# Sunvite R3 1AC v Albuquerque AK

## 1AC

### Framework

#### The resolution is a question of if a potential action by private entities would be unjust. This action is indescribable apart from a reference to the institutional rules of the practice of which the agent is a part of - Schapiro 01:

Schapiro, Tamar (Stanford University). Three Conceptions of Action in Moral Theory, Noûs 35 (1):93–117, 2001.

In his early article, “Two Concepts of Rules,” Rawls sets out to limit the scope of the utilitarian principle by arguing that it is inapplicable to actions of a certain type. His claim is that actions which fall under practice rules, for example actions governed by the rules of games and social institutions, have a structure which is different from the structure of action presupposed by utilitarianism. Such actions are not, therefore, directly subject to utilitarian evaluation. Whereas a practice as a whole can be judged in terms of its overall consequences, Rawls claims, **a particular move within a practice can only be judged in relation to the practice rules**. Rawls’ argument turns on a conceptual point about the relation between the rules of a practice and the cases to which they are applied. Practice rules, he claims, are “logically prior” to particular cases. “In a practice there are rules setting up offices, specifying certain forms of action appropriate to various offices, establishing penalties for the breach of rules, and so on. We may think of the rules of a practice as defining offices, moves, and offenses. Now what is meant by saying that the practice is logically prior to particular cases is this: **given any rule which specifies a form of action (a move), a particular action which would be taken as falling under this rule given that there is the practice would not be described as that sort of action unless there was the practice.”** Rawls illustrates the logical priority of practice rules over actions with reference to moves **in** the game of American **baseball. Outside the “stage-setting” of the game, it is certainly possible to “throw a ball, run, or swing a peculiarly shaped piece of wood.” But it is impossible to “steal base, or strike out, or draw a walk**, or make an error, or balk.” Where the rules of baseball are in force, movements come to constitute moves of particular kinds, and conversely in the absence of such rules, actions, which might appear to be moves are properly, described as mere movements. In this respect, Rawls claims, practice rules differ from another general class of rules called “summary rules.” Summary rules are “rules of thumb.” Their role is to [They] allow us to approximate the results of applying some more precise but perhaps more unwieldy principle to particular cases. As such, summary rules are arrived at by generalizing the results of the prior procedure. They are “reports” of these results, presented as guides for deliberating about what to do in cases which are relevantly similar to those used to generate the reports. Summary rules are therefore logically posterior to the cases to which they apply. For in order to specify a summary rule, it is necessary to generalize over some range of cases, and the relevant descriptions of these cases must be given in advance if generalization over them is to be possible. Whereas summary rules presuppose the existence of a well-defined context of application, the establishment of a practice imposes a new conceptual and normative structure on the context to which they are to apply. In this sense, a practice amounts to “the specification of a new form of activity,” along with a new order of status relations in which that activity makes sense. From the point of view of a participant, the establishment of a practice transforms an expanse of grass into “playing field,” bags on the ground into “bases,” and individuals into occupants of determinate “positions.” Universal laws come to hold a priori, for example that “three strikes make an out,” and that “every inning has a top and a bottom.” And within that new order people come to have special powers, such as the power to “strike out,” or to “steal a base.” The salient point for Rawls’ purposes is that **there are constitutive constraints on the exercise of these new powers, constraints by which any participant must abide in order to make her movements count as the moves she intends them to be.**

#### This means in order for appropriation to count as a legitimate action, it must be done so within the practices of state regulations. States give rights and determine capability for respective private entities. However, rules of international law define what it means to be a state and what states can do in the international arena even if states have different domestic ends. Consequently, it can only be the case that an action by a private entity is legitimate if in compliance with international law - Nardin 92:

Terry Nardin , “International Ethics and International Law”. Review of International Studies, Vol. 18, No. 1 (Jan., 1992), pp. 19-30, published by Cambridge University Press . JStor, Stable URL: http://www.jstor.org/stable/20097279 . RP 2/6/13

Any description of the international system as an association of states that share certain ends is necessarily incomplete. Such an association would not constitute a rule-governed moral or legalorder. **What transforms a number of powers**, contingently related in terms of shared interests**, into a society proper is** not their agreement to participate in a common enterprise for as long as they desire to participate, but **their** participation in and implicit **recognition of** the practices, procedures, and other **rules of international law that compose international society**. **The rules of international law**, in other words, **are** not merely regulatory but **constitutive**: **they** not only **create a normative order among separate political** communities but **define the status, rights, and duties of these communities** within this normative order. In international society'states' are constituted as such within the practice of international law; 'statehood' is a position or rolethat is defined by **international law**, not independent of it.**International law includes rules** that are the outcome of cooperation to further shared goals as well as rules that make such cooperation possible and that exist even where shared goals are lacking. But it is rules of the latter sort **that are fundamental**. **First**, **the** particular**arrangements through which states** cooperate to**promote shared goals** themselves**depend on** having available authoritative**procedures for negotiating such arrangements**. These procedures, **embodied** **in** customary**international law**, are prior to the treaties, alliances, and international organizations through which states cooperate. Customary association. international law is thus the foundation of all international **Second**ly, it is the**rules of** customary**international law** that delimit the jurisdiction of states, prohibit aggression and unlawful intervention, and**regulate** the **activities** of treaty-making, diplomacy, and war.**Because they govern** the**relations of enemies as well as of friends, these rules provide a basis** for international order even**in the absence of shared** beliefs, values, or**ends**. By requiring restraint in the pursuit of national aims and toleration of national diversity, customary**international law reflects** **the** inevitably**plural character of international society and** may be said to**constitute** amorality of states, one that is a morality **of coexistence**.

#### Thus, the standard is consistency with international law

#### Impact Calc:

#### 1] To say something is prohibited doesn’t imply any possibility of permission. Rather, it just matters that something is prohibited under one locus of duty – prefer:

#### A] Logic - Joyce 02:

This distinction between what is accepted from within an institution, and “stepping out” of that institution and appraising it from an exterior perspective, is close to Carnap’s distinction between internal and external questions. 15 Certain **“linguistic frameworks”** (as Carnap calls them) **bring** with them **new** terms and **ways of talking: accepting the language of “things” licenses making assertions** like “The shirt is in the cupboard”; **accepting mathematics allows one to say “There is a prime number greater than one hundred”;** accepting the language of propositions permits saying “Chicago is large is a true proposition,” etc. Internal to the framework in question, confirming or disconfirming the truth of these propositions is a trivial matter. But traditionally **philosophers have interest**ed themselves **in** the external question – **the issue of the adequacy of the framework itself:** “Do objects exist?”, “Does the world exist?”, “**Are there numbers?”,** “Are the propositions?”, etc. Carnap’s argument is that **the** external **question,** as it has been typically construed, **does not make sense. From a perspective that accepts mathematics, the answer to the question “Do numbers exist?” is just** trivially **“Yes.”** From a perspective which has not accepted mathematics, Carnap thinks, the only sensible way of construing the question is not as a theoretical question, but as a practical one: “Shall I accept the framework of mathematics?”, and this pragmatic question is to be answered by consideration of the efficiency, the fruitfulness, the usefulness,etc., of the adoption. But the (traditional) **philosopher’s questions** – “But is mathematics true?”, “Are there really numbers?” – **are pseudo-questions.** By turning traditional philosophical questions into practical questions of the form “Shall I adopt...?”, Carnap is offering a noncognitive analysis of metaphysics. Since I am claiming that we can critically inspect morality from an external perspective – that we can ask whether there are any non-institutional reasons accompanying moral injunctions – and that such questioning would not amount to a “Shall we adopt...?” query, Carnap’s position represents a threat. What arguments does Carnap offer to his conclusion? He starts with the example of the “thing language,” which involves reference to objects that exist in time and space. **To** step out of the thing language and **ask “But does the world exist?” is a mistake,** Carnap thinks, **because the very notion of “existence” is a term which belongs to the thing language, and can be understood only within that framework, “hence this concept cannot be meaningfully applied to the system itself.”** 16 Moving on to the external question “Do numbers exist?” Carnap cannot use the same argument – he cannot say that “existence” is internal to the number language and thus cannot be applied to the system as a whole. Instead he says that philosophers who ask the question do not mean material existence, but have no clear understanding of what other kind of existence might be involved, thus such questions have no cognitive content. It appears that this is the form of argument which he is willing to generalize to all further cases: **persons who dispute** whether propositions exist, **whether properties exist,** etc., do not know what they are arguing over, thus they **are not arguing over the truth of a proposition,** but over the practical value of their respective positions. Carnap adds that this is so because there is nothing that both parties would possibly count as evidence that would sway the debate one way or the other.

#### B] Reciprocity - the aff would have an infinitely unreciprocal burden of having to prove that no possible permission exists under any normative system. Reciprocity key to fairness since it equalizes access to the ballot. The existence of an obligation doesn’t deny an obligation under a distinct locus.

#### 2] The standard isn’t concerned with consequences – A] Cascading – all actions have an infinite chain of consequences that get increasingly less predictable – means aggregation is incoherent absent certainty B] Induction – it relies on past examples to prove the future, which is just induction meaning its circular and fails C] Probability – the law is certain, while consequences aren’t. Thus, any Non-I Law framing is a voter because it requires intervention to evaluate which is definitionally unfair.

#### Prefer Additionality:

#### 1] Proceduralism – evaluation of i-law is a pre-requisite to the understanding of the resolution’s truth so it comes before any ROB or framing. Topic Lit is key to education since that’s why framers pick topics and it ensures debaters can reasonably predict args to allow fair debates.

#### 2] Pluralism – clashing viewpoints are inevitable – each agent views the world through their own lenses given the absence of omniscience as we are only able to perceive the world through our own experiences which are definitionally epistemically inaccessible for others, which makes knowledge and theorization impossible. However, Ilaw synthesizes the viewpoints of states into a collective law. This is the only way to achieve knowledge of different agents - Cronin 08:

[Cronin, Bruce; “Virtual Legislation: Creating International Law by Consensus (2008)”; < www.all academic .com//meta/p\_mla\_apa\_research>]

The end of World War II saw a dramatic increase the number and intrusiveness of these types of **International** and regional **organizations**. Most of these organizations require their members to sign legally-binding charters **commit states to a process of** consultation and **collective decision-making on a wide variety of issues.** This has reduced the range of actions that states could legally pursue purely on the basis of self- help. **It** also **commits** those **states** that are part of the process (in the case of the U.N., all states) **to adhere to common principles that are legitimately derived through said process. In this way, the development of global governance institutions** that requires formal deliberation among the members of the international community **has provided a** permissive condition for the evolution of a **new type of rules, one that is rooted not in individual will, but in a convergence of international opinion**. This can be referred **to** thisas **“consensus-based”** legal **norms.**

#### 3] Fairness – A] Predictability - a discussion of rights is necessitated through legal methods making it the most obvious. Key to education because we analyze real world documents that govern politics, which is an out of round impact. B] Reciprocity – there are multiple ways to interpret the law, which means there’s equal ground.

#### 4] Epistemology – moral knowledge is structurally indeterminate and legal actions will be infinitely interpreted and debated without a non-arbitrary way to reach a conclusion. Only I-law solves because it is a maximally superior authority governing the entire world.

### Offense

#### I affirm: Resolved: The appropriation of outer space by private entities is unjust. I am willing to spec in CX to avoid frivolous theory debates if doing so doesn’t force me to abandon my maxim. I don’t defend implementation of a policy or an action rather the truth of a statement. However, the affirmative solves all specification concerns – A] Scope – there are international bodies whose job is to interpret and apply the law that applies to all instances B] Stable Ground – aff is unique due to the nature of the huge topic literature being based in the law C] Topic Education – international law solves because it encompasses the core of the literature

#### Appropriation of outer space is a direct violation of international law – Tronchetti 07:

Tronchetti, Fabio. “The Non-Appropriation Principle under Attack: Using Article II of the Outer Space Treaty in its Defence.” International Institute of Space Law 50 (2007): 10. // LHP PS

**Since the beginning of the space era, States agreed to consider outer space, including the Moon and other celestial bodies as a res communis omnium, i.e. as an area open for free exploration and use by all States which is not subject to national appropriation.** **The non-appropriative nature of outer space, first declared in the UN General Assembly Resolution 1721 and 1962, was formally laid down in Article II of the 1967 Outer Space Treaty**. Since then, **the non-appropriation principle has provided guidance and direction for all activities in the space beyond the earth’s atmosphere. Nowadays**, however, the non-**appropriation principle is under** **attack**. Some **proposals**, **arguing the need of abolishing this principle in order to promote commercial use of outer space or claiming private ownership rights over the Moon and other celestial bodies,** are **undermining its importance and questioning its role as a guiding principle for present and future space activities**. In order to counter such proposals and to demonstrate their fallacy, this paper stresses **the binding legal value of the non-appropriation principle contained in Article II of the Outer Space Treaty by arguing that such principle should be considered a rule of customary international law holding a special character**. Indeed, not only is **the principle prohibiting national appropriation of outer space affirmed in the main space law treaties and declarations, but it also represents the basis of approach followed by States in elaborating and setting up international space law itself**. Therefore, **following this interpretation, neither States nor private entities are allowed to act in contrast with the nonappropriation principle and any amendment or modification thereof should only be carried out by all States acting collectively.**

#### That outweighs:

#### A] Framer’s Intent, Norms, and Logic – even if Article 2 doesn’t explicitly mention private entities, Article 6 requires authorization from the state - Tronchetti 2:

Tronchetti, Fabio. “The Non-Appropriation Principle under Attack: Using Article II of the Outer Space Treaty in its Defence.” International Institute of Space Law 50 (2007): 10. // LHP PS

**However, it must be said, that nowadays there is a general consensus on the fact that both national appropriation and private property rights are denied under the Outer Space Treaty.** **Several way of reasoning have been advanced to support this view**. **Sters and Tennen affirm that the argument that Article II does not apply to private entities since they are not expressly mentioned fails for the reason that they do not need to be explicitly listed in Article II to be fully subject to the non-appropriation principle8** . **Private entities are allowed to carry out space activities but, according to Article VI of the Outer Space Treaty, they must be authorized to conduct such activities by the appropriate State of nationality**. **But if the State is prohibited from engaging in certain conduct, then it lacks the authority to license its nationals or other entities subject to its jurisdiction to engage in that prohibited activity.** Jenks argues that “States bear international responsibility for national activities in space; it follows that **what is forbidden to a State is not permitted to a chartered company created by a State or to one of its nationals acting as a private adventurer**”9 . It has been also suggested that the **prohibition of national appropriation implies prohibition of private appropriation because the latter cannot exist independently from the former** 10. **In order to exist**, indeed, **private property requires a superior authority to enforce it, be in the form of a State or some other recognised entity**. In outer space, however, this practice of **State endorsement is forbidden**. Should a State recognise or protect the territorial acquisitions of any of its subjects, **this would constitute a form of national appropriation in violation of Article II**. Moreover, it is possible to use some historical elements to support the argument that both the acquisition of State sovereignty and the creation of private property rights are forbidden by the words of Article II. **During the negotiations of the Outer Space Treaty, the Delegate of Belgium affirmed that his delegation “had taken note of the interpretation of the non-appropriation advanced by several delegations-apparently without contradiction-as covering both the establishment of sovereignty and the creation of titles to property in private law”**11. The French Delegate stated that: “…**there was reason to be satisfied that three basic principles were affirmed,** namely: the prohibition of any claim of sovereignty or property rights in space…”12. The fact that the accessions to the Outer Space Treaty were not accompanied by reservations or interpretations of the meaning of Article II, it is an evidence of the fact that this **issue was considered to be settled during the negotiation phase.**

#### B] Spillover – Tronchetti 3:

Tronchetti, Fabio. “The Non-Appropriation Principle under Attack: Using Article II of the Outer Space Treaty in its Defence.” International Institute of Space Law 50 (2007): 10. // LHP PS

**The non-appropriation principle represents the cardinal rule of the space law system.** Since this principle was **incorporated in Article II of the Outer Space Treaty (OST)1 in 1967, first declared in the United Nations General Assembly (UNGA) Resolutions 1721 and 1962 , it has provided guidance and basis for space activities and has contributed to 40 years of peaceful exploration and use of outer space. The importance of the non-appropriation principle stems from the fact that it has prevented outer space from becoming an area of international conflict among States.** **By prohibiting States from obtaining territorial sovereignty rights over outer space or any of its parts, it has avoided the risk that rivalries and tensions could arise in relation to the management of outer space and its resources.** Moreover, **its presence has represented the best guarantee for the realization of one of the fundamental principles of space law, namely the exploration and use of outer space to be carried out for the benefit and in the interest of all States, irrespective of their stage of development.** When in the end of the 1950’s and in the beginning of the 1960’s **States renounced any potential claims of sovereignty over outer space**, indeed, **they agreed to consider it as a res belonging to all mankind, whose utilization and development was to be aimed to encounter not only the needs of the few States involved in space activities but also of all countries irrespective of their degree of development**. If we analyse the status of outer space 40 years after the entry into force of the Outer Space Treaty, **it is possible to affirm that the non-appropriation principle has been successful in allowing the safe and orderly development of space activities**. Nowadays, **however, despite its merits and its undisputable contribution to the success of the system of space law, the non-appropriation principle is the object of direct and indirect attacks.** On one side, there are some legal proposals arguing the need for amending or abolishing it in order to promote the commercial development of outer space4 . In these proposals the non-appropriation principle is considered to be an obstacle to the exploitation of extraterrestrial resources and an anti-economic measure preventing the free-market approach to be applied to outer space. On the other side, **there is day-by-day an increasing number of websites where it is possible to buy acres of the lunar and other celestial bodies’ surface5** . **The enterprises behind these questionable business, which claim to be allowed to carry on such activities by relying on an erroneous interpretation of Article II of the Outer Space Treaty, substantially operate as the non-appropriation principle was not in force.** Indeed, **these enterprises promise to their customers the enjoyment of full property rights over the acquired acres**, thus **acting in flagrant violation of the non-appropriative nature of outer space**. All these **practices are undermining the importance and value of the nonappropriation principle and questioning its leading role in the upcoming commercial era of outer space**. Hence, **the need to protect the non-appropriation principle arises**. This paper aims to fulfil this purpose by proposing a new interpretation of the nonappropriation principle which is based on the idea that **this principle represents a customary rule of international law holding a special character.** Simply stated, this **special character comes from the consideration that the nonappropriative nature of outer space and other celestial bodies is the fundamental concept on which the entire system of space law is based**. **If this concept is applied and properly respected, this system works**; **if not, this system is likely to collapse and to generate unforeseeable consequences.** These factors make the **non-appropriation principle a rule whose legal value and implications are unique not only in the context of space law but also in that of public international law as such.** Hence, I propose an **interpretation of the nonappropriation principle that appropriately expands upon its classic definition in terms of a customary rule and suggest to consider it something more than a usual customary rule but less than a jus cogens norm.** Thus, **having in mind the special characteristics and importance of the non-appropriation principle, the above mentioned theories proposing its abolition or its non-relevance must be rejected.**

### TT

#### The role of the ballot is to test the resolution statement’s truth or falsity – that means voting aff if the resolution is true, and voting neg if it is proven false. To clarify, winning that appropriation is not unjust still affirms – they must win it is just – prefer:

#### 1] Fiat is illusory: Nothing leaves this round other than the result on the ballot which means even if there is a higher purpose, it doesn’t change anything and you should just write whatever is important on the ballot and vote for me. Answering this triggers constitutivism since the win is necessary for your scholarship which means rules inside of the game matter.

**2] Constitutive: The ballot asks you to either vote aff or neg based on the given resolution a) Five dictionaries[[1]](#footnote-1) define to negate as to deny the truth of and affirm[[2]](#footnote-2) as to prove true which means its intrinsic to the nature of the activity**

#### 3] Bindingness: a) all arguments pre-assume that they are true as judges don’t vote an arguments proven false b) in order to win that your ROB is superior to TT you must prove true the claim that your ROB is better than TT.

### UV

#### 1] 1ar theory paradigm – A] the aff gets it – otherwise the neg can engage in infinite abuse, making debate impossible B] drop the debater on aff theory because the 1ar is too short to win theory and substance C] no RVIs – the 2nr has enough time and the 2ar needs strategic flexibility D] competing interps – 1ar interps aren’t bidirectional and reasonability incentivizes brute force defensive dumps

#### 2] 1ar theory first –A] Strat skew – short 2AR means I need to collapse to one layer to counter the long 2N collapse B] Epistemic Indict – if the 1N was abusive then my ability to respond was skewed so you can’t truly evaluate the 1nc C] Investment – 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

#### D] Magnitude - the 1nc has 7 minutes of potential abuse whereas I have 6

#### 3] Yes aff rvi – a] time skew – 4 minute 1ar has to hedge against a 7 minute 1nc and counter a long 6 minute 2n collapse, no rvi make the 1ar virtually impossible and structurally behind on the debate which means we need rvi to be able to collapse to something in the 2ar and win B] Reciprocity – the negative has the unique access to T and Theory creating a 2:1 structural skew

#### 4] Presumption and permissibility affirm – A] statements are true till false – if I said my name was Prateek, you would believe me absent evidence to the contrary B] we shouldn’t need proactive justification for things – that means we couldn’t do things like drink water C] affirming is harder – the 1ar has to answer 7 minutes of offense and hedge against a 6 minute 2nr collapse and empirics, Shah 2-13:

Sachin Shah, [LHP Debater, Attended TOC 2018 and TOC 2019, Broke at TOC 2019, 5 on AP Stats, Computer Science Major, Experience with side bias stats] February 13, 2020, “A Statistical Analysis of Side-Bias on the 2020 January-February Lincoln Douglas Debate Topic by Sachin Shah” <http://nsdupdate.com/2020/a-statistical-analysis-of-side-bias-on-the-2020-january-february-lincoln-douglas-debate-topic-by-sachin-shah/?fbclid=IwAR2P0AZqQtSiwMZlCpia-Fy1zFOdHn6JrGtcYgGulqeimd-V0a1xbaIMYYs> //LHP AV

It is also interesting to look at the trend over multiple topics. In the rounds **from** 142 TOC bid-distributing tournaments (September 20**17** – 20**20** YTD), **the neg**ative **won 52.75%** of ballots (p-value < 0.0001, 95% confidence interval [52.3%, 53.2%]). This suggests **the bias might be structural, and not topic specific, as this data spans nine different topics** [3]. Given a structural advantage for the negative, **the aff**irmative **may be justified** in being granted **a substantive advantage** **to compensate** for the structural skew. This could take various forms **such** **as** granting the affirmative **presumption** ground, tiny **plans**, **or** **framework choice**. Whatever form chosen should be tested to ensure the skew is not unintentionally reversed. Therefore, this analysis confirms that affirming is in fact harder again on the 2020 January-February topic. So, once again, don’t lose the flip!

#### D] Epistemics – we wouldn’t be able to start a strand of reasoning since we’d have to question that reason – means that presuming neg is incoherent because it relies on some presumptive truths.

#### E] Presuming obligations is logically safer since it’s better to be supererogatory than fail to meet an obligation

### More Stuff

1. <http://dictionary.reference.com/browse/negate>, <http://www.merriam-webster.com/dictionary/negate>, <http://www.thefreedictionary.com/negate>, <http://www.vocabulary.com/dictionary/negate>, <http://www.oxforddictionaries.com/definition/english/negate> [↑](#footnote-ref-1)
2. *Dictionary.com – maintain as true, Merriam Webster – to say that something is true, Vocabulary.com – to affirm something is to confirm that it is true, Oxford dictionaries – accept the validity of, Thefreedictionary – assert to be true* [↑](#footnote-ref-2)