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Words That Bind

Moral Obligation, Textual Epistemology, and Globalizing Legal Power

Danielle Lucksted[1] · **Nicholas Hoover Wilson**[1]

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Abstract
In this review essay, we probe three main elements of Laura *Ford's Intellectual Property of Nations*: her discussion of the structure of moral obligation and its materialization via writing and the institutions of the law; reflections on how the book intersects with questions of textual epistemology (especially the question of inferring intent from texts); and, finally, a self-consciously "presentist" discussion of how the book's findings intersect with our modern world of global legal regimes.

Keywords Law and society · Epistemology · State formation · Intellectual property

> The partnership of state and private property…presupposes the separation, and the tensions, between them. – Ellen Meiksins Wood, *A Social History of Western Political Thought* (2022, 23).

Laura Ford's *The Intellectual Property of Nations* is a dense book, but how could it not be? At 414 pages, it spans two millennia of history, ranging from ancient Rome to the founding of Facebook and zooming from the scale of key individuals (kings, caesars, and one Venetian who had sole rights to the printing press in the 15th century) out to the macro-level implications of intellectual property for the world system as a whole. Of course, such dramatic shifts in focus and scale could have produced intellectual whiplash, but without such a rich and painstaking accumulation of narrative and evidence, it would impossible to see Ford's central substantive point: that intellectual property rights as we know them today are indissolubly tied up with secularizing state power and moral obligations (e.g., Ford, 2021, 14–16). This focus, moreover, transcends traditionalist and formalist approaches to law–which believe that law is best-understood as a self-contained system of logic independent of social

✉ Danielle Lucksted
danielle.lucksted@stonybrook.edu

[1] Department of Sociology, Stony Brook University, Stony Brook, NY, USA

and moral considerations–and instead tells a broad story of the "forming cause" (Hirschman & Reed, 2014) of intellectual property rights. Thus it reaches out to start a conversation with many scholarly communities beyond the niche of intellectual property scholars, such as students of globalization, expertise, state formation, and cultural studies.

But what is the wide-ranging conversation begun by *The Intellectual Property of Nations* (hereafter *TIPN*) about, exactly? In the remainder of this discussion, we probe three main elements of Ford's invitation: her discussion of the structure of moral obligation and its materialization via writing and the institutions of the law; reflections on how the book intersects with questions of textual epistemology (especially the question of inferring intent from texts); and, finally, a self-consciously "presentist" discussion of how the book's findings intersect with our modern world of global legal regimes.

Moral Obligation and the Law

At its heart, one of the most profound shifts invited by *TIPN* is *away* from the classical Weberian conception of states as organized fundamentally around monopolies of force and towards an imagery of states as (at least as much) organized around legitimacy and authority. Ford prefers (e.g., 2021, 64 and 81) to turn to another strand of Weber's thinking (also prominently adopted by Michael Mann), emphasizing Weber's understanding of the "powers of control and disposal," which deemphasizes the state's direct, coercive power and instead stresses cultural "orders of obligation" which meaningfully bind people to one another. What is the relationship between these two "faces" of obligation (and, hence, the binding force of morality and law)? Ford exhibits a tension on this count (which, to our eye, is less an analytic flaw than an expression of the structure of moral obligation itself). For instance, in a discussion of how patents "draw boundaries with words," Ford uses the example of a sign warning people to 'keep out' of a room. This sign works, says Ford, thanks to the "cooperative social action of others," which includes a self-limiting imposition to respect the words on the sign without the need for a gang to enforce it. Through this example, Ford shows that there is power in even one individual's ability to "harness the cooperative social action of others" (Ford, 2021, 62). Note the analytic weight carried by the adverb "partly" in Ford's reapplication of this example to intellectual property at the nation-state level:

> It has the power that it does *partly* because something with more than a few points of comparison with an organized gang (which we call a *nation-state*) stands behind it, and *partly* because it conveys meaningful content in words through a material means (the intent). Instruments of legal power harness and mobilize the social powers of law as a meaningful, obliging force, and they do so fundamentally through semantic powers, the powers of meaning and language to elicit, mobilize, and configure human social relationships of commitment, obligation, and respectful obedience (Ford, 2021, 64, emphasis added to "partly").

In Ford's telling, instruments of legal power like patents do this work by combining three different kinds of legal formality: "empirical," "semantic," and "substantive."[1] Empirical formality is the literal materialization of legal documents and concomitant rituals–contracts are stamped, oaths are sworn, and so on. Semantic formality is the conceit that the law should be organized into an elegant, logically-interlocking system of concepts and meanings. Substantive formality, finally, is the tethering of both semantic and empirical formality to a meaningful social goal; it is the sense that instruments of legal power do not exist in a vacuum, but are fundamentally *for* something (the public good, the glory of God, state power and advantage, etc.)[2]

This kind of conceptual development is one of *TIPN*'s shining accomplishments in and of itself, and it fits neatly into a sort of functionalist vision of social structure in which complex institutions are sustained by interlocking rituals, meanings, and sanctions. Yet we would like to suggest that an alternative analytic route, which, although departing from the same place as Ford (i.e., a focus on the state's cultural and symbolic capabilities), suggests some fascinating empirical complements to *TIPN*.

One solicitous entry point for doing this is the work of Pierre Bourdieu, particularly his essay "Rethinking the State" (1998). In it, Bourdieu departs from the conception of legitimacy and meaning being rooted (as for Weber) in acts of explicit thought, and instead emphasizes how understandings of the social world come from "immediate, pre-reflexive agreement between objective structures and embodied structures, now turned unconscious" (Bourdieu, 1998, 56). In this view, the state "has the ability to impose and inculcate in a universal manner, within a given territorial expanse, a *nomos*, a shared principle of vision and division, identical or similar cognitive and evaluative structures" (Bourdieu, 1998, 53).[3]

From one vantage point, there is more than a little overlap between Ford and Bourdieu's accounts: both push beyond material force as a foundation for state power, both emphasize the naturalization of social categories, and the law is central in both accounts. Yet one important difference is that Bourdieu's account is much more thoroughly *agonistic*[4] than Ford's, in two senses. First, people have the state's "principles of vision and division" (such as instruments of legal power) *imposed* on them, and therefore the aspects of substantive formality which they carry are not necessarily organic to citizens or subjects. To achieve the naturalization of such categories, according to Bourdieu, takes the operation of a host of organizations and institutions, above all schools, education, and the arts (1998, 54.), and is an ongoing, fragile social accomplishment. Second, rather than an organization united by a shared set of values, the state apparatus is itself a field of conflict, chiefly involving struggles to "monopolize monopoly" (1998, 58.), which is to say, for particular self-styled experts to claim rights to act on behalf of "the universal" or in the name of "disinterest."

[1] Ford envisions these concepts as extensions of Weber's distinction between formal and substantive rationality. (See 2021, 52–53.)

[2] These different substantively-formal domains seem akin to Gabriel Abend's concept of "moral backgrounds" (Abend, 2014).

[3] A variety of work has taken up this point, including work by George Steinmetz (2008), Mara Loveman (Loveman, 2005; Wyrtzen, 2016).

[4] It is tempting to simply call this a version of "conflict theory," yet we prefer "agonism" because it better captures how conflict and consensus operate together in social orders. (See, e.g., Mouffe 2013.)

The point of noting this alternative path is not to suggest that Ford should have adopted it–to do that would be to lodge the dreaded complaint that she didn't write the book she didn't write!–but rather to suggest how it might provide worthwhile alternative interpretations to her empirical analysis. Let us consider two. First, a focus on the state's symbolic activity as one of imposition shifts empirical attention to the sites of socialization at which the orders of obligation obtain their force–not to the *intent* behind an oath, contract, or other perlocution (Austin, 1975), but rather the *reception* of that act by audience that may or may not wish to hear it. Second, even when we restrict our investigation to elites and state officials, this perspective would still lead us to expect conflict. This conflict need not necessarily be conceived of as "resistance," but rather struggles over alternative hegemonic projects, interpretations of just what constitutes public good, the proper interpretation of law, and so on.

Consider, for instance, Ford's dramatic discussion of medieval and early-modern English state formation in Chap. 10 of *TIPN*.[5] The chapter is an important one for TIPN, insofar as it follows the development, first, of the English reformation's juridical and theological break from Papal authority, and, second, the ambivalent relationship between royal prerogatives (the origins of the patents and charters that would become modern intellectual property contracts) and (still quite elite) popular nationalism and emerging Parliamentary restraint on these prerogatives. It is awash in conflict, touching on the Thirteenth-Century baronial movement, the Reformation, and the English and Glorious Revolutions. Yet the tone of the chapter lends to an odd sense of consensus; as Ford concludes, "With the rise of Parliament, combined with the Tudor Revolution of the English administrative state, law is becoming statutory and national: a uniform voice speaking for the King-in-Parliament to the nation" (Ford, 2021, 266).[6]

But what if an account of the origins of the moral force of intellectual property law–the words that bind us and oblige us to one another–ran not through an ultimate consensus, but rather more directly centered the explanatory and narrative role of conflict? In Chap. 10, how would doing so recast, for instance, the role of Baronial appeals to Rome (Ford, 2021, 249–52), or the diffusion of the Book of Common Prayer (Ford, 2021, 266)? How would it change our perspective on the role of legal expertise and disinterest in Edward Coke's behavior, allowing him to simultaneously argue for and against monopoly patents (Ford, 2021, 256)?

Ultimately, for a book on the scale of *TIPN*, the answers to these specific questions are less important than the narrative structure that they illustrate. To borrow Hayden White's phrasing (1973), *TIPN* seems clearly "emplotted" as a Romance–it is the story of modern intellectual property's triumph as the kind of instrument of legal power that it is, and this story is told through crucial episodes in which this pathway encounters obstacles and overcomes them. Yet there is an alternative emplotting as (White's sense of) a Comedy–a story of unintended consequences, fragile alli-

[5] Notably, in a brisk 29 pages, Chap. 10 covers the era spanning Plantagenet England to the Glorious Revolution of 1688!

[6] To be sure, this sentence begins two (all-to-short) paragraphs discussing the "imposition" of the "controversial" Acts of Uniformity and *Book of Common Prayer*, but we believe its tone nonetheless expresses consensus.

ances, and muddled strategies that lead to modern intellectual property as a more-or-less coherent technology that is coupled in ongoing (and potentially fragile) ways to coalitions of political and economic actors. Our point is not that either of these emplottings is correct *per se*, but rather that they are connected to different images of the dynamics of social order, and hence of how orders of obligation work.

Textual Epistemology

> To extend this argument, beyond the manuscript, to the very ideas themselves, seems to me very difficult, or rather quite wild. (Chief Justice Yates, commenting on the *Millar* case, quoted in Ford, 2021, 282–3).

Texts are extraordinarily powerful in *TIPN*. This is true in two senses: both as the raw materials for the historical sociology Ford advances, and as key mechanisms in her account. In the latter, texts are crucial because they are the vehicles of empirical formality–harkening back to Weber's classic analysis of bureaucracy, a *written* contract or oath multiplies social power relative to one that is merely spoken (even if it is witnessed). In an extraordinary passage (Ford, 2021, 72–74), Ford outlines how a modern patent, as a written legal document, comes to "define the new technology and delineate the boundaries of the patent property" (Ford, 2021, 61).[7] Ford calls these boundaries "zones of exclusivity," and while they do rely on the ultimate enforcement power of the state, *TIPN*'s focus is on how instruments of legal power and (as intellectual property rights) their concomitant zones of exclusivity work by "harnessing people's capacity to impose obligations upon themselves" (Ford, 2021, 62).

This analysis makes it clear that Ford is most interested in how the form (or syntax) of the law binds us into orders of obligation–certain legal understandings of particular terms (which Ford calls "semantic formality"), understandings of public and social goods (Ford's "substantive rationalizations")–which amount to specific content (or semantics). Ford's preferred language for this is Weber's rationalization, but there is also more than a little speech-act theory in the analysis (as, for instance, her invocation of the performative dimension of instruments of legal power: Ford 2021, 79–80). In our view, this presents a welcome opportunity, because it gives voice to a third analytic dimension of instruments of legal power: the specific contexts of their creation (or the pragmatics of speech). Indeed, a somewhat orthogonal reading of the narrative in *TIPN* is of the progressive transformation of the pragmatics of intellectual property through a set of practices seeking increasingly precise "fixtures" of the zones of exclusivity *and* substantively-rational purposes endowed to particular goods. Thus one reading of the broad arc of the secularization and modernization of

[7] Briefly, the U.S. Patent Office imposes initial formal restrictions on what a patent application must declare, and then there is a usually-multi-year process called *prosecution* in which attorneys for the patent applicant argue for the novelty of the patent subject–usually trying to stake as expansive a terrain as possible–while officials attempt to delimit the patent's claims relative to other patents and to make its language as precise as possible.

intellectual property is as a kind of "flight from ambiguity"[8] in which the ambiguous notions like "beneficence" and *Imperium* were clarified and narrowed into concepts like "public franchise" and "zone of exclusivity."

Ford notes this dynamic throughout *TIPN*, of course, but in our view, it is worth stressing it more forcefully, because its arc is one of increasing, reciprocal *constraint* on all actors involved in intellectual property. Of course a ruler's prerogative power restrains the activity of their subjects, but so too does the progressive struggle over that prerogative eventually limit the ruler's own capabilities. And part of the secularization of intellectual property law, to our eye, means the transposition of what had been a debate over biblical interpretation into the domain of "semantic legal ordering," the elaboration of which in turn placed its own constraint on how legal experts could interpret the meaning of the law. Thus, for instance, it became the case that what was one a matter of a ruler simply issuing a decree became a matter of fine-grained legal interpretation in which British Chief Justices felt they had no option but to honor the precedent of royal prerogative (Ford, 2021, 284–87). In our view, these acts of interpretation-under-constraint are rich sites for explanatory social analysis: just when were these novel interpretations effective at mobilizing legitimacy of an order of obligation without breaking it? When they were *not* successful, how did they fail–did they break the order outright and cause a crisis of legitimacy, or were they successfully denied, ignored, or otherwise dampened? In other words, for us, a key site of further discussion invited by *TIPN* might resemble a social history of the pragmatics of intellectual property speech and writing, and the development of a general explanation (if such is possible) of the conditions under which such speech is viewed as legitimate and binding, and when it is not.

So far, this discussion of ambiguity, rationalization, constraint and explanation is aimed at the substantive dimension of *TIPN*–what it is concretely seeking to explain. But it can also be phrased in terms of the book's method and structure as well. Ford places herself in the tradition of Mann-ian historical sociology, meaning that the evidence grounding *TIPN*'s narrative is generated by "reading widely and greedily, moving constantly between historical sources and theoretical ideas, struggling to synthesize and theorize the patterns that seem to appear" (Ford, 2021, 11). *What* a given historical episode means, or, perhaps more concretely, how a given primary or secondary source connects to the larger narrative, relies on "intuitions about meaning and historical patterns, tested through iterated processes of reading, discussion, rereading, and comparison" (Ford, 2021, 11).

This clarity about the research process is warmly welcomed, and yet, especially for a book of this spectacular scale and interdisciplinary ambition, we are not sure that appealing to an openly narrative structure and recovery of the pre-Platonic idea of *theoria* exhausts the standards of evaluation for *TIPN*. Indeed, the empirical scale and empirical richness of *TIPN* brings to mind Charles Tilly's remarkable apology in *Capital, Coercion, and European States*:

> On such a scale, I must deal with historical facts like a rock skipping water; spinning quickly from high point to high point without settling for more than

[8] See Levine (1988).

> an instant at a time. I do not know all the history one would need to write this book fully, and to supply all the documentation for the history I think I do know would burden the text immeasurably… Clearly, experts will have to scrutinize my rendering of European histories, and ponder whether its errors vitiate its arguments (Tilly, 1992, 35).

Taken as a whole, this discussion of TIPN's textual epistemology implies that the object of explanation–what is being investigated–and the narrative and method the book uses–how that investigation happens–are deeply intertwined. This is all the more complicated because TIPN's self-consciously interdisciplinary goals also imply audiences that may use very different standards to judge the book's success. Historians of the multitude of periods Ford covers might judge it by whether they reach the same interpretative conclusions having traversed the same archives and secondary literature (or, more properly, whether her interpretation is plausible in terms of their own). Scholars of state formation in general, meanwhile, may judge TIPN on the basis of its (suggested) counterfactual argument that without the Protestant Reformation, the course of intellectual property's role in state power would have been very different. Students of religion, too, might weigh the book on different standards; perhaps whether Ford's interpretation of religious motives is tenable. And finally, legal scholars may read the book in terms of contemporary legal institutions and case law. Of course, the fact that the book's argument is so complex and addresses so many audiences is not necessarily a problem; indeed, it is the sign of a work with the potential to become a classic in several fields. Yet it is rare indeed in TIPN to find some statement akin to Tilly's above. This leaves us wondering: on just what terms would Ford judge her own argument wrong? What evidence, on what scale, and in what form, would compel her to amend her account? In our view, the stakes of the answer are too high for us to leave that aspect of the text ambiguous.

Global Legal Power

One of the signal contributions of *TIPN* is how, in Ford's words, it centers the conversation on "people's capacity to impose obligations on themselves" (Ford, 2021, 62) through technologies like intellectual property law. In this section, we extend Ford's analysis in yet another direction: this time, probing both its specific application to the system of international law and its more general implications for global cooperation vis a vis intellectual property.

From one vantage point, the character of this extension is straightforward, and, indeed, something Ford takes on directly in *TIPN*. After all, just as Hobbes and Locke described the origins of the social contract, so too do scholars like Boyle and Meyer describe the international legal system as one where individuals sacrifice some of their own interests to "form institutions which benefit the collective" (Boyle and Meyer 1998, 213). Yet while Enlightenment social theorists were talking about individuals, the scale of the "actors" making the choice has expanded in scale to that of nation-states.

It is tempting to simply map the consensualist imagery Ford invites in her analysis onto the needs and motivations of nation-states. After all, "interdependence among states…has never been higher" (Raustiala, 2002, 2) and this increasing interdependence seems to beg for the set of "common rules and customs" that regulate international relations (Piccone, 2017). In these cases, the words binding nation states together are bi- and multi-lateral treaties and other agreements, which Ford treats as similar instruments of legal power to "mobilize, perform, and memorialize relationships of social power," as before, but now "on a global scale" (Ford, 2021, 376). Here the emphasis on *choice* is especially crucial, because as with cooperative agreements on any level, treaties require some sacrifice of state sovereignty. Why would a nation state opt in to a system that requires a concession of its own power? This question fits snugly into Ford's depiction of law as a binding force toward the constitution of a social community. In other words, while there is often some self-serving motivation spurring nation-states to sign onto treaties, there remains a larger sense of world-building toward shared prosocial goals like (for example) the protection of human rights, which simultaneously requires some level of self-constraint (Cole, 2005).[9]

As for the core subject matter of *TIPN*, though, we ask what it means to scale intellectual property concepts up to the lens of a "global" citizenship as opposed to one contained by a national frame. While an increasingly globalized world system brings about transnational organizations like the World Trade Organization (WTO) whose aims theoretically transcend the framework of the individual nation-state, we heartily agree with Ford's statement that "even under conditions of globalized industrial capitalism, nation-states remain fundamental" (Ford, 2021, 370). It is, after all, the nation state that enforces any standards set at the international level, including those made by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).[10] It is our view that the state is so consistently reinforced by intellectual property and international laws more generally that the zones of exclusivity surrounding national borders are both particularly thick and particularly threatening.

What might it look like for intellectual property to exist at this level in the generative and debatably optimistic view that Ford puts forth? Is it possible to achieve the more communal experience of "holy envy" that Ford describes (Ford, 2021, 398) without the ruthless competition that intellectual property simultaneously generates?[11] The stakes of this question seem to involve no less than the basis of solidarity of the global community.

It would be remiss to ignore that the global stage is one where the violent capacity of the nation-state is most on display through intellectual property wars real and

[9] It is also the case that Human Rights themselves–with a capital H and capital R as in the institution–are one example of the secularized formerly religious values that make up the foundation of Ford's argument about state building.

[10] TRIPS - the WTO agreement on intellectual property rights - exists to facilitate "trade in knowledge and creativity, in resolving trade disputes over IP, and in assuring WTO members the latitude to achieve their domestic policy objectives." Its emphases are on "innovation, technology transfer, and public welfare" (World Trade Organization, n.d.-b).

[11] As Ford quotes Stendahl: "In recognizing the beauty, wisdom, and goodness, we will perhaps experience…'holy envy': the experience of seeing something, in another cultural tradition, that we 'admire and wish mind find greater scope' in our own."

potential. Ford gives specific attention to inter-state contestation through the fascinating "smartphone wars" example of Chap. 12, in which nationalistic fears were palpable (see Ford, 2021, 372). In fact, the morality underscoring *TIPN* serves as a kind of corrective to what Ford highlights as a dangerous tendency in statements like the following:

> I worry that we are allowing our race for economic and political power to trump our commitments to basic humanistic concerns(…)the possibility for exercise of social power by nongovernmental entities, under the cover of property, are truly alarming (Ford, 2021, 399).

At the crux of *TIPN* is Ford's argument that public goods theory encourages innovation through the understanding that people can own what they create (Ford, 2021, 4). More specifically, the existence of intellectual property as a concept encourages individuals within a national zone of inclusion to generate ideas and technologies both for reasons of potential personal gain and–whether intentionally or as byproduct–for the sake of the nation. Given the type of competition encouraged by capitalistic societies, though, this also generates a potentially corrupting power: one that is even more dangerous if we adjust our scale to that of national intellectual property protected *by* one nation *from* another, as is often the case. Our agonistic framework draws attention to such times when intellectual property regimes might *not* work, and what happens when the obligations represented in intellectual property regimes are simply ignored, subject to corruption, or used against everyday understandings of the common good.

Consider Martin Shkreli, the infamous "Pharma Bro," who, in in 2015, became the face of a particularly heinous brand of corporate greed after his company obtained exclusive rights to a medication. Vyera Pharmaceuticals (formerly Turing Pharmaceuticals) raised the price of Daraprim - a lifesaving antiparasitic medication used to treat AIDS and other immune disorders - from $13.50 per pill to $750: an increase of more than 5,000%. Unfortunately, this is far from an isolated incident, representing a relatively common practice of price gouging by manufacturers guarding restricted access to a medical product (Lupkin, 2019). In this case, generic drug companies could not afford to access the quantities of Daraprim required to conduct FDA testing (Mangan, 2022): a purposeful hoarding of power for monetary gain against the interest of the public good.

Nearly the same story can be told at the global level, whether through the unequal distribution of ARVs and domination of the global market by Western nations (Chorev, 2016) or the distribution of covid vaccines and Paxlovid medication across core and periphery. Predictably wealth-based discrepancies in access to life-saving medication provide a further example of the kind of collateral damage wrought by the hoarding of power via intellectual property.

The case of Vyera Pharmaceuticals highlights yet another important delineation that must be made here, this time between for-profit companies whose actions may ripple outward as from the capitalistic context of the United States, and state actors whose economic systems do not fit neatly into the same category. We turn here to the example of China, which hosts not only the second-largest economy in the world

but also ranks fourth in overall expenditures for foreign IP acquisition (Lardy, 2018). While opinions are divided on whether reforms to correct its coercive IP practices as promised in a 2020 trade agreement are actually materializing (Swanson, 2022), recent pressures exerted by the US and other actors illuminate many of the problems that warrant addressing in this review.

Of particular interest is China's use of anti-suit injunctions (ASIs), or limitations on foreign IP litigation. According to Mark Cohen, former senior counsel to the U.S. Patent and Trademark Office's China team, whereas a prototypically limited ASI might dictate that a US court cannot adjudicate a Chinese patent, China has begun to issue what he calls "global ASIs," which impede decision-making around *global* rates for patented technology in a bid to lower prices for the foreign technologies used in Chinese products: a problem that Cohen labels "global in nature" (2022).

Calls for increased transparency in these specific cases as well as in national and transnational policies, enforcement mechanisms, and trade agreements are perhaps the only means to reach the end goal of productive working relationships regarding IP. This is just one example of the myriad ways in which transnational intellectual property agreements call attention to the back-and-forth of nationalistic protection on the one hand and global cooperation on the other. The Covid-19 pandemic serves as another microcosm of these tensions. Where, for example, a view of vaccine patents as public good ought to be encouraged, both the international production and distribution have been at once a site of transnational cooperation and nationalistic competition (Onnis, 2022): one of many dualities we find at the core of Ford's history of IP.

The good news is that regulations are either already in place or in progress to address exactly these global problems (as in ASIs) and inequities (as in vaccine distribution). In addition to the trade agreements under way to regulate international standards concerning IP, organizations like the Federal Trade Commission and the World Trade Organization exist to address the types of power-wielding that go against the spirit of communal good (while of course the issues remain complicated and the standards/distribution imperfect). For example, in December of 2022, the World Health Organization (WHO), World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO) held a Joint Technical Symposium specifically to discuss past, present, and future cooperation around global trade and intellectual property rules in relation to COVID-19 and future global health emergencies (WTO website).

As for Shkreli/Vyera Pharamaceuticals, in January of 2022, the Federal Trade Commission along with seven states won their case alleging that Vyera Pharmaceuticals had conducted "an elaborate anticompetitive scheme to preserve a monopoly" for Daraprim (Federal Trade Commission Press Release, 2021). The order requires Vyera to provide up to $40 million toward victim relief, and Shkreli received a lifetime ban from the pharmaceutical industry. This particular turn of events highlights our former questions surrounding the subject of intent in intellectual property laws. In this case, the Federal Trade Commission's simultaneous emphasis on competition and consumer protection (Federal Trade Commission Press Release, 2021) once again echo the duality of intellectual property writ large, and operate in support of Ford's hopeful outlook.

Through these examples, we see all the more clearly that a positive outlook for the future of intellectual property requires individuals and–at the global level–nation states to behave as good-faith actors. If we can continue toward a more globalist innovation in the way that Ford encourages, we will hopefully see more cooperation (e.g. nations working together to produce life-saving vaccines during the pandemic, mutual work toward climate change technologies, protection of data privacies), more "holy envy," and less-harmful competition among nations, which often favors the rich at the expense of the poor.

Conclusion

In our reading of Ford, *The Intellectual Property of Nations* is a tale of many dualities. In her tracing of the storied history of intellectual property, each of these conflicts is brought to the fore in a compelling account. Intellectual property itself is both generative and darkly competitive. The nation-state is at once "a source for human liberation" and of "terrible suffering" (Ford, 2021, 406). Techno-nationalism is both productive for consumers and simultaneously enhances the geopolitical power of a select few nation states (Ford, 2021, 375). And perhaps most importantly for the tale of the book, the boundary enforcement that intellectual property law begets is both inclusive and exclusive: a tension that has been at play since the advent of society. How those conflicts will play out between nation-states and transnational communities remains to be seen.

It is up to current and future scholars to address the ongoing questions the book raises. These questions are not "merely" historically interesting, but in a world where each is out for himself (or her nation) alone, should be regarded as treacherous and urgent. These include battles over Covid-19 vaccine patents, the exploding evolution of AI, individual ownership of personal data, the ongoing development of nuclear technology and threats, and medical interventions to name but a few. Ford's book and these developing property avenues shout the need for a continued sociology of intellectual property.

Finally, despite the pessimistic human rights scholar in one of us, Ford's optimistic rendering of property laws is primarily encouraging, as in the description of "a legal institution…that acts on people's hope for the future" (Ford, 2021, 55). Ideas like these generated by Ford through her careful and methodical history of IP plant a seed that the future of our transnational order could look similarly bright.

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