## DA

#### Commercial asteroid mining is coming now – lower costs and improving tech make it economically viable – and the legal basis is already in place in multiple countries– that helps acquire water for rocket fuel and rare earth metals

Gilbert 21, PhD student in space resources at the Colorado School of Mines, writes in 21 alex gilbert, is a complex systems researcher and a PhD student in space resources at the Colorado School of Mines. "Mining in Space Is Coming." Milken Institute Review, April 26, 2021, [www.milkenreview.org/articles/mining-in-space-is-coming](http://www.milkenreview.org/articles/mining-in-space-is-coming). [Quality Control]

Space exploration is back. after decades of disappointment, a combination of better technology, falling costs and a rush of competitive energy from the private sector has put space travel front and center. indeed, many analysts (even some with their feet on the ground) believe that commercial developments in the space industry may be on the cusp of starting the largest resource rush in history: mining on the Moon, Mars and asteroids.

While this may sound fantastical, some baby steps toward the goal have already been taken. Last year, NASA awarded contracts to four companies to extract small amounts of lunar regolith by 2024, effectively beginning the era of commercial space mining. Whether this proves to be the dawn of a gigantic adjunct to mining on earth — and more immediately, a key to unlocking cost-effective space travel — will turn on the answers to a host of questions ranging from what resources can be efficiently.

As every fan of science fiction knows, the resources of the solar system appear virtually unlimited compared to those on Earth. There are whole other planets, dozens of moons, thousands of massive asteroids and millions of small ones that doubtless contain humungous quantities of materials that are scarce and very valuable (back on Earth). Visionaries including Jeff Bezos imagine heavy industry moving to space and Earth becoming a residential area. However, as entrepreneurs look to harness the riches beyond the atmosphere, access to space resources remains tangled in the realities of economics and governance.

Start with the fact that space belongs to no country, complicating traditional methods of resource allocation, property rights and trade. With limited demand for materials in space itself and the need for huge amounts of energy to return materials to Earth, creating a viable industry will turn on major advances in technology, finance and business models.

That said, there’s no grass growing under potential pioneers’ feet. Potential economic, scientific and even security benefits underlie an emerging geopolitical competition to pursue space mining. The United States is rapidly emerging as a front-runner, in part due to its ambitious Artemis Program to lead a multinational consortium back to the Moon. But it is also a leader in creating a legal infrastructure for mineral exploitation. The United States has adopted the world’s first spaceresources law, recognizing the property rights of private companies and individuals to materials gathered in space.

However, the United States is hardly alone. Luxembourg and the United Arab Emirates (you read those right) are racing to codify space-resources laws of their own, hoping to attract investment to their entrepot nations with business-friendly legal frameworks. China reportedly views space-resource development as a national priority, part of a strategy to challenge U.S. economic and security primacy in space. Meanwhile, Russia, Japan, India and the European Space Agency all harbor space-mining ambitions of their own. Governing these emerging interests is an outdated treaty framework from the Cold War. Sooner rather than later, we’ll need new agreements to facilitate private investment and ensure international cooperation.

What’s Out There

Back up for a moment. For the record, space is already being heavily exploited, because space resources include non-material assets such as orbital locations and abundant sunlight that enable satellites to provide services to Earth. Indeed, satellite-based telecommunications and global positioning systems have become indispensable infrastructure underpinning the modern economy. Mining space for materials, of course, is another matter.

In the past several decades, planetary science has confirmed what has long been suspected: celestial bodies are potential sources for dozens of natural materials that, in the right time and place, are incredibly valuable. Of these, water may be the most attractive in the near-term, because — with assistance from solar energy or nuclear fission — H2O can be split into hydrogen and oxygen to make rocket propellant, facilitating in-space refueling. So-called “rare earth” metals are also potential targets of asteroid miners intending to service Earth markets. Consisting of 17 elements, including lanthanum, neodymium, and yttrium, these critical materials (most of which are today mined in China at great environmental cost) are required for electronics. And they loom as bottlenecks in making the transition from fossil fuels to renewables backed up by battery storage.

#### However, the legal framework that strikes the best balance of providing economic incentives for mining while preventing unbeneficial land claims requires a doctrine of appropriation – the plan prevents that

Meyers 15 Meyers, Ross. J.D. candidate at the University of Oregon Law School. "The doctrine of appropriation and asteroid mining: incentivizing the private exploration and development of outer space." Or. Rev. Int'l L. 17 (2015): 183. Italics in original. [Quality Control]

The doctrine of appropriation is a reasonable rule for adjudicating asteroid claims, and it could easily be modified to apply to asteroid mining. In the context of water rights, the doctrine of appropriation requires that the claimant be a landowner in order to claim the right to use a water source. It does not make sense, however, for the international community to grant complete ownership over asteroids toa single entity, so the landowner requirement of the rule should be removed. A similar modification would need to be made to the "beneficial use" language of the doctrine.

In the context of water rights, an appropriator obtains rights only to water that he or she can reasonably put to beneficial use. The metals contained in asteroids have a high level of marketability. For that reason, a mining entity could potentially put any amount of obtained metal to beneficial use, in the sense that the resources can be sold. This, however, would defeat the purpose of the rule, which is to limit such unreasonable claims. To ameliorate this problem, the doctrine of appropriation could be modified to define "beneficial use "constructively by providing that beneficial use is assumed for any resources that have been removed from the asteroid that the mining entity can reasonably hope to transport to market in a return journey. With the astronomical cost of undertaking a trip to such an asteroid, this modification would limit mining entities to only what they can carry back, thereby leaving the untapped resources available to other entities capable of making the same trip. Considering the size and profitability of metal deposits on asteroids, this modification to the doctrine of appropriation would not be overly burdensome to corporate interests. At the same time, it would satisfy the economic imperative of promoting the rapid development of asteroid resources.

By changing the landowner requirement, and qualifying the “beneficial use" language, the doctrine of appropriation would be essentially ready for application to asteroid mining claims. The only other changes necessary would be some additional requirements that are common to other space related provisions, like those found in the Outer Space Treaty of 1968. For example, a reporting requirement or clause guaranteeing asylum for other astronauts. A functional rule might read something like this:

*State parties or private entities may, upon actual possession, lay claim to natural resources found on or below the surface of asteroids. Rights to appropriate are given in order of seniority, starting with the first party to land on the surface of the asteroid and establish control over the resources, be it water, methane, metal, or any other beneficial substances. A party will be said to have established control over a resource once he has mined the substance and removed it from the asteroid. A senior appropriator may use as much of the asteroid's resources as he can take from the asteroid and put to beneficial use, and may continue to enlarge his share until another junior appropriator begins to appropriate resources from source for beneficial use. For the purposes of this Agreement, "beneficial use “refers to the amount of resources that an appropriator has removed from the asteroid that the actor may reasonably hope to bring home in a return voyage. Resources in excess of what an appropriator can reasonably hope to transport to market in a single voyage do not qualify as having a beneficial use, and are therefore not yet claimed. This means that the extraction of metal from an asteroid does not serve to provide ownership if the appropriator plans on letting the resources languish until another voyage is undertaken to secure the resources and bring them back to Earth. Junior appropriators receive rights in the source of resources (the asteroid) as they find it, and may prevent the senior appropriator from enlarging his share to the junior appropriator’s detriment under a no-injury rule. No state party will attempt to hinder other parties from landing on or using the asteroid, and parties will assist other entities on an asteroid, should they need emergency assistance. Mining claims on asteroids will be reported to the Secretary-General of the United Nations, and state parties agree to release the location of the asteroid, and any scientific findings to the United Nations, the general public, and the scientific community. In the event that the asteroid is on a collision course with any other celestial body, all state parties agree to follow the course of action suggested by the United Nations. Should the United Nations decide the asteroid must be destroyed, no state party may claim liability for resources contained within the asteroid, but not yet captured. This provision applies only to asteroids as classified by the scientific community, and does not apply to planets, comets, meteorites, or any other celestial body not mentioned.*

There is no doubt that asteroids may be extremely beneficial to mankind, both as a source of resources and as a jumping-off point to far off locations in space. The human-race has progressed scientifically and technologically to the point that space travel is within commercial reach, and the need for new international laws governing the ownership of space has never been more apparent. The Outer Space Treaty of 1968made great strides in developing rational rules for space and many of its provisions should be maintained in their original form. However, by allowing ownership of asteroids under the doctrine of appropriation, the international community can incentivize the exploration and development of space in a way that reflects the needs of society in general, without vesting an absolute monopoly in a single entity. The doctrine of appropriation helped drive American westward expansion, and its application to space mining would help drive the human race in its expansion into the space, the final frontier.

#### Asteroid mining offsets terrestrial growth that ruins the environment and enables solar power satellites – both solve climate change

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The mission is essential, Joyce declares, to save Earth from its major problems. First of all, the fictional billionaire wheels in a fictional Nobel economist to demonstrate the actual truth that the entire global economy is sitting on a mountain of debt. It has to keep growing or it will implode, so we might as well take the majority of the industrial growth off-world where it can’t do any more harm to the biosphere.

Secondly, there’s the climate change fix. Suarez sees asteroid mining as the only way we’re going to build solar power satellites. Which, as you probably know, is a form of uninterrupted solar power collection that is theoretically more effective, inch for inch, than any solar panels on Earth at high noon, but operating 24/7. (In space, basically, it’s always double high noon).

The power collected is beamed back to large receptors on Earth with large, low-power microwaves, which researchers think will be harmless enough to let humans and animals pass through the beam. A space solar power array like the one China is said to be working on could reliably supply 2,000 gigawatts — or over 1,000 times more power than the largest solar farm currently in existence.

“We're looking at a 20-year window to completely replace human civilization's power infrastructure,” Suarez told me, citing the report of the Intergovernmental Panel on Climate Change on the coming catastrophe. Solar satellite technology “has existed since the 1970s. What we were missing is millions of tons of construction materials in orbit. Asteroid mining can place it there.”

The Earth-centric early 21st century can’t really wrap its brain around this, but the idea is not to bring all that building material and precious metals down into our gravity well. Far better to create a whole new commodities exchange in space. You mine the useful stuff of asteroids both near to Earth and far, thousands of them taking less energy to reach than the moon. That’s something else we’re still grasping, how relatively easy it is to ship stuff in zero-G environments.

## NC

#### The standard is maximizing expected wellbeing.

#### 1] Extinction o/ws under any framework, even under moral uncertainty – infinite future generations

Pummer 15 — (Theron Pummer, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford, “Moral Agreement on Saving the World“, Practical Ethics University of Oxford, 5-18-2015, Available Online at http://blog.practicalethics.ox.ac.uk/2015/05/moral-agreement-on-saving-the-world/, accessed 7-2-2018, HKR-AM) \*\*we do not endorse ableist language=

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### 2] Non util ethics are impossible

Greene 10 – Joshua, Associate Professor of Social science in the Department of Psychology at Harvard University (The Secret Joke of Kant’s Soul published in Moral Psychology: Historical and Contemporary Readings, accessed: www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf)

**What turn-of-the-millennium science** **is telling us is that human moral judgment is not a pristine rational enterprise**, that our **moral judgments are driven by a hodgepodge of emotional dispositions, which themselves were shaped by a hodgepodge of evolutionary forces, both biological and cultural**. **Because of this, it is exceedingly unlikely that there is any rationally coherent normative moral theory that can accommodate our moral intuitions**. Moreover, **anyone who claims to have such a theory**, or even part of one, **almost certainly doesn't**. Instead, what that person probably has is a moral rationalization. It seems then, that we have somehow crossed the infamous "is"-"ought" divide. How did this happen? Didn't Hume (Hume, 1978) and Moore (Moore, 1966) warn us against trying to derive an "ought" from and "is?" How did we go from descriptive scientific theories concerning moral psychology to skepticism about a whole class of normative moral theories? The answer is that we did not, as Hume and Moore anticipated, attempt to derive an "ought" from and "is." That is, our method has been inductive rather than deductive. We have inferred on the basis of the available evidence that the phenomenon of rationalist deontological philosophy is best explained as a rationalization of evolved emotional intuition (Harman, 1977). Missing the Deontological Point I suspect that **rationalist deontologists will remain unmoved by the arguments presented here**. Instead, I suspect, **they** **will insist that I have simply misunderstood what** Kant and like-minded **deontologists are all about**. **Deontology, they will say, isn't about this intuition or that intuition**. It's not defined by its normative differences with consequentialism. **Rather, deontology is about taking humanity seriously**. Above all else, it's about respect for persons. It's about treating others as fellow rational creatures rather than as mere objects, about acting for reasons rational beings can share. And so on (Korsgaard, 1996a; Korsgaard, 1996b). **This is, no doubt, how many deontologists see deontology. But this insider's view**, as I've suggested, **may be misleading**. **The problem**, more specifically, **is that it defines deontology in terms of values that are not distinctively deontological**, though they may appear to be from the inside. **Consider the following analogy with religion. When one asks a religious person to explain the essence of his religion, one often gets an answer like this: "It's about love**, really. It's about looking out for other people, looking beyond oneself. It's about community, being part of something larger than oneself." **This sort of answer accurately captures the phenomenology of many people's religion, but it's nevertheless inadequate for distinguishing religion from other things**. This is because many, if not most, non-religious people aspire to love deeply, look out for other people, avoid self-absorption, have a sense of a community, and be connected to things larger than themselves. In other words, secular humanists and atheists can assent to most of what many religious people think religion is all about. From a secular humanist's point of view, in contrast, what's distinctive about religion is its commitment to the existence of supernatural entities as well as formal religious institutions and doctrines. And they're right. These things really do distinguish religious from non-religious practices, though they may appear to be secondary to many people operating from within a religious point of view. In the same way, I believe that most of **the standard deontological/Kantian self-characterizatons fail to distinguish deontology from other approaches to ethics**. (See also Kagan (Kagan, 1997, pp. 70-78.) on the difficulty of defining deontology.) It seems to me that **consequentialists**, as much as anyone else, **have respect for persons**, **are against treating people as mere objects,** **wish to act for reasons that rational creatures can share, etc**. **A consequentialist respects other persons, and refrains from treating them as mere objects, by counting every person's well-being in the decision-making process**

. **Likewise, a consequentialist attempts to act according to reasons that rational creatures can share by acting according to principles that give equal weight to everyone's interests, i.e. that are impartial**. This is not to say that consequentialists and deontologists don't differ. They do. It's just that the real differences may not be what deontologists often take them to be. What, then, distinguishes deontology from other kinds of moral thought? A good strategy for answering this question is to start with concrete disagreements between deontologists and others (such as consequentialists) and then work backward in search of deeper principles. This is what I've attempted to do with the trolley and footbridge cases, and other instances in which deontologists and consequentialists disagree. **If you ask a deontologically-minded person why it's wrong to push someone in front of speeding trolley in order to save five others, you will get** characteristically deontological **answers**. Some **will be tautological**: **"Because it's murder!"** **Others will be more sophisticated: "The ends don't justify the means**." "You have to respect people's rights." **But**, as we know, **these answers don't really explain anything**, because **if you give the same people** (on different occasions) **the trolley case** or the loop case (See above), **they'll make the opposite judgment**, even though their initial explanation concerning the footbridge case applies equally well to one or both of these cases. **Talk about rights, respect for persons, and reasons we can share are natural attempts to explain, in "cognitive" terms, what we feel when we find ourselves having emotionally driven intuitions that are odds with the cold calculus of consequentialism**. Although these explanations are inevitably incomplete, **there seems to be "something deeply right" about them because they give voice to powerful moral emotions**. **But, as with many religious people's accounts of what's essential to religion, they don't really explain what's distinctive about the philosophy in question**.

#### 3] Their framing presupposes the value of reason – focus on the material aspects of the world – proves that reason is just experience, justifies util

Yudkowsky 7 – (Eliezer Yudkowsky, AI theorist, rationalist philosopher, “A Priori”, LessWrong, October 8, 2007, Available Online at <https://www.lesswrong.com/posts/qmqLxvtsPzZ2s6mpY/a-priori>, accessed 7-20-18, HKR-AM)

If you are a philosopher whose daily work is to write papers, criticize other people's papers, and respond to others' criticisms of your own papers, then you may look at Occam's Razor and shrug. Here is an end to justifying, arguing and convincing. You decide to call a truce on writing papers; if your fellow philosophers do not demand justification for your un-arguable beliefs, you will not demand justification for theirs. And as the symbol of your treaty, your white flag, you use the phrase "a priori truth". But to a Bayesian, in this era of cognitive science and evolutionary biology and Artificial Intelligence, saying "a priori" doesn't explain why the brain-engine runs. If the brain has an amazing "a priori truth factory" that works to produce accurate beliefs, it makes you wonder why a thirsty hunter-gatherer can't use the "a priori truth factory" to locate drinkable water. It makes you wonder why eyes evolved in the first place, if there are ways to produce accurate beliefs without looking at things. James R. Newman said: "The fact that one apple added to one apple invariably gives two apples helps in the teaching of arithmetic, but has no bearing on the truth of the proposition that 1 + 1 = 2." The Internet Encyclopedia of Philosophy defines "a priori" propositions as those knowable independently of experience. Wikipedia quotes Hume: Relations of ideas are "discoverable by the mere operation of thought, without dependence on what is anywhere existent in the universe." You can see that 1 + 1 = 2 just by thinking about it, without looking at apples. But in this era of neurology, one ought to be aware that thoughts are existent in the universe; they are identical to the operation of brains. Material brains, real in the universe, composed of quarks in a single unified mathematical physics whose laws draw no border between the inside and outside of your skull. When you add 1 + 1 and get 2 by thinking, these thoughts are themselves embodied in flashes of neural patterns. In principle, we could observe, experientially, the exact same material events as they occurred within someone else's brain. It would require some advances in computational neurobiology and brain-computer interfacing, but in principle, it could be done. You could see someone else's engine operating materially, through material chains of cause and effect, to compute by "pure thought" that 1 + 1 = 2. How is observing this pattern in someone else's brain any different, as a way of knowing, from observing your own brain doing the same thing? When "pure thought" tells you that 1 + 1 = 2, "independently of any experience or observation", you are, in effect, observing your own brain as evidence. If this seems counterintuitive, try to see minds/brains as engines - an engine that collides the neural pattern for 1 and the neural pattern for 1 and gets the neural pattern for 2. If this engine works at all, then it should have the same output if it observes (with eyes and retina) a similar brain-engine carrying out a similar collision, and copies into itself the resulting pattern. In other words, for every form of a priori knowledge obtained by "pure thought", you are learning exactly the same thing you would learn if you saw an outside brain-engine carrying out the same pure flashes of neural activation. The engines are equivalent, the bottom-line outputs are equivalent, the belief-entanglements are the same. There is nothing you can know "a priori", which you could not know with equal validity by observing the chemical release of neurotransmitters within some outside brain. What do you think you are, dear reader? This is why you can predict the result of adding 1 apple and 1 apple by imagining it first in your mind, or punch "3 x 4" into a calculator to predict the result of imagining 4 rows with 3 apples per row. You and the apple exist within a boundary-less unified physical process, and one part may echo another. Are the sort of neural flashes that philosophers label "a priori beliefs", arbitrary? Many AI algorithms function better with "regularization" that biases the solution space toward simpler solutions. But the regularized algorithms are themselves more complex; they contain an extra line of code (or 1000 extra lines) compared to unregularized algorithms. The human brain is biased toward simplicity, and we think more efficiently thereby. If you press the Ignore button at this point, you're left with a complex brain that exists for no reason and works for no reason. So don't try to tell me that "a priori" beliefs are arbitrary, because they sure aren't generated by rolling random numbers. (What does the adjective "arbitrary" mean, anyway?) You can't excuse calling a proposition "a priori" by pointing out that other philosophers are having trouble justifying their propositions. If a philosopher fails to explain something, this fact cannot supply electricity to a refrigerator, nor act as a magical factory for accurate beliefs. There's no truce, no white flag, until you understand why the engine works. If you clear your mind of justification, of argument, then it seems obvious why Occam's Razor works in practice: we live in a simple world, a low-entropy universe in which there are short explanations to be found. "But," you cry, "why is the universe itself orderly?" This I do not know, but it is what I see as the next mystery to be explained. This is not the same question as "How do I argue Occam's Razor to a hypothetical debater who has not already accepted it?" Perhaps you cannot argue anything to a hypothetical debater who has not accepted Occam's Razor, just as you cannot argue anything to a rock. A mind needs a certain amount of dynamic structure to be an argument-acceptor. If a mind doesn't implement Modus Ponens, it can accept "A" and "A->B" all day long without ever producing "B". How do you justify Modus Ponens to a mind that hasn't accepted it? How do you argue a rock into becoming a mind? Brains evolved from non-brainy matter by natural selection; they were not justified into existence by arguing with an ideal philosophy student of perfect emptiness. This does not make our judgments meaningless. A brain-engine can work correctly, producing accurate beliefs, even if it was merely built - by human hands or cumulative stochastic selection pressures - rather than argued into existence. But to be satisfied by this answer, one must see rationality in terms of engines, rather than arguments.

#### 4 – The principle of diminishing marginal utility for happiness ensures that util safeguards minority rights

Mattoo and Subramanian 13 — (Aaditya Mattoo is the research manager for trade and integration at the World Bank. Arvind Subramanian is a senior fellow at the Center for Global Development and the Peterson Institute for International Economics. “GREENPRINT: A New Approach to Cooperation on Climate Change”, Center for Global Development, 2013, Available Online at <https://www.cgdev.org/sites/default/files/Mattoo_Subramanian_Greenprint.pdf>, accessed 11-9-19, HKR-AM)

“Emissions mitigation” refers to actions to reduce emissions. It imposes economic costs on countries that undertake such actions in terms of reduced consumption and growth. Most theories of justice would suggest that insofar as costs are imposed, more of them should be borne by those whose incomes are greater. In a utilitarian view, in circumstances of diminishing marginal utilities—meaning that an additional unit of consumption and income forgone is more costly for a poor person than a rich one—world welfare will be maximized, or at least the loss in world welfare will be minimized, if those who are poorer incur lower costs. A Rawlsian perspective (based on the views of the politica l philosopher John Rawls) would, of course, be even more strongly redistributive. In terms of a carbon budget, therefore, most ethical perspectives would require future allocations to be inversely related to the ability (or, alternately, capacity) to pay for emissions reductions. This approach is also embedded in the Kyoto Protocol and reflected in the principle of common but differentiated responsibilities.

#### 5 - Reductionism implies util specifically – alternative theories break down

MacAskill and Wilbin 18 – (Will MacAskill, Associate Professor in Philosophy at Oxford University, author of Doing Good Better, and one of the co-founders of the effective altruism community, interviewed by Robert Wilbin, studied both genetics and economics at the Australian National University (ANU), graduating top of his class and being named Young Alumnus of the Year in 2015. He worked as a research economist in various Australian Government agencies, and then moved to the UK to work at the Centre for Effective Altruism, first as Research Director, then Executive Director, then Research Director for 80,000 Hours, “Our descendants will probably see us as moral monsters. What should we do about that?”, 80,000 Hours, 1-19-18, Available Online at <https://80000hours.org/podcast/episodes/will-macaskill-moral-philosophy/#top>, accessed 8-26-18, HKR-AM)

Imagine that you’re in a car accident with 2 of your siblings. In this car accident your body is completely destroyed, and the brains of your 2 siblings are completely destroyed, but they still have functioning bodies, are preserved. As you’ll see, this is a very philosophical thought experiment. Robert Wiblin: One day maybe we can do this. Will MacAskill: Maybe. Finally, let’s also suppose that it’s possible to take someone’s brain and split it in 2, and implant it into 2 other people’s skulls such that the brain will grow back fully and will have all the same memories as that first person did originally. In the same way I think it’s the case that you can split up a liver and the 2 separate livers will grow back, or you can split up an earthworm – I don’t know if this is true – split up an earth worm and they’ll both wiggle off. Robert Wiblin: Maybe you could. Will MacAskill: Maybe you could. You’ve got to imagine these somewhat outlandish possibilities, but that’s okay because we’re illustrating a philosophical point. Now you’ve got these 2 bodies that wake up and have all the same memories of you. From their perspective they were just in this car crash and then woke up in a different… The question is, who’s you? Supposing we think there’s this Cartesian soul that exists within one of us, the question would be into which body does the soul go? Or, even if you don’t think there’s a soul but you think, no, there’s something really fundamental about me. Who’s the me? There’s 4 possible answers. One is that it’s one sibling. Second is it’s the other sibling. Third is it’s both. Fourth is it’s neither. It couldn’t be one brother or one sibling over the other because there’s a parity argument. Any argument you give for saying it’s the youngest sibling would also give an argument to the oldest sibling. That can’t be the case. It can’t be that it’s both people because, well, now I’ve got this person that consists of 2 other entities walking around? That seems very absurd indeed. It can’t be neither either. Now imagine the case where you’re in a car crash and your brain just gets transplanted to one person. Then you would think, well, we continue. I was in this terrible car crash, I woke up with a different body, but it’s still me. I still have all the same memories. But, if it’s the case that I can survive in the case of my brain being transplanted into one other person, surely I can survive if my brain is transplanted into 2 people. It would seem weird that a double win, double success, is actually a failure. And so, tons more philosophical argument goes into this. The conclusion that Derek Parfit ultimately makes is, there’s just no fact of the matter here. This actually shows that what we think of as this continued personal identity over time is just a kind of fiction. It’s like saying when the French Socialist party split into two, are there now two? Which one is really the French Socialist party? This is just a meaningless questions. Robert Wiblin: What’s actually going on is that there are different parties, and some of them are more similar than others. Will MacAskill: Exactly. That’s right. But, once you reject this idea that there’s any fundamental moral difference between persons, then the fact that it’s permissible for me to make a trade off where I inflict harm on myself now, or benefit myself now in order to perhaps harm Will age 70… Let’s suppose that that’s actually good for me overall. Well, I should make just the same trade offs within my own life as I make across lives. It would be okay to harm one person to benefit others. If you grant that, then, you end up with something that’s starting to look pretty similar to utilitarianism. Robert Wiblin: Okay, so the basic idea is we have strong reasons to think that identity doesn’t exist in the way that we instinctively think it does, that in fact it’s just a continuum. Will MacAskill: Mm-hmm (affirmative). Robert Wiblin: This is exactly what utilitarianism always thought and was acting as though it was true. Will MacAskill: Yes. Robert Wiblin: But for deontological theories or virtue ethics theories, they really need a sense of identity and personhood to make sense to begin with.

#### 6 – only util can explain degrees of wrongness- it is worse to kill thousands than to lie to a friend- either ethical theories cannot explain comparative badness, or it collapses

# Case

## Contention

#### 1] ILAW goes NEG – prefer over OST arguments on [1] scope, since we holistically evaluate all ILAW space private property [2] specificity – the OST is at best incredibly vague, the Moon Treaty explicitly goes NEG [3] author quals – we’re citing someone with extensive senior-level experience on the National Space Council and NASA who is better at interpreting contracts governing property rights in Outer Space than a random author, and [4] recency – we’re citing ILAW treaties that post-date

Pace 11 (Scott Pace – Executive Secretary of the National Space Council + ex-Deputy Chief of Staff for NASA + ex-Director of the Space Policy Institute and Professor of the Practice of International Affairs @ George Washington University’s Elliot School of International Affairs, “Marchant and Guardian Challenges in Spacepower”, “Toward a Theory of Space Power”, National Defense University Press, https://ndupress.ndu.edu/Portals/68/Documents/Books/spacepower.pdf , 2011, pgs. 266 – 269, EmmieeM)

Current international law recognizes the continued ownership of objects placed in space by governments or private entities. Similarly, resources removed from outer space (such as lunar samples from the Apollo missions) can be and are subject to ownership. Other sorts of rights in space, such as to intellectual property and spectrum, are also recognized. Article II of the 1967 Outer Space Treaty, however, specifically bars national appropriation of the Moon or other celestial bodies by claims of sovereignty or other means. It also says that states shall be responsible for the activities of persons under their jurisdiction or control. Thus, the central issue is the ability to confer and recognize real property rights on land, including in situ resources found on the Moon and other celestial bodies.

In common law, a sovereign is generally required to recognize private property claims. Thus, the Outer Space Treaty, by barring claims of sovereignty, is usually thought to bar private property claims. Many legal scholars in the International Institute of Space Law and other organizations support that view. Other scholars, however, make a distinction between sovereignty and property and point to civil law that recognizes property rights independent of sovereignty.34 It has also been argued that while article II of the treaty prohibits territorial sovereignty, it does not prohibit private appropriation. The provision of the Outer Space Treaty requiring state parties to be responsible for the activities of persons under their jurisdiction or control leaves the door open to agreements or processes that allow them to recognize and confer property rights, even under common law

Current international space treaties are built on the assumption that all matters can and should trace back to states. This is in contrast to admiralty law and the growing field of commercial arbitration in which the interests and responsibilities of owners, not necessarily the state, were the legal foundation. It can be argued that the Outer Space Treaty was not the final word on real property rights in space even within the international space law community, as drafters of the 1979 Moon Treaty felt it necessary to be more explicit on this point. The treaty states: Article 11. (1) The moon and its natural resources are the common heritage of mankind. (2) The moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means. (3) Neither the surface nor the subsurface of the moon . . . shall become property of any State, international intergovernmental or nongovernmental organization, national organization or nongovernmental entity or of any natural person [emphasis added]. The placement of personnel, space vehicles, equipment, facilities, stations . . . shall not create a right of ownership over the surface or subsurface of the moon or any areas thereof. The foregoing provisions are without prejudice to the international regime referred to in Paragraph 5 of this Article . . . (5) State parties to this Agreement hereby undertake to establish an international regime . . . to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible . . . (7) The main purposes of the international regime to be established shall include: a) The orderly and safe development of the natural resources of the moon, b) the rational management of those resources, c) the expansion of opportunities in the use of those resources, d) an equitable sharing by all State parties in the benefits derived from those resources, whereby the interests and needs of the developing countries, as well as the efforts of those countries, which have contributed either directly or indirectly to the exploration of the moon shall be given special consideration.35

Article 11 was the most controversial aspect of the Moon Treaty when it was introduced. The Outer Space Treaty had already excluded claims of national appropriation, and this provision is repeated in article 11, part 2. Article 11 goes further, however, in part 3 to exclude property claims of any sort, and if any benefits are derived, they are presumably to be shared in accordance with the “common heritage” provision of article 11, part 1. Even the exercise of effective control of a region, as in placing a permanent base, would not support a claim of ownership by any entity. There is no mention of any limitations that would be placed on a regime controlling nonterrestrial resources or what mechanisms would be considered to resolve disputes. One might argue that article 11 prejudges the design of an international regime for the orderly and safe development of the Moon in that a system of internationally recognized property rights could, in fact, be the more rational way to manage those resources, expand opportunities for their use, and equitably share the benefits therein derived.

Furthermore, privacy and the right of persons to be secure in their dwellings are not rights supported by the Moon Treaty. Article 15 reads: Article 15(1). All space vehicles, equipment, facilities, stations and installations on the moon shall be open to other State parties. Such State parties shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited.36

No limits are placed on the reach of article 15, and the right to inspect space-based facilities would presumably extend to individual quarters and personal effects and papers. If state parties owned all facilities on the Moon and all persons on the Moon were state employees, an inspection regime, based on reciprocity, would seem to be a simple requirement. If some facilities are privately owned and their occupants are private citizens (which the Moon Treaty does not forbid), then a broad inspection requirement like article 15 would necessarily supersede those privacy rights enjoyed in the United States and other democracies. Thus, the Moon and other celestial bodies would be regions where inhabitants enjoyed fewer liberties than in the United States or other nations on Earth.

The 1979 Moon Treaty may not appear very relevant since the United States and almost all other spacefaring nations did not sign it and none has ratified it.37 However, the view that real property rights are forbidden by international law is widely prevalent. This in turn creates uncertainty in the minds of potential private sector partners and is inconsistent with the goals enunciated by the President and Congress in supporting the “Vision for Space Exploration.” At minimum, real property rights in space are legally ambiguous and the United States need not accept flat statements that the Outer Space Treaty per se forbids such rights.

#### 2] Only util can sufficiently ground an obligation to follow I-law- proves it collapses.

Posner, 3 [Eric A. Posner, a professor at the University of Chicago Law School, “Do States Have a Moral Obligation to Obey International Law?” Stanford Law Review, Vol. 55, No. 5 (May, 2003), pp. 1901-1919, <https://www.jstor.org/stable/1229567>, accessed 11-14-2019]

Domestic laws are good because they respect and promote the autonomy of citizens, or because they promote the welfare of citizens. But as argued in Part II, states do not have autonomy in the way that individuals do. States do not have projects and life plans. Nor do states experience welfare or utility. States are vehicles through which citizens pursue their goals, and although we can talk meaningfully about whether the citizens of a state in the aggregate enjoy a high level of welfare or enjoy a great deal of autonomy, the state itself does not experience these things. The state's own autonomy (in the moral, not political, sense) or welfare cannot be a reason for complying with international law. When people argue that states should comply with international law, they always appeal to the rights or welfare of individuals. Individuals would be better off in a world in which states had an obligation to comply with international law. That is why states should obey international law.

#### If we win util, it takes out their framework.

Posner, 3 [Eric A. Posner, a professor at the University of Chicago Law School, “Do States Have a Moral Obligation to Obey International Law?” Stanford Law Review, Vol. 55, No. 5 (May, 2003), pp. 1901-1919, <https://www.jstor.org/stable/1229567>, accessed 11-14-2019]

None of this is to say that a state should never keep its promises. The leaders of a state might think that the utility of its citizens will be maximized if they keep some promises. They might think that they will be able to borrow tomorrow only if they pay debts from yesterday. Or the leaders might think that keeping promises advances the autonomy of citizens. But these views make the state's obligation to keep promises a prudential decision, not a moral decision. The decision to keep a promise turns on its effect on the good of the nation. 14

#### Independently, prefer util because I-law can generate conflicting or contradictory laws or duties which fails to provide any meaningful way to arbitrate those disputes- only util solves tradeoffs by appealing to consequences.

#### 3. Governments must consider utility only for decisions that affect their citizenry since that is the mandate of the state and foundational to their legitimacy. Sacrificing state sovereignty- e.g. if I-law required a state to give all its money to another state, would obviously not be required.

## Theory

#### 1] 1AR theory isn’t drop the debater by default – they need a specific warrant for a shell

#### 2 – Reject permissibility and presumption triggers –

#### a] they mean actions like rape, genocide, slavery, and saying the n word are allowed and can’t be morally condemned – that’s something you should reject on face, especially in an educational space for high schoolers. Also disproves skep because it contradicts basic intuitions – reason to throw out the theory like real philosophers do

#### B] they’re functionally NIBs that we have to answer or lose but can’t win on – links to our NIBs bad offense

#### 3 – Permissibility/Presumption flows neg – it means the aff hasn’t met their burden of proof so you should default neg, which outweighs on burdens which are most intrinsic to debate itself and come first before other silly justifications

#### 4 – No risk of permissibility/presumption – there’s always a 1% risk of some impact that can’t be resolved – no need for this entire debate

## Framing

**1. Truth is objective, not social**

Alan D. **Sokal 96**, Professor of Physics at New York University, “A Physicist Experiments With Cultural Studies,” Lingua Franca, May, 1996, http://www.physics.nyu.edu/sokal/lingua\_franca\_v4/lingua\_franca\_v4.html

Why did I do it? While my method was satirical, my motivation is utterly serious. **What concerns me is the proliferation**, not just of nonsense and sloppy thinking per se, but **of a particular kind of nonsense and sloppy thinking: one that denies the existence of objective realities, or (when challenged) admits their existence but downplays their practical relevance.** At its best, a journal like Social Textraises important questions that no scientist should ignore -- questions, for example, about how corporate and government funding influence scientific work. Unfortunately, epistemic relativism does little to further the discussion of these matters.

In short, **my concern over the spread of subjectivist thinking is both intellectual and political. Intellectually, the problem with such doctrines is that they are false (when not simply meaningless). There is a real world; its properties are not merely social constructions**; **facts and evidence do matter**. What sane person would contend otherwise? **And yet, much contemporary academic theorizing consists precisely of attempts to blur these obvious truths** -- **the utter absurdity of it all being concealed through obscure** and **pretentious language.**

Social Text's acceptance of my article exemplifies the intellectual arrogance of Theory -- meaning postmodernist literarytheory -- carried to its logical extreme. No wonder they didn't bother to consult a physicist. **If all is discourse and ``text,'' then knowledge of the real world is superfluous**; even physics becomes just another branch of Cultural Studies. **If**, moreover, **all is rhetoric and ``language games,'' then internal logical consistency is superfluous too: a patina of theoretical sophistication serves equally well. Incomprehensibility becomes a virtue; allusions, metaphors and puns substitute for evidence and logic.** My own article is, if anything, an extremely modest example of this well-established genre.

Politically, I'm angered because **most** (though not all) **of this silliness is emanating from the self-proclaimed Left**. We're witnessing here **a profound historical volte-face**. For most of the past two centuries, the Left has been identified with science and against obscurantism; we have believed that rational thought and the fearless analysis of objective reality (both natural and social) are incisive tools for combating the mystifications promoted by the powerful -- not to mention being desirable human ends in their own right. **The recent turn of many ``progressive'' or ``leftist'' academic humanists and social scientists toward one or another form of epistemic relativism** betrays this worthy heritage and **undermines the already fragile prospects for progressive social critique**

**. Theorizing about ``the social construction of reality'' won't help us find an effective treatment for AIDS or devise strategies for preventing global warming. Nor can we combat false ideas in history, sociology, economics and politics** **if we reject the notions of truth and falsity**.

**2. Litany of examples prove social model of truth is bad**

**-majority of white Americans think blacks are genetically prone to lower IQ**

**-majority of Americans don’t believe in climate change**

**-Majority of men think kavanaugh is innocent**

#### 3. Agency fails – you can will yourself to be a schmagent.

David **Enoch 11**, “Shmagency Revisited” in Michael Brady (ed.), New Waves in Metaethics. Palgrave-Macmillan (2011) pp. 2-5

If it can be defended, then, constitutivism promises to yield significant payoffs. But constitutivism seems to be subject to a powerful objection. For **agents need not care about their qualifications as agents**, or whether some of their bodily movements count as actions. **They can**, it seems, **be perfectly happy being shmagents – non-agent things** that lack the thing purportedly constitutive of agency, but **that are as similar to agents as is otherwise possible** – or perhaps being something else altogether. If so, constitutivism cannot make good on its promises: For when Korsgaard replies to the agent who asks, say, "Why should I care about the hypothetical and categorical imperatives?" with "Well, otherwise you wouldn't even count as an agent, you wouldn't even be in the game of performing actions.", **the skeptic can discard this reply with a simple "So-what?". What is it to her**, as it were, **if she qualifies as an agent or not**? She would be analogous not to the chess-player who asks why she should play according to the rules, but to someone who enjoys the aesthetic qualities of (what we call) the chess board and pieces. If we tell this person that he must not move his king to a certain position because it's against the rules, and if he breaks them he won't count as playing chess, he can shrug us off with a simple "So-what?". He doesn’t care whether his manipulation of the chess pieces qualifies as chess-playing. And at this point the objectivity Velleman hopes for also collapses, because the practical reasons whose objectivity Velleman wants to secure will not reach the person who is happy being a shmagent-rather-than-an-agent, or perhaps something else entirely. The general point here is that **the status of being constitutive of agency does not suffice for a normatively non-arbitrary status**. Of course, if there were some independent reason to be an agent (for instance, rather than a shmagent), or to perform actions, this objection would go away. But the price would be too high, for such an independent reason – one not accounted for by the constitutivist story, but rather presupposed by it – would make it impossible for constitutivism to be the whole, or the most foundational, account of normativity, or to deliver on its promised payoffs. Or so, at least, I have argued in my "Agency, Shmagency: Why Normativity Will Not Come from What Is Constitutive of Action" (2006)4 . Several people have responded to that paper, defending constitutivism against the shmagency challenge5 . I think that engaging these responses justifies a further discussion of the shmagency challenge. This is so, first, because of the prominence of constitutivism in the current literature (since the publication of "Agency, Shmagency", for instance, both Velleman (2009) and Korsgaard (2008) have published already-influential constitutivist books, for instance). If no answer to the shmagency challenge can succeed, then, this is of some significance to the current metanormative debate. Furthermore, a detailed examination of the possible lines of response available to constitutivists may – even if they do not end up refuting such views – improve our understanding of constitutivist views and of the motivations underlying them, and this too should count for philosophical progress. Indeed, already from Velleman's response to the shmagency challenge (and related difficulties) we can learn much more about at least his version of constitutivism than we could from his previous writing on the topic, as I hope will become clear later on. Finally, some of the topics to be discussed below are in fact of much wider philosophical interest. Or so, at least, I hope. Before proceeding, though, I need to make two preliminary points. First, in order to isolate the discussion of the shmagency challenge as much as possible from other possible challenges to constitutivism (or to specific constitutivist theories) I will grant for the sake of argument – as I did in "Agency, Shmagency" – much of what the constitutivist wants. In particular, I will grant that action and agency do have a constitutive aim (or aims, or standards, or motives, etc.), and I will not quibble over what it is (though, of course, different constitutivists may differ among themselves here). Also, I will have nothing at all to say specifically about morality here: Perhaps constitutivists have some further challenges they need to address when it comes to morality6 . Second, I will be using Velleman's discussion of the shmagency challenge and related issues as my focal point here. But I will not start this discussion with a clear, orderly presentation of his reply. My reason is that his reply (and to an extent, also Ferrero's) is not easily put in a clear, orderly way. Rather, his response seems to be comprised of several related lines of thought, that together disarm the challenge and show constitutivism to emerge victorious. So it is more convenient to discuss these lines of thought in turn, and then return – in the concluding section – to the bigger picture, in order to do some score-keeping. And indeed, this is how I will proceed. 2. Does Playing Chess Suffice for Having a Reason to Checkmate? One of the points I emphasized in "Agency, Shamgency" (185) was that **even if you** find yourself **engaging in** a kind of **an activity**, and indeed even if you find yourself **inescapably** engaging in it (inescapability will shortly take center stage), **and even if that activity is constitutively governed by some norm** or is constitutively directed at some aim, **this does not suffice for you to have a reason to obey that norm**

or aim at that aim. Rather, what is also needed is that you have a reason to engage in that activity. The example I use there – following Velleman – is that of games. **Even if you** somehow find yourself **playing chess, and** even if **checkmating your opponent is** a **constitutive** aim **of playing chess**, still you may not have a reason to (try to) checkmate your opponent. **You may lack** such **a reason if you lack a reason to play chess.** The analogy is clear enough: **even if you find yourself playing the agency game, and even if agency has a constitutive aim, still you may not have a reason to be an agent** (for instance, **rather than a shmagent***)****.***

#### 4. Missing link between inescapability and normativity – no reason why just because something is inescapable means it should guide action

#### 5. Consequences don’t fail

#### A. Aggregation possible – we can use averages – even if there is no common good, the vast majority of people would prefer not to die in a nuclear war- also doesn’t apply since we’ve read extinction specifically first, not just regular util and death would be bad for everyone because it forecloses future value

#### B. Intent focus reinforces oppression – powerful actors will plead ignorance – consideration of consequences key

**McCluskey 12** – JSD @ Columbia, Professor of Law @ SUNY-Buffalo

(Martha, “How the "Unintended Consequences" Story Promotes Unjust Intent and Impact,” Berkeley La Raza, doi: dx.doi.org/doi:10.15779/Z381664)

**By similarly making structures of inequality appear beyond the reach of law** reform, **the "unintended consequences" message helps update and reinforce the narrowing of protections against intentional racial harm. Justice is centrally a question of whose** interests and whose **harms should count**, in what context and in what form and to whom. **Power is centrally about being able to act without having to take harm to others into account**

**. This power to gain by harming others is strongest when it operates through** systems and **structures that make disregarding that harm appear** routine, rational, and beneficial or at least **acceptable** or perhaps inevitable. By portraying law's unequal harms as the "side effects" of systems and structures with unquestionable "main effects," **the** "**unintended consequences" story helps affirm the resulting harm** even as it seems to offer sympathy and technical assistance. In considering solutions to the financial market problems, the policy puzzle is not that struggling homeowners' interests are overwhelmingly complex or uncertain. Instead, the bigger problem is that overwhelmingly powerful interests and ideologies are actively resisting systemic changes that would make those interests count. The failure to criminally prosecute or otherwise severely penalize high-level financial industry fraud is not primarily the result of uncertainty about the harmful effects of that fraudulent behavior, but because the political and justice systems are skewed to protect the gains and unaccountability of wealthy executives despite the clear harms to hosts of others. **The unequal effects of** the prevailing **policy** response to the crisis **are foreseeable and obvious, not accidental or surprising**. It would not take advanced knowledge of economics to readily predict that modest-income homeowners would tend to be far worse off than bank executives by a policy approach that failed to provide substantial mortgage forgiveness and foreclosure protections for modest-income homeowners but instead provided massive subsidized credit and other protections for Wall Street. Many policy actions likely to alleviate the unequal harm of the crisis similarly are impeded not because consumer advocates, low-income homeowners, or racial justice advocates hesitate to risk major changes in existing systems, or are divided about the technical design of alternative programs or more effective mechanisms for enforcing laws against fraud and racial discrimination. Instead, the problem is that these voices pressing for effective change are often excluded, drowned out or distorted in Congress and in federal agencies such as the Treasury Department and the Federal Reserve, or in the media, in the mainstream economics profession, and to a large extent in legal scholarship about financial markets. More generally, those diverse voices from the bottom have been largely absent or marginalized in the dominant theoretical framework that constructs widespread and severe inequality as unforeseeable and largely inevitable, or even beneficial. Moreover, **justice requires careful attention to both harmful intent and to complex harmful effects**. But **the concept of "unintended consequences" inverts justice by suggesting that the best way to care** for those at the bottom **is to not care to make law more attentive** to the bottom. "**Unintended consequences" arguments promote a simplistic moral message in the guise of sophisticated intellectual critique**-the message that those who lack power should not seek it because the desire for more power is what hurts most. Further, **like Ayn Rand's overt philosophy of selfishness, that message promotes the theme that those who have power to ignore** their **harmful effects on others need not-indeed should not-be induced by law to care about this harm**, because this caring is what is harmful. One right-wing think tank has recently made this moral message more explicit with an economic values campaign suggesting that the intentional pursuit of economic equality is a problem of the immoral envy of those whose economic success proves they are more deserving.169 **Legal scholars and advocates who intend to put intellectual rigor and justice ahead of service to** financial **elites should reject stories of "unintended consequences" and instead scrutinize the power and laws that have so effectively achieved the intention of making devastating losses to so many of us seem natural, inevitable, and beneficial**.

#### C. no infinite consequences – for each consequence the probability goes to zero the further out you move. They cancel each other out since they have an equal probability to be good or bad so we should maximize the short term good.