economic creatures existing in an industrial context for the purpose of the business of consuming food. Obesity is prevalent amongst the poor in America.

Consider how Americans take care of their sick. Health and medicine has been fully subjected to capitalism. Everyone for himself. The doctor-patient relationship has become a fully economic transaction. Insurance business has been placed on the top and the patient at the very bottom while the American doctor has become nothing more than a tool of business. The rich think that this works very well for them. In the aggregate, it is a miserable failure. For example, Cuba with a fraction of resources produces infant mortality rate results that compare very well against the American Regime's. The obvious human model of universal health care which is practiced through out the civilized world is considered nasty socialism in America.

Consider how Americans view prescription medications. The Anglo-American culture permits advertising of prescription drugs on Television. Nowhere else in the world is this permitted. The exclusive producer of the patented medication is permitted to dangle the cure in front of the sick in public – and hardly any American recognizes this as a clear sign for the road to end of civilization and humanity. The profession of medicine is by-passed by the business where the sick is encouraged to tell the doctor what to do.

Consider how Americans consider university education. The average American graduate comes out $35K in debt. The American higher education system is for the rich and the indebted. The purpose

[1] These are Imam Khomeini's exact words from his September 8, 1979 speech – This sentence is often mis-quoted as "economics is for the donkey" – «اقتصاد مال خره».

of education has become preparation for economic activity. In the American model, learning too has become a purely economic activity.

Consider how Americans view their guns. When extreme individualism is at the center, ridiculous arguments for ridiculous freedoms become the norm. The distance from there, to "going postal", "Columbine", "Sandy Hook", etc. is very little. American savagery is truly exceptional!

Consider how Americans view relations with other societies. America's short history points to exploitation, colonialism, dominance and imperialism as clear trends. The natives are now concentrated in reservations. The African continent has been destroyed and the African languages and cultures were bulldozed into oblivion. Descendants of those African slaves are now a majority in American prisons. The use of the atomic bomb, the ultimate weapon of mass destruction, was initiated by Americans. The CIA's clandestine coups to manipulate and exploit Iranians, Arabs, South-Americans, etc. are celebrated and glamorized through the American Hollywood. The patterns of Vietnam, Iraq, Afghanistan, Libya and Syria point to the inability of Americans to listen, understand and learn.

Much of the civilized world has looked at these American models and has fully rejected them.

When Americans try to impose their models on others, rejections of these American models by the rest of the world, often takes the form of: "Yankee Go Home", "Go To Hell Yankee" and "Death To America" chants followed by physical rejection and separation. And that has kind of worked for some – e.g., the 1979 Iranian Revolution.

The Japanese/Brazilian/Iranian/Chinese/French/Cuban/Indian/Russian/etc models for food, medicine, university education and guns are distinctly different from the American model. Much of the civilized world looks at the American model and sees a purely economically oriented savage model. This of course is very different from what Americans see when they look in the mirror. This degree of self-absorption and these extremes of American monocultures of the mind are genuinely exceptional.

Given these trends, should the world accept the American Regime's model for poly-existence and poly-existentials.

Unlike, food, guns and medicine (mono-existentials) which are inherently local, the inherent poly-existential nature of IPR restriction is global. Adoption of the purely proprietary American model of IPR puts civilization and humanity in danger.

Rejection of the American proprietary model of the Internet is far more complicated than rejecting the local American models of food, medicine, guns, etc. Slogans and chants are ineffective and complete physical separation is impractical. A large segment of the planet has already come to recognize that the greatest threat to humanity is Americanism. It is wholly wrong to allow the Proprietary American IPR to become a propagation vehicle for Americanism. It should not be permitted.

Our Anti-American tone here is not against Americans as individuals. American individuals who disagree with our root cause analysis, may continue their use and support of their proprietary model.

The cure that we offer in the next part is for all of humanity and is equally applicable to Americanists and American Nationals who recognize the disease.

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