## Kant is bad

#### 1. Inclusion – It’s bad for inclusion:

#### A) it’s ableist.

Ryan 11, Intro to ethics @ Birmingham University Phil 140; “Cognitive Disability, Misfortune, and Justice”; Jan 17; <http://parenethical.com/phil140win11/2011/01/17/group-3-cognitive-disability-misfortune-and-justice-deontology-ryan/>

In Kant's deontological ethics, one has a duty to treat humanity not as a means, but as an ends. However, Kant's criterion for being part of humanity and moral agency is not biological. In order to be considered fully human, and a moral agent, one must be autonomous and rational. If one lacks rationality and autonomy they cannot escape the chain of causality to act freely from moral principles, and hence are not moral agents. Kant's moral program fails to account for those who are cognitively impaired because they lack autonomy and rationality. Since Kant's requirement for moral agency is so cut-and-dry and leaves no room for ambiguity, there is no clear moral distinction made between the cognitively impaired and other non-human animals. In the case of Kant, there could be no universal moral law from the categorical imperative that would apply to the cognitively impaired and not non-human animals as well. Kant and McMahan are similar, in that their standards for moral agency exclude the cognitively impaired (rationality/autonomy and psychological capacities respectively). In Kant's morality, those who are rational and autonomous are to be treated as ends in themselves. In the case of the cognitively impaired, there is no such requirement. Similarly, in McMahan's moral theory, those who are human and unfortunate are entitled to compensation by society under the dictates of justice. However, according to McMahan the cognitively impaired are not human in the relevant sense (possessing certain psychological capacities and features) so they are not entitled to compensation. In excluding the cognitively impaired from moral agency, both Kant and McMahan reach a conclusion that many of us find unsettling, in which we might give the cognitively impaired a moral preference over a similarly endowed non-human animal, is because of a responsibility to respect the family members of the cognitively endowed, not because [that] they have [no] any value as moral agents in themselves.

#### B) It’s homophobic. This isn’t an ad hominem but the logical conclusion of his philosophy. Being gay is a contradiction in conception, since if everyone had homosexual intercourse, their would be no reproduction. Kant believes this is sex without function, requires sacrificing rational agency for the subordinate end of pleasure.

Alan Soble, American philosopher and author of several books on the philosophy of sex. He taught at the University of New Orleans from 1986 to 2006. He is currently Adjunct Professor of philosophy at Drexel University in Philadelphia, Kant and Sexual Perversion, The Monist 86:1 (Jan. 2003), pp. 55-89, <https://philpapers.org/archive/SOBKAS> ///AHS PB

Kant's Vorlesung treatment of the crimina carnis contra naturam sounds like Aquinas's and (ignoring the chronology) looks like an extension to other practices of what Kant wrote about masturbation in the Tugendlehre: Uses of sexuality which are contrary to natural instinct and to animal nature are crimina carnis contra naturam. First among them we have onanism. This is abuse of the sexual faculty without any object, the exercise of the faculty in the complete absence of any object of sexuality. The practice is contrary to the ends of humanity and even opposed to animal nature. By it man sets aside his person and degrades himself below the level of animals.74 Kant does not mention that the masturbator might create an object through imagination. What the masturbator does is to have a sexual experience without any worldly object (Aquinas) and hence cannot preserve the species. But notice that Kant says that masturbation "is contrary to the ends of humanity and even opposed to animal nature," as if its being contrary to nature is of independent and secondary moral importance. What seems crucial for Kant is that masturbation "is contrary to the ends of humanity," that is, directly violates the Second Formulation. Kant immediately continues by completing his sparse inventory of three objectionable, sexually unnatural, practices: A second crimen carnis contra naturam is intercourse between sexus homogenii, in which the object of sexual impulse is a human being but there is homogeneity instead of heterogeneity of sex. . . . This practice too is contrary to the ends of humanity; for the end of humanity in respect of sexuality is to preserve the species without debasing the person; but in this instance the species is not being preserved (as it can be by a crimen carnis secundum naturam), but the person is set aside, the self is degraded below the level of the animals, and humanity is dishonoured. The third crimen carnis contra naturam occurs when the object of the desire is in fact of the opposite sex but is not human. Such is sodomy, or intercourse with animals. This, too, is contrary to the ends of humanity and against our natural instinct. It degrades mankind below the level of animals, for no animal turns in this way from its own species.75

#### C) Kantianism is anti-Black racism – not his personal views, but his transcendental philosophy depends on the character and capacity individuals have for moral reasoning. Black people may have value, but they lack moral worth and the character necessary for rational moral thought in Kant’s critical philosophy. Kantianism denies Black, Brown, and Indigenous humanity for white superiority. Eze 97,

Eze—1997 (Emmanuel, Professor of Philosophy @DePaul University, “The Color of Reason” in PostColonial African Philosophy: A Critical Reader [Cambridge: Blackwell Publishing, 1997], 103-131

Over and beyond Buffon or Linnaeus, **Kant, in his transcendental philosophy (e.g., *Critique of Pure Reason),* describes ways of orienting oneself geographically in space, mathematically in space and time, and, logically, in the construction of both categories into other sorts of consistent whole**. In the *Observations on the Feeling o/the Beautiful and Sublime,* a work which ought to be considered as primarily anthropological, **Kant shows the theoretic transcendental philosophical position at work when he attempts to work out and establish how a particular (moral) feeling relates to *humans generally,* and how it differs between men and women, and among different races.** For example, "feeling" as it appears in the title of the work refers to a specific refinement of character which is *universally* properly human: that is, belonging to human nature as such. And we recall that for Kant "human nature" resides in the developmental expression of rational-moral "character." **Since it is character that constitutes the specificity of human nature, "human nature *proper,"* then whatever dignity or moral worth the individual" may have is derived from the fact that one has struggled to develop one's character, or one's· humanity, as universal**. Kant states: In order to assign man into a system of living nature, and thus to characterize him, no other alternative is left than this: that he has a character which he himself creates by being capable of perfecting himself after the purposes chosen by himself. Through this, he, as an animal endowed with reason *(animale rationabile)* can make out of himself a rational animal *(animale rationale).* "**Character," as the moral formation of personality, seems to be that on which basis humans have worth and dignity,and one consequence of this is that those peoples and "races" to whom Kant assigns minimal or pseudo rational-moral capacity** - either because of their non-"white" skin color (evidence of lack of "true talent") or because of the presence of phlogiston in their blood or both - **are seriously naturally or inherently inferior to those who have the "gift" of higher rational attainments, evidence of which is seen in their superior "white" skin color, the absence of phlogiston in their blood, and the superior European civilization While the non-European may have "value," it is not certain that he or she has true "worth.**" According to Kant: everything has either a value or a worth. What has value has a substitute which can replace it as its equivalent; but whatever is, on the other hand, exalted above all values, and thus lacks an equivalent ... has no merely relative value, that is, a price, but rather an inner worth,. that is dignity ... Hence morality, and humanity, in so far as it is capable of morality, can alone possess dignity**. If non-white peoples lack "true" *rational* character** (Kant believes, for example, that the character of the *Mohr* is made up of *imagination* rather than reason) **and therefore lack "true" *feeling* and moral sense, then they do not have "true" worth, or dignity. The black person, for example, can accordingly be denied full humanity, since full and "true" humanity accrues only to the white European.For Kant European humanity is *the* humanity *par excellence.***

**That Negates – It makes trying to obligate people to act under Kant incoherent since A) a large portion of the population has no reason to care about obligations under your framework since they aren’t Kantian agents and B) even if they were, the standard just violates their freedom which is a prior condition to any other actions under it c) Inclusion – justifies oppression.**

### Accessibility 1st

#### Accessibility comes first –

#### 1. It’s a pre-requisite – in order for us to debate a) we have to feel safe and not exclude anyone from the discussion through justifying things like their death or triggering them and b) driving people out of the space prevents any debate from happening in the future which means all other benefits can only be achieved by first maintaining the accessibility of the space.

#### 2. Proximity – The judge’s most proximal obligation as an educator is to ensure the safety and accessibility of the debate space which outweighs on intrinsicness to the nature of the role of the judge.

#### 3. Dropping out – People don’t drop out of debate because it’s unfair or uneducational but they do drop out when the space becomes too violent or inaccessible – empirically proven by an increase in Non-T affs and participation despite people considering them to be unfair.

#### They read morally repugnant arguments. The judge has a proximal obligation to ensure inaccessible practices don’t proliferate. Accessibility is a voting issue since all aff arguments presuppose that people feel safe in this space to respond to them.

#### Now my offense

#### [1] Not having IP protections violates the categorical principle.

**Van Dyke 18 -** “The Categorical Imperative for Innovation and Patenting” on july 17, 2018 By Raymond Van Dyke has been an intellectual and technology attorney and consultant for over 25 years, specializing in IP procurement, prosecution, IP portfolio building and management, licensing, legislative advocacy and expert witnessing. He is licensed to practice law in Washington, DC, Maryland, New Jersey, New York, Texas, and the Patent & Trademark Office of the United States. He is also admitted to practice before the Supreme Court of the United States, the Court of Appeals for the Federal, Second, Third, Fourth and Fifth Circuits, as well as the Federal Court of Claims and the Court of International Trade. For more information or to contact see his profile at Van Dyke Law. [https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/] // ahs emi

As we shall see, applying Kantian logic entails first acknowledging some basic principles; that the people have a right to express themselves, that that expression (the fruits of their labor) has value and is theirs (unless consent is given otherwise), and that government is obligated to protect people and their property. Thus, an inventor or creator has a right in their own creation, which cannot be taken from them without their consent. So, employing this canon, a proposed Categorical Imperative (CI) is the following Statement: creators should be protected against the unlawful taking of their creation by others. Applying this Statement to everyone, i.e., does the Statement hold water if everyone does this, leads to a yes determination. Whether a child, a book or a prototype, creations of all sorts should be protected, and this CI stands. This result also dovetails with the purpose of government: to protect the people and their possessions by providing laws to that effect, whether for the protection of tangible or intangible things. However, a contrary proposal can be postulated: everyone should be able to use the creations of another without charge. Can this Statement rise to the level of a CI? This proposal, upon analysis would also lead to chaos. Hollywood, for example, unable to protect their films, television shows or any content, would either be out of business or have robust encryption and other trade secret protections, which would seriously undermine content distribution and consumer enjoyment. Likewise, inventors, unable to license or sell their innovations or make any money to cover R&D, would not bother to invent or also resort to strong trade secret. Why even create? This approach thus undermines and greatly hinders the distribution of ideas in a free society, which is contrary to the paradigm of the U.S. patent and copyright systems, which promotes dissemination. By allowing freeriding, innovation and creativity would be thwarted (or at least not encouraged) and trade secret protection would become the mainstay for society with the heightened distrust.

#### [2] Property is an extension of free will so it must be protected.

**Marks 19** - “Patent Law’s Latent Schism” by Matthew G. Sipe\* Frank H. Marks Visiting Associate Professor, George Washington University Law School; J.D., Yale Law School; B.A., University of Virginia. [https://www.law.uh.edu/wipip2019/full-draft/MSipe\_draft.pdf] // ahs emi

Immanuel Kant provides such an articulation of property, grounded fundamentally in service of maximizing individual autonomy.30 As Professor Merges explains: People have a desire to carry out projects in the world. Sometimes, those projects require access to and control over external objects. . . . For Kant, this desire must be given its broadest scope, to promote the widest range of human choice, and therefore human projects. . . . Consider Michelangelo, approaching a large block of marble. He may have a plan, a mental picture of what he wants to do, what design he wants to impose on that chunk of rock. . . . To fully realize this vision, to work out his plan for the marble, he needs to know that he can count on two things: continued access to it, and noninterference by others.31 For Kant, free will is a defining characteristic of persons as compared to objects; “[w]e can dispose of things which have no freedom, but not of a being which has free will.”32 That internal free will is only reified, however, by forming intentions and acting on objects in the external world.33 By so doing, the individual becomes connected to the object, which gives rise to what Kant defines as property: that “with which I am so connected that another’s use of it without my consent would wrong me.”34

#### [3] IP is a procedural prerequisite to property rights since before one can make something their property, they must first be able to conceive of owning the property. This makes reducing IP rights equivalent to theft since taking away the products of one’s mind inherently also interferes with their ability to own physical products.

#### [4] When one labors to create a product, using the product without their consent uses them as a mere means to an end since you’re using their labor for your own benefit – any piece of IP, especially medicines, requires labor to produce making it property.

#### [5] Taking away intellectual property is a contradiction in conception, since if every agent was able to take the intellectual property then a] it would no longer be property and thus would not exist making the initial act incoherent and b] no one would make IP since there’s no incentive to so there’d be no IP to steal.

#### We have to evaluate freedom in the context of how agents interact with others.

Jaeggi 2, Jaeggi, Rahel. “Alienation.” Columbia University Press, cup.columbia.edu/book/alienation///Scopa. The positions of both authors can be reduced to the following common denominator: roles are less alienating than constitutive for the development of persons and personality. They are constitutive in the sense that they are directly bound up with a person’s development and, so, “productive.” At first glance this position might seem to come down on one side of the two alternatives—an unconditional affirmation of roles—but after giving a brief account of the position, I will make use of it to move beyond the two alternatives. Once the “productivity thesis” has been articulated, it will be possible to distinguish between alienating and non-alienating aspects of role behavior. THE HUMAN BEING AS DOPPELGÄNGER Roles are productive. In and through them we first become ourselves. This is the essence of Helmuth Plessner’s conception of the positive significance of roles (which he developed as a direct response to critiques of them as alienating). “The human being is always himself only in ‘doubling’ in relation to a role figure he can experience. Also, all that he sees as comprising his authenticity is but the role he plays before himself and others.22 Roles on this view are not only necessary in order to make social interaction possible, whether this be a “being together” of individuals or a benign “passing each other by;” interaction mediated by roles is also constitutive of an individual’s relation to herself.

#### Under this conception of relational ethics, intellectual property must be used in a way that reflects the framers intent bc property is a self-expression of the subject.

Justin Hughes 98, "The Philosophy of Intellectual Property," 77 Georgetown L.J. 287, 330-350 (1988) [https://cyber.harvard.edu/IPCoop/88hugh2.html] AHS//MAK recut emi Accessed 8/10/21

"On the Hegelian perspective, payments from intellectual property users to the property creator are acts of recognition." 3. Intellectual Property Under Hegel. For Hegel, intellectual property need not be justified by analogy to physical property. In fact, the analogy to physical property may distort the status Hegel ascribes to personality and mental traits in relation to the will. Hegel writes: Mental aptitudes, erudition, artistic skill, even things ecclesiastical (like sermons, masses, prayers, consecration of votive objects), inventions, and so forth, become subjects of a contract, brought on to a parity, through being bought and sold, with things recognized as things. It may be asked whether the artist, scholar, &c., is from the legal point of view in possession of his art, erudition, ability to preach a sermon, sing a mass, &c., that is, whether such attainments are "things." We may hesitate to call such abilities, attainments, aptitudes, &c., "things," for while possession of these may be the subject of business dealings and contracts, as if they were things, there is also something inward and mental about it, and for this reason the Understanding may be in perplexity about how to describe such possession in legal terms. . . . n205**.** Intellectual property provides a way out of this problem, by "materializing" these personal traits.Hegel goes on to say that "[a]ttainments, eruditions, talents, and so forth, are, of course, owned by free mind and are something internal and not external to it, but even so, by expressing them it may embody [\*338] them in something external and alienate them." n206.Hegel takes the position that one cannot alienate or surrender any universal element of one's self. Hence slavery is not permissible because by "alienating the whole of my time, as crystallized in my work, I would be making into another's property the substance of my being, my universal activity and actuality, my personality." n207 Similarly, there is no right to sacrifice one's life because that is the surrender of the "comprehensive sum of external activity." n208 This doctrine supplies at least a framework to answer the question of intellectual property that most concerns Hegel. It is a question we ignore today, but one that is not easy to answer: what justifies the author in alienating copies of his work while retaining the exclusive right to reproduce further copies of that work. A sculptor or painter physically embodies his will in the medium and produces one piece of art.When another artist copies this piece Hegel thinks that the hand-made copy "is essentially a product of the copyist's own mental and technical ability" and does not infringe upon the original artist's property. n209 The **problem arises when a creator of intellectual property does not embody** his **will in an object** in **the** same **way the artist does**. The writer physically manifests his will only "in a series of abstract symbols" which can be rendered into "things" by mechanical processes not requiring any talent. n210 The dilemma is exacerbated by the fact that "the purpose of a product of mind is that people other than its author should understand it and make it the possession of their ideas, memory, thinking, &c." n211 This concern for the common of ideas is familiar. In resolving this dilemma, Hegel says that the alienation of a single copy of a work need not entail the right to produce facsimiles because such reproduction is one of the "universal ways and means of expression . . . which belong to [the author]." n212 Just as he does not sell himself into slavery, the author keeps the universal aspect of expression as his own. The copy sold is for the buyer's own consumption; its only purpose is to allow the buyer to incorporate these ideas into his "self." Hegel also identifies the instrumentalist-labor justification as a consideration against granting full rights of reproduction to buyers of individual copies [\*339] of a work. Hegel admits that protecting intellectual property is "[t]he purely negative, though the primary, means of advancing the sciences and arts." n213 Beyond this, Hegel says little. He declares that intellectual property is a "capital asset" and explicitly links this label to a later section in which he defines a "capital asset." n214 There is considerable literature on how Hegel did not develop the idea of "capital" to its logical conclusions, n215 but here "capital asset" can be understood as property which has a greater tendency to permanence and a greater ability than other property to give its own economic security

**[1] Reject 1AR Theory – a) double bind – either you can put minor ink next to answer of my responses and extend your arguments to auto-win or the judge has to intervene to see if the 2ar answers to the 2n are good enough. Intervention o/w since it takes the round out of debater’s hands b) they have 2 speeches on theory while I have 1 which means they can structurally preempt my answers and respond to them and I can’t do either c) infinite abuse in the context of aff abuse doesn’t make sense since you can read 1ac theory and uplayer with other 1ar offs like Ks d) they have 1 more minute on the theory debate due to a 7-6 skew which o/w since theory is mainly about substance e) 2AR collapse means the aff wins every debate they can cover all my responses f) If you get 1ar theory, I get 2nr theory because it’s structurally reciprocal.**

**[2] They didn’t justify theory in the 1ac. That means they cant in the 1ar. Key to norm setting because we get longer debates on theory**