

Life or Profit?: Structural Violence, Moral Psychology and Pharmaceutical Politics¹

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ABSTRACT: This article explores the antagonism expressed by two different theoretical positions within medical anthropology towards the structural violence position: the culture as central approach and the post-structuralist approach. While medical anthropologists trained in cultural models of illness are disappointed by the lack of culture in the structural violence approach, medical anthropologists trained in post-structuralist models of illness take issue with what they perceive to be its moral and universalist claims. In order to explore these universalist claims, the author returns to the field of moral psychology and its understanding of universal morality by exploring the history of the *Heinz dilemma*. She then frames her own recent research on global pharmaceutical politics in Argentina and Mexico in the context of the *Heinz dilemma*, neo-liberal discourses of capitalism, and the theoretical positions available within medical anthropology.

KEYWORDS: Structural violence, post-structuralism, moral psychology, *Heinz dilemma*, neo-liberalism, global pharmaceutical politics, universal morality

Structural Violence and Its Critics

In the mid-1980s I took an M.A. at the Harvard Graduate School of Education and subsequently read for a Ph.D. in the Psychology Department at the University of California-Berkeley in order to study moral psychology. A sub-disciplinary speciality bordering the fields of education and psychology, moral psychology addresses the questions of why and how human beings make particular ethical decisions. I later left this field of study to become an anthropologist, in part because I found the universalist framing of problems within psychology disconcerting. I perceived that my interest in the interaction between politics and culture was better served by anthropology, particularly by those branches of anthropology that pursued a social justice agenda. While my generation of anthropology graduate students was one of the first to con-

sider George Marcus and Michael Fischer's (1986) challenge to the ethnographic project known as the 'crisis of representation', we were also grappling with challenges presented by early theorists of political economy. Anthropologists such as Eric Wolf (1982) and Sidney Mintz (1985) had called our attention to the historical processes of globalisation, encouraging the integration of perspectives of political economy into our descriptions of the world.

The critiques of anthropology that have led us to question our own representational practices have undoubtedly strengthened the field and made us into better scholars and thinkers, resulting in the proliferation of diverse post-structural approaches to analysing power (most notably, those inspired by the writings of Michel Foucault). Similarly, scholarship focusing on the ways in which the global political economy and neo-liberal restructuring have denied basic

human rights—now known as the “structural violence” approach—has also provided vital analyses and perspectives, particularly with regard to the right to health and medical care. In the 1990s, many scholars laboured between these two perspectives, illustrating how complex contexts demand a variety of perspectives to inform different aspects of the problem under investigation. In the field of medical anthropology, for instance, Nancy Scheper-Hughes’ *Death Without Weeping* (1992) and Paul Farmer’s *AIDS and Accusation* (1992) famously employed a diversity of theoretical perspectives, incorporating politico-economic and discursive approaches into the heart of their ethnographies on poverty and structural inequality. Each was written as a serious call to arms, not only for political action but also for an intellectual reconsideration of the culture project in the context of dire poverty.

Lately, however, a number of medical anthropologists have argued that the trend towards structural violence is both too extreme and too limiting. The editors of the current special issue, for instance, in their call for papers that address the antagonism between cultural and political approaches within medical anthropology, provide a cautionary note regarding the current direction of the field. Specifically, they have expressed concern that the structural violence position, by focusing on globalised ‘pathologies of power’ (see Farmer 2003), works to remove culture from the equation.

Thus, for many anthropologists, the reluctance of scholars of structural violence to engage with ‘culture’—or rather, the influence of culture on illness—is a wrongheaded direction for the future of the field.

Some of the antagonism between these two approaches can no doubt be located in what distinct authors consider to be ‘legitimate’ culture. It is noteworthy, for instance, that the structural violence position has received criticism from two very different theoretical directions: one that holds on to the culture concept as a valued way of understanding the cultural

specificity of human illness (in a way that has been characterized by some anthropologists as nostalgia if not objectification), and another that rejects the culture concept altogether in favour of a post-structuralist analysis that seeks to expose the workings of power in expert discourses as much as in techniques of governing (in a way that has been characterized by some anthropologists as unnecessarily self-indulgent). The theoretical premises governing each of these critiques were spawned within different generations of academic thought. While medical anthropologists trained in cultural models of illness are disappointed by the lack of culture in the structural violence approach (some of the papers in this special issue of *Anthropology in Action* could be roughly classified in this category), medical anthropologists trained in post-structuralist models of illness take issue with what they perceive to be its moral and universalist claims.

Leslie Butt’s criticism (2002) of the focus on social activism in medical anthropology stands as an example of the latter direction. Positioning her argument against a broad array of medical anthropologists and clinicians who have called for political intervention, among them Paul Farmer, Butt charges social justice scholars with using stories, photographs and illness narratives of the impoverished to draw moral authority and power to their position. Their use of ‘truncated’ voices, for instance, involves distancing themselves from the lives of actual sufferers; she notes that in one 582-page book of authors writing within this position, only three pages are devoted to verbatim quotations (Butt 2002: 6). For Butt, the universalising portraits of sufferer and saviour that surface in these texts are inextricably woven into the cloth of global capital. With a ‘suffering stranger’ as their protagonist, she argues, social justice scholars have created ‘a discursive construction that reduces global entanglements, and potentially rich human stories, to a moral model that allows for a sustained dependency between one group of people (i.e., those coded as needy) and another

group of people (i.e., those coded as expert)' (Butt, 2002: 17).

Butt implies a parallel between the work of social justice activists following Farmer and that of development experts (and perhaps anyone who engages in applied or clinical work). The charge to development and even humanitarian and environmentalist work has been notably criticized in such convincing writings as Escobar (1995), Malkki (1995), and Tsing (2005). Farmer's position as both anthropologist and physician, however, has made him distinctly reflexive regarding the medical establishment's role in the production of inequality. As an anthropologist, he knows what it means to participate in one's own research, and as a physician, he knows what it means to participate in the lives of the sufferers. As he writes in *Infections and Inequalities* (1999), his dual position as analyst and clinician compelled him to reconsider the kinds of interventions that were being proposed within the fields of public health and preventive medicine:

The people I'd been working with in Haiti, hungry and sick, were completely absent from consideration and so, of course, was their plight. For example, we heard and read of enormous resources poured into 'technological fixes', such as neo-natal intensive care units, that yielded, in the view of some, few discernible results. Critics of the status quo, including many public health activists, seemed content to call for less funding for these fixes and more for the intervention of their choice (which were usually 'low-tech' and grounded in preventive medicine)...

Although experiences in Haiti made me a fairly discerning consumer of the literature on medical futility, it slowly became clear that I'd been taken in by some of the pieties of development work. Talk of 'appropriate technology' and 'sustainability' had sounded good to me, at least initially. The problem was that these sounded silly, even sinister, to the landless peasants with whom I worked and to many of their staunchest advocates. Early in my stay in Do Kay, during a year of transformative experiences, I ran head-on into the fundamental disjuncture between 'expert views' on these matters (as promulgated, for example, in scholarly journals and in schools

of public health) and the views of those whose commitment was to more radical changes in the circumstances endured by the poor. (Farmer, 1999: 21)

That there is some apparent parallel here between development practitioners and activist medical practitioners such as Paul Farmer is certainly worth considering, as Farmer himself does here. Butt is no doubt discomfited by what she perceives as the universalising moral claims behind the interventionism associated with both realms of scholarship, yet in the case of the structural violence perspective, her criticism may be overstated. As social justice scholars asserted in a collective response to her critique (Irwin et al, 2002: 27), the 'universal moral claims' espoused in their writings are not the grand universals of modernist thought, but rather the 'quite minimal' fundamentals of a belief in a right to health care:

Professor Butt faults *Dying for Growth* for its ostensible effort to impose an oppressive 'universal morality.' In reality, the 'universal moral claims' upon which our discussion rests are quite minimal. Fundamentally, they amount to assuming (1) that people would prefer not to die of treatable diseases and (2) that they do not wish to see their children starve to death.

Thus the question becomes one regarding the very nature of what our interventions should be. Should they remain at the level of critique, as post-structuralists like Butt would have it, or should our interventions be focused on the foundations themselves? Where, in effect, do these divergent forms of interventionism fall on a grid of 'universal morality'?

This brings me back to the field of moral psychology that I left behind so many years ago, a discipline that also assumes the existence of a 'universal morality'. By examining the issues as they presented themselves in that field, I hope to shed light on the more current medical anthropological debate I have outlined above. I frame my arguments concerning both fields with reference to my own recent work on global pharmaceutical politics. While my research is

wholeheartedly sympathetic to those advocating a structural violence approach and designed to answer some of the questions posed by them, I also accept the challenge to critical self-awareness presented by Butt's query, acknowledging the dangers inherent in so-called 'practical action'. Additionally, I want to challenge the rather narrow definition of 'culture' espoused by scholars who lament the lack of culture in the structural violence literature. My ultimate goal, however, is to consider critically the hegemonic positioning of neo-liberalism, not that of the social justice/structural violence approach. This author and idealist wishes that Butt's claim regarding the desire to eliminate inequality was in reality as 'popular' as she believes: 'The cultural value of eliminating inequality, within putatively universal frameworks that define standards of well-being for all, is currently very popular' (2002: 12). In fact, the cultural value of eliminating inequality is not at all popular in the United States, especially in foreign policy circles and in the corporate world. Even if scholars engaged in these critiques choose to acknowledge this, they nevertheless eschew on-the-ground engagement with the "political" when it takes the form of practical action. My feeling is that for the most part we ought to let our colleagues do the kind of theorizing and practice they find compelling, even if it involves the necessarily reductive translation of our in-house conversations to the broader public. For in the end, the structural violence approach, whether or not it has dismissed the concept of culture or embraced a belief in universal morality, remains a comparatively benign force within the workings of the global new economy.

Moral Psychology and Its Historical Situatedness

While studying moral psychology in the mid-1980s, I became engaged with the work of the developmental psychologist Lawrence Kohl-

berg (1927–1987), creator of the *Heinz dilemma*, a method employed to categorize what he believed to be universal stages of developmental moral reasoning. Kohlberg's powerful tool claimed to enable researchers to categorize subjects (the world over) according to universal moral stages of development. His work was compelling in a number of ways and received a great deal of attention, both positive and negative. Scores of articles published from a variety of perspectives explore the moral development scholarship written by Kohlberg's colleagues, students and intellectual adversaries. For the purposes of this essay, however, I want to engage with the actual content of the *Heinz dilemma* itself, which evolved and reached its fame in the late 1960s period of progressive politics. Most significantly, I aim to illustrate that the moral design of Kohlberg's method, even if we were able to disregard the problems of its universalizing assumptions, is simply untenable within the global shift to neo-liberal ideologies that we have experienced over the past three decades.

Kohlberg's empiricist endeavour provides a rich example with which to think through some of the early assumptions made by moral psychologists regarding capitalism, liberal economic theory, the normative subject and the validity of the profit motive. The *Heinz dilemma's* original experimental design not only provides a window through which we can read social science research of the 1970s and 1980s, but also a possible entry point for understanding the ideological and discursive shifts that have taken place around the globe, shifts that have created a very different normative North American subject from the one that Kohlberg had imagined as the evaluator of the *Heinz dilemma*. Originally formulated in 1969, the *Heinz dilemma* tells the story of a man named Heinz whose wife is dying of a disease and requires a life-saving drug in order to survive. The *dilemma* reads as follows:

In Europe, a woman was near death from a special kind of cancer. There was one drug that the doctors thought might save her. It was a form of

radium that a druggist in the same town had recently discovered. The drug was expensive to make, but the druggist was charging ten times what the drug cost him to make. He paid \$200 for the radium and charged \$2,000 for a small dose of the drug. The sick woman's husband, Heinz, went to everyone he knew to borrow the money, but he could only get together \$1,000, which is half of what it cost. He told the druggist that his wife was dying and asked him to sell it cheaper or let him pay later. But the druggist said, 'No, I discovered the drug, and I am going to make money from it'. So Heinz got desperate and broke into the man's store to steal the drug for his wife. Should Heinz have done that? Why or why not? (Kohlberg, 1969: 379)

The original subjects tested in Kohlberg's psychological experiment were mostly English-speaking students in North American junior high and high schools who were coming of age in the 1960s. But because of the ambitious universalist claims set out by Kohlberg and his colleagues, the tool was quickly translated into several languages, and variations of the experiment were employed in diverse cross-cultural settings. Subjects were asked to think about what Heinz had done: specifically, they were asked to evaluate Heinz's decision as morally right or wrong. Those subjects who readily valued life over profit and were able to narrate their reasoning of that choice in their answer to a trained researcher were seen as exhibiting the highest level of moral reasoning. For Kohlberg, moral reasoning was something that developed according to what he called *pre-conventional*, *conventional*, and *post-conventional* stages; he posited that there was a hierarchical or even evolutionary aspect to these stages, with post-conventional Stage 6 being the highest level of moral reasoning. When certain populations subsequently revealed themselves to be unable to score at the highest level, Kohlberg's tool became the subject of a number of critiques, particularly for holding up its hierarchical schemata as universally valid.²

Yet given the radical transformation of North American youth and the attendant shifts in nor-

mative discourses regarding capitalism and its associated practices in the years since Kohlberg formulated his experiment, the *Heinz dilemma* can also be investigated as a product of its time. Kohlberg devised his experiment precisely during the heady counter-cultural years of the 1960s, which regularly circulated critiques of capitalist and corporate big-business practices. The prominence of such critiques is evidenced by the attention given to them in both the halls of academia and the mainstream media. In the early 1970s, for instance, political ecologist Hans Magnus Enzensberger (1974) offered a blistering critique of the hegemony of a certain kind of anti-capitalist sentiment, bemoaning its prevalence not only in academic arguments but also in the 'glossy magazines' of a mainstream press:

It is naturally splendid that anticapitalist sentiments are so widespread, that even glossy magazines cannot avoid them altogether. But it is quite another question how far an analysis deserves to be called Marxist, which a priori attributes every conceivable problem to capitalism, and what the political effect of this is. Its commonplace nature renders it harmless. Capitalism, so frequently denounced, becomes a kind of social ether, omnipresent and intangible, a quasi-natural cause of ruin and destruction, the exorcism of which can have a positively neutralizing effect.... (Enzensberger, 1974: 180-1)

If Enzensberger's characterisation of the early 1970s is correct, the North American adolescents participating in Kohlberg's experiment would have had ideological access to a set of critical discourses that enabled them to earn the much-heralded Stage 6. Kohlberg's universalist moral development theory must therefore be understood, in some primary sense, as a product of the radical capitalist critiques taking place in the North American context during the 1960s and 1970s.

Social historian Ronald Aronson's personal and intellectual account (1995) of the demise of Marxism offers further support for this claim. In his book *After Marxism*, he provides an

important reflection on the timeframe within which Kohlberg and his subjects were operating. (At one point in his narrative, Aronson even confesses that he was transformed by a class taken by the Marxist philosopher Jürgen Habermas; Habermas, it seems, was influenced by the writings of Lawrence Kohlberg.) Paralleling Enzensberger's assessment above, Aronson writes of the general popularity of Marxist thinking in the 1960s and 1970s, its slow disintegration in the 1980s and its final demise in the 1990s:

Marxism's great paradox was that although it was not spreading in the form in which it was originally conceived, it was widely believed, even by its antagonists in the 1960s and 1970s, to be the wave of the future. It seemed to achieve intellectual as well as political hegemony virtually everywhere outside of the advanced industrial societies, and briefly made political and theoretical inroads even there...

The promise of 1975 stayed alive well into the 1980s. Despite unmistakable signs of Marxism's growing irrelevance on the most fundamental theoretical and practical level—where the working classes of advanced industrial societies were concerned—significant projects calling themselves 'Marxist' were still being attempted, other socialist offensives were launched, capitalism continued in deep crisis, and the Marxist world remained a powerful counter to capitalism and continued to give inspiration and support to revolutionary movements. Today, all this has changed. Capitalism has won the Cold War, and Communism has done what seemed unimaginable, namely ceasing to exist. The shocking collapse of the Soviet Union was the final nail in the coffin of Marxism; the near-universal flight from Communism that followed was its funeral. (Aronson, 1995: 74–6)

If Kohlberg's popular experiment is enabled in some sense by the Marxist anti-capitalist sentiments described in Aronson's account, we are compelled to consider how far we have travelled from Kohlberg's basic assumptions regarding morality, choice, pharmaceutical patenting and the right to profit, all of which form the content of the proposed dilemma. Kohlberg

assumed not only that the highest moral stages of reasoning could be readily achieved, but also that there would be a kind of clarity to any subject's valuing of the right to life over the right to profit. But what happens to this assumption in the current context of neo-liberal hegemony, which vigorously defends the righteousness and naturalness of the profit motive?

It is no secret that the youth of today are coming of age at a time heralded by those on both sides of the political spectrum, together with mainstream media, as proof of capitalism's superiority. In such interpretations, events such as the fall of the Berlin Wall, the disintegration of the Soviet Union and the end of the Cold War are celebrated as enabling the victory of free market capitalism, as with prize-winning journalist Thomas Friedman's (1999) exploration of globalization in *The Lexus and the Olive Tree*. Friedman's celebratory perspective, shared by so many across the political spectrum, takes for granted the inherent 'goodness' of the neo-liberal project. My query is thus as follows: what has this taken-for-granted understanding of the neo-liberal global economy done to our understanding of the moral universe, or more particularly, to our understanding of intellectual patents, the 'right' to profit and the value of life? Do today's neo-liberal subjects have access to the critiques of capitalism that appear necessary for earning a high score in Kohlberg's experiment?

Neo-Liberal Discourses and Pharmaceutical Politics

One of the many important narratives to consider in the triumph of global free-market capitalism is the rise of Big Pharma, the global pharmaceutical industry. In his recent book, *The \$800 Million Pill: The Truth Behind the Cost of the New Drugs*, pharmacology writer Merrill Goozner (2004) criticises the path that the US-funded drug industry has taken since the end of World War II. He begins by noting the scien-

tists's credo that the founder of Merck Pharmaceuticals, George W. Merck, proclaimed in the aftermath of World War II: 'We try never to forget that medicine is for the people. It is not for the profits. The profits follow, and if we have remembered that, they have never failed to appear. The better we have remembered that, the larger they have been' (2004: 10). The rest of Goozner's book is a lamentation of how far the industry has veered away from Merck's original concept of people over profits, particularly as a result of the US-funded research establishment's decision to move patented medicines into the private sector. Yet despite the book's criticisms, Goozner nevertheless feels compelled to speak positively of the Big Pharma drive for high profits. Significantly, in terms of the current discussion, Goozner characterises the corporate desire to 'get rich' from patents for life-saving drugs as 'the American way':

Virtually the entire biotechnology industry is made up of firms begun when an individual investigator or group of investigators decided to try to get rich using patents they took out on their government-funded inventions. There's nothing wrong with that. Indeed, it's the American way.... (Goozner 2004: 9–10).

How can a book so critical of the pharmaceutical industry simultaneously embrace the American profit motive with a facile 'There's nothing wrong with that'? If the readership of Goozner's highly critical book believes in the sanctity of Big Pharma's right to profit, how might others, such as today's youth, evaluate Heinz's decision to steal a patented medication for his dying wife? Kohlberg based his study on the assumption that North American youth had the ability to be critical of both capitalism and the profit motive. Goozner's book, in contrast, assumes a readership that is altogether unable to proffer such a critique. In the remainder of this essay, I thus consider the discourses of the protagonists engaged in this contemporary version of the *Heinz dilemma*: namely, the profit-driven corporate 'druggist' who wishes

to protect his pharmaceutical patent and the desperate third-world government seeking a life-saving drug for its citizens. The *Heinz dilemma*, while perfectly matched with the ethos of its time, is also oddly relevant to the broader project on which I am currently working—a study of access to HIV/AIDS pharmaceutical drugs in the context of the neo-liberal economic policies of Mexico and Argentina.

The research project uses the disciplinary strengths of medical anthropology and tools of political economy to compare Mexico and Argentina in the field of pharmaceutical health care, specifically in the public policy provisioning of HIV/AIDS anti-retroviral drugs to infected local populations. Governments of developing countries that support inclusive health care policies are caught between the demands of international intellectual property (IP) law, the strength of global and national pharmaceutical lobbies and the growing demands of well-organized AIDS activists employing powerful internationally-inspired and morally driven human rights discourses. Through the collection and analysis of comparative economic and ethnographic evidence, the broader ethnographic project seeks to evaluate the relative strengths of each of these potentially conflicting political forces as they materialise within two large metropolitan areas, Greater Buenos Aires and Mexico City. Specifically, my project seeks to compare how Argentina and Mexico, both members of the World Trade Organization (WTO) with rules established by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), meet the public health care needs of HIV/AIDS patients, who are themselves represented by politically demanding civil society organizations.

I thus understand neo-liberalism not as 'culture' or even 'structure'³ but as a forum and a logic within which specific techniques of governance are employed. Petryna and Kleinman (2006) identify this logic as the 'pharmaceutical nexus', pointing out how global capitalism, bioethics and practices of individuals and in-

stitutions have not only come to define our sense of health and illness, but may also determine our access to life-saving medicines. It is within this pharmaceutical nexus that the *Heinz dilemma* has taken on a strangely new allegorical characteristic, particularly as it has provoked Latin-American countries to find the loopholes in current internationally regulated patent laws of the TRIPS Agreement of the World Trade Organization. In this version of neo-liberal governance, Heinz is no longer an individual citizen seeking to secure his wife's survival, but rather a developing country government (or health minister) attempting to provide life-saving or life-extending drugs to its citizens. Theft is not the dilemma at issue, but rather the interpretation and occasional subversion of international agreements either through permitted international loopholes or national-level legislation. The greedy druggist of the *Heinz dilemma* surfaces here not as the enterprising individual protecting his patent and his alleged right to profit, but as the Big Pharma trans-national corporations who negotiate with the US government and other regulatory bodies to ensure a highly protected, long-term, and often monopolistic stream of profit.

The Heinz Dilemma Writ Large in Argentina and Mexico

If governments in the global South could assume the subject position in Kohlberg's original *Heinz dilemma*, the answer they should provide in order to attain stage 6 status would be simply 'steal the drug', or more relevantly, the patent. Yet such governments are constrained from doing just that by our modern neo-liberal framework. Because the sanctions for non-compliance with international rules and regulations are frighteningly strict, governments wishing to circumvent pharmaceutical regulations must find more creative ways in which to deal with intellectual patent laws and the neo-liberal ethos that dominates current international trade relations. In this section, I attempt

to provide the reader with a sense of the neo-liberal forum by offering a few examples of the ways in which neo-liberal discourses emerge in the discussion of pharmaceutical patents with US embassy officials in Argentina and Mexico. These discourses are not particularly shocking, nor are they necessarily new, but they are illustrative of how pharmaceutical patents are perceived in the context of neo-liberal governance by US officials representing American commercial interests.

Intellectual property laws for pharmaceutical drugs set out by the TRIPS Agreement of the World Trade Organization (WTO) are currently the subject of widespread debate in the fields of law, economics and international relations. On the one hand, the World Health Organization (WHO) encourages countries to seek compulsory licensing of pharmaceuticals (Lippert, 2001), a strategy which essentially forces the drug company that owns the patent to license its original patent to a local company for a fee. But the December 2000 General Agreement on Tariffs and Trade (GATT) included new rules for TRIPS, stating that in the future, new drugs were to enjoy 20 years of protection (Anon., 2001). Thus, developing countries which cannot afford the spending on infrastructure necessary for new drug development—but which have the technical capacity to reproduce or copy pharmaceutical products—have taken issue with these laws and have found support for their resistance in specific passages that they find interpretable within the TRIPS Agreement.

In the context of Latin America, Argentina is recognized by international patent regulators to be an egregious violator of intellectual property laws. Its federal courts have historically interpreted pharmaceutical patents as belonging to the public domain (Czub, 2001), thus protecting and supporting a home-grown pharmaceutical industry that specializes in generic drug production. Currently, the Argentine government relies on its national pharmaceutical industry to provide the majority of antiretroviral (ARV) drugs to public hospitals and to the

various public social security programs (Katz and Muñoz, 1988). Argentina presents a more complicated intellectual property picture than merely that of a developing country attempting to reduce the cost of medicines at home by supporting its own national industry. The Argentine government has not only been questioned about its breach of patent laws, but has also been accused by other developing nations of overprotection of its national pharmaceutical industry.⁴ It is precisely the Argentine government's protectionist stance towards its own home-grown industry, however, that concerns the global pharmaceutical industry. An article written by a representative of the Pharmaceutical Research and Manufacturers of America (PhRMA) is typical of the industry's anti-Argentina sentiment:

Argentina has the worst industrial property regime in our hemisphere. It intentionally permits the local industry to copy our products immediately without having to expend the resources to develop and market these products. Thus, it rewards copying and discourages innovation. To make matters worse, there are proposals to dilute the meager level of protection currently provided including proposals to extend the starting date for patent protection for pharmaceutical products, to require domestic use of patented inventions, and to expand the extensive compulsory licensing provisions. Finally, officials appointed at the end of the last Administration responsible for the National Institute of Industrial Property refuse to execute the TRIPS Agreement and Argentina law in an effort to protect those who copy our products. (PhRMA 2003)

As the above quotation illustrates, the pharmaceutical industry views non-compliance with intellectual property law as harming transnational corporations that invest in research and development. In fact, their public declarations sound eerily like Kohlberg's narration of the *Heinz dilemma*, where the druggist intones, 'No, I discovered the drug and I am going to make money from it'.

In 2001, an article in *The Economist* explained the controversy of GATT's new rules for trade-

related intellectual property (TRIP). This is not the first or the last article on the GATT agreement or TRIPS, but it reflects a large body of literature that consistently paints a picture of developing countries as unwilling partners—'artful dodgers' to use a Dickensian phrase—in a divided world in which patent-holding developed countries are represented as holding the moral high ground:

Under the GATT agreement, which was pushed by big multinational drug firms, a drug's inventors will have sole control over who is allowed to produce it during its first 20 years. However, while some argue that patents are essential to reward innovation, the opponents of TRIPs tell another story. Patent holders often come from rich nations, while *patent dodgers tend to be firms in poorer countries*. Moreover, if drug firms gain monopoly rights through patents, drug prices probably will rise and local firms might atrophy as new, patented drugs replace the drugs prescribed today. (*Anon.*, 2001: 72–3, my emphases)

The article's use of the term *patent dodgers* for firms located in poorer countries is significant. The epithet, which surfaces frequently in such discussions, is part of a larger repertoire of neo-liberal discourses that construct government, institutions and businesses in these countries as corruption-laden law-breakers who are ultimately the creators of their own destruction. The term surfaced frequently in my interviews with US embassy officials in Mexico and Argentina, who wrongly assumed that I shared their understanding of the need to protect intellectual property as well as their belief in the inherent corruption of these countries. Because of my status as an American, they anticipated that I would blame third-world governments, not neo-liberal policies, for increasing levels of economic distress and inequality.

In the same year that *The Economist* article labelled patent-challenging poor countries as 'patent dodgers', the Argentine economy went through the biggest financial crisis in its history and defaulted on US\$88 billion in debt, the largest sovereign debt default in history. Argentina's

economic troubles were viewed through the lens of the neo-liberal free market as an outcome of corruption, Latin-style spending and a profligate government that spent too much in the public sector. Joseph Stiglitz, however, a voice of reason with credible economic and Nobel Laureate credentials, has reminded us that Argentina was indeed a poster-child of neo-liberalism and had followed all of the doctrine's rules. In contrast to the article in *The Economist*, Stiglitz (2002) blamed Argentina's problems on global financial structures, outlining the ways in which Argentina was unable to shield itself from the waves of crises occurring in Asia and Russia.

In the midst of the economic crisis, Argentina passed one small law that was critical to the Argentine national pharmaceutical industry: the Generics Law of 2001. This law required doctors to write prescriptions that indicated the generic name of a pharmaceutical product rather than its better-known commercial brand name—the baptismal name conferred on a product by either the US Food and Drug Administration or the equivalent European administrative agency⁵ when it leaves the confines of the transnational laboratory. According to one executive at a national pharmaceutical industry in Argentina, this law 'allowed us to be where we are today, with at least a share of the market'.

An executive at a second pharmaceutical company that produces, among other products, anti-retroviral drugs used in the treatment of HIV/AIDS suggested that the Generics Law of 2001 allowed the Argentine government to address certain inequalities in the health sector by providing incentives for increased national-level price competition. For those drugs that have available a number of generic equivalents on the market, this law removes the brand-name advantage of the multinational laboratories. It also potentially severs the longstanding relationship that doctors have had with the larger multinational pharmaceutical companies. With the Argentine Generics Law, it is the pharmacist who is now in charge of offering product selection to a buyer with a prescription. This

revised scenario and shift of marketing power away from medical doctors and towards pharmacists and vendors has created not only expanded market access for national producers, but also a series of confusions for the consumer who cannot distinguish between apparently similar products. At the US embassy in Argentina, however, a representative of the US government whose area of expertise was intellectual property was more sceptical of the Generics Law of 2001. He was critical of the fact that Argentines were proud of their national pharmaceutical industry and critical of what he alleged were the corrupt practices of this industry in terms of launching generic products before the patent had expired. He explained to me that the US embassy considered it important to 'advocate for American business' and that it was imperative that 'multinational corporations maintain their comparative advantage'.⁶

The context of Mexico's relationship to intellectual patent regimes is quite different from that of Argentina, but the official US embassy discourse on this matter is strikingly similar to that of the Argentine embassy official. Mexico, in contrast to Argentina, is quickly becoming known for being seriously restricted by the North American Free Trade Agreement (NAFTA) in its health care and pharmaceutical policies, despite having negotiated some favourable pricing agreements with the large pharmaceutical manufacturers. Anti-retroviral medicines constitute the largest proportion of costs for HIV/AIDS patients. While Mexico has explored a number of responses for facing the high costs of treating HIV/AIDS, it has dealt with the problem primarily through individual negotiation with the large companies. So while Mexico's pharmaceutical sales are the highest for Latin America, Mexico is viewed as having far less success in cost reduction of still-patented products or those nearing the expiry of the patent, as opposed to countries such as Brazil, India and Argentina, all of whom have supported the development of a nationally-based generic ARV production industry.

The Mexican government has similarly taken a number of steps to boost its own pharmaceutical industry, though it has attended to a very different set of legal, socio-cultural and economic constraints. Unlike Argentina, Mexican pharmaceutical companies producing generic medicines have not entered into the production of HIV/AIDS anti-retrovirals to any great extent, depending instead on negotiations with global pharmaceutical companies. The health care system in Mexico is highly stratified, both by type of insurance and patient location, with Mexico City and its vicinity providing the majority of HIV/AIDS treatment services in the country. Despite the many differences between the pharmaceutical scenario in Mexico and Argentina, however, US embassy officials in Mexico characterized pharmaceutical patent policy in terms comparable to the way they described them for Argentina. A US commerce consul in Mexico City, for instance, explained to me unabashedly in the first five minutes of our interview that 'Big Pharma interests are our interests'. Since I was permitted to tape-record this interview (which was frequently not the case), I have hours of uninterrupted neo-liberal clichés such as those that surface in the following quotation:

We are looking out for the interests of the United States government and the United States as a whole. So we spend a lot of time advocating for US industries. If we're finding that US industries in whatever sector are getting a raw deal, need some help or need some introductions, we spend a lot of time doing that kind of stuff. Clearly in this globalized world we live in, pharmaceutical and intellectual property rights generally are a huge comparative advantage for the United States. We don't make a lot of widgets anymore, but we do make a lot of intellectual property. [...] A day doesn't go by that I don't get some sort of notice about IPR (Intellectual Property Rights) training for foreign officials.⁷ (Interview, US Department of Commerce Official in Mexico City, 15 March 2006)

The US official further complained that while intellectual property laws are upheld by Mexi-

can law, the problem lies in compliance. That is, the Mexican government and business community—characterized here again as corrupt—refuse to comply with their own written laws. He specifically complained about pharmaceuticals, arguing that bureaucratic leaks in Mexican government institutions make it possible for national companies to gain access to patented information and then use that information to speed up their own attempts to make cheaper copies or generic products. The fact that this protected information is unlawfully shared between government entities and national companies, enabling these companies to release generic versions of a drug on the very day that a patent from a multinational US-based company is about to expire, is distressing and ought to be punished, he insisted. In short, the US embassy officials that I interviewed in Mexico had clearly received firm orders from above to protect US-based pharmaceutical interests and to ally themselves with US business interests. Indeed, the same official made a point of telling me that a former Mexican ambassador to the United States now headed a lobbying firm that represents Big Pharma interests in Mexico.

While the collaboration between the US government and transnational pharmaceutical companies has been organized on the pretext of US economic and security interests, together with the notion of comparative advantage, the official rhetoric of Argentine and Mexican government officials in both of these settings asserts the right of the nation-state to address the health care needs of its citizens. In this model, pharmaceutical pricing should be driven to a level that supports national industry but avoids bankrupting the national budget. At the heart of the Argentine and Mexico projects is a realisation that international intellectual property law does not take into serious consideration the public health of the citizens of the global South, barring the provision of exceptions to international regulations through compulsory licencing or parallel importing of pharmaceuticals in the case of a public health crisis. Beyond such ex-

ceptions, these countries are simply expected to wait for a patent to expire and in the meantime to pay the prices demanded by patent-holding pharmaceutical corporations.

These reflections on the pharmaceutical nexus of HIV/AIDS drugs in the context of neo-liberal politics in Argentina and Mexico bring me back once again to the *Heinz dilemma*, which positions capitalist pharmaceutical pricing as a moral dilemma for subjects of a developmental psychology experiment. The *Heinz dilemma* is a test that is far removed from the realities of global regulations, neo-liberal capitalism, public and private collaborations, nationalisms and the crises of public health that are so seriously affected by long-term patent protections. The claim made by the druggist at the heart of the *Heinz dilemma*—that since he discovered the drug he is entitled to make a profit from it—is all too similar to Big Pharma’s constant refrain that prices need to be kept high because of the costs involved in research and development.⁸ The fact that Big Pharma interests are now part of standard US foreign policy interests forces us to consider the discursive shift that may have taken place in the public’s perception of pharmaceutical ethics since Kohlberg’s time. Like the desperate Heinz who broke the law in order to steal a life-saving drug for his wife, many governments have now chosen to take decisive action in order to provision adequate health care to their population without bankrupting the country.

Barring the specifics of what is occurring inside the bureaucracies and government institutions in Argentina and Mexico, I am also concerned with the far-reaching discursive shifts that seem to have taken place in the North American psyche. If Kohlberg were designing his moral psychology experiment today, could he rely on the potential of today’s youth to choose life over profit? Is the basic premise of Kohlberg’s design so complicated by contemporary discourses around the capitalist right to profit, scientific discovery, entrepreneurial rights and IP protection, that such a design

could no longer be conceivable? I assert here that the reigning hegemony of the entrepreneurial right to profit has grown so strong over the last three decades that Kohlberg’s North-American subjects would be hard-pressed, if not altogether unable, to achieve a high morality score. At the very least, we can safely say that our own contemporary US embassy officials are not functioning in the same moral universe as those of Kohlberg and his contemporaries.

Conclusions: Culture, Politics and Universal Morality

At the start of this essay, I considered the antagonism expressed by two different theoretical positions within medical anthropology towards the structural violence position, namely, the culture as central approach and the post-structuralist approach. I noted that whilst these two critiques are distinct in fundamental ways, scholars from both camps are wary of the political emphasis associated with that body of work. To the culture-as-central authors, ‘political’ means dismissing questions of culture in favour of political economy; for the post-structuralists, ‘political’ means engaging in representational practices and practical action with a moral purpose, the outcomes of which are unknown and therefore require caution.

Kohlberg’s *Heinz dilemma*, I subsequently argued, could only have been formulated in the period that marked the end of the 1960s. During this period, leftist critiques of capitalism and big business practices were widespread and culturally available, and thus easily accessed by the adolescent subjects of Kohlberg’s experiment. The Marxist orientation within academia that was prominent at the time enhanced these critiques, making the ‘moral’ solution to the *Heinz dilemma* even more available to its intended student subjects. I further implied that the *Heinz dilemma*’s ranking of universal moral stages of development, based on a subject’s choice of the value of life over the value of

profit, parallels the 'quite minimal' universal moral claims made by social justice scholars. The structural violence position, as stated by its defenders, assumes that people would prefer not to die of treatable diseases nor see their children starve to death. Both the *Heinz dilemma* and the structural violence authors thus privilege, in a universal manner, the value of life over the value of profit.

In stark contrast, current neo-liberal discourses, as illustrated in this essay by the voices of varied US embassy officials, openly celebrate the free market, defending intellectual property regulation and the right to profit in increasingly robust ways. In the final section of this essay, I examined the neo-liberal discourses of US embassy officials in Argentina and Mexico, noting the ways in which these officials represent the positioning of US interests in the region together with the corruption that they perceive to be inherent to these countries. The officials of my study are clear in their projections of the alignment between US government and Big Pharma interests, particularly within the domain of international regulations on Intellectual Property. The neo-liberal discourses of US embassy officials abroad thus make it clear that the cultural value of eliminating inequality is not at the forefront of their concerns. In fact, the free market appears to lack any kind of position regarding the right to life versus the right to profit.

My essay thus attempts to challenge those anthropologists who critique the structural violence approach, whether from the standpoint of culture or the standpoint of post-structuralism. For those critics who are disappointed by the way in which social justice scholars neglect culture, I suggest that we expand our very definition of the term 'culture' so as to account for the kinds of neo-liberal interventions discussed in this essay. And to post-structuralist critics who question a theory based on a belief in universal morality, I would encourage us to aim our criticisms in the direction of protagonists far more powerful than our fellow academics,

among them those subjects who remain unreflective regarding their preference for profit over life.

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Notes

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2. John Snarey's review article (1985) assesses a series of empirical assumptions underlying Kohlberg's claim for the cross-cultural universality of his moral development stage theory. While Snarey found support for some of Kohlberg's universalist claims, he also found that there were strong biases in the method favouring complex urban societies and middle-class populations; subjects from traditional folk societies, he noted, never score at the post-conventional Stage 5.
3. See Ong (2006) for her illuminating discussion of neo-liberalism.
4. For example, in 2001 India asked for a special hearing with Argentina at the WTO in order to investigate what the Indian government considered to be discriminatory measures; see Palmedo (2001).
5. EMEA—the European Agency for the Evaluation of Medicinal Products—is the name of the European agency.
6. I was not allowed to tape-record this conversation, but I was able to take copious notes and to compare them with those of my field assistant, Morgen Warner, who accompanied me.

7. The Security and Prosperity Partnership (SPP) mentioned by this official was first born at a 2005 meeting in Waco, Texas, attend by the heads of state Paul Martin of Canada, Vicente Fox of Mexico and George Bush of the United States. The goal of the meeting was to advance various initiatives for regional cooperation towards a safer, and more prosperous North America. As part of this new partnership, professionals from both the private and public sector are invited to attend meetings designed to 'ensure the competitiveness of the North American nations in the global marketplace'. These meetings provide a forum in which US collaborators can reinforce more stringent regionally oriented neo-liberal regulations surrounding Intellectual Property Rights—regulations that are, in the long run, extremely damaging to countries that hope to support their own (sometimes fledgling) national industries.
8. Goozner's (2004) book does a great job of deconstructing this hegemonic myth, propagated by Big Pharma pharmaceutical companies.

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Interviews

1. Taped Interview. US Commerce Department, Mexico City, Mexico, 15 March, 2006.
2. Interview. US Embassy, Buenos Aires, Argentina, 6 July, 2006.