# Yale r5 1ac

### FW

#### Ethics must be derived from the constitutive features of agents – ethics based internally fail because they can’t generate universal obligations and ethics based externally fail because they are nonbinding as agents could opt-out and have no motivation to follow them which means they fail to guide action.

#### Constitutivism solves – it allows for universal obligations among all agents but they are binding and cannot be opted out of.

#### Next, only practical reason is constitutive:

#### [1] Regress – to question why one should reason concedes its authority since it is an act of reasoning itself which proves it’s binding and inescapable

#### [2] Agents can shift between different identities but doing so requires reason - it unifies the subject and is the only enterprise agents cannot escape

#### Ferrero 09 (Luca Ferrero, [Luca Ferrero is a Philosophy professor at University of California, Riverside. His areas of interest are Agency Theory, including Intentionality and Personal identity; Practical Reasoning; and Meta-Ethics], “Constitutivism and the Inescapability of Agency”. Oxford Studies in Metaethics, vol. IV, Jan 12, 2009. <https://philarchive.org/archive/FERCATv1> BHHS AK recut

Agency is special in two respects. First, agency is the enterprise with the largest jurisdiction.¹² All ordinary enterprises fall under it. To engage in any ordinary enterprise is ipso facto to engage in the enterprise of agency. In addition, there are instances of behavior that fall under no other enterprise but agency. First, intentional transitions in and out of particular enterprises might not count as moves within those enterprises, but they are still instances of intentional agency, of bare intentional agency, so to say. Second, agency is the locus where we adjudicate the merits and demerits of participating in any ordinary enterprise. Reasoning whether to participate in a particular enterprise is often conducted outside of that enterprise, even while one is otherwise engaged in it. Practical reflection is a manifestation of full-fledged intentional agency but it does not necessarily belong to any other specific enterprise. Once again, it might be an instance of bare intentional agency. In the limiting case, agency is the only enterprise that would still keep a subject busy if she were to attempt a ‘radical re-evaluation’ of all of her engagements and at least temporarily suspend her participation in all ordinary enterprises.

#### That justifies universalizability - insofar as there is no a priori distinction between reasoners, a reason for one agent must also be a reason for another; if all agents cannot set and pursue an end, it is not constitutive of agency. Willing a maxim that violates freedom is a contradiction in conception – you cannot violate someone’s freedom without having your own freedom to do so.

**The universality of freedom justifies a libertarian state which outweighs on actor specificity.**

**Otteson 9** \*\*brackets in original\*\* James R. Otteson (professor of philosophy and economics at Yeshiva University) “Kantian Individualism and Political Libertarianism” The Independent Review, v. 13, n. 3, Winter 2009 BE

In a crucial passage in Metaphysics of Morals, Kant writes that the “Universal Principle of Right” is “‘[e]very action which by itself or by its maxim enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law is right.’” He concludes, “Thus the universal law of right is as follows: let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with a universal law” (1991, 133, emphasis in original).5 This stipulation becomes for Kant the grounding justification for the existence of a state, its raison d’être, and the reason we leave the state of nature is to secure this sphere of maximum freedom compatible with the same freedom of all others. Because this freedom must be complete, in the sense of being as full as possible given the existence of other persons who demand similar freedom, it entails that the state may—indeed, must—secure this condition of freedom, but undertake to do nothing else because any other state activities would compromise the very autonomy the state seeks to defend. Kant’s position thus outlines and implies a political philosophy that is broadly libertarian; that is, it endorses a state constructed with the sole aim of protecting its citizens against invasions of their liberty. For Kant, individuals create a state to protect their moral agency, and in doing so they consent to coercion only insofar as it is required to prevent themselves or others from impinging on their own or others’ agency. In his argument, individuals cannot rationally consent to a state that instructs them in morals, coerces virtuous behavior, commands them to trade or not, directs their pursuit of happiness, or forcibly requires them to provide for their own or others’ pursuits of happiness. And except in cases of punishment for wrongdoing,6 this severe limitation on the scope of the state’s authority must always be respected: “The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance” (Perpetual Peace, 1991, 125). The implication is that a Kantian state protects against invasions of freedom and does nothing else; in the absence of invasions or threats of invasions, it is inactive.

#### Thus, the standard is respecting freedom.

#### Impact calc: Intentions first – only the intention in pursuing a certain end is relevant when considering whether or not it is universalizable. Prefer for action theory - Any action can be split into infinite smaller actions. For example, when I’m taking a bite of food, I am making infinite movements of my hand and mouth – only the intention unifies the action. If we can’t unify action, we can’t call actions moral or immoral because they are made up of infinite parts. Prefer additionally:

**[1] Performativity – arguing against my framework presupposes freedom because without freedom to reason you would not be able to make arguments and try to win. – this means that contesting any of my arguments proves my framework true.**

#### [2] We must value freedom insofar as we value our ends which justifies valuing the freedom of agents setting and pursuing ends since anything else would be contradictory

Gewirth ’84 [Alan Gewirth, “The Ontological Basis of Natural Law: A Critique and an Alternative,” The American Journal of Jurisprudence, Vol. 29, No. 1 (1984), Pg. 95–121. Gewirth was professor of philosophy at the University of Chicago.] CHSTM \*\*Brackets for gendered language/grammar\*\* BHHS AK recut

Let me briefly sketch the main line of argument that leads to this conclusion. As I have said, the argument is based on the generic features of human action. To begin with, every agent acts for purposes he [they] regards as good. Hence, he [they] must regard as necessary goods the freedom and well-being that are the generic features and necessary conditions of his action and successful action in general. From this, it follows that every agent logically must hold or accept that he has [they have] rights to these conditions. For if he were to deny that he has [they have] these rights, then he [they] would have to admit that it is permissible for other[s] persons to remove from him the very conditions of freedom and well-being that, as an agent, he [they] must have. But it is contradictory for him to hold both that he must have these conditions and also that he may not have them. Hence, on pain of self-contradiction, every agent must accept that he has rights to freedom and well-being. Moreover, every agent must further admit that all other agents also have those rights, since all other actual or prospective agents [they] have the same general characteristics of agency on which [they] must ground his [their] own right-claims.¶ What I am saying, then, is that every agent, simply by virtue of being an agent, must regard his freedom and well being as necessary goods and must hold that he and all other actual or prospective agents have rights to these necessary goods. Hence, every agent, on pain of self-contradiction, must accept the following principle: Act in accord with the generic rights of your recipients as well as of yourself. The generic rights are rights to the generic features of action, freedom, and well-being. I call this the Principle of Generic Consistency (PGC), because it combines the formal consideration of consistency with the material consideration of the generic features and rights of action

#### [3] A posteriori ethics fail:

#### [a] Problem of induction

Vickers 14, John Vickers, 2014, The Problem of Induction, https://plato.stanford.edu/entries/induction-problem/

The original problem of induction can be simply put. It concerns the support or justification of inductive methods; methods that predict or infer, in Hume's words, that “instances of which we have had no experience resemble those of which we have had experience” (THN, 89). Such methods are clearly essential in scientific reasoning as well as in the conduct of our everyday affairs. The problem is how to support or justify them and it leads to a dilemma: the principle cannot be proved deductively, for it is contingent, and only necessary truths can be proved deductively. Nor can it be supported inductively—by arguing that it has always or usually been reliable in the past—for that would beg the question by assuming just what is to be proved.

[b] **Is/Ought Gap – experience just describes how the world is but doesn’t indicate how it ought to be which means there must be an a priori conception of good**

[c] **Inability to know each other’s experience makes it an unreliable basis for ethics because different experiences bring different concepts of truth – only a priori ethics solve since a priori truths are accessible to all agents**

#### [5] Consequentialism fails – A] Predictions assumes specific causes of past consequences which can’t be verified as the actual cause B] Butterfly effect - every action has infinite consequences so it is impossible to evaluate an action; one government policy could end up causing nuclear war in a million years. C] Aggregation is impossible – pleasure and pain are subjective – we have no idea how many headaches equal a migraine

#### [6] Oppression is caused by arbitrary exclusion of others – only universalizability makes sure that we include everyone equally. Farr 02

Arnold Farr. [Arnold Farr is a Philosophy professor at the University of Kentucky. His research interests are German idealism, Marxism, critical theory, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy. He has published numorous articles and book chapters on all of these subjects], “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?”, 2002, blog.ufba.br/kant/files/2009/12/Can-a-Philosophy-of-Race-Afford-to-Abandon-the.pdf. /BHHS AK recut

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 empirical 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 individual 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.

[7] **Resolvability: Clarity of weighing under interpretation of Kantianism: perfect duties above imperfect duties, duties in right, etc. All other FWs are consequentialist that use unquantifiable prob, mag, or prob x mag. Resolvability is an independent voter because otherwise the judge can’t make a decision which means it’s a constraint on any ROB because otherwise the round is impossible**

#### Thus, the advocacy: Resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines. I’m willing to spec what you want as long as I don’t abandon my maxim.

### Offense

#### [1] IPP unjustifiably restricts agents from setting and pursuing ends in healthcare because patents prevent people from taking part in scientific advancements in medicine – that violates freedom in multiple ways

**Hale 18** (Zachary Hale, 4-4-2018, accessed on 8-22-2021, The Arkansas Journal of Social Change and Public Service, "Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection - The Arkansas Journal of Social Change and Public Service", <https://ualr.edu/socialchange/2018/04/04/patently-unfair/>) BHHS AK

Although the right to the protection of “moral and material interests resulting from any scientific, literary, or artistic production,”[32] is a human right as defined in the UDHR and the ICESCR, the current system of intellectual property protection conflicts with and even violates rights that are considered to be fundamental to human life. Although intellectual property instruments are certainly used to violate essential civil and political freedoms like the freedom of expression, and economic and social freedoms like the freedom to share in the scientific advancements of society, the most blatant violations of human rights caused by intellectual property protection occur in the fields of nutrition, healthcare, and culture.[33] Of these essential entitlements, the rights to food and health are made even more significant by their relationship to the most fundamental of all human rights: the right to life.

#### [2] IPP is inconsistent with free market principles

**Kinsella 11** (Stephan Kinsella, 5-25-2011, accessed on 8-23-2021, Foundation for Economic Education, "How Intellectual Property Hampers the Free Market | N. Stephan Kinsella", <https://fee.org/articles/how-intellectual-property-hampers-the-free-market/>) BHHS AK

But are they? There are good reasons to think that IP is not actually property—that it is actually antithetical to a private-property, free-market order. By intellectual property, I mean primarily patent and copyright. It’s important to understand the origins of these concepts. As law professor Eric E. Johnson notes, “The monopolies now understood as copyrights and patents were originally created by royal decree, bestowed as a form of favoritism and control. As the power of the monarchy dwindled, these chartered monopolies were reformed, and essentially by default, they wound up in the hands of authors and inventors.” Patents were exclusive monopolies to sell various goods and services for a limited time. The word patent, historian Patricia Seed explains, comes from the Latin patente, signifying open letters. Patents were “open letters” granted by the monarch authorizing someone to do something—to be, say, the only person to sell a certain good in a certain area, to homestead land in the New World on behalf of the crown, and so on. It’s interesting that many defenders of IP—such as patent lawyers and even some libertarians—get indignant if you call patents or copyright a monopoly. “It’s not a monopoly; it’s a property right,” they say. “If it’s a monopoly then your use of your car is a monopoly.” But patents are State grants of monopoly privilege. One of the first patent statutes was England’s Statute of Monopolies of 1624, a good example of truth in labeling. Granting patents was a way for the State to raise money without having to impose a tax. Dispensing them also helped secure the loyalty of favorites. The patentee in return received protection from competition. This was great for the State and the patentee but not for competition or the consumer. In today’s system we’ve democratized and institutionalized intellectual property. Now anyone can apply. You don’t have to go to the king or be his buddy. You can just go to the patent office. But the same thing happens. Some companies apply for patents just to keep the wolves at bay. After all, if you don’t have patents someone might sue you or reinvent and patent the same ideas you are using. If you have a patent arsenal, others are afraid to sue you. So companies spend millions of dollars to obtain patents for defensive purposes. Large companies rattle their sabers or sue each other, then make a deal, say, to cross-license their patents to each other. That’s fine for them because they have protection from each other’s competition. But what does it do to smaller companies? They don’t have big patent arsenals or a credible countersuit threat. So patents amount to a barrier to entry, the modern version of mercantilist protectionism. What about copyright? The roots literally lie in censorship. It was easy for State and church to control thought by controlling the scribes, but then the printing press came along, and the authorities worried that they couldn’t control official thought as easily. So Queen Mary created the Stationer’s Company in 1557, with the exclusive franchise over book publishing, to control the press and what information the people could access. When the charter of the Stationer’s Company expired, the publishers lobbied for an extension, but in the Statute of Anne (1710) Parliament gave copyright to authors instead. Authors liked this because it freed their works from State control. Nowadays they use copyright much as the State originally did: to censor and ban books. (More below.) IP, American Style The American system of IP began with the U.S. Constitution. Article 1, Section 8, Clause 8 authorizes (but doesn’t require) Congress “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” Despite modern IP proponents’ claims to the contrary, the American founders did not view intellectual property as a natural right but only as a policy tool to encourage innovation. Yet they were nervous about monopoly privilege, which is why patents and copyrights were authorized only for a limited time. Even John Locke, whose thought influenced the Founding Fathers, did not view copyright and patent as natural rights. Nor did he maintain that property homesteading applied to ideas. It applied only to scarce physical resources. Granted, some state constitutions had little versions of copyright before the American Constitution. (See Tom W. Bell, Intellectual Privilege: Copyright, Common Law, and the Common Good, part 1, chapter 3, section B.1.) On occasion, the language of natural rights was used to defend it, but this was just cover for the monopolies they granted to special interests. Natural rights do not expire after 15 years. Natural rights are not extended to Americans only. Natural rights wouldn’t exclude many types of innovation and intellectual creativity and cover only a few arbitrary types. And what is the result of this system? In the case of patents we have a modern statute administered by a huge federal bureaucracy that grants monopolies on the production and trade of various things, which means holders may ask the federal courts to order the use of force to stop competitors. But the competitors have not done anything that justifies force. They merely have used information to guide their actions with respect to their own property. Is that compatible with private property and the free market?

#### That affirms: Free market economies are the only ones that allow people to be free to pursue their own interests.

**Richman 12** [Sheldon Richman, 8-5-2012, "The Free Market Doesn't Need Government Regulation," Reason, <https://reason.com/2012/08/05/the-free-market-doesnt-need-government-r/>] // SJ AME

What regulates the conduct of these people? Market forces. (I keep specifying "in a freed market" because in a state-regulated economy, competitive market forces are diminished or suppressed.) Economically speaking, people cannot do whatever they want—and get away with it—in a freed market because other people are free to counteract them and it's in their interest to do so. That's part of what we mean by market forces. Just because the government doesn't stop a seller from charging $100 for an apple doesn't mean he or she can get that amount. Market forces regulate the seller as strictly as any bureaucrat could—even more so, because a bureaucrat can be bribed. Whom would you have to bribe to win an exemption from the law of supply and demand? (Well, you might bribe enough legislators to obtain protection from competition, but that would constitute an abrogation of the market.) It is no matter of indifference whether state operatives or market forces do the regulating. Bureaucrats, who necessarily have limited knowledge and perverse incentives, regulate by threat of physical force. In contrast, market forces operate peacefully through millions of cooperating participants, each with intimate knowledge of her own personal circumstances and looking out for her own well-being. Bureaucratic regulation is likely to be irrelevant or (more likely) inimical to what people in the market care about. Not so regulation by market forces.

#### [3] IPP is nonuniversalizable – universalizing the act of restricting the production of a certain medicine terminates in a contradiction because it entails that you restrict your own ability to produce the medicine

### UV

#### [1] Aff Theory – a] the aff gets it because otherwise the 1NC could engage in unchecked, infinite abuse which outweighs anything else, b] it’s drop the debater because the 2AR is too short to win a shell AND substance so theory can only check abuse for the aff if it’s a win condition, c] no neg RVI because otherwise they could dump in the 2n for 6 minutes and get away with anything by sheer brute force, d) competing interps because you have 6 minutes to respond to my 1ar arguments so you should have to prove a better model e) Aff theory first – it’s a much larger strategic loss because 1min is ¼ of the 1AR vs 1/7 of the 1NC which means there’s more abuse if I’m devoting a larger fraction of time.

#### [2] Permissibility affirms:

#### A] Dictionary.com defines “ought”: as a verb “used to express justice, moral rightness, or the like” and “wrong” as “not in accordance with what is morally right or good” – proving something isn’t wrong means it’s right.

#### B] Otherwise we’d have to have a proactive justification to do things like drink water.

#### C] If anything is permissible, then definitionally so is the aff since there is nothing that prevents us from doing it.

#### [3] Presumption affirms:

#### A] Statements are true before false since if I told you my name, you’d believe me.

#### B] Epistemics – we wouldn’t be able to start a strand of reasoning since we’d have to question that reason.

#### C] Illogical – presuming statements false is illogical since you can’t say things like P and ~P are both wrong.

#### [3] Aff gets RVI’s

#### 1] The 1AR has to over-cover since the NR is devastating which encourages them to under-develop theory in the NC and over-develop in the NR—need the RVI to develop good, in-depth theoryoffense

#### 2] 7-minute NC means you can brute force theory and I don’t have time to win both layers, and aff speaking in the dark means you get access to awful bidirectional interps – RVI’s solve since you’ll lose on bad shells