# 1N v Lexington AT

### Theory

#### Interpretation: The affirmative debater must articulate a distinct ROB in the form of a delineated text in the 1AC.

#### Violation: They don’t

#### Standards:

#### 1. Strat Skew – Absent a text in the 1AC, they can read multiple pieces of offense under different ROBs and then read a new one in the 1AR so they never substantively lose debates under the ROB, it just always becomes a 2nr debate about whether the ROB is good or not comparatively to the 1n’s which moots engagement. That means infinite abuse – Reading a new ROB in the 1AR makes it so all you have to do is dump on the 1N ROB and marginally extend your warrants in the 2ar and the neg can’t do anything about it since there is no 3NR to answer the 2ar weighing or extrapolations, you already have conceded offense, all you need is the ROB.

#### 2. Reciprocity – (a) restarting the ROB debate in the 1ar puts you at a 7-6 advantage– putting it in the aff makes it 13-13 (b) you have one more speech to contest my ROB and weigh (c) I can only read a ROB in the 1N so you should read it in your first speech– that’s definitionally an equal burden.

#### education is a voter – it’s the only reason debate is funded, No RVIs – [a] logic – you don’t win for meeting your burden, that o/w all args need to make logical sense to be evaluated [b] creates a chilling effect – aff is dangerous on theory because they get to prep a long counterinterp in the 1ar and then get the 2ar to collapse, weigh, and contextualize - negs would always be disincentives from reading theory against good theory debaters which leads to infinite abuse so it outweighs time skew, Prefer Competing Interps over reasonability – [a] reasonability’s arbitrary & forces judge intervention especially with 2ar recontextualizations to always sound like the more reasonable debater b) norm setting - we find the best possible norms c) reasonability collapses - you use offense/defense paradigm to evaluate brightlines, I’ll defend a norm setting model, anything else is arbitrary, infinitely regressive, and interventionist, theres no way to verify in round abuse, DTD – [a] epistemic skew – I was structurally precluded from engaging in substance, means you can eval it, they are always ahead [b] deters future abuse – empirically confirmed via a prioris, ,

#### I get new 2nr arguments, I don’t know implications until the 2nr, k2 method testing since we maximize the time spent debating the aff, and if the aff is truly true there is no reason I shouldn’t be able to

#### NC theory first – [a] they were abusive first means it comes lexically prior, my abuse was justified in response to theirs [b] we have more speeches to norm over it,

### NC

#### The Meta Ethic is internalism - Morality only works if we are motivated to follow it. Any external or outside force fails as a way of looking to morality. People making rules to guide or force others to obey will never be a “moral” system, as individuals must have the desire to take an action in order for them to be motivated to take it. Every actual action has to be explained by a belief or desire that the agent has – else they wouldn’t take it

#### Next, every agent takes their ability to act on their ethical system as instrumentally valuable. Only self interest bridges relativism to provide a universal principle.

**Moore** Margaret Moore, Queens University professor in the Political Studies department, cross-appointed (as a courtesy) in Philosophy, Reviewed Work(s): Morals by Agreement. by David Gauthier, Noûs, Vol. 25, No. 5 (Dec., 1991), pp. 707-714 ///AHS PB /BHHS AK recut

On Gauthier's view, morality is a sub-set of self-interest (he calls it preference-fulfillment), which is instrumentally necessary, not absolutely, but given features of the human situation which are almost certain to ob- tain. By taking as his starting-point the agent's subjective motivational set, whatever its content, Gauthier can claim that the requirements of morality escape none who fall under its ambit, for each person necessarily acts on his or her desires and aims. If Gauthier's project is successful, he will have refuted the moral skeptic: by demonstrating that morality is self-interestedly rational, he can claim that the principles are justified and that they apply to everyone. He does not need to presuppose a feeling such as sympathy to explain moral action, or appeal to a process of moral education and socialization within communities which shape the individual's desires and beliefs in accordance with a specific moral conception. Gauthier's agents simply maximize their utility and in the process find that they need to co-operate with others and that the dynamics of co- operation make it rational in self-interested terms to constrain their utility- maximization. By considering in this way the principles and constraints which it would be rational for co-operating self-interested agents to adopt, Gautheir claims to be able to deduce a system of moral constraints and Principles.

#### This entails a system of mutual self restraint: moral principles can be only be the object of a hypothetical moral agreement that all agents have reason to implement. Contracts are the only standard capable of generating normativity since each agent rationally chooses to protect their self-interest by entering the contract.

**Gauthier** [David Gauthier, Canadian-American philosopher best known for his neo-Hobbesian social contract theory of morality, Why Contractarianism?, 1998], ///AHS PB /BHHS AK recut

I shall not rehearse at length an argument that is now familiar to at least some readers, and, in any event, can be found in that book. But let me sketch briefly those features of deliberative rationality that enable it to constrain maximizing choice. The key idea is that in many situations, if each person chooses what, given the choices of the others, would maximize her expected utility, then the outcome will be mutually disadvantageous in comparison with some alternative – everyone could do better**. 14 Equilibrium, which obtains when each person ’ s action is a best response to the others ’ actions, is incompatible with (Pareto-) optimality, which obtains when no one could do better without someone else doing worse. Given the ubiquity of such situations,** each person can see the benefit, to herself, of participating with her fellows in practices requiring each to refrain from the direct endeavor to maximize her own utility, when such mutual restraint is mutually advantageous. No one**,** of course**,** can have reason to accept any unilateral constraint on her maximizing behavior; each benefits from, and only from, the constraint accepted by her fellows. But if one benefits more from a constraint on others than one loses by being constrained oneself, one may have reason to accept a practice requiring everyone, including oneself, to exhibit such a constraint. We may representsuch a practiceas capable of gaining unanimous agreement among rational persons who were choosing the terms on which they would interact with each other. And this agreementis the basis of morality**.** Consider a simple example of a moral practice that would command rational agreement. Suppose each of us were to assist her fellows only when either she could expect to benefit herself from giving assistance, or she took a direct interest in their well-being. Then, in many situations, persons would not give assistance to others, even though the benefit to the recipient would greatly exceed the cost to the giver, because there would be no provision for the giver to share in the benefit. Everyone would then expect to do better were each to give assistance to her fellows, regardless of her own benefit or interest, whenever the cost of assisting was low and the benefit of receiving assistance considerable**.** Each would thereby accept a constraint on the direct pursuit of her own concerns, not unilaterally, but given a like acceptance by others. Reflection leads us to recognize that those who belong to groups whose members adhere to such a practice of mutual assistance enjoy benefits in interaction that are denied to others**.** We may then represent such a practice as rationally acceptable to everyone.This rationale for agreed constraint makes no reference to the content of anyone ’ s preferences**.** The argument depends simply on the structure of interaction, on the way in which each person ’ s endeavor to fulfill her own preferences affects the fulfillment of everyone else**.** Thus, each person ’ s reason to accept a mutually constraining practice is independent of her particular desires, aims and interests, although not, of course, of the fact that she has such concerns**. The idea of a purely rational agent, moved to act by reason alone, is not, I think, an intelligible one.** Morality is not to be understood as a constraint arising from reason alone on the fulfillment of nonrational preferences. Rather, a rational agent is one who acts to achieve the maximal fulfillment of her preferences, and morality is a constraint on the manner in which she acts, arising from the effects of interaction with other agents

#### Thus, the standard is consistency with contractarianism. Prefer for 1] regress – agents can always why a rule exists or how to interpret it – that requires a new rule which is regressive. Thus, only self-imposed contractual obligations can generate normative bindingness 2] Both debaters debate to win the round but we are still restricted by agreed on constraints like 4 mins of prep, speech times, etc. Their very performance justifies the NC framework and proves the AC collapses to the NC

#### I negate –

#### 1] Patents are contracts with the government to protect exclusivity in return for disclosure, WIPO:

WIPO [World Intellectual Property Organization], Frequently Asked Questions: Patents, <https://www.wipo.int/patents/en/faq_patents.html> //LHP AV

What is a patent? **A patent is an exclusive right granted for an invention**. In other words, a patent is an exclusive right to a product or a process that generally provides a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application. **The patent owner may give permission to, or license, other parties to use the invention on mutually agreed terms. The owner may also sell the right to the invention to someone else, who will then become the new owner of the patent**. Once a patent expires, the protection ends, and an invention enters the public domain; that is, anyone can commercially exploit the invention without infringing the patent. What rights does a patent provide? **A patent owner has the right to decide who may – or may not – use the patented invention for the period in which the invention is protected**. In other words, patent protection means that the invention cannot be commercially made, used, distributed, imported, or sold by others without the patent owner's consent. What kinds of inventions can be protected? Patents may be granted for inventions in any field of technology, from an everyday kitchen utensil to a nanotechnology chip. An invention can be a product – such as a chemical compound, or a process, for example – or a process for producing a specific chemical compound. Many products in fact contain a number of inventions. For example, a laptop computer can involve hundreds of inventions, working together. How long does patent protection last? Patent protection is granted for a limited period, generally 20 years from the filing date of the application. Is a patent valid in every country? Patents are territorial rights. In general, the exclusive rights are only applicable in the country or region in which a patent has been filed and granted, in accordance with the law of that country or region. How are patent rights enforced? **Patent rights are usually enforced in a court on the initiative of the right owner**. In most systems a court of law has the authority to stop patent infringement. However the main responsibility for monitoring, identifying, and taking action against infringers of a patent lies with the patent owner. What does it mean to “license a patent” and why is it done? Licensing a patent simply means that the patent owner grants permission to another individual/organization to make, use, sell etc. his/her patented invention. This takes place according to agreed terms and conditions (for example, defining the amount and type of payment to be made by the licensee to the licensor), for a defined purpose, in a defined territory, and for an agreed period of time. A patent owner may grant a license to a third party for many reasons. The patent owner may not have the necessary manufacturing facilities, for example, and therefore opts to allow others to make and sell his/her patented invention in return for “royalty” payments. Alternatively, a patent owner may have manufacturing facilities, but they may not be large enough to cover market demand. In this case, he/she may be interested in licensing the patent to another manufacturer in order to benefit from another income stream. Another possible situation is one in which the patent owner wishes to concentrate on one geographic market; therefore the patent owner may choose to grant a license to another individual/organization, with interests in other geographical markets. Entering into a licensing agreement can help to build a mutually-beneficial business relationship. Unlike selling or transferring a patent to another party, the licensor continue to have property rights over the patented invention. Why are patents useful (to society, business, individuals etc.)? Patented inventions have, in fact, pervaded every aspect of human life, from electric lighting (patents held by Edison and Swan) and plastic (patents held by Baekeland), to ballpoint pens (patents held by Biro), and microprocessors (patents held by Intel, for example). Patents provide incentives to and protection for individuals by offering them recognition for their creativity and the possibility of material reward for their inventions. **At the same time, the obligatory publication of patents and patent applications facilitates the mutually-beneficial spread of new knowledge and accelerates innovation activities by, for example, avoiding the necessity to “re-invent the wheel”.** Once knowledge is publicly available, by its nature, it can be used simultaneously by an unlimited number of persons. While this is, without doubt, perfectly acceptable for public information, it causes a dilemma for the commercialization of technical knowledge. **In the absence of protection of such knowledge, “free-riders” could easily use technical knowledge embedded in inventions without any recognition of the creativity of the inventor or contribution to the investments made by the inventor. As a consequence, inventors would naturally be discouraged to bring new inventions to the market, and tend to keep their commercially valuable inventions secret.** A patent system intends to correct such under-provision of innovative activities by providing innovators with limited exclusive rights, thereby giving the innovators the possibility to receive appropriate returns on their innovative activities. In a wider sense, the public disclosure of the technical knowledge in the patent, and the exclusive right granted by the patent, provide incentives for competitors to search for alternative solutions and to “invent around” the first invention. These incentives and the dissemination of knowledge about new inventions encourage further innovation, which assures that the quality of human life and the well-being of society is continuously enhanced. Applying for patent protection What conditions must be met to obtain patent protection? There are numerous conditions that must be met in order to obtain a patent and it is not possible to compile an exhaustive, universally applicable list. However, some of the key conditions include the following: The invention must show an element of novelty; that is, some new characteristic which is not known in the body of existing knowledge in its technical field. This body of existing knowledge is called “prior art”. The invention must involve an “inventive step” or “non-obvious”, which means that it could not be obviously deduced by a person having ordinary skill in the relevant technical field. The invention must be capable of industrial application, meaning that it must be capable of being used for an industrial or business purpose beyond a mere theoretical phenomenon, or be useful. Its subject matter must be accepted as “patentable” under law. In many countries, scientific theories, aesthetic creations, mathematical methods, plant or animal varieties, discoveries of natural substances, commercial methods, methods for medical treatment (as opposed to medical products) or computer programs are generally not patentable. The invention must be disclosed in an application in a manner sufficiently clear and complete to enable it to be replicated by a person with an ordinary level of skill in the relevant technical field. Who grants patents? **A patent is granted by a national patent office or by a regional office that carries out the task for a number of countries. Currently, the following regional patent offices are in operation:** African Intellectual Property Organization (OAPI) African Regional Intellectual Property Organization (ARIPO) Eurasian Patent Organization (EAPO) European Patent Office (EPO) Patent Office of the Cooperation Council for the Arab States of the Gulf (GCC Patent Office) Under such regional systems, an applicant requests protection for an invention in one or more member states of the regional organization in question. The regional office accepts these patent applications, which have the same effect as national applications, or grants patents, if all the criteria for the grant of such a regional patent are met. There is currently, no universal, international system for the grant of patents.

#### Impacts –

#### A] Violating contracts agreed to is intrinsically bad as per the framework

#### B] mutual advantage of the contract is undermined as inventors have no incentive to disclose their inventions, which also turns case because other companies can’t make it if they don’t know how to

#### C] Free riding – other agents can use the knowledge without contribution, which violates the framework because agents not involved in the contract unjustifiably exploit another person.

#### 2] Illegitimacy – the conditions that can create a legitimate new contract are not present – thus, the aff is illegitimate

#### A] imbalance of power – the international sphere has certain countries with more power over others, which means the aff can never be justified as a contract – rational parties would never need a contract in a space with power imbalance

#### B] Third Parties – the ones affected are the pharmaceutical companies and their rights, so making a contract absent their consent is illegitimate

#### 3] Secrets are good – they are essential parts of contracts formulated by the subject

## Case

### OV

#### The roll of the ballot is to vote for the debater who best proves the truth or falsity of the resolution. To clarify, vote aff if I prove the resolution true and vote neg if they prove it false.

#### 1. Text – Dictionary.com defines affirm as to maintain as true Dictionary.com, [https://www.dictionary.com/browse/affirm] And to negate as to deny the existence, evidence, or truth of Dictionary.com, [https://www.dictionary.com/browse/negate] Text first – Text comes first – a) Controls the internal link to fairness since it’s the basis of things like predictability and prep b) Key to jurisdiction since the judge can only endorse what is within their burden. Jurisdiction always comes first, anything else is intervention c) Even if another role of the ballot is better for debate, that is not a reason it ought to be the role of the ballot, just a reason we ought to discuss it.

#### Permissibility Negates –

#### 1] Semantics – Ought is defined as expressing obligation which means absent a proactive obligation you vote neg since there’s a trichotomy between prohibition, obligation, and permissibility and proving one disproves the other two.

#### 2] Safety – It’s ethically safer to presume the squo since we know what the squo is but we can’t know whether the aff will be good or not if ethics are incoherent.

#### Presume neg- A. We assume statements to be false until proven true. That is why we don’t believe in alternate realities or conspiracy theories. The lack of a reason something is false does not me it is assumed to be true. B. Statements are more often false then true. If I say this pen is red, I can only prove it true in one way by demonstrating that it is indeed red, where I can prove it false in an infinite amount of ways.

### FWK OV

#### [1] Reject Consequences – [a] cascading [b] culpability

#### [2] If moral pluralism is true, it is bad to experiment – it would lead to infinite possibilities and deliberation

#### [3] Hijack –

#### [4] If everything can be contested then A) its impossible to verify agonism as true B) an obligation is always up to contestation so its impossible to establish the resolution as absolute truth, which fails to meet the burden . C) it justifies permissibility because everything has someone who thinks its true which we have to see as a valid opinion.

#### [5] Agonism is self-defeating: By not prohibiting certain viewpoints you allow groups like Nazi’s who are against free speech to organize and other throw the agon, which means using your framework creates conceptual contradictions.

#### [6] Its impossible to weigh between conflicting obligations, If a dilemma necessitates we have to silence one or two groups, silencing either would be bad under the framework which means its impossible to establish moral action.

#### [7] The Metaethic is a contradiction: A) if exclusion is inevitable every action is exclusionary, and therefor bad under agonism, which justifies automatically voting neg and B) trying to posit agonistic democracy as an impossible obligation is bad insofar as it can never be fulfilled causing moral violence

#### [8] Reading Agonism is a performative contradiction insofar as the only offense that matters to the AC is your own. however agonism would say excluding others viewpoints is bad, so proving your framework true proves it false.

#### [9] Agonism makes language incoherent insofar as different people are able to hold different equally true views of what statements mean. This negates, because it creates a world where the resolution is both true and false under different viewpoints. Since both P and ~P cant be true, the law of non contradiction holds the resolution to be false.

### Hijack

#### If we need collective deliberation, that presupposes a communal space in which the subject can explain their views, thus they need a sphere of agency resulting in property - Schroeder 05:

\*bracketed for gendered language\* Schroeder, Jeanne L. "Unnatural rights: Hegel and intellectual property." *U. Miami L. Rev.* 60 (2005): 453.

Contract solves this problem. To reiterate, Hegel believes that **subjectivity is created not by possession per se, but by intersubjective recognition by other subjects. Property is only a medium for this purpose. This regime of recognition is abstract right-the rule of law. Subjectiv- ity is the capacity to bear legal rights and duties recognized by, and enforceable against, other subjects**. To concentrate on the specific object of property is to conflate subject with object-the opposite of recognizing the person's unique subjectivity. This is in sharp contradis- tinction to Radin's proposition that the merging of owner with her per- sonal property furthers human flourishing. Hegel, looking forward to psychoanalysis, considers such a relationship to be destructive-an addiction, or more technically, fetishism. **In contract, each party remains identifiable as a rights-bearing sub- ject through object relations because the object [t]he[y] gives up in contract is simultaneously replaced by a new object. That is, the contracting parties recognize each other as rights-bearing subjects, or persons having the capacity not only to own property, but to respect the property rights of others, and to live up to his contractual obligations.** In Hegel's words: [Contract] contains the implication that each party, in accordance with his own and the other party's will, *ceases* to be an owner of property, *remains*one, and *becomes* one. This is the mediation of the will to give up a property (an individual property) and the will to accept such a property (and hence the property of someone else). The context of this mediation is one of identity, in that the one voli- tion comes to a decision only in so far as the other volition is present.74 Hegel went so far as to assert that "[tihe whole issue can also be viewed in such a way that alienation is regarded as a true mode of taking posses- sion. 75 That is, **possession is the recognition by others that a specific object belongs to a specific subject. Paradoxically, this recognition only *expressly* occurs *retroactively* when the owner contracts to sell that object to another person. In other words, the identification of subject to object in possession is only *effectively* recognized at the moment when another subject pays the first subject to release the object from her possession.** Once again, one must remember Hegel's radical definition of objects as anything that is not the individual herself. This includes not only intangibles, but also an individual's own labor is an object separate from her personhood. Consequently, service contracts, whereby the individual alienates part of her productive capacity in exchange for wages is, to the Hegelian analysis, a contract for the exchange of prop- erty. In fact, the service contract is an excellent example of the logic of Hegel's dialectic of recognition. In our modem capitalistic society, a primary way we recognize each other is through our occupations. **The mutual intersubjectivity of contract is necessary because**, according to Hegel, **one becomes a subject** (eine Person)**only when one is recognized as such by another subject. Subjectivity (the capacity to bear legal rights and duties) exists only insofar as rights are enforceable.** **Since all persons logically begin as abstract individuals (not subjects), in order to achieve subjectivity, each individual must first make other indi- viduals into subjects by recognizing them as such. This means that it is impossible to create rights by unilaterally claiming them for oneself.** Since rights are intersubjective they can only be created intersubjec- tively. This is one reason why the Lockean attempt to justify claims of property through first-appropriation fails. The conundrum should be obvious. How does anyone become a subject recognized by other subjects when there are no subjects in the state of nature? Where does thefirst subject come from? The Hegelian answer is that **multiple subjects must come into existence simultaneously**. This is the alchemy that Lacan calls "love"-the relationship in which each lover sees in his beloved more than she has, that empowers the beloved to live up to the lover's expectations and become more than she once was.76 Contract is the most primitive form of eroticism-albeit a pathetic, and unromantic one. **Each individual,by admitting that another individ- ual has legal rights** (i.e., the right to possess and contract to exchange the object to be acquired), **makes that individual into more than she once was-she is no longer an individual, but a subject**. 3. FORMALITY AND RECOGNITION The Hegelian logic of alienation confuses many commentators because they do not recognize the purely formal nature of subjectivity and abstractright. Here, **object relations are purely instrumental and subordinate to the goal of recognition.** Hegel, like Kant, defines a free individual as an end in and for her self, and not the means to the end of another. In contrast, an object is something that is the means to the ends of something else. **In abstract right, each individual paradoxically wants both-that other individuals help him reach his end of becoming a subject, and that other individuals remain an end in and to themselves rather than merely a means to the first person's ends. Subjectivity is only created through recognition as such by a person that one recognizes as another subject. To treat another person as one's means, rather than as his own ends, is to fail to recognize him as an individual or a subject. The question then becomes, how can one accomplish one's own ends (which requires action by another person) without impinging on the ends of that other person or treating her like a means (an object)?** The Hegelian answer is that subjects can mediate their relationship through objects. **Both subjects mutually exploit the objects of exchange as means of recognizing each other-each fulfills her own ends (becom- ing a subject) while respecting the ends of the other (also to become a subject). The two subjects are united in a common will, in the sense that each wills his own ends, but these potentially competing ends tempora- rily coincide in the meeting of minds known as contract.** This means that, as a logical matter, one does not enter into object relations for the sake of the object itself or for the "natural" or other concrete functions they might serve. The specific characteristics of any object of a property claim is irrelevant and should be a matter of indifference to the subjects, from a logical standpoint. Right is something utterly sacre dfor the simple reason that it is the existence [ ] of the absolute concept, of self-conscious freedom. But the formalism of right-and also of duty-arises out of the dif- ferent stages in the development of the concept of freedom. In oppo- sition to the more formal, i.e. more abstractand hence more limited kind of right, that the sphere and stage of the spirit in which the spirit has determined and actualized within itself the further moments con- tained in its Idea possesses a higher right, for it is the more concrete sphere, richer within itself and more truly universal. Each stage in the development of the Idea of freedom has its distinctive right, because it is the existence of freedom in one of its own determinations. When we speak of the opposition between morality or ethics and right, the right in question is merely the initial and formal right of abstract personality. Morality, ethics, and the interest of the state-each of these is a distinct variety of right, because each of them gives determinate shape and existence to freedom.77 In other words, a full concrete personality requires the entire regime that Hegel calls Recht, which includes not only abstract right (property and contract), but morality and ethics. Abstract right is the most primitive form of right that only creates the form necessary for freedom-the empty vessel of legal subjectivity understood as the mere ability to accept legal rights and duties imposed by others. The content of person- ality will be added by morality and ethics. Consequently, Hegel states with respect to the legal subject: Since particularity, in the person [i.e. what I am calling the subject], is not yet present as freedom, everything which depends on particu- larity is here a matter of indifference. If someone is interested only in his formal right, this may be pure stubbornness, such as is often encountered in emotionally limited people; for uncultured people insist most strongly on their rights, whereas those of nobler mind seek to discover what other aspects there are to the matter in ques- tion. Thus abstract right is initially a mere possibility, and in that respect is formal in character as compared with the whole extent of the relationship. Consequently, a determination of right gives me a warrant, but it is not absolutely necessary that I should pursue my rights, because this is only one aspect of the whole relationship. For possibility is being, which also has the significance of not being. 78 Indeed, it is precisely the function of the element of alienation to make this irrelevance and indifference manifest. Nevertheless, even as subtle an analyst as Hughes, who expressly recognizes that the fact that object relations can also serve natural functions (food and shelter) is irrelevant to a Hegelian analysis, 79 misses this point. Hughes finds alienation "incoherent"80 because the subject loses the object that supposedly makes the subject recognizable.8' He finds this particularly problematic in Hegel's discussion of copyright, because the objects of copyright, being the author's creations, seem intrinsically linked to the author's personality.82 Consequently, he infers that the objects of copyright uniquely serve the goal of differentiating and identifying the author and concludes that complete alienation of artistic works might defeat the goal of the creation of personality. Consequently, he sees the Hegelian analysis of property as supporting certain restraints on alienation of copyrightable material, such as in the droit morale under which an artist retains some control over her creations after sale.83 But this critique is based on the misimpression that, to Hegel, the legal right of property relates to the creation of the full complex per- sonhood of empirical human beings situated in relations of family, civil society, and state.84 But **legal relationships relate only to the creation of legal subjects-persons capable of bearing rights and duties. The legal subjectivity mutually constituted with abstract right is, therefore, equally abstract and formal. Moreover, it is precisely abstractness and formality that enable abstract right and legal subjectivity to serve as the substra- tum for the concrete freedom of citizenship.** Above, I mentioned in passing an analysis that I have developed extensively elsewhere: Hegel's property jurisprudence is essentially erotic because contract is a primitive type of "love."8 5 My goal in doing so was to break down the dichotomy between rationality and passion that implicitly underlies both utilitarianism and romanticism. To Hegel's jurisprudence, rationality and passion are two sides of the same coin.86 **Reason tells the autonomous individual that he must actualize his freedom and to do so requires recognition by other subjects. Conse- quently, the free individual rationally decides that he must give way to the desire for others. Because abstract right is created in order to enable the interrelationship of mutual recognition to occur, it is erotic.** The "love" and desire that exist at the level of abstract right are only a pale shadow of the passions we feel towards our family, lovers, and friends. Consequently, I have argued vociferously that although utilitarians like Posner are right in seeing a parallel between economic activity and sexuality, they are wrong in trying to reduce the latter to a form of the former.87 Rather, from the Hegelian position, the former (economics) is merely a step that makes the latter (eroticism) possible. That is, contract establishes the form of love, not its content. Conversely, Hughes and Radin are equally mistaken in trying to argue that property can perform a direct function in the creation of the full, loving artistic personality. Although Hegel was a great defender of legalism and capitalistic markets, he also insisted that they be limited to their appropriate sphere. To analyze more complex interrelationships in terms of abstract right (property) is not merely erroneous. Never one to mince words, Hegel called it "crude" and shameful.88 Consequently, only the most base persons stand on their rights.8 9 The noble person accords rights to others. This is why Hegel condemns the classical lib- eral concept of government as social contract-citizenship is Hegel's most highly developed level of personality, and therefore, unlike the subject, cannot be comprised solely by legal categories. A corollary of this is that it is equally incorrect, indeed shameful, to adopt the romantic position towards copyright that conflates the legal relationship of property with the flowering of personality in artistic expression. From a Lacanian point of view, to do so is literally per- verse. Specifically it is fetishistic-the identification of objects with subjects.90 The specific content of objects of copyright has nothing to do with their status as a legal concept. To Hegel, saying copyright is "property" is not to say that society must or should establish a copyright regime. This decision can only be made by pragmatic reasoning. In this sense, Hegel's theory has a surprising utilitarian twist. Society's desire to further creativity may, however, be a good pragmatic argument in favor of such a regime.

#### That Negates –

#### Abstract right is materialized in the community in the legal order. Violating them undermines the system through which we manifest our rights, meaning it violates our freedom as subjects and outweighs. Buchwalter,

Buchwalter, Andrew. “Hegel, Human Rights, and Political Membership.”

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)

#### IP is a form of property

Zeidman et al. 16 [Bob Zeidman &amp; Eashan Gupta, "Why Libertarians Should Support a Strong Patent System", IPWatchdog, 1-5-2016, https://www.ipwatchdog.com/2016/01/05/why-libertarians-should-support-a-strong-patent-system/id=64438/, accessed: 8-9-2021.] //Lex VM

Many libertarians believe that intellectual property, being intangible, is not real property. A formal libertarian definition of property is difficult to formulate, but we would say that property is that which can be produced or contribute to production. Intellectual property falls clearly within these constraints. Yet some libertarians complain that intellectual is not tangible and is defined by government regulation—the patent laws—such that it would not exist without government definition. Let us look at this argument closer. Land is unquestionably property in the minds of libertarians. Yet the land upon which a house is built was not created by the property owner. It was created by nature or God, depending on your inclination, but no one would claim it to be created by the owner, whereas intellectual property is unquestionably created by the inventor. And how far do property lines extend? Property lines are determined by local governments. One can argue that property lines are negotiated by owners and enforced by governments, but when we moved into our homes, there were no negotiations with surrounding property owners. And how far above ground and below ground do property rights extend? These limitations are definitely not negotiated with other property owners but are determined by laws enforced by governments. Patents also have limitations in terms of scope and time that are determined by government laws. One can see that limitations on patents are similar to those on physical property and in some respects are more closely connected to production. For these reasons, libertarians should recognize patents as they do other forms of property. As a secondary but important example, libertarians are generally concerned about government spying on private conversations. When the government captures a phone conversation, it is not physically taking property. It is simply copying intangible data that exists as a form of transient electrical signals. Copying does not involve removing the original—the phone conversation is not destroyed when it is copied. Yet libertarians recognize that this copying of intangible data is a kind of theft of property. Libertarians should thus be wary of making the argument that intangible patents cannot be property or they may lose their contrary argument that private conversations are personal property to be protected.

#### Means the state can’t remove protections.

Zeidman et al. 2 [Bob Zeidman &amp; Eashan Gupta, "Why Libertarians Should Support a Strong Patent System", IPWatchdog, 1-5-2016, https://www.ipwatchdog.com/2016/01/05/why-libertarians-should-support-a-strong-patent-system/id=64438/, accessed: 8-9-2021.] //Lex VM

Libertarians believe in property rights and government protection of those rights as one of the few necessary requirements of government. Ownership of property and free markets leads to competitive production and trade of goods, which in turn leads to prosperity for all of society. Intellectual property is property like other forms of property, and so government must protect IP as it protects other forms of property because it too leads to competition and trade and prosperity. Libertarians should encourage a strong patent system and object to any “reforms” that limit intellectual property ownership or introduce more government regulation than is required.