# 1AC

## 1ac

### Framework

#### Only constructing ethics from our rational agency can explain the sources of normativity –

#### A] Bindingness – Any obligation must not only tell us what is good, but why we ought to be good or else agents can reject the value of goodness itself. That means ethics must start with what is constitutive of agents since it traces obligations to features that are intrinsic to being an agent – as an agent you must follow certain rules. Only practical agency is constitutive since agents can use rationality to decide against other values but the act of deciding to reject practical agency engages in it.

#### B] Action theory – every moral analysis requires an action to evaluate, but actions are infinitely divisible into smaller meaningless movements. The act of stealing can be reduced to going to a house, entering, grabbing things, and leaving, all of which are distinct actions without moral value. Only the practical decision to steal ties these actions together to give them any moral value.

#### However, human beings as subjects are rational but also sensible. While rationality decides, sensibility provides the choices between which rationality can choose from, making it intrinsic to agency as well – Gobsch 14

Wolfram Gobsch, The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love to Overcome It, 2014, LHP AM //RECUT LHP YA

To act as a human being is to actualize pure reason, if all goes well. But **no human being is pure reason. Human beings are rational animals. So they are animals, sensible organisms, too. Sensibility is a receptive capacity:** a **capacity to represent objects through being affected by them.** Affection happens at a time and a place, so sensible organisms are spatiotemporal beings. And it depends on the existence of its object, so the actualization of sensibility has conditions that cannot be satisfied through acts of this capacity itself. In virtue of these conditions, however, sensibility **is a limited, particular capacity, a capacity with a specific form. But if a capacity is limited, then its object – the content of its act in general – is limited, too:** its object cannot be that which is, simply as such. **It is for this reason that sensibility differs infinitely from reason, the unconditioned, so that no sensible organism can be pure reason, and so that the definition of a human being unites two distinct determinations**. To exist as an animal is to be engaged in sensible activity. So although human beings exist, if all goes well, **through actualizing pure reason, sensibility will have to play a role in their rational practical activity.** A merely prudentially rational animal, should such a thing be possible at all, would be determined to act by sensible desire, reason would merely serve to direct it toward happiness. In a human being, however, reason is, if all goes well, of itself practical; and so the role of sensible desire cannot, ideally, be that of the determinant, the motor, of its practical activity. **As the activity of an animal, human action, too, is oriented toward happiness. But the subjective principles of a human being’s practical activity, principles which, as such, determine the extent to which its orientation toward happiness becomes practical, are acts of *free choice*: acts of a capacity to “be determined to actions by pure will”,** maxims, as Kant calls them, acts which, as such, presuppose that their subject acknowledges her own happiness as prima facie good: as to be pursued in the activity of pure reason. In a human being, pure reason is of itself practical, if all goes well, but only by subjecting every maxim, which is not of itself an act of pure reason, to the moral law. Kant uses the terminology of form and matter to illuminate the relation between law and maxim: in knowing the moral law to be the sole determinant of our practical activity, if all goes well, we know it to constitute the form of our choice, without, therein, knowing it as providing for its matter, too. Acts of choice determine the extent to which a human being’s wish for happiness becomes practical. As such, choices look to sensible desire for their matter and to theoretical reason for direction in the pursuit of happiness. So it is in its acts of choice that a human being rationally displays its sensible nature: the individuality and finitude that make it an animal.

#### That justifies a system of mutual recognition. Reason and freedom must exist in practice rather than only theory, or it cannot be stated that the subject is free. Freedom must be noumenal or uncaused by the laws of nature, but humans are phenomenal and subject to these laws and external interference meaning ensuring abstract rights materially is necessary for freedom. Since we are phenomenal and unavoidably change through life, our perception of the world is constantly in flux meaning there is no absolute truth for what rights we create, but they can only be recognized through intersubjectivity. Schroeder 05:

Schroeder, Jeanne L. "Unnatural rights: Hegel and intellectual property." U. Miami L. Rev. 60 (2005): 453. https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1338&context=umlr

In this section I will address three common mis-readings of Hegel's personality theory that might lead to the incorrect conclusion that logic dictates that society recognize intellectual property. First, I show that Hegel believes that there are no natural rights of any sort, let alone natu- ral property rights. Second, I address the closely related point that Hegel rejects a first-occupation justification of property rights. Third, I show that intellectual property has no privileged place in personality theory. For simplicity, I stated that Hegel started his analysis by contin- gently adopting the notion of the free individual in the state of nature. I now more carefully explain my terminology as we consider Hegel's the- ory of the relationship between freedom and nature. Hegel thought that the freedom of the autonomous individual in the "state of nature" was only potential. Hegel argued not merely that the individual must leave the state of nature and go out into the real world if he is to make his freedom actual as a matter of fact. He also believed that the individual is driven by a passionate desire to do so. A complete discussion as to why the individual would desire to leave this uterine state of ignorant bliss is beyond the scope of this Arti- cle. Suffice it to say, it relates to one of the fundamental points of Hegel's idealism and theism. Hegel's idealism should not be confused with a vulgar neo-Platonic concept of an ideal world "out there" beyond the imperfect physical world. Such a notion is more reminiscent of the Kantian notion of an unknowable, intellectual, necessary, eternal, and transcendent world of essences called the noumenon or "thing-in-itself' beyond the contingent, empirical, temporary, and immanent world of appearance that can be known by experience (the phenomena). Hegel's metaphysics is an extended critique of Kant's. **Hegel rejects all concepts of transcendence**. 9 8 **There is no essence beyond appearance.** 99 Essence only exists insofar as it appears. 1" Or more rad- ically, essence is nothing but appearance properly understood. Hegel's is a radically materialistic philosophy, 01 but not an atheistic one. None- theless, Hegel's God, or Spirit, is not transcendent, but immanent in the material world. Why this is significant for our purposes is that **it follows from Hegel's rejection of transcendence that there can be no potentiality with- out actuality-what claims to be potential must become actual or reveal itself a liar**. Actually, the theory is even more radical than this. As I have argued elsewhere,102 Hegel's logic is retroactive, not prospective. **Potentiality is only retroactively revealed after something becomes actual.** **Consequently, if the autonomous individual in the state of nature claims to be free, and if this radically negative freedom is only potential, then the individual's claims to freedom can only be retroactively tested after he leaves the state of nature and makes his freedom affirmative and actual**. 103 Another way of saying this is that the liberal "state of nature" is not natural at all. Rather, it is a logically "necessary" hypothesis that is retroactively posited by the fact that we occasionally observe actualized freedom in modern constitutional states. As such, the "state of nature" is actually created by human thought. To Hegel, like Kant, real "nature" is the empirical, mechanical world governed by the causal laws of neces- sity where there is no freedom. Any freedoms and rights derived from the liberal conception of the hypothetical "state of nature" by definition cannot literally be natural. 2. NATURE AND RIGHTS Hegel sharply distinguishes between natural and positive law, and locates rights within the latter. He states, "[t]here are two kinds of laws, laws of nature and laws of right: the laws of nature are simply there and are valid as they stand ....The laws of right are something laiddown, something derivedfrom human beings."'" The liberal "state of nature" is, in fact, the hypothesis that autonomous individuality is a necessary, albeit inadequate, moment of human personality that we retroactively posit to understand political freedom. If so, what is the status of "nature" and its relationship to rights and freedom? Once again, I do not pretend to give a comprehensive account of Hegel's philosophy of nature, but will point out one aspect relevant to this Article. The first thing to note is to reiterate the simple point that there can be no "rights" in the hypothetical state of nature because the "state of nature" is defined as autonomy. Rights are necessarily interrelational. Hegel's point is more subtle and powerful than this, however. More specifically, there is no freedom in the empirical natural world. This can probably best be explained by going back to Kant's famous analysis of antinornies presented in his CritiqueofPureReason."5 An antimony is a logical paradox, or two statements that seem to be equally logically required yet are in contradiction. To say they are in contradiction means not merely that they are mutually inconsistent, but that they are the only logically possible alternatives. This suggests not merely that if one statement is true then the other must be false, but also that if one statement is proven to be false, the other is proven to be true. 0 6 For reasons that do not concern us here, Kant identifies four antinomies that he divides into two dyads: two "mathematical" antino- mies and two "dynamical" antinomies. He claims to solve the two mathematical antinomies by showing that neither statement is true because there is a heretofore unrealized third alternative that may be true. 10 7 He claims to solve the two dynamic antinomies by arguing that both statements are true, but that their contradiction is merely apparent so that, in fact, they can be reconciled.108 It is Kant's third antinomy of freedom and nature that concerns us. The thesis of Kant's first antinomy is that freedom can exist in the world.10 9 Kant is referring to negative freedom as the uncaused cause- the potential for pure spontaneity, action beyond necessity. Like all of Kant's theses, this is a dogmatic proposition posited by reason alone. 1 0 Its antithesis is that everything is subjected to the causal laws of nature-there are no uncaused causes and, therefore, no freedom.' Like all of Kant's antitheses, this is an empirical proposition reached by applying logic to our experience of the world.1 1 2 As this is a dynamic antinomy, Kant must solve this paradox by arguing that the contradiction between the two propositions is only apparent. If they are properly understood, then they can be reconciled. Kant argues that both propositions are true, but about different aspects of the world. Kant relies on his distinction between the phenomenal, or empirical, contingent, changing world of appearance that we can know from experience, and the noumenal, or transcendental, necessary, eternal world of essences, or the "thing-in-itself' which we do not know directly, but can infer through logic.113 **It is true, Kant states, that the entire phenomenal world is natural and therefore subject to the laws of nature-i.e., everything empirical is caused.1 14 It is also true, however, that freedom exists in the transcendental, non-empirical world of the noumena.15 Indeed, these conclusions follow from his definitions of phenomena and noumena. 11 6** If **a "noumenon" were caused by some- thing else, then it would be contingent on that other thing and, therefore, not a noumenon. Conversely, if a "phenomenon" were free of an exter- nal cause, then it would not be a mere phenomenon, but a noumenon. The question that this analysis proposes is, if freedom is noumenal, can it manifest itself in the phenomenal world, or is merely a theoretical construct?**1 7 To put this in Kant's idiosyncratic terminology, is free- dom "practical?" ' 1 8 By extension, one might ask, since each individual human being is embodied and, therefore, phenomenal,119 can man achieve freedom? In the Critique of Pure Reason, **Kant claims to show that freedom is at least theoretically possible in the phenomenal world. He argues that although all phenomena are caused by something else, the cause need not itself be phenomenal.** A phenomenon can be caused by a nou- menon. 2 ° **Because noumena are free (uncaused), their free acts can appear in the world through the phenomena they cause. Although each individual human being is phenomenal, man's essence (his spirit or soul, his status as the liberal, autonomous individual) is noumenal and there- fore free.**12' This implies that it is at least theoretically possible that the noumenal aspect of man can actualize his freedom by causing his phe- nomenal self to act. In the Critiqueof PracticalReason, Kant tries to prove not merely that practical reason is theoretically possible but that we have good reason to think it exists. There are as many problems raised in this analysis as are solved. Even ardent Kantians are somewhat embarrassed by it.'2 2 Hegel called Kant's argument "a whole nest... of faulty procedure." 123 My simpli- fied account is not an attempt to develop a comprehensive critique of Kant. My limited point is that, as I have argued elsewhere, 24 much of Hegel's speculative logical method can be seen as being inspired by Kant's idea of antinomy. I characterize **Hegel's complaint against Kant as an accusation that Kant does not have the courage of his own convictions and is afraid to follow his insights to their logical extremes.** Hegel, in effect, criticizes Kant for thinking that there were only four antinomies. Rather, Hegel's entire universe is constituted by a fundamental, essential contradic- tion.125 Further, Hegel criticizes Kant for thinking that contradiction is a problem that must be "solved." Contradiction "is not to be taken merely as an abnormality which only occurs here and there, but is rather the negative as determined in the sphere of essence, the principle of all self- movement . "..."126 In other words, **contradiction is a universal fact about the world. It is correct that contradictions are unstable and must be resolved, but each resolution is temporary and leads to a new contra- diction ad infinitum. Far from being frightening or disturbing, this merely means that the universe is dynamic, not static. Contradiction is the engine of change.** This means that Hegel rejects the Kantian noume- nal-phenomenal distinction. **To Hegel, there can be no necessary, perma- nent, unchanging essence (noumenon) behind the contingent, temporary, empirical world of appearances that is in a constant state of flux**. To Hegel, it is appearance all the way down. Finally Hegel's sublative logic can be seen as a rejection of Kant's specific claims to have solved his four antinomies by assuming that he had to show either that both sides were true, but not in contradiction, or that both the thesis and antithesis were false because there is a third alternative. In contrast, through sublation (the standard but poor English translation of Hegel's term for the logical method of resolving contradic- tion) one realizes that both sides are simultaneously equally true and false, thereby generating a third alternative that simultaneously negates 127 Regardless of these differences between Hegel and Kant, I believe that the Philosophy of Right can be seen as Hegel's struggle to come to grips with the specific contradiction that Kant identifies in the third antinomy: freedom v. causality. In his analysis, **Hegel accepts Kant's proposition drawn from experience that all nature is subject to natural laws of causation.** This means that nature is fundamentally unfree and implies that actual (practical) freedom must be unnatural by definition. **Yet on the other hand, Hegel also begins his analysis by contingently accepting Kant's presupposition that the most basic notion of human personality is self-consciousness as free will.** Hegel seeks to prove this presupposition (that freedom is possible) by finding that freedom actu- ally exists in the phenomenal world. Because Hegel rejected transcendence, he could not adopt Kant's proposed answer to this problem: freedom is noumenal, but noumena can cause phenomena. To Hegel, Kant's proposal answered nothing. According to Kant's own theory, we can know nothing about the nou- menon. Consequently, Kant's proposition is equivalent to saying that we can know nothing about freedom. Hegel was, in effect, responding to Kant: "You are being inconsistent. Your philosophical writings show that you know a lot about freedom. By your definitions, therefore, free- dom must be actual." Hegel's counterproposal was that **actual freedom is not natural but artificial: a human creation, created out of natural materials. Legal sub- jectivity (as well as higher stages of personhood) is, therefore, not a natural state but a hard-won achievement.** The story of the development of human consciousness, to Hegel, was the struggle of man to free him- self from and overcome his natural limitations. "Hence the personality of the will stands in opposition to nature as subjective.... Personality is that which acts to overcome [] this limitation and to give itself reality .... "128 **Abstract rights are, therefore, the first most primitive step in man's attempt to actualize his freedom, understood as the overcoming of nature**. The basis [] of right is the realm of spirit in general and its precise location and point of departure is the will; the will is free, so that freedom constitutes its substance and destiny [] and the system of right is the realm of actualized freedom, the world of spirit produced 1 29 **Rights are, therefore, not merely unnatural in the sense of artificial (man made), they are a means by which man distinguishes himself from nature. 130**

#### Thus, the standard is consistency with materializing abstract right.

#### Impact calc –

#### 1] abstract right is materialized in the community in the legal order – undermining the system through which we manifest our rights violates our freedom as subjects and outweighs. Buchwalter,

Buchwalter, Andrew. “Hegel, Human Rights, and Political Membership.” https://www.cambridge.org/core/journals/hegel-bulletin/article/hegel-human-rights-and-political-membership1/6ED29436EACF9259E8B500E118E8DD88?scrlybrkr=2c739d6f

In addition, Hegel asserts that **the very idea of autonomous personality presupposes and demands articulation in an existing system of law**. Hegel construes autonomy intersubjectively, as selfhood in otherness, or Bei-sich-selbstsein. **A comprehensive account of achieved intersubjectivity depends on establishing a legal-political community juridically committed to principles of respect and reciprocity.**3 On the one hand, **autonomous personality depends on a social order that recognises and supports that autonomy**. **Conversely, that order itself depends on individuals who recognize its authority and act accordingly**. Only in a lawfully ordered community is the individual ‘recognised and treated as a rational being, as free, as a person; and the individual, on his side, makes himself worthy of this recognition by overcoming the natural state of his selfconsciousness and obeying a universal, the will that is its essence and actuality, the law; he behaves, therefore, towards others in a manner that is universally valid, recognising them—as he wishes others to recognise him—as free, as persons’ (EM y432). It is no coincidence that Hegel construes the principle of autonomous personality in terms of a legal imperative: it is a commandment of right that one ‘be a person and respect others as persons’ (PR y36). Hegel may proceed from the seemingly abstract notion of autonomous personality, but **a proper account of the person itself depends on a developed system of legal relations**. The point is also central to Hegel’s concept of right itself. In line with the modern natural law tradition, Hegel understands right as a normative principle, one based on the principle of freedom and the free will. Indeed, for Hegel right is the idea of freedom itself. But an idea on his view is not an abstract principle contraposed to conditions of institutional embodiment. In line with his general conceptual realism, he maintains that an idea denotes a concept conjoined with its existence—an understanding consonant as well with a view of freedom as selfhood in otherness. As the idea of freedom, right itself is nothing but freedom under the conditions of its actualization; it is indeed the ‘existence of the free will’ (Dasein des freien Willens) (PR y29). **In its capacity as a principle of freedom, right is a general normative principle. But in that capacity it is also a principle of legal positivism, one tied to a legal system committed to its institutionalization and enforcement. Right for Hegel is the ‘realm of actualized freedom’, articulated in an existing system of positive law. A developed legal system is the domain in which ‘freedom attains its supreme right’** (PR y258) and ‘in which alone right has its actuality’ (EM y502). In fashioning an embodied account of right, Hegel demonstrates his distinctive relationship to the natural right tradition. To the extent that that tradition evinces an abstract prepolitical ahistoricism, he is opposed, proposing instead that natural law ‘be replaced with the designation philosophical doctrine of right’ (NRPS y2). Directed to the ‘idea’ of that under consideration (the concept joined with its realisation), a philosophical doctrine of right affirms that right is intelligible only within the framework of developed social and political institutions (PR y1). Elaboration of the idea of right is itself exeundum esse e statu naturae (VRP 1: 239f ). And lest there be any doubt about his distance from the natural right tradition, Hegel even suggests that the term right itself is inadequate to the requirements for institutional embodiment. While sometimes calling his practical philosophy a Philosophy of Right, he elsewhere, in his philosophical system, employs the title Theory of Objective Spirit. It is this account of spirit objectified that reflects the distinctiveness in Hegel’s notion of right as institutionally realised freedom. At the same time, however, Hegel’s departure from the natural right tradition should not be exaggerated. An early proponent of the method of immanent critique, Hegel maintains that the most consequential criticism of a contested position is one that confronts that position on its own terms. This expectation is no less in evidence in his reception of the tradition of natural right. Employing the dialectic of true and spurious being central to his principle of self-contradiction, Hegel criticizes the natural law doctrine because its liberal formulation conflicts not with an alien standard, but with its true self or ‘nature’. Thus an analysis of individual rights in terms of their inherent concept focuses not on an individual’s natural and immediate existence, but on his true being, what Hegel calls ‘die Natur der Sache’ (PR y57). For Hegel, a citizen is defined by a concept of autonomous personality which is realised only in developed political and cultural community.4 Hence, a defence of natural rights is likewise a defence of the principle of political community, just as a repudiation of the liberal approach to natural rights is a realisation of the concept of natural law. It is no coincidence that Hegel subtitles his Philosophy of Right ‘Natural Law and Political Science’, for the concept of natural law is meaningless on his view without an account of established political institutions. Hegel champions the idea of Objective Spirit over that of Natural Right, not because he opposes the principle of the latter, but because that principle only finds expression in a system of ethical life. The point may be made as well by noting how appeal to communal membership itself reaffirms elements of the tradition of natural right. For Hegel, **a proper account of communal membership depends on a self-awareness** (Selbstgefu¨hl) **on the part of members of their status as members** (PR y147). As Hegel says of political community generally, ‘[i]t is the self-awareness of individuals which constitutes the actuality of the state’ (PR y265A). **Proper to membership is an appreciation of oneself as a member of such community.** Such self-awareness is, however, no mere acknowledgement of the norms, practices, and traditions of a particular community. **Membership also involves, if in differing degrees, its acceptance and endorsement.** **Especially in an account of a polity, membership involves the capacity to affirm the validity of the norms and practices operative in a particular community.** Such norms and practices are not simply to be obeyed but must ‘have their assent, recognition, or even justification in y heart, sentiment, conscience, intelligence, etc.’ (EM y503). For Hegel, the capacity for cognitive affirmation—it has been termed ‘reflective acceptability’5 —is understood by means of the language of rights. A full account of membership rests on a ‘right of insight’, which itself expresses the right of subjectivity central to modern accounts of freedom. ‘The right to recognize nothing that I do not perceive as rational is the highest right of the subject’ (PR y132).6 Hegel claims that rights are not abstract normative principles but depend on conditions for membership in existing institutional settings. It is for this reason that he supplants a Theory of Right with a Doctrine of Objective Spirit. Yet the appeal to particular communities and institutions does not entail abrogation of conception of rights. Not only is membership in a political community a condition for realizing rights, **a proper account of communal membership itself entails affirmation of subjective rights and the right of subjectivity itself.** Indeed, basic to the idea of Objective Spirit—where spirit for Hegel is understood as the conjunction of substance and subjectivity7 —is the ontological dependence of a communal substance on the experience of subjective reflection. Hegel construes his philosophy of right as a theory at once of natural law and positive political science. The ‘interpenetration’ (PR y1A) of these two approaches is not only central to but constitutive of the idea of Objective Spirit.8 II In asserting that the meaning and reality of rights are linked to conditions of social membership, Hegel does not hold that any type of communal membership is acceptable. Needed rather is a community that can properly accommodate the requirements of an account of rights. Historically, Hegel claims that such requirements were at least minimally met with modern society and, in particular, modern civil society. Expressive of that ‘system of all-round interdependence’ (PR y183) diagnosed as well by theorists of political economy, modern civil society provides, on multiple counts, the conditions for a concrete realisation and embodiment of a system of right. First, civil society permits and fosters affirmation of a genuine account of human rights. Although critical of cosmopolitanism (PR y209), Hegel is not opposed to the concept of universal human rights. His position is rather that that concept cannot be asserted abstractly, but must be embodied in circumstances that accommodate and do justice to it. Historically, such concrete validation first occurred in modern civil society (PR y209). Previously, individuals may have been able to claim rights in virtue of particular status considerations, e.g., class, familial or ethnic background, social standing, or gender. In modern society, however, Hegel claims that the individual is now recognised, at least in principle, simply as such, in virtue of his/her very humanity (PR y124R). Inasmuch as a system of commercial exchange best functions only to the degree that individuals, for better or worse, are now valued simply for their economically and quantitatively relevant contributions, irrespective of other status considerations, civil society permits the realisation of right as a universal principle, indeed as a uniform principle of humanity. It is not coincidental that Hegel famously advanced his claim about the universality of rights only on his discussion of civil society, for here ‘I am apprehended as a universal person in which all are identical. A human being counts as such because he is a human being, not because he is Jew, Catholic, Protestant, German, Italian, etc.’ (PR y209, emphasis added). Modern civil society supplies the conditions for the realisation of a notion of right wherein ‘the individual as such has an infinite value’, and in the sense that freedom constitutes the ‘actuality of human beings—not something which they have, as men, but which they are’ (EM y482). Civil society is also important for Hegel in that it clarifies the binding nature of rights. One feature of modern civil society is its compulsory character. Given the complex, differentiated, interdependent nature of modern industrial society, individuals can pursue a livelihood only as a member of that society. Civil society is ‘that immense power which draws people to itself and requires them to work for it’ (PR y238). Indeed, life itself depends on such membership. For a system of realised freedom, then, membership in civil society itself entails certain rights, even as those rights also entail specific duties. ‘[I]f a human being is to be a member of civil society, he has rights and claims in relation to it. y Civil society must protect its members and defend their rights, just as the individual owes a duty to the right of civil society’ (PR y238A). Civil society further clarifies what counts as rights. Revolving around particular need satisfaction, modern societies give special place to ‘negative’ rights, those guaranteeing ‘the undisturbed security of persons and property’ (PR y230). The system of justice institutionalized with civil society secures recognition for the principle Hegel associates with the abstract right of persons: ‘not to violate (verletzen) personality and what ensues from personality’ (PR y38). For Hegel, civil society is also expected to secure certain ‘positive’ rights, those enabling individuals to realise themselves and the freedoms civil society is presumed to actualize (NRPS y118). Given that the livelihood and indeed the very existence of individuals is dependent on membership in civil society, society in turn has an obligation to provide the resources—e.g., subsistence, health, education, housing—enabling individuals to function effectively as members of society. The system of interdependence constituting civil society is such that ‘the livelihood and welfare of individuals should be secured—i.e., that particular welfare should be treated as a right and duly actualized’ (PR y230). Moreover, given that the right to life—that which is ‘absolutely essential’ (NRPS y118)—is presupposed in the protection of rights of person and property, Hegel assigns a measure of priority to positive rights.9 In addition, civil society gives rise to political rights, those enabling individuals to participate in collective efforts to define and shape the conditions of their shared existence. Such rights, to be sure, are fully articulated not in civil society itself, but in the state or political community proper. Yet the idea of political rights is entailed as well by requirements for full membership opportunities established with civil society. They are entailed as well by a full account of the reciprocity of rights and duties articulated by civil society. And they are entailed by the account of the complex and wide-ranging intermediation of individual and community facilitated through civil society. Certainly Hegel does not affirm a right to direct participation in public affairs. He also does not allow for universal suffrage, preferring instead a mode of political representation based on membership in intermediate associations, subpolitical bodies, municipalities, and community based organizations (PR yy308f). Yet far from militating against a notion of public autonomy on the part of the wider populace, participation in such entities can serve to facilitate it. Not only does membership in such bodies facilitate representation in modern societies, whose size and complexity have rendered all but impossible meaningful direct participation on the part of individuals in the affairs of state; citizen involvement in intermediate associations is a central factor in the very ‘constitution’ of a polity, itself based on the intermediation of objective institutional structures and subjective dispositions of individuals. In addition, Hegel maintains that governance of communities, intermediate associations, and subpolitical entities—many of which are already present in civil society—is itself linked to participatory rights. ‘This is the point of view of right, that individuals have the right to administer their resources’ (NRPS y141). Civil society is distinctive not just in that in articulates the three central rights attendant on social membership. It also gives voice to a meta-right, what Hegel calls the ‘absolute right’ (VPRHe: 127). Right on this account denotes not simply the possession of specific rights, but the general recognition, by those directly affected and by the community as a whole, that members of society are entitled to rights and their status as bearers of rights. This is indeed ‘the right to have rights’ (VPRHe: 127),10 and it is uniquely facilitated by civil society. **Predicated as it is on the comprehensive mediation of individual and community, civil society provides the institutional basis to recognise general claims to right**. For one thing, modern civil society underwrites the idea of a realised constitutional order, understood as a promulgated system of law applicable to society as a whole and committed to the dignity and equal treatment of each and every member of society. In addition, it furnishes the conditions for what Richard Rorty has termed a ‘human rights culture’,11 one in which individuals are recognised as entitled to rights and the protections they afford. **Not only does civil society nurture in individuals an understanding of themselves as holders of rights that are to be respected and honoured; through its system of wide-ranging interdependence, it provides the framework for a community in which individuals appreciate that support for the rights of others and the institutions providing such support is intertwined with their own rights and wellbeing.** Civil society ‘gives right an existence [Dasein] in which it is universally recognized, known and willed, and in which, through the mediation of this quality of being known and willed, its validity and objective actuality’ (PR y209). In terms of both institutional and cognitive requirements, civil society concretizes a right to have rights: it represents a social order in which individuals are recognised, by themselves and others, as subjects possessing rights (and corresponding duties)

#### 2] Consequences fail –

#### A] Aggregation fails – there is no one for whom aggregate good is good-for. Korsgaard:

Christine Korsgaard, “The Origin of the Good and Our Animal Nature” Harvard, n.d. RE https://www.people.fas.harvard.edu/~korsgaar/CMK.MA1.pdf

According to the second view I will consider, hedonism, the good just is pleasurable experience or consciousness and the absence of painful experience or consciousness. What makes a being capable of having a final good is simply that the being is conscious. Otherwise, its good is not relative to its nature. As is often noticed, on this theory it is a real question whether some of the other animals might not have a better life, or at least be capable of having a better life, than human beings, given their apparent enthusiasm for simple and readily available joys. Although I’ll treat it as a separate theory, hedonism, I believe, has an inherent tendency to collapse either into a version of the intrinsic value theory, or into a version of the third view I am about to describe. Obviously, it is possible to regard hedonism simply as a particular instance of the intrinsic value theory, one that singles out conscious experience as the only possible bearer of intrinsic value. But I think this way of looking at hedonism does not do justice to the intuition that has made hedonism seem plausible to so many thinkers, which is precisely the idea that the final good must have an irreducibly subjective or relational element. That is, what makes hedonism seem plausible is precisely the idea that the final good for a sensate being must be something that can be felt or experienced as a good by that being. It is something that can be perceived or experienced as welcome or positive from the being’s own point of view, and that is therefore relative to the being’s own point of view.9 The intrinsic value version of hedonism tries to capture the essentially subjective element of the final good by attaching objective intrinsic value to a subjective experience, but when this move is made the essentially relational or relative character of subjectivity tends to drop out. The goodness of the experience is detached from its goodness for the being who is having the experience, and instead is located in the character of the experience itself. This defect shows up most clearly in utilitarian versions of hedonism, which allow us to add the goodness of pleasant experiences across the boundaries between persons or between animals. There is no subject for whom the total of these aggregated experiences is a good, so the aggregate good has completely lost that relational character: the goods are detached from the beings from whom they are good. This relational element of value, I believe, is better captured by the third theory I am about to describe.

#### B] Actors can only be culpable for their rational decision, not the outcomes. Anything else means actors have no control over the morality of decisions meaning it is impossible for them to be obligated to act.

#### C] Consequences are infinite – I could save someone that turns out to be a mass murdered – unpredictability means they are not a stable basis for ethics which freezes action since agents never know what action to take

#### Prefer –

#### 1] Otherization: Only systems of recognition acknowledge the unique moral perspective of each agent—other theories are epistemologically incoherent because they can’t account for moral interactions and different moral motivations.

Haase 14 [Matthias Haase, (University of Chicago) "Am I You?" Philosophical Explorations 17 (3):358-371, 2014, https://philpapers.org/rec/HAA-6, DOA:2-28-2019 // WWBW]

Each of these renderings of the distinction reason and sensibility within the subject leads to its own specific problems. But the crucial difficulty, it seems to me, applies to all of them. With respect to the relation between reason and sensibility, Aristotle grants that one might speak of a “sort of justice”. But in the very sentence in which this way of talking is allowed, there are two clauses that restrict its significance. We are told that this is only “by similarity and transference” – that is, this is not a literal use of the word “justice”. Furthermore, it is said that this is not a proper relation between equals, as true justice would require, but rather a relation between “ruler and ruled” (see Aristotle 1999, 1138b6-9). **Reason and sensibility are related to each other as the one who commands** 10 **and the one who obeys. Mutual recognition as free and equal is not a possibility for them.** So if it is to be a possibility for you and me, then the nexus between us cannot exhibit the same form as those alleged second-personal relations within each of us. Kant is aware of the difficulty. When it comes to the concept of right, he agrees with Aristotle’s point: it describes a nexus into which one cannot enter by oneself; there has to be an actual second person. The first condition of Kant’s definition of right is that it has to do “only with the external and indeed practical relation of one person to another” (6:230). Still, one might think that the notion of right, and the idea of reciprocity it entails, can be accounted for in terms of the contrast between “internal” and “external hindrances” to one and the same form of autonomous activity or self-legislation. However, the difficulty is this. The idea of X having a right against Y that she does not F requires the intelligibility of the scenario in which X stops Y’s F-ing directly through a protest of the form, “You can’t F; this is my ... ”, such that Y refrains from F-ing because she recognizes X’s demand addressed to her.17 This requires that in refraining from F-ing Yacts from the very demand that X makes on her and that Y would express with the sentence “I can’t F; this is your ... ”. In this case, the relation between X and Y includes, as one might put it, their thinking towards each other through its terms. Given the accounts discussed so far, this will seem impossible. When the second pronoun is reduced to a linguistic phenomenon and analyzed in third-personal terms, as Heck proposes, then it follows that Y has to form an intention in the face of what X says. In consequence, X’s demand can only be a fact on which Y acts and never the perspective from which she acts.18 If, on the other hand, the second-person pronoun is internalized, as Korsgaard suggests, then there is no space any more for the other in this perspective. **For the claim was that the recognition of a practical necessity is represented in the second-personal perspective by addressing an imperative to oneself. And that is supposed to be the perspective from which one acts. So in the present scenario, Y would have to say (or think) to herself: “You can’t F ... ” Now it is impossible for her to represent, within the same act, the other – the source of this necessity – second personally.** As this demand is not addressed to X, she has to deploy the third person for the second half of the statement: “because it is his ... ” **So what she ultimately acts from is not the demand X made on her, but a posture of mind that is, as it were, turned away from him. Accordingly, it will not be true to say that X’s protest stopped her directly; it will be just a fact on which she acts.** The puzzle would dissolve if we were to make space for what Reid calls “social operations of mind”. **By contrast to their “solitary” correlates, they require, as acts of mind, the “intercourse with some other intelligent being who bears a part in them”. And whereas the former can be “complete without being expressed”, in the case of the latter “the expression is essential”. That is to say, when one performs an act of this kind, the fact in the world, the representing act of mind and its material expression are one reality.** As Reid points out, this entails that the relevant act of mind depends for its very existence on the other’s uptake: it “cannot exist [ ... ] without being known to the other” (2010, 330). **Conceived in this way, the act of address is a relation between two individuals that only holds insofar as the poles of the relation think towards one another in its terms. Accordingly, the second-personal act of mind is, literally, an act for two: my addressing you is only real through your addressing me in return.** The notion of a person elucidated by appeal to such acts is what Fichte calls a “reciprocal concept” (Fichte 2000, 45): one only falls under it by addressing one another through it. This would not be to deny that having, say, learned to play Chess with a partner, I can reenact this kind of transaction on my own: by switching between two roles. This might be a very useful training. Still, it will not be competition with myself. It is derivative of and dependent on the real game played with another and points to it at all times. **Against this background, one might arrive at a reading of the Socratic formula about thinking that is, as it were, the reverse of the one Korsgaard puts forward. According to this alternative reading, thinking is indeed the mind talking to itself. But this inner dialogue is derivative of and dependent on actual communication with others. Once I have been in conversation with you, I can, as it were, reenact such exchange in soliloquy. Still, when I do so, this does not involve the imparting of knowledge that gives sense to the very idea of asking and answering questions. So too on the practical side of things, once I stand in relations of mutual recognition to others, I can, as it were, see myself through their eyes and, if you will, even adopt the standpoint of a representative member of the “moral community” towards myself.** Still, in doing so I am not claiming rights against myself. That is for you to do.

#### 2] Pragmatism: Language is entirely self-referential—one cannot look to something outside of language to determine what words mean because that process would inevitably be mediated by language. This requires a pragmatic account of truth in which the meaning of words change according to their usage.

Brandom 99 [Robert B. Brandom, (University of Pittsburgh) "Some Pragmatist Themes In Hegel's Idealism: Negotiation And Administration In Hegel's Account Of The Structure And Content Of Conceptual Norms" European Journal Of Philosophy 7 (2):164–189, 1999, https://philpapers.org/rec/BRASPT, DOA:2-28-2019 // WWBW]

**The workability** of a story along these lines **depends on** its being settled somehow, **for each rule** of synthesis and each possible manifold of representations, **whether that manifold can be synthesized successfully according to that rule.** This might be called the condition of complete or maximal determinateness of concepts. Only if this condition obtains – **only if the empirical concepts made** 166 **available by judgements of reflection are** fully and finally **determinate** – does the Kantian account make intelligible the application of concepts as being constrained by the deliverances of sense, the correctness of judgements as constrained by the particulars to which we try to apply the universals that are our determinate empirical concepts. Hegel wants us to investigate critically the transcendental conditions of the possibility of such determinateness of concepts. He does not find in Kant a satisfactory account of this crucial condition of the possibility of experience.7 The question is how we can understand the possibility of applying, endorsing, committing ourselves to, or binding ourselves by one completely determinate rule rather than a slightly different one. This problem is related to the one Kripke attributes to Wittgenstein.8 It is **the issue of understanding the conditions of the possibility of the determinateness of our conceptual commitments**, responsibilities, and obligations. I don’t want to dwell on what I take Hegel to see as the shortcomings of Kant’s answer. For my purposes it suffices to say that Hegel takes a different approach to understanding the relation between the institution and the application of conceptual norms. In fact I think Hegel’s idealism is the core of his response to just this issue, and it is here that I think we have the most to learn from him.9 A good way of understanding the general outlines of Hegel’s account of the relation between the activity of instituting conceptual norms and the activity of applying them is to compare it with a later movement of thought that is structurally similar in important ways. Carnap and the other logical positivists affirmed their neo-Kantian roots by taking over Kant’s two-phase structure: first one stipulates meanings, then experience dictates which deployments of them yield true theories. 10 The first activity is prior to and independent of experience; the second is constrained by and dependent on it. **Choosing one’s meanings is not empirically constrained in the way that deciding what sentences with those meanings to endorse or believe is.** Quine rejects Carnap’s sharp separation of the process of deciding what concepts (meanings, language) to use from the process of deciding what judgements (beliefs, theory) to endorse. For him, **it is a fantasy to see meanings as freely fixed independently and in advance of our applying those meanings in forming fallible beliefs that answer for their correctness to how things are. Changing our beliefs can change our meanings. There is only one practice – the practice of actually making determinate judgements. Engaging in that practice involves settling at once both what we mean and what we believe.** Quine’s pragmatism consists in his development of this monistic account in contrast to Carnap’s two-phase account. **The practice of using language must be intelligible as not only the application of concepts by using linguistic expressions, but equally and at the same time as the institution of the conceptual norms that determine what would count as correct and incorrect uses of linguistic expressions. The actual use of the language settles – and is all that could settle – the meanings of the expressions used.**11

#### 3] Through mutual recognition in spite of differences, we can rupture systems of power – the Haitian slave revolt proves, Buck-Morss 05:

Susan Buck-Morss, March 1, 2005, “Hegel, Haiti, and Universal History” https://muse.jhu.edu/book/3727 //LHP AV

**African Lemba was ritual expiation**. It assuaged the guilty con- science of wealthy traders and mitigated the jealousies of the un- successful, preventing the region’s social fabric from being totally destroyed by the Euro-Atlantic trade. If, as Janzen and others argue, striking continuities can be discerned between Lemba practices in Old World and New, then there were radical discontinuities in their historical roles. African Lemba produced the miseries that New World slaves endured. **The task of reconciliation among the slaves shipped to Saint-Domingue, hardly an issue of redistributing wealth, con- cerned building fraternal alliances of trust among former enemies of war and among persons massed together in labor gangs who had no common background and little understanding of each other, indeed, they may not have known of each other’s cultural existence before the crossing**. If vèvès and altar arrangements in Haitian Vodou temples repli- cate in miniature the cosmograms paced out by Lemba members on African meadows, if the names of the Dahomean divinities reap- pears in the dominant Rada cult of Vodou loa, in short, if the words and the structure of cultural language remained, **what was said in this language in response to historical events was totally new.127 This is nowhere more obvious than in the case of the secret societies of war- riors that are said to have played a part in the Haitian Revolution.**128 Warrior societies existed in Kongo, in Dahomey, and elsewhere in Africa, but their purpose was never to initiate an event of slave insurrection. On the contrary: “The slave trade intensi0ed the Dahomean warrior way of life,” because prisoners of war were sold to the traders.129 None **of Vodou’s precedents in Africa ever con- ceived of eliminating the institutional arrangement of master and slave altogether. No European nation did either. The radical anti- slavery articulated in Saint-Domingue was politically unprecedented**. The de0nition of universal history that begins to emerge here is this: **rather than giving multiple, distinct cultures equal due, whereby people are recognized as part of humanity indirectly through the mediation of collective cultural identities, human universality emerges in the historical event at the point of rupture.** **It is in the discontinuities of history that people whose culture has been strained to the breaking point give expression to a humanity that goes be- yond cultural limits.** **And it is in our empathic identi0cation with this raw, free, and vulnerable state, that we have a chance of under- standing what they say**. **Common humanity exists in spite of culture and its diferences**. A **person’s nonidentity with the collective allows for subterranean solidarities that have a chance of appealing to uni- versal, moral sentiment, the source today of enthusiasm and hope. It is not through culture, but through the threat of culture’s betrayal that consciousness of a common humanity comes to be**.

### Contention

#### Merriam-Webster defines Outer Space as:

https://www.merriam-webster.com/dictionary/outer%20space // LHP PS

**space immediately outside the earth's atmosphere**

#### I affirm the resolution. Resolved: The appropriation of outer space by private entities is unjust. I’ll defend implementation if you wish, but it’s not relevant to the aff framework.

#### 1] A legitimate claim of sovereignty on part of a private entities requires recognition by a nation that licenses the private entity, which would constitute illegal appropriation.

TIMOTHY JUSTIN TRAPP, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4] https://www.illinoislawreview.org/wp-content/ilr-content/articles/2013/4/Trapp.pdf

Though the Outer Space Treaty flatly prohibits national appropriation of space,150 it leaves unanswered many questions as to what actually counts as appropriation. As far back as 1969, scholars wondered about the implications of this article.151 While it is clear that a nation may not claim ownership of the moon, other questions are not so clear. Does the prohibition extend to collecting scientific samples?152 Does creating space debris count as appropriation by occupation? While the answers to these questions are most likely no, simply because of the difficulties that would be caused otherwise, there are some questions that are more difficult to answer, and more pressing. As commercial space flight becomes more and more prevalent,153 the question of whether private entities can appropriate property in space becomes very important. Whereas once it took a nation to get into space, it will soon take only a corporation, and scholars have pondered whether these entities will be able to claim property in space.154 Though this seems allowable, since the treaty only prohibits “national appropriation,”155 allowing such appropriation would lead to an absurd result. This is because the only value that lies in recognition of a claim is the ability to have that claim enforced.156 If a nation recognized and enforced such a claim, this enforcement would constitute state action.157 **It would** serve to exclude members of other nations and would thus **serve** **as** a form of **national** **appropriation**, even though the nation never attempted to directly appropriate the property.158 Furthermore, the Outer Space Treaty also requires that non-governmental entities must be authorized and monitored by the entities’ home countries to operate in space.159 Since a nation cannot authorize its citizens to act in contradiction to international law, a nation would not be allowed to license a private entity to appropriate property in space.160

#### 2] For a property claim to be legitimate, it requires a common will – private appropriation is unjust, Chitty 13:

Chitty, Andrew (2013) Recognition and property in Hegel and the early Marx. Ethical Theory and Moral Practice, 16 (4). pp. 685-697. ISSN 1386-2820 https://www.jstor.org/stable/24478775 //LHP AV

**However this ‘declared willing’ that I** be able to **do whatever I choose** with a thing **is not yet sufficient to genuinely objectify my freedom** in the thing, **or to fully make it my property** in Hegel’s philosophical sense. For **it is one thing for others to be aware** of this willing, **but another for those others to conform** their own willing to it. It is only in so far as they do the latter, and so will not to interfere with the thing, that the thing really gains the status of something with which I can do anything I choose. **This must be what Hegel has in mind by saying that for a thing to be** fully my **property**, or for me to fully objectify my freedom in it, **my will must exist for the will, as opposed to simply the cognition, of the other**: **Existence** [das Dasein], as determinate being, **is** **essentially being for another** [...] **Property**, in that it is something that exists as an external thing, **is for other external things and in the context of their necessity and contingency.** **But as the existence of the will, it is for another only as for the will of another person.** **This relation of will to will is the distinctive and true ground in which freedom has existence. This mediation, whereby I no longer have property by means of a thing and my subjective will, but also by means of another will, and thereby in a common will, constitutes the sphere of contract**. (PR §71) **Here** the idea of **recognition** **enters Hegel’s account of property**. **For to say that my will has an existence (**Dasein) for the will of another **is** in effect **to say that the other recognises my will in some way**, as we have defined that term. **Specifically**, what Hegel must have in mind is not only that the other is aware of (or identifies) my will that I be able to do whatever I choose with a thing as such a will, but that the other thereby becomes disposed to act in accord with my will, or conforms its will to mine, so that **the two wills form,** as he says, **a ‘common will’** with regard to the thing. So Hegel has argued that I **can only objectify my freedom as a person in a thing by establishing a relation with others** in which I declare to them my will that I be able to do whatever I choose with the thing, and they are aware of my will and are thereby disposed to act in accord with it; or, as I shall put it from now on, in which I claim, and others recognise, the thing as ‘mine’. **Since to claim or recognise a thing as ‘mine’** (as such that I can do whatever I choose with it) is tantamount to claiming or recognising it as my property in the everyday sense of the term (as such that I am entitled, in some sense, to do whatever I choose with it), Hegel has in effect argued that I **can make a thing my property in his philosophical sense only by claiming it, and getting it recognised by others**, as my property in the everyday sense and in fact as my private property, for Hegel takes it for granted that in so far as a thing is ‘mine’ it cannot be ‘another’s’ (PR §§46, 50). **This immediately raises the question of why others should recognise as ‘mine’ the thing that I claim as ‘mine’,** in other words why in virtue of being aware of my will that it be ‘mine’ they should conform their own will to this will. **I may need others to do this in order for me to objectify my freedom, but why should they be interested** in whether I objectify my freedom**?** **Hegel’s answer must be that persons are from the start self-conscious subjects who have been rationally compelled to engage in mutual recognition** as free, and to recognise each other as free includes being disposed to ‘treat’ each other as free. I suggest that **for Hegel to treat another as free one must act in accord with the will of the other in so far as the content of that will is rationally necessitated by the other’s status as free**. But as we have seen the status of being free gives rise with rational necessity to a will to objectify that freedom. So **recognising another as free must include being disposed to act in accord with the other’s will to objectify its freedom**. At the present stage, where self-conscious subjects conceive themselves as persons, or possessors of abstract freedom, **the rational compulsion to recognise each other as free takes the form of a compulsion to recognise each other as persons,** or as abstractly free. Hence the commandment ‘be a person and respect others as persons’, which Hegel introduces immediately after defining a person (PR §36). So this recognition will include a disposition to act in accord with the other's rationally necessitated will to objectify its abstract freedom. But my claiming a thing as ‘mine’ is the expression of my rationally necessitated will to objectify my abstract freedom. Therefore **in virtue of recognising me as a person others must recognise as ‘mine’ what I claim as ‘mine’.**

#### 3] Making claims to things in space which are external to the scope of the ethical community falls prey to the absolute injustice of the state of nature protected against by the community making it definitionally unjust. Stilz 09:

Stilz 1 (Anna Stilz, Anna Stilz is Laurance S. Rockefeller Professor of Politics and the University Center for Human Values. Her research focuses on questions of political membership, authority and political obligation, nationalism and self-determination, rights to land and territory, and collective agency. , 2009, accessed on 12-18-2021, Muse.jhu, "Project MUSE - Liberal Loyalty", https://muse.jhu.edu/book/30179)//phs st

It might seem, then, that Kant, like Simmons, would hold that although our acquired rights are initially indefinite, our private acts of appropria- tion in a state of nature can function to more clearly delimit their contours. Once I appropriate an external object—for example, my piece of land in the state of nature—the boundaries of my right to external freedom might simply be equivalent to those of the things and spaces that I have appropriated. If this were so, then individuals could succeed in more precisely defining property without the help of the state, and simply by coordinating expectations based on their private acts. In order to respect and acknowledge my external freedom, on this view, you would just have to cede me the spot I have rightfully occupied and to refrain from infringing on my choices within that sphere. Yet Kant does not take this position: he argues that the rights made possible by the postulate of practical reason are problematic. Whatever rights our private acts of appropriation outside the state confer upon us can only be understood as provisional rights, that is, they are not conclusive and settled (peremp- torische): indeed, for him, “It is possible to have something external as one’s own only in a rightful condition, giving laws publicly, that is, a civil condition” (MM, 6:255). What is the problem with these private methods of defining our rights to property? Why are they so unsatisfactory, from Kant’s perspective? The essential problem with acquiring property rights in a state of nature, for Kant, seems to be that we cannot unilaterally—through private will— impose a new obligation on other persons to respect our property that they would not otherwise have had.30 “By my unilateral choice I cannot bind another to refrain from using a thing, an obligation he would not otherwise have; hence I can do this only through the united choice of all who possess it in common” (MM, 6:261).31 Even claiming to interpret the a priori general will on another person’s behalf, says Kant, is at- tempting to impose a law on them on my own private authority, since every act of appropriation is “the giving of a law that holds for everyone” (MM, 6:253).32 And he worries that this claim to private authority over others is a potential source of injustice: “Now when someone makes ar- rangements about another, it is always possible for him to do the other wrong; but he can never do wrong in what he decides upon with regard to himself (for volenti non fit inuria)” (MM, 6:314). My will to appro- priate, in the belief that my appropriation is justifiable to others, cannot yet serve as a (coercive) law for everyone else, because it cannot put them under an obligation. Kant suggests, in other words, that figuring out how to carve up shares of the external world consistently with everyone’s freedom does not ex- haust the entire problem of justice involved in acquiring rights to prop- erty. We might appeal to criteria of salience or convention to help coordi- nate our expectations on which of the many possible property distributions to choose. But we face an additional difficulty: how do we impose one of these distributions without at the same time arrogating to ourselves the private authority to lay down the law for an equally free being, one who has an innate right not to be constrained by our private will? In coercing someone to respect our view of our property rights, we are also necessarily claiming the right to impose our private will upon that person. If it is to really respect everyone’s freedom, Kant thinks, a property distribution cannot be unilaterally imposed in this way. This additional dimension of the problem of justly acquiring rights— the problem of unilateral imposition—is rooted in each person’s basic “right to do what seems right and good to him and not to be dependent upon another’s opinion about this” (MM, 6:312). This right to do what seems right and good to him derives from the moral equality of persons: no one has an innate right to decide in another person’s behalf. And be- cause each person is an equally authoritative judge, it is therefore impossi- ble—in a state of nature—to put [them] under an obligation of justice that [they] himself does not recognize. The will of all others except for himself, which proposes to put him under obligation to give up a certain possession, is merely unilateral, and hence has as little lawful force in denying him possession as he has in asserting it (since this can be found only in a general will). (MM, 6:257) In conditions of equal authority—such as those that exist in any state of nature—one is obligated only by what one recognizes, by one’s own lights, as an objectively valid requirement of justice. For that reason, no other person’s merely unilateral will can bind one in the face of one’s own disagreement. Kant concludes from this that “no particular will can be legislative for the commonwealth” (TP, 8:295), since no private person’s will can effec- tively claim to impose an obligation on others. Instead, Kant says that “all right,” that is to say all claims that impose binding duties on others, “depends on laws” (TP, 8:294). Law overcomes the problem of unilater- alism inherent in imposing new obligations on others on one’s own au- thority, by substituting an omnilateral will in place of a unilateral one: “Only the concurring and united will of all, insofar as each decides the same thing for all, and all for each, and so only the general united will of the people, can be legislative” (MM, 6:314). But why is law—imposed from a public perspective—consistent with everyone’s freedom in a way that particular wills—based on our private judgments—are not? Fundamentally, Kant argues that defining and enforcing both our rights over our bodies and our rights to external objects through public and nonarbitrary laws is the only way to secure ourselves against the coercive interference of other private persons in our affairs. For Kant, then, the only sort of property distribution to which we could all hypothetically consent must necessarily be one that is defined and enforced by the state, since all privately enforced distributions have the inevitable side-effect of subjecting us to the wills of others. To show this in more detail, Kant points out two different ways that unilateral private enforcement under- mines our right to independence: first, through unilateral interpretation— a particularly pervasive problem in the enforcement of property rights, since these rights are fully conventional in a way our rights over our bod- ies are not; and second, through unilateral coercion, which threatens in- terference by others in all our rights, both our rights over our bodies and our rights over external things.

### Theory

#### 1] 1ar theory –

#### A] the aff gets it – otherwise the neg can engage in infinite abuse, making debate impossible

#### B] drop the debater 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

#### 2] Presumption affirms –

#### A] we presume statements true – if I said my name was Arjun, you would believe me absent evidence to the contrary

#### B] affirming is harder – the 1ar has to answer 7 minutes of offense and hedge against a 6 minute 2nr collapse and empirics, Shah 21,

[Sachin Shah “A Statistical Analysis of the Impact of the Transition to Online Tournaments in Lincoln-Douglas Debate by Sachin Shah.” January 29, 2021, http://nsdupdate.com/2021/a-statistical-analysis-of-the-impact-of-the-transition-to-online-tournaments-in-lincoln-douglas-debate-by-sachin-shah/]

It is also interesting to look at the trend **over** multiple topics. Of the **238 bid** distributing **tournaments from** August **2015** to present[7], **the negative won 52.32% of rounds** (p-value < 10^-30, 99% confidence interval [51.84%, 52.81%]). Of elimination rounds, the negative won 55.79% of rounds (p-value < 10^-15, 99% confidence interval [54.08%, 57.50%]). This continues to suggest **the bias might be structural and not topic specific as this analysis now includes 18 topics.**

#### 3] Permissibility affirms – unjust means not morally right which includes permissibility, Cambridge:

Cambridge Dictionary, https://dictionary.cambridge.org/us/dictionary/english/unjust

**not morally right**; not fair:

### Method

#### The state is not a monolith, but rather an institution of the collective that’s essential to revolutionary transformation and collective ethical consciousness – Hegelian reimagination of the state key, Hamza 21:

Slavoj Zizek is Professor at the Institute of Sociology, Ljubljana, Slovenia. Frank Ruda is Senior Lecturer in Philosophy at the University of Dundee and Professor at the European Graduate School. Agon Hamza is Assistant Professor of Philosophy at ISSHS, Skopje. “Reading Hegel” pp. 192-200, November 30, 2021 //LHP AV

\*The chapter this portion is cut from is by Hamza.

\*The book is physical but we have a copy if you wish to examine the original source. Here’s the amazon page: <https://www.amazon.com/Reading-Hegel-Slavoj-Zizek/dp/1509545905>.

\*Here’s the link to the Google Drive with photos of the pages used: <https://drive.google.com/drive/folders/17sNuYTzSRgl7RH3F8B_U9HYlTLYXw9K1?usp=sharing>

How can we conceptualize the state in a Hegelian orienta- tion? If Absolute Knowing is the culmination of the dialectical process, then the absolute of politics is the state. That is to say, **politics does not begin with the state, but it always ends with the state**. And this is a crucial point. For Hegel, **the exact form of regulation** within a state **is not the object of philosophical thought**. **What matters is the universal form of the state**. We can even argue that **politics should** **aim at taking over and transforming the state**. It is in this manner that we should understand **Hegel's affirmation of the state** form **not** as a moment of **conformity** or capitulation to the Prussian Empire **but** as **an affirmation of politics** as such. Put differently, he does not regress from the position of active Consciousness to that of the Beautiful Soul. For Hegel, as **for Zizek, the state is the answer to the problem of internationalism** **as** well as to the problem of the **commons**, neither of which fits borders or other "limitations" of this kind. Hegel was aware of this, and it is for this reason that the state is "the march of God in the world." His is a state that is ultimately not representative of a nation or community. For Hegel, **the state was tied to the problem of dealing with multiple nations, as** was the case **with Prussia**, that is to say, the pre-German state. His understanding of Volkgeist cannot be interpreted in the spirit of a national or romantic vision**. Volkgeist does not create the character of a people**, of a nation, **but is ultimately a result of its** religious, cultural, and other **traits**. **The creation of the state based on the Volkgeist is not that of a national state. The state is at the level of self-consciousness**. **The modern world**, in Hegel's view, **contains a multiple of political units, which are not held together by power but by Spirit.** So how should we follow on from this, in revitalizing the Hegelian theory of the state from a Zizekian standpoint? The starting point should be an appropriation of **Hegel's** idea of the **ethi- cal state**, a state that **is** **founded upon a shared ethical order**. Hegel writes that "the ethical order has been represented by mankind as eternal justice, as gods absolutely existent, in contrast with which the empty business of individuals is only a game of see-saw.," Or better still, the ethical order or ethical substance is "an absolute authority and power infinitely more firmly established than the being of nature,"58 In its Zizekian conceptualization, **the state is not a representative one but is a strong body, which does not only represent the people but includes everyone in itself.** **This inclusion is** **not**, so to speak, an **easy** solution, **but rather the crucial problem in every attempt to recuperate Hegel's theory of the state** - a very difficult task. When Zizek writes about the relationship between the state and politics, he says: **The failure of the Communist State-Party politics is above all and primarily the failure of anti-statist politics, of the endeavor to break out of the constraints of the State, to replace statal forms of organization with "direct" non- representative forms of self-organization** ("**councils**" ),59 Further, **in responding to the prevailing Leftist position which affirms distance toward the state as the only political option**, Zizek argues: **If you do not have an idea of what** you want **to replace the State with**, **you have no right to subtract/withdraw from the State**. Instead of withdrawing into a distance from the State, **the true task should be to make the State itself work in a non-statal mode**.50 The crucial task remains to do this **in a Hegelian manner**. That is to say, **how can we think of a non-national state, based on a common, shared ethical substance?** When we discuss the state in its philosophical aspect, the Idea of the state cannot be identified with any form of the modern state. The dictum quoted earlier, on the state as God's march in the world, continues as follows: **In considering the Idea of the state, we must not have any par- ticular states or particular institutions in mind**; **instead, we should consider the Idea**, this actual God, in its own right für sich]. Any state, even if we pronounce it bad in the light of our own principles, and even if we discover this or that defect in it, invariably has the essential moments of its existence (Existenz] within itself (provided it is one of the more advanced states of our time). But **since it is easier to discover deficiencies than to comprehend the affirmative, one may easily fall into the mistake of overlooking the inner organ- ism of the state in favor of individual** (einzelne) **aspects**. **The state is not a work of art; it exists in the world, and hence** **in** the sphere of **arbitrariness, contingency, and error, and bad behavior may disfigure it** in many respects. When Hegel says that men become conscious of themselves only in the state, he thereby distinguishes between the three levels of family, civil society, and the state. The family exists at the level of feelings, with civil society as the field of self- interest. **It is only within the structure of the state that there emerges a unity of subjective consciousness** (**intentions**) **and** the objective **order** (**actions**). In short, this is what he means when he says: **The state is the actuality of the ethical Idea - the ethical spirit as substantial will, manifest and clear to itself, which thinks and knows itself and implements what it knows in so far as it knows it**. **It has its immediate existence** [Existenz] **in custom and its mediate exist- ence in the self-consciousness of the individual** [des Einzelnen], in the individual's knowledge and activity, just as self-consciousness, by virtue of its disposition, **has its substantial freedom in the state as its essence**, its end, and the product of its activity,&l **The actuality of the state is reached only when the spheres of the public and the private are not one and the same**. That is to say, **contrary to civil society, where the individual can pursue his or her interests, while taking no account of others and their interests/aims, it is in the state that duty and the right merge.** This puts Hegel against both liberal and conservative posi- tions. Of course, this in itself does not mean that Hegel is in the position of Communist politics. However, one can try to push him into it, by conceiving his idea of the state on non-national grounds, that is to say, a state that is not grounded on national Geist. The state as the rational whole can realize itself only if it is held together by the figure of the monarch, who is an ordi- nary human being, who becomes a monarch not by virtue of his abilities but by the sheer arbitrariness of his birth (biologi- cal contingeney), and in this capacity guarantees the state as the ethical order of society and makes it an actuality, His or her dismissal is simultaneously the disintegration of the state. In his plea for a rehabilitation of the state, **Zizek affirms the rela- tionship between collectivity and the state, which is not bound to electoral mechanisms, but to a strong collective** whose func- ton is not representative but inclusive. The first thing to show is that Zizek is very clear in his remarks on the state, that "**the state" is not an answer to the socioeconomic problems internal to a given nation.** At the crossing point of these two lines of argumentation lies the need to recuperate the "analytic" dimension of the Leninist Party-form - which Zizek has addressed in a series of "political thinking" texts, from First as Tragedy, Then as Farce, to his more recent Like a Thief in Broad Daylight - and the need to rethink the critique of the state in order to conceive of a paradoxical "non-statal State." In short, this is the premise of the Hegelian-informed theory of the state that Zizek has been trying to revitalize. In defining Communism, he writes: **In contrast to socialism, communism refers to singular universal- ity, to the direct link between the singular and the universal, bypassing particular determinations**. When Paul says that, from a Christian standpoint, "there are no men or women, no Jews or Greeks"; he thereby claims that ethnic roots, national identities, etc., are not a category of truth. To put it in precise Kantian terms: **when we reflect upon our ethnic roots, we engage in a private use of reason, constrained by contingent dogmatic presuppositions;** that is, we act as "immature" individuals, **not as free humans who dwell in the dimension of the universality of reason**.52 One of the issues or quandaries for the contemporary Left is the question of representation versus participation. Hegel writes that "**the ethical order has been represented by man- kind as eternal justice, as gods absolutely existent, in contrast with which the empty business of individuals is only a game of see-saw**."63 **In the struggle against** global **capitalism**, **this Hegelian way is the only way to move beyond the bourgeois state form.** In **taking over the state and state power and transforming it in such a way that the social and political structures do not remain solely in the hands of the Party - the state effectively becornes the non-statal state.** Such should be our task today **Only through such a political structure can we move beyond all the obstacles and impossibilities that condemned the previous century's attempts to establish a new form of social organiza- tion via socialism to political, economic, and ethical failure**. At the end of his Philosophy of Right, Hegel explains; **The history of a single world-historical nation contains (a) the development of its principle from its latent embryonic stage until it blossoms into** the **self-conscious freedom** of ethical life and presses in upon world history; **and** (b) **the period of its decline** and fall, since it is its decline and fall **that signalizes** the emergence in it of **a higher principle** as the pure negative of its own.64 How should we read this? This whole section is worth reread- ing. Here, Hegel discusses the stages of history, that is to say, transitions into history. For Hegel, there will always be states, and history is in fact the history of these very states. However, the puzzling aspect of this is to think the way in which (this) history relates to the history of the state form as such. Here one should remember that this form is also historically completed or overcome once it has been fully developed. In moder- nity, there is a specific state form, but simultaneously, there is a history of this form. One should take this into account when reading "God's march in the world" in a profane spirit. Reading this together with the passage of the (in)famous "Owl of Minerva" can be productive. One way to read this consists in claiming that God is gone - in the same manner as is the stable state form. A worldly divinity can die; it therefore has a history and its further determinations depend upon us. The present time challenges us to overcome the constraints of the nation-state and to move to a universal form of politi- cal organization. I maintain that Zixek's four riders of the apocalypse will be the driving force toward a transnational form of organization. Zizek's wager is that the only way to cope with the challenges of late global capitalism is to move beyond the nation-state form. And this is where Hegel is of crucial importance. He poses a penetrating challenge to the idea of the nation, from the perspective of the state as Idea, This is the challenge before which the good old socialism of the previous century failed and ended up succumbing to nationalism. **The "state" was the name Hegel had for a self-determining and objective organizational infrastructure**. **This makes it excep- tionally challenging and hard to evacuate of a specific political reading when its logic is not so tied to praise of modern state- hood.** Therefore - and yet again - what does Hegel mean by the "state?" Every form of the modern state has very little, if anything at all, in common with the forms of political and social organiza- tion that Hegel calls the "state." **This non-identification, or negative determination, of the idea of the state with individual states challenges the conservative understanding of the state.** This position renders an understanding of Hegel's idea of the state rather difficult, as it does not side with any particular form of statehood, be it historical or actual. In Hegel's "political phi- losophy; " there is little or no room for a positive determination of the "idea of the state," whose movement is both the material and historical existence of God, that is to say, God's march in the world. Thus, the following hypothesis can be put forward: what Hegel calls the "state" is the condition of historical exist- ence. Wherever there is history, the organizational conditions for it can be called a state! In this historicizing manner, one can argue, for example, that if the Paris Commune made history, then from this perspective, for a Hegelian, this should mean that the Parisian proletarians had a state. **Yet, in the Hegelian sense, in its capitalist forms of social organization, the state is not a state; for here, it is reduced to governmental structure, while its core remains the commodity form plus property laws**. So how does this help us to conceptualize a state that would be neither the nation-state nor its mirroring in the previous century's socialist state? **The mistake** - one that is perhaps even fatal - **of** twentieth-century **socialism** and Marxist theory in general including the work of many contemporary thinkers such as Poulantzas, Jessop, and Brock) **is the reduction of the state to secondary apparatuses** that are **subordinate** **to** the needs of **capital** for its reproduction. This position is strikingly similar to that of the neo-liberals, as both orientations appear to underplay the crucial and active role of the contempo- vary state and its apparatuses in economic life. Sometimes it seems that capitalism not only controls the state, but that state apparatuses are at the very center pt economic and capitalist reproduction, well exceeding the "traditional" description of their role as the legal and political guarantor for capitalist reproduction. The state serves as a direct agent for economie processes in various forms. This was also the case in twentieth. century state socialism, where the state was the sole agent and regulator of economic processes, the only difference being that there was no capitalist class. **Can we decouple the state from capital**, as well as from the nation? Can there be a strong non-statal state, which would not be "reducible" to the logic of both nation and capital? In speaking of this we should not embrace the loosening up of state power into its administrative aspects, but should keep in mind the idea of the state as agent of absolute power. **The state is not a closed end, but an open historical situation, full of antagonisms and possibilities, and is absolute precisely in this sense** (as developed in the works of Comay, Zizek, and others). The crux is thus to break the relationship between the state and capital, as well as its identification with the nation. The identification of the state with national identity is talk of identity, which as Hegel knew, contradicts itself: Talk of identity …. contradicts itself. Identity, instead of being in itself the truth and the absolute truth, is thus rather its opposite; instead of being the unmoved simple, it surpasses itself into the dissolution of itself.65 **The empowerment of the nation-state in contemporary global capitalism is extremely dangerous as it runs against the urgent need to establish a new relation to what Zizek refers to as our new "commons**." **Common dangers are a serious and urgent challenge to the totality of humanity, and for this reason, they cannot be reduced either to the nation or to (contempo- rary) states**. The commons are not enclosed within particular determinations. **The commons, as Marx has written, are the collective shared substance of our being, which are enclosed by privatization.** Zizek, following Marx, identifies: the commons of culture, the immediately socialized forms "cognitive" ' capital, primarily language, our means of communication and education, **but also the shared infra- structure of public transport, electricity, the postal system, and so on; the commons of external nature, threatened by pollution and exploitation** (from oil to rain forests and the natural habitat itself); and the commons of internal nature (the biogenetic inheritance ofhumanity); with new biogenetic technology, the creation of a New Man in the literal sense of changing human nature becomes a realistic prospect,56 **This process of enclosure necessitates the resuscitation of two crucial notions**: Communism and the class struggle. **Enclosure or privatization is the other name of proletariza- tion, as Marx defined it, as a deprivation of a subject from his or her substance.** **Communism is the name of the collective appropriation of the commons**. The difficult task is to identify ourselves, as agents of the class struggle, in this new figure. **The class struggle is not reduced to an ontic level, as in the struggle of existing social classes**, **but is the name for the social antagonisms out of which these very social classes emerge. The re-appropriation of the commons, that is, Communism, should be the name of the ethical substance**, or in Hegelian terms, the name of the shared ethical idea. Therefore, if the "state" is the term for the "presence of organizational conditions for the objective experience of peo- ple's self-determination," then the question to be asked is: what is the use of this politically? If the declaration of "the end of Communism" as an Idea was simultaneously the "end of history," it becomes apparent that **bringing about the return of Communism as an Idea also means bringing back history**. In this sense, the Hegelian Idea of the state can be said to be the condition of history. What is it if not the set of conditions that allows a people, using whatever contingent means, to face their own history, objec- tively ingrained in their objective life? There could even be an etymological claim within this argument. "State" connotes "'state," a stable segment of time (e.g, the "state" of a system), **This is why it makes perfect sense to contend/posit that the possibility of conceiving states is a precondition for history** (a time that alienates itself from itself). This also means bringing about a new theory of the state as the practice of the organization of objective conditions that we can create, then alienate ourselves from, and then also think and critique: in other words, **the Communist theory of the state should contain in itself the theory of the conditions and possibilities for the creation of the historical dynamics that can affect the people, rather than being yet another theory of "central government**. " The latter would be a theory of adminis- tration, which is a completely different domain. This is why a Communist theory of the state is a theory of all the practices that can lead us to relate to the objective spirit, that is, to recognize in our objective concrete social existence some level of autonomy (God's march in the world), which until now remains hidden beneath the national and commu- nal borders of national territories.