### Overview

#### Interpretation – The negative must concede the affirmative framework or contention level offense.

#### It’s preemptive, you violate by reading turns or defense to my offense and reading an alternative framework.

#### Prefer –

1. Strat skew – A) It’s impossible for the 1AR to win both layers of framing and offense when you can frame me out and read a bunch of turns to the aff making the round impossible in 4min – especially since the 2n can collapse on either the framework or the contention for 6 minutes B) Neg reactivity advantage, aff disclosure, and 1n time allocation means they can craft a perfect 1nc – conceding one layer of substance solves since it gives me weighing recourse and strategic 1ar maneuvers without having to brute force both.

### ROB

#### The role of the ballot is to endorse the debater who proves the truth or falsity of the resolution –

#### A] Text – five dictionaries define negate as to deny the truth of[[1]](#footnote-1). Text first – Text comes first – a) Key to jurisdiction since the judge can only endorse what is within their burden b) Even if another role of the ballot is better for debate, that is not a reason it ought to be the role of the ballot, just a reason we ought to discuss it.

#### B] Inclusion: a) other ROBs open the door for personal lives of debaters to factor into decisions and compare who is more oppressed which causes violence in a space where some people go to escape. b) Anything can function under truth testing insofar as it proves the resolution either true or false. Specific role of the ballots exclude all offense besides those that follow from their framework which shuts out people without the technical skill or resources to prep for it

### Framework

#### I value morality. The Meta-Ethic is Non-Naturalism.

#### [1] The naturalistic fallacy – examples of goodness fail to define the ultimate good. Moore 03,

[Moore, G. E. “Principia Ethica” <http://fair-use.org/g-e-moore/principia-ethica/>. Published 1903] SHS ZS

Good, then, if we mean by it that quality which we assert to belong to a thing, when we say that the thing is **good**, **is incapable of any definition**, in the most important sense of that word. The most important sense of definition is that in which a definition states what are the parts which invariably compose a certain whole; and in this sense **good has no definition because it** is simple and **has no parts**. **It is** one of those innumerable objects of thought which are themselves **incapable of definition**, because they are the ultimate terms of reference to which whatever is capable of definition must be defined. That there must be an indefinite number of such terms is obvious, on reflection; since we cannot define anything except by an analysis, which, when carried as far as it will go, refers us to something, which is simply different from anything else, and which by that ultimate difference explains the peculiarity of the whole which we are defining: for every whole contains some parts which are common to other wholes also. There is, therefore, no intrinsic difficulty in the contention that **good denotes a simple and indefinable quality**. There are many other instances of such qualities. **Consider yellow**, for example. **We may** try to **define it**, **by** describing its physical equivalent; we may state what kind of **light-vibrations** must stimulate the normal eye, in order that we may perceive it. **But** a moment’s reflection is sufficient to shew that those light-vibrations are not themselves what we mean by yellow. **They are not what we perceive**. Indeed, we should never have been able to discover their existence, unless we had first been struck by the patent difference of quality between the different colours. The most we can be entitled to say of those vibrations is that they are what corresponds in space to the yellow which we actually perceive. Yet **a mistake of this** simple **kind has** commonly **been made about good**. **It may be true that all things which are good are also something else**, just as it is true that all things which are yellow produce a certain kind of vibration in the light. And it is a fact, that Ethics aims at discovering what are those other properties belonging to all things which are good. **But** far **too many philosophers have thought that when they named those other properties they were actually defining good**; that these properties, in fact, were simply not other, but absolutely and entirely the same with goodness. This view I propose to call the naturalistic fallacy and of it I shall now endeavour to dispose.

#### [2] Only a priori knowledge is epistemically reliable**. Descartes 41**,

René, 1641. Discourse On Method ; and, Meditations on First Philosophy, NPR

Yet from everything I have just listed, how do I know that there is not something else which does not allow even the slightest occasion for doubt**?** Is there not a God, or whatever I may call him, who puts into me the thoughts I am now having? But why do I think this, since I myself may perhaps be the author of these thoughts**?** In that case am not I, at least, something? But I have just said that I have no senses and no body. This is the sticking point: what follows from this? Am I not so bound up with a body and with senses that I cannot exist without them? But I have convinced myself that there is absolutely nothing in the world, no sky, no earth, no minds, no bodies. Does it now follow that I too do not exist? No: if I convinced myself of something then I certainly existed. But there is a deceiver of supreme power and cunning who is deliberately and constantly deceiving me**.** In that case I too undoubtedly exist**,** if he is deceiving me; and let him deceive me as much as he can, he will never bring it about that I am nothing so long as I think that I am something**. So** after considering everything very thoroughly**,** I must finally conclude that this proposition, I am, I exist, is necessarily true whenever it is put forward by me or conceived in my mind. ButI do not yet have a sufficient understanding of what this ‘I’ is, that now necessarily exists. So I must be on my guard against carelessly taking something else to be this ‘I’, and so making a mistake in the very item of knowledge that I maintain is the most certain and evident of all. I will therefore go back and meditate on what I originally believed myself to be, before I embarked on this present train of thought. I will then subtract anything capable of being weakened, even minimally, by the arguments now introduced, so that what is left at the end may be exactly and only what is certain and unshakeable.

#### There are three ways to categorize the substance of these non-natural properties: Internally, Externally, or from our Constitutive nature as beings. Internalism and Externalism fail – only constitutivism can be solve their deficiencies. Kastafanas 14, Kastafanas, Paul. "Constitutivism About Practical Reasons". *Philarchive.Org*, 2014, <https://philarchive.org/archive/KATCAP>. // Scopa Consider a perfectly homely normative claim, such as “you have to go to the movies.” If we ask what would render this claim true, the answer seems clear: a fact about the agent’s motives. If the claim is true for Allen but false for Betty, this is due to the fact that Allen desires to see the film and Betty does not. It is natural to think that in just this way, reasons will be tied to facts about agent’s motives. But what about claims such as “you have reason not to murder”? That claim seems different. It purports to be universal, applying to all agents. Moreover, it does not seem to depend on the agent’s motives. Suppose Allen has many motives in favor of murdering his uncle (getting revenge for past slights, collecting an inheritance, etc.), and no motives that count against it (he’s a sociopath with no compunction about harming others, and he thinks he’s clever enough to contrive a plan that leaves him with no risk of getting caught). In this simplified case, all of Allen’s motives count in favor of murdering his uncle; none count against it. Nonetheless, most of us want to say that he has reason not to murder. So we face contrary pressures: in certain cases, the claim that reasons are grounded in motives looks exceedingly plausible, indeed obvious; in others, the same claim looks like it generates unacceptable consequences. And so we get a familiar, well-worn philosophical debate: internalists defend the claim that all normative claims are generated in facts about the agent’s motives, whereas externalists deny this. More precisely: (Internalism) Agent A has reason to φ iff A has, or would have after procedurally rational deliberation, a desire or aim whose fulfillment would be promoted by φ-ing. (Externalism) It can be true both that (i) agent A has reason to φ, and (ii) A does not have, and would not have after procedurally rational deliberation, a desire or aim whose fulfillment would be promoted by φ-ing. Each of these theories faces certain difficulties. Internalism has trouble with apparently universal normative claims, such as “you should not murder.” Externalism is tailor-made to capture universal normative claims. Nonetheless, it faces several challenges, including the much-discussed problems of practicality and queerness. First, consider practicality. Moral claims are supposed to be capable of moving us. Recognizing that φ-ing is wrong is supposed to be capable of motivating the agent not to φ. But we might wonder how a claim that bears no relation to any of our motives could have this motivational grip. As Bernard Williams puts it, “the whole point of external reasons statements is that they can be true independently of an agent’s motivations. But nothing can explain an agent’s (intentional) actions except something that motivates him so to act” (1981, 107). William’s suggestion is that if the fact that murder is wrong is to exert a motivational influence upon the person’s action, then the agent must have some motive that is suitably connected to not murdering. And this pushes us back in the direction of internalism. Second, consider Mackie’s argument from queerness. Motives are familiar things, so it seems easy enough to imagine that claims about reasons are claims about relations between actions and motives. Internalism therefore has little difficulty with Mackie’s argument. But what would the relata in an external reasons statement be? Are we to imagine that a claim about reasons is a claim about a relation between an action and some independently existing value? This would be odd: as Mackie puts it, “if there were objective values then they would be entities or relations of a very strange sort, utterly different than anything else in the universe” (1977, 38). For if such values existed, then it would be possible for a certain state of affairs to have “a demand for such-and-such an action somehow built into it” (1977, 40). And this, Mackie concludes, would be a decidedly queer property. In sum: both externalism and internalism have attractive features, yet incur substantial costs. Traditional internalism grounds normative claims in familiar features of our psychologies, yet for that very reason has trouble generating universal normative claims. Externalism generates universal normative claims with ease, yet encounters the problems of practicality and queerness. So we have a pair of unappealing options, and the debate continues. Constitutivism attempts to resolve this dilemma. To put it in an old-fashioned way, constitutivism sublates internalism and externalism, seeing each position as containing a grain of truth, but also as partial and one-sided. The constitutivist agrees with the internalist that the truth of a normative claim depends on the agent’s aims, in the sense that the agent must possess a certain aim in order for the normative claim to be true. However, the constitutivist traces the authority of norms to an aim that has a special status—an aim that is constitutive of being an agent. This constitutive aim is not optional; if you lack the aim, you are not an agent at all. So, while the constitutivist agrees with the internalist that reasons derive from the agent’s aims, the constitutivist holds that there is at least one aim that is intrinsic to being an agent. Accordingly, the constitutivist gets one of the conclusions that the externalist wanted: there are universal reasons for acting.13 Put differently, there are reasons for action that arise merely from the fact that one is an agent. Specifically, these are the reasons grounded in the constitutive aim. So constitutivism can be viewed as an attempt to resolve the dispute between externalists and internalists about practical reason, by showing that there are reasons that arise from non-optional aims.14 In so doing, it generates universal reasons while sidestepping the problems of practicality and queerness.

#### That requires practical reason as the basis for ethics:

#### [1] Regress – Ethical theories must have a basis. We can always ask why we should follow the basis of a theory, so they aren’t morally binding because they don’t have a starting point. Practical reason solves – When we ask why we should follow reason, we demand a reason, which concedes to the authority of reason itself, so it’s the only thing we can follow

#### [2] Inescapability – Every agent intrinsically values practical reason when they go about setting and pursuing an end under a moral theory, as it presupposes that the end they are committing is an intrinsic good. That necessitates practical reason as a necessary means to follow through on any given end.

#### That justifies a universal moral law –

#### 1. Absent universal ethics morality becomes arbitrary since it can be meaninglessly applied in different ways without reason. Non-arbitrariness is a side constraint – only non-arbitrary principles can hold agent culpable for their actions since otherwise we could make up ethical rules for different situations to punish people.

#### 2. A priori principles like reason apply to everyone since they are independent of human experience. That means to allow one to violate a rule without another would be a contradiction. Contradictions are a side constraint – it’s an inescapable condition that undermines all arguments since something can’t be both true and false simultaneously

#### 3. Every agent is equally morally relevant, which requires equal treatment and equal standards for ethics.

#### Therefore, In order to respect each agent as a practical reasoner, we require a universal set of moral laws for what counts as a violation of the principles of rational reflection. That’s the categorical imperative – it has 4 formulations. Pecorino 02, pecorino, philip. "Categorical Imperative". *Qcc.Cuny.Edu*, 2002, <https://www.qcc.cuny.edu/socialsciences/ppecorino/medical_ethics_text/Chapter_2_Ethical_Traditions/Categorical_Imperative.htm>. For Kant the basis for a Theory of the Good lies in the intention or the will. Those acts are morally praiseworthy that are done out of a sense of duty rather than for the consequences that are expected, particularly the consequences to self. The only thing GOOD about the act is the WILL, the GOOD WILL. That will is to do our DUTY. What is our duty? It is our duty to act in such a manner that we would want everyone else to act in a similar manner in similar circumstances towards all other people. Kant expressed this as the Categorical Imperative. Act according to the maxim that you would wish all other rational people to follow, as if it were a universal law. For Kant the GOOD involves the Principle of Universalizability! Kant argues that there can be four formulations of this principle: The Formula of the Law of Nature: "Act as if the maxim of your action were to become through your will a universal law of nature."The Formula of the End Itself: "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end."The Formula of Autonomy: "So act that your will can regard itself at the same time as making universal law through its maxims."The Formula of the Kingdom of Ends: "So act as if you were through your maxims a law-making member of a kingdom of ends."

#### However, we require an enforcement mechanism for these principles since rights claims can’t exist in the state of nature. What follows is the omnilateral will. Varden 10, Helga. "A Kantian Conception of Free Speech." Freedom of Expression in a Diverse World, 2010 // AHS RG The first important distinction between Kant and much contemporary liberal thought issues from Kant’s argument that it is not in principle possible for individuals to realize right in the state of nature. Kant explicitly rejects the common assumption in liberal theories of his time as well as today that virtuous private individuals can interact in ways reconcilable both with one another’s right to freedom and their corresponding innate and acquired private rights. All the details of this argument are beyond the scope of this paper. It suffices to say that ideal problems of assurance and indeterminacy regarding the specification, application and enforcement of the principles of private right to actual interactions lead Kant to conclude that rightful interaction is in principle impossible in the state of nature.5 Kant argues that only a public authority can solve these problems in a way reconcilable with everyone’s right to freedom. This is why we find Kant starting his discussion of public right with this claim: however well disposed and right-loving men might be, it still lies a priori in the rational idea of such a condition (one that is not rightful) that before a public lawful condition is established individual human beings… can never be secure against violence from one another, since each has her own right to do what seems right and good to her and not be dependent upon another’s opinion about this (6: 312).6 There are no rightful obligations in the state of nature, since in this condition might (‘violence’, or arbitrary judgments and ‘opinion’ about ‘what seems right and good’) rather than right (freedom under law) ultimately governs interactions. According to Kant, therefore, only the establishment of a public authority can enable interaction in ways reconcilable with each person’s innate right to freedom. Moreover, only a public authority can ensure interaction consistent with what Kant argues are our innate rights (to bodily integrity and honor) and our acquired rights (to private property, contract and status relations). The reason is that only the public authority can solve the problems of assurance and indeterminacy without violating anyone’s right to freedom. The public authority can solve these problems because it represents the will of all and yet the will of no one in particular. Because the public authority is representative in this way – by being “united a priori” or by being an “omnilateral” will (6: 263) – it can regulate on behalf of everyone rather than on behalf of anyone in particular. For these reasons, civil society is seen as the only means through which our interactions can become subject to universal laws that restrict everyone’s freedom reciprocally rather than as subject to anyone’s arbitrary choices.

#### Thus, the standard is consistency with the categorical imperative as enacted through the omnilateral will.

#### Prefer –

#### 1] Motivation – The categorical imperative is intrinsically motivational since it respects the nature of agency, which is the mechanism by which we can set and pursue any end – absent the motivation to pursue ends you would no longer be an agent, which means to be an agent necessitates being motivated to act.

#### 2] Equality— only universalizable reason can effectively explain the perspectives of agents – that’s the best method for combatting oppression.

Farr 02 Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32. Accessed 9/21/19 AHS//NPR

**One** of the most popular **criticism**s **of Kant’s moral philosophy is that it is too formalistic.**13 That is, the universal nature of the categorical imperative leaves it devoid of content. Such a principle is useless since moral decisions are made by concrete individuals in a concrete, historical, and social situation. This type of criticism lies behind Lewis Gordon’s rejection of any attempt to ground an antiracist position on Kantian principles. The rejection of universal principles for the sake of emphasizing the historical embeddedness of the human agent is widespread in recent philosophy and social theory. I will argue here on Kantian grounds that **although a distinction between the universal and the concrete is** a **valid** distinction, **the unity of the two is required for** an understanding of human **agency.** The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. **Kant is** often **accused of making the moral agent an abstract, empty**, noumenal **subject. Nothing could be further from the truth. The Kantian subject is** an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. **The** very **fact that I cannot simply satisfy my desires without considering the rightness** or wrongness **of my actions suggests that my empirical character must be held in check** by something, or else I behave like a Freudian id. My empiri- cal character must be held in check **by my intelligible character**, which is the legislative activity of practical reason. It is through our intelligible character that **we formulate principles that keep our** empirical **impulses in check.** The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally signiﬁcant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. **The Formula of Universal Law enjoins no more than that we act only on maxims that are open to others also.**16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individ- ual think beyond his or her own particular desires. The individual is not allowed to exclude others **as** rational **moral agents** who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. **Hence,** the **universalizability** criterion **is a principle of consistency and** a principle of **inclusion.** That is, in choosing my maxims **I** attempt to **include the perspective of other moral agents.**

3] Ideal theory is key: A] Failure to abstract away from our subject position means agents are fully aware of their self-interest and will coopt your movement. B] only ideal theory can say things like racism are always wrong because we have universal standard to hold people too, not just an individual perspective C] Ideal theory prevents epistemic bias since by abstracting away from our identities and factors that cloud or judgement we can see what is universally good for everyone not just us. Ideal theory is good and outweighs . 4] Only ideal theory can justify the K. Shelby 13, Shelby, Tommie [Tadwell Titcomb Professor of African-American Studies and Philosophy, Harvard University]. “Racial Realities and Corrective Justice: A Reply to Charles Mills.” *Critical Philosophy of Race* 1.2 (2013): 145-162. The trouble with Mills’s view is that he regards nonideal theory as independent of ideal theory, indeed as an alternative to it. But nonideal theory—the study of the principles that should guide our responses to injustice—cannot succeed without knowing what the standards of justice are (and perhaps also what justifies these standards). It is not clear how we are to develop a philosophically adequate and complete theory of how to respond to social injustice without first knowing what makes a social scheme unjust. When dealing with gross injustices, such as slavery, we may of course be able to judge correctly that a social arrangement is unjust simply by observing it or having it described to us, relying exclusively on our pre-theoretic moral convictions. We don’t need a theory for that. But with less manifest injustices, or when our political values seem to conflict, or when we’re uncertain about what justice requires, or when there is great but honest disagreement about whether a practice is unjust, we won’t know which aspects of a society should be altered in the absence of a more systematic conception of justice. Without a set of principles that enables us to identify the injustice-making features of a social system, we could not be confident in the direction social change should take, at least not if our aim is to realize a fully just society. In light of these considerations, I have two questions about Mills’s project: If we abandon the framework for ideal theorizing, how do we determine which principles of justice should guide our reform or revolutionary efforts, and how do we justify these principles if we must rely exclusively on nonideal theory? Unless Mills is prepared to relinquish the goal of realizing a fully just society, he owes an answer to these questions.

#### And, Only evaluate Intents:

#### 1. To account for all foreseen impacts would prevent action because individuals would become morally culpable for all actions and states of affairs not just those that factor into the will

#### 2. Induction fails – it’s incoherent to justify the past to justify the future because there’s no logical certainty that what has happened before will happen again

#### 3. Consequences empirically impossible to predict. Menand 05, Louis Menand (the Anne T. and Robert M. Bass Professor of English at Harvard University) “Everybody’s An Expert” The New Yorker 2005 <http://www.newyorker.com/magazine/2005/12/05/everybodys-an-expert//> FSU SS “Expert Political Judgment” is not a work of media criticism. Tetlock is a psychologist—he teaches at Berkeley—and his conclusions are based on a long-term study that he began twenty years ago. He picked two hundred and eighty-four people who made their living “commenting or offering advice on political and economic trends,” and he started asking them to assess the probability that various things would or would not come to pass, both in the areas of the world in which they specialized and in areas about which they were not expert. Would there be a nonviolent end to apartheid in South Africa? Would Gorbachev be ousted in a coup? Would the United States go to war in the Persian Gulf? Would Canada disintegrate? (Many experts believed that it would, on the ground that Quebec would succeed in seceding.) And so on. By the end of the study, in 2003, the experts had made 82,361 forecasts. Tetlock also asked questions designed to determine how they reached their judgments, how they reacted when their predictions proved to be wrong, how they evaluated new information that did not support their views, and how they assessed the probability that rival theories and predictions were accurate. Tetlock got a statistical handle on his task by putting most of the forecasting questions into a “three possible futures” form. The respondents were asked to rate the probability of three alternative outcomes: the persistence of the status quo, more of something (political freedom, [e.g.] economic growth), or less of something (repression, [e.g.] recession). And he measured his experts on two dimensions: how good they were at guessing probabilities (did all the things they said had an x per cent chance of happening happen x per cent of the time?), and how accurate they were at predicting specific outcomes. The results were unimpressive. On the first scale, the experts performed worse than they would have if they had simply assigned an equal probability to all three outcomes—if they had given each possible future a thirty-three-per-cent chance of occurring. Human beings who spend their lives studying the state of the world, in other words, are poorer forecasters than dart-throwing monkeys, who would have distributed their picks evenly over the three choices.

### Contention

#### I contend that a just government ought to recognize an unconditional right of workers to strike

#### 1. Because employees are dependent upon their employer, employees are subject to a severe power imbalance that constitutes coercion.

Budd and Scoville 05, John W. Budd and James G. Scoville "The Ethics of Human Resources and Industrial Relations.", p.70, LABOR AND EMPLOYMENT RELATIONS ASSOCIATION SERIES, Cornell University Press, October 15, 2005 [http://jbudd.csom.umn.edu/RESEARCH/hrirethics.htm] AHS//NPR Accessed 10/23/21

**The overwhelming number of people need to work to survive**, at least for a large portion of their live. There is a sense in which people are forced to work. **When an assailant says, “Your wallet or your life,**” you technically have a choice. However, for many **this situation is the paradigm of coercion.** How close is the analogy between the assailant and **the requirements of the employer**? Admittedly, in good times the balance of power shifts somewhat, but in hard times the balance of power is with the employer. Most people have to take the terms of employment a they get them (Manning 2003). Someone wanting employment does not negotiate about whether or not to be tested for drugs, for example. If drug testing is the company policy, you either submit to the test or forfeit the job. **If you want a job, you agree to employment** at **will and to layoffs** if management believes that they are necessary. **Survival for yourself and any dependents requires it.** As with the assailant, you technically have a choice, but **most employees argue they have little choice about multiple important terms of employment.** A Kantian, in common with the pluralist school of industrial relations, maintains that **the imbalance between employer and employee ought to be addressed.** Otherwise, industrial relations rests on an unethical foundation.

#### The right to unionize and strike corrects this power imbalance by ensuring an opportunity for organization and collective bargaining.

Bowie 99 [Norman E., professor emeritus at the University of Minnesota “Business Ethics: A Kantian Perspective” Wiley Blackwell. https://b-ok.cc/book/2885756/a063b7] Accessed 10/24/21

Although I emphasize meaningful work as a means to gain respect and grow as a human being by exercising one’s talents, Ciulla reminds me that there is much in the work environment that undermines negative freedom (freedom from coercion), and that the decision to work itself requires a giving up of freedom in some respects. This latter point does not overly concern me because all choice forecloses other choices. Moreover, **having a job provides income, and income expands choices because it opens up possibilities**. **This is especially true when one has an adequate wage, and that is why I have emphasized the role that an adequate wage plays in meaningful work**. Of course, Ciulla is well aware of all this and in her analysis she points out that **for the unskilled their range of options is extremely limited, that the demise of unions has given much more power to manage- ment, and that there is a correlation between higher-paying jobs and the amount of freedom one has**. All these points are well taken. I especially agree with Ciulla that **unions provide a means for enhancing employee freedom**. In this case I practiced what I now preach. I am a former president of the AAUP union at the University of Delaware. I also point out that the United States is the most anti-union country in the G-20. **Unionization is considered a human right by the United Nations**. **Obviously unions provide an opportunity for participation**, and I think Ciulla and I agree that **participation schemes are one way to limit coercion**. In response to trends over the past twenty years, in this edition of Business Ethics: A Kantian Perspective I pay more attention to adequate pay for the middle class, issues of inequality, and economic mobility. However, none of this requires a revision in my original account of meaningful work.

#### 2. The right to strike prevents managerial interference and ensures respect for workers, rather than allowing them to be used as means for the end of enriching an employer

Richman quoting Spencer 12 [(Herbert Spencer (1820-1903) wrote those words in his Principles of Sociology (1896)); May 20, 2012; “Is There a Libertarian Case for Organized Labor?”; <http://reason.com/archives/2012/05/20/is-there-a-libertarian-case-for-organize>] AHS//NPR Accessed 10/24/21 \*brackets in original

Spencer begins his discussion of unions by noting that worker guilds (like employers) historically preferred suppression of competition to the uncertainties of market rivalry. He criticizes the hypocrisy of workers who applaud competition that lowers the price of bread, but oppose competition that lowers the price of labor. He also argues that agitation for higher wages, if successful throughout the economy, would do workers no good because prices and hence the cost of living would rise as a consequence. (This analysis requires some assumptions that may not in fact hold.) But he also notes that “[u]nder their original form as friendly societies—organizations for rendering mutual aid–[unions] were of course extremely beneficial; and in so far as they subserve this purpose down to the present time, they can scarcely be too much lauded.” Nevertheless Spencer asks: “Must we say that while ultimately failing in their proposed ends [higher wages], trade-unions do nothing else than inflict grave mischiefs in trying to achieve them?” His response: “This is too sweeping a conclusion. . . . There is an ultimate gain in moral and physical treatment if there is no ultimate gain in wages.” For example: Judging from their harsh and cruel conduct in the past, it is tolerably certain that employers are now prevented from doing unfair things which they would else do. Conscious that trade-unions are ever ready to act, they are more prompt to raise wages when trade is flourishing than they would otherwise be; and when there come times of depression, they lower wages only when they cannot otherwise carry on their businesses. Knowing the power which unions can exert, masters are led to treat the individual members of them with more respect than they would otherwise do: the status of the workman is almost necessarily raised. Moreover, having a strong motive for keeping on good terms with the union, a master is more likely than he would else be to study the general convenience of his men, and to carry on his works in ways conducive to their health. He thinks unions are necessary because: “Everywhere aggression begets resistance and counter-aggression; and in our present transitional state, semi-militant and semi-industrial, trespasses have to be kept in check by the fear of retaliatory trespasses.” Spencer, however, is not satisfied with this state of affairs. Recall that he says trade-unions belong to “a passing phase of social evolution.” Passing to what?

#### 3. The rights to strike and utilize collective bargaining are key to ensuring an autonomous citizenry.

Rodgers 14, Lisa, “Labour law and Kantian ideas of legality and citizenship.” University of Leicester School of Law Research Paper No. 14-07. 2014 [https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2

403498] AHS//NPR Accessed 10/24/21

This final section will discuss whether the Kantian idea of citizenship can add anything to the debates outlined in this article. First, the Kantian theory of citizenship will be considered in light of more modern theories of citizenship thought relevant to the labour law field. Second, these more modern theories of citizenship will be considered in light of their correspondence with the traditional theories of labour law outlined earlier in the article. The final part of this section will seek to argue that Kantian ideas of citizenship increase the potential for the full exposition of the usefulness of the traditional theories of labour law. This Kantian idea of citizenship allows a consideration of the best possible alignment of dignity as autonomy and dignity as redistribution in the labour law field. It is argued that this provides a starting point from which to reconsider the normative function of labour law as a whole. A discussion of citizenship has not featured prominently in the labour law literature.75 Where it has been considered, the starting point has tended to be the work of Marshall in designating categories of citizenship. Marshall presents three main categories of citizenship (political, civil and social) but also refers to a ‘secondary’ category of industrial citizenship. Marshall concentrates on the rights which attach to different categories of citizenship. On Marshall’s scheme, rights within the industrial citizenship category are derived from civil rather than social rights.76 Industrial citizenship is an extension of freedom of association, rather than a right to adequate income.77 In part this may be explained by Marshall’s rather negative view of social rights. For Marshall, these social rights are not particularly useful to workers because they are ‘passive rights’ and so refer only to the allocation of resources by the state. Marshall’s theory is a theory of social change, and citizenship increases through the ability of individuals be involved in the struggle for rights.78 It is perhaps for this reason that Marshall distinguishes rights associated with industrial citizenship as a separate category. Freedom of association and rights to collective bargaining allow active participation of citizens in the determination of their rights. This is ultimately a more effective way of determining labour standards than reliance on state action. Marshall’s scheme resonates to a considerable extent with the work of Kahn-Freund. In a similar way to Marshall, Kahn Freund viewed the industrial system as functioning outside of the confines of the state. Kahn Freund referred to the fact the development of trade unions in Britain had occurred outside of the Parliamentary franchise and state guarantees in the form of legislation.79 Both unions and employers had come to see regulation as state interference in their processes of bargaining and autonomous norm creation.80 According to Kahn Freund, the free negotiation of trade unions and employers through collective bargaining allowed both the aims of employees and employers to be met. On the one hand, workers achieved a certain power (autonomy) through their involvement in the negotiation process. On the other hand, collective bargaining allowed redistribution from employers to workers. This ensured that workers achieved moral dignity. It also guaranteed a level of industrial peace to the benefit of employers. The problem of course with both Marshall and Kahn Freund’s schemes is that they undertheorise the role of the state in the industrial system. State interference is viewed negatively and state action is viewed as detrimental to worker autonomy. As we have seen, this negative view of the state has potentially deleterious consequences for the design and function of labour law. As autonomy is viewed in contradistinction to state action, employment law is designed with insufficient consideration given to how to further worker autonomy through law. The focus is on (dignity as) redistribution rather than autonomy. To a certain extent, these effects were predicted by Sinzheimer, who emphasised the importance of dignity as autonomy in his work and the role of the state in ensuring that dignity. According to Sinzheimer, the state had to be co-opted by the industrial system in order that the industrial system achieved social ends. Workers and employers had to be involved in the making of law through the economic constitution. Without this involvement and the existence of an economic constitution, the law would fail to restrain the control of the markets by capital. Processes of commodification would proceed unchecked, and this would have disasterous effects for workers. The function of the economic constitution was to ensure worker empowerment through the involvement of workers in the state decision making process. It was also to ensure that economic processes were recognised in their social context. It was essential that workers’ needs for autonomy were recognised in law so that the independence and value of each individual could be recognised. Sinzheimer’s work has only indirectly influenced British labour law. His work has suffered from its association with that of Kahn-Freund and his focus on trade unionism. It has therefore not been prominent in the study of modern labour law theory.81 By contrast, Kant’s work has not been viewed as useful for precisely the opposite reason. It has been viewed as too legalistic and insufficiently connected to the specific concerns of labour, and therefore labour law. Whilst it is admitted that this may be true of Kant’s pure theory of right, it does not appear to be true in terms of his theory of citizenship. It appears that Kant’s theory of citizenship is useful because it emphasises that every person must be viewed as autonomous beings for the purposes of law. Autonomy is not restricted to empowerment through the processes of trade unionism. It is also part of the creation and function of (labour) law itself. The role of the state is to step into to ensure that all citizens can be ‘active’ rather than ‘passive’. At the same time, passive citizens must not be blamed for their own position or viewed as irresponsible, vexatious and so on. Indeed, reliance of persons on the state does not make those persons passive. This passivity is a function of individual dependence on private wills, which do not allow them to pursue their own conception of the good life. This passivity may vary by degree (for example a distinction may be made between a servant and a dependent employee). However in every case, it is the function of the state and the law to step in to correct that passivity. On Kant’s scheme, the raising of citizens from passive to active states is pervasive. It is a normative condition of law. At each stage of its operation, the law should aim towards creating the conditions for dignity as autonomy, and as a consequence, active citizenship. This may indeed involve redistribution but that redistribution should always occur with dignity in mind. This has fundamental implications for the design of labour law generally, and for the specific examples cited in this article. In terms of unfair dismissal, the current law concentrates too heavily on redistribution to the detriment of worker autonomy. The BORR test emphasises the autonomy of employers over that of workers. This means that the freedom and dignity of workers is compromised by the operation of this law. This in turn means that this kind of law could not be agreed to on the Kantian scheme. Likewise, the introduction Tribunal fees appears to violate the Kantian scheme of law and citizenship. These fees have been justified on the assumption of the irresponsibility and vexatious nature of workers. This assumption would not be compatible with the innate right of all, and it does not function to allow workers a move towards active citizenship. Indeed, by removing the possibility of workers to exercise employment rights through the courts, this new fee structure serves to undermine not only worker dignity but also the validity of that law as a representation of the general will (generally people would not agree to the arbitrary exclusion of individuals from the exercise of their rights). Conclusion Kant’s work has not been traditionally seen as very useful in the study of labour law. The focus in the legal literature has been on an analysis of the relevance of Kant’s system of legality involving three stages of right: innate right, private right and public right. This system has been particularly influential in relation to the study of private law, where the three stages have been put forward as a (new) normative foundation. Kant’s influence has therefore seeped down indirectly into the study of labour law, as labour law tends to take these private law foundations as a starting point for analysis (even though these starting points may then be criticised). A good example is the doctrine of freedom of contract which is referred to in the adjudication of employment contracts. This freedom of contract doctrine appears to fit will with Kant’s system of right and his corresponding idea of legality. However, there is a limit to the usefulness of these private law doctrines based on the Kantian system of right to the study of labour law. The foundation of these doctrines lies in the equality of legal subjects, and there is no space for any consideration of need or welfare. By contrast, when it comes to the study of labour law, the inequality of bargaining power between legal subjects appears paramount and the need or welfare of these subjects is also considered central to law. The influence of these doctrines has therefore been marginal. Furthermore, although a more in- depth reading of the Kantian scheme of right may suggest that some public interest norms can inform the adjudication of private rights, the application of these norms also provides a limited explanation for the function and operation of labour law. These norms operate only on an ad hoc basis and are vulnerable to inconsistent application and amendment. As a result, labour law scholars have attempted to design a system of labour law which does not rely on these private law doctrines. The starting point for this analysis has been the inequality of bargaining power between employers and employee brought about by the operation of the capitalist system. On this analysis, the role of labour law is to redistribute power (and resources) to the most vulnerable subjects: the employees. This scheme has not been without its problems. Early labour law theory relied on collective bargaining to provide support to employees (and a level of autonomy in the industrial relations system). By contrast, modern labour law has been designed around specific legal instruments rather than a system of negotiation between employers and trade j. This has meant that the function of labour law in promoting autonomy has been neglected in favour of promoting dignity as redistribution. The corollary has been a system of law which, at times, has provided insufficient respect for the capacity of individual employees for principled action. Indeed, elements of punishment are increasingly seeping into the operation of labour law (the introduction of Tribunal fees being a good example). It is suggested in this article that in order to reimbue labour law with a sense of dignity as autonomy, a new system of theorisation is required. The starting point for this consideration, it is argued, is Kant’s theory of citizenship. This system starts from the position of an inequality of bargaining power between private individuals (in line with traditional labour law theory). Kant argues that this inequality of bargaining power can affect an individual’s (employee’s) ability to participate in the functioning of the state (he/she becomes a ‘passive’ citizen). On the Kantian scheme, passive citizenship is not just a problem for the individual but also for the state, as the state relies on the participation of citizens in the making of law. Passive citizens are not able to participate in this way. The state must therefore ensure that conditions are available for the transition from passive to ‘active’ citizenship. This active citizenship ensures the legitimacy of state function and the innate right of all individuals to autonomy. It is argued that this system is a useful starting point for the development of labour law. As has been mentioned, the Kantian system accords with the argument of the traditional labour law scholars that employment law must begin from the consideration of an inequality bargaining power between employees and employers. But more than that, it develops (or reaffirms) those arguments by placing those individuals not only at the heart of legal function but also at the heart of state legitimacy. The state and the law are intimately connected on this scheme. Furthermore, on Kant’s scheme, the state and the law must move beyond mere redistribution from employers to employees. The state and the law must imbue individuals with the autonomy which reflects their innate right to set their own life goals. This reinforces the legitimacy of law because all three elements of right act in conjunction. It also reinforces the legitimacy of the state because it ensures that as many individuals as possible contribute to the general will; it ensures that the state functions as a ‘union’ of a ‘multitude of human beings under the laws of right’.82

### Underview

1. 1AR theory is legitimate since the negative could do literally anything without the ability to call out the abuse. Drop the debater because four minutes isn’t enough to read a shell and still have time to cover substance sufficiently. No RVI because the 2nr would get six minutes to collapse to turns on a shell I only spent 30 seconds on. Aff theory first – A) Proportionality – The 1ar has to dedicate a significantly larger portion of it’s time reading theory and the 2n can spend much longer answering it B) Size of impact – neg abuse is always structurally worse since the 1ar only has 4 minutes to compensate whereas the NC has 13 to adapt.

2. No new 2NR theory, paradigm issues, or weighing – A) It allows the 1nc to spend all it’s time reading pure offense and then collapse the debate to one shell and dump 6 minutes of new weighing that is impossible for the 2ar to wade through in 3 minutes B) It’s irreciprocal cause they would get 13 minutes to develop theory arguments without being restrained by the previous speech whereas judges would never vote on 2ar theory

1. [http://dictionary.reference.com/browse/negate, http://www.merriam-webster.com/dictionary/negate, http://www.thefreedictionary.com/negate, http://www.vocabulary.com/dictionary/negate, http://www.oxforddictionaries.com/definition/english/negate] [↑](#footnote-ref-1)