## 1

#### Interpretation: Debaters must specify how they enforce reduction of IPP in the 1AC.

#### 1] Resolvability – enforcement is the core to aff solvency. Yu 14

Peter K. Yu, 12-2014, "Why Are the TRIPS Enforcement Provisions Ineffective?," Texas A&amp;M Law Scholarship, https://scholarship.law.tamu.edu/facscholar/1022/ AT

Shortly after the adoption of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), commentators widely praised the Agreement for transforming the international intellectual property system. While some considered the extension of the mandatory dispute settlement process of the World Trade Organization (WTO) to intellectual property disputes a crowning achievement of the Uruguay Round of Multilateral Trade Negotiations (Uruguay Round), others extolled the unprecedented benefits of having a set of multilateral enforcement norms built into the international intellectual property system. With twenty-one provisions on obligations that range from border measures to criminal sanctions, the TRIPS Agreement, for the first time, provides comprehensive international minimum standards on the enforcement of intellectual property rights. Notwithstanding these quick praises, some commentators provided more measured assessments. For example, in a prescient, and still highly relevant, article published shortly after the adoption of the TRIPS Agreement, Jerome Reichman and David Lange described the Agreement’s enforcement provisions as its ‘Achilles’ heel’. As they observed: The enforcement provisions are crafted as broad legal standards, rather than as narrow rules, and their inherent ambiguity will make it harder for mediators or dispute-settlement panels to pin down clear-cut violations of international law … . We predict that the level of enforcement under the TRIPS Agreement will greatly disappoint rightsholders in the developed countries, and that recourse to coercive measures will not appreciably improve the situation in the short and medium terms.

#### That’s a voter since judges need to decide debates and takes out regress since its key to topic debates.

#### 2] Stable advocacy – 1AR clarification delinks neg positions that prove why enforcement in a certain instance is bad by saying it isn't their method of enforcement – wrecks neg ballot access and kills in depth clash – CX doesn't check since it kills 1NC construction pre-round since I don't know advocacy till in round, and judges do not flow cross ex so its not verifiable.

#### 3] Prep skew – I don't know what they will be willing to clarify until CX which means I could go 6 minutes planning to read a disad and then get screwed over in CX when they spec something else.

#### Fairness is a voter because the judge needs to evaluate the better debater

#### Drop the debater to deter future abuse since it’s the most severe form of punishment

#### No RVIs 1) its illogical you don’t win by proving that you’re fair 2) encourages theory baiting where good theory debaters bait the RVI to win

#### Use competing interps it creates a race to the top where we set the best norms

## 2

#### Counterplan text: We should the entirety of the 1AC except for their use of the term “settler.”

#### To clarify:

#### - The entirety of the 1AC except for their use of “settler”.

#### - Instead the negative advocates for the use of the word “conquistador-settler”.

#### “Settler” ignores antiblackness

King 19 (Tiffany Lethabo King, King is an Assistant Professor of Women’s, Gender and Sexuality Studies, PhD @ UMaryland in WGSS, “The Black Shoals: Offshore Formations of Black and Native Studies”,<https://www.academia.edu/39808886/The_Black_Shoals_Offshore_Formations_of_Black_and_Native_Studies_Intro_>, Published idk honestly – the book hasn’t been released yet & there’s a free preview that I’m cutting stuff from; for labeling purposes it’s King 19 as it’s supposed to come out in 2019, Accessed 8/15/19, page 212 [Preface Notes #8], Lex RM/Lex VM)

Here, I introduce **the term “conquistador-settler”** to **connote** the **ways** that **the** subjectivity of the **conquistador persists into the** current **moment. The conquistador** is also a subjectivity **that is tethered to the** contemporary **figure of the settler**. Currently, **Indigenous studies** and the field of settler colonial studies, as well as activists on the left, tend to **refer to descendants of** the **White** colonial settling populations as “**settlers.” This moniker** generally **references** the **settlers’ relationship to land** and to an extent Indigenous people. I argue that “**settler” does n**o**t** explicitly **name its relationship to** the **people**. I argue that “**settler” does n**o**t** explicitly **name its relationship to the** ongoing **violence of genocide** that continues to be enacted on Indigenous bodies. **The term “settler”** also entirely **disavows** the **relationship that White settlers have to the** institution of **slaver**, its afterlife, and ongoing practices **and** regimes of **anti-Black violence. “Conquistador-settler” invokes** both **the violence** enacted **on** the **indigenous and Black body and the possession of land.**

## 3

### Framing

**The meta ethic is procedural moral realism or the idea that ethics are derived in the noumenal world absent accounting for human experiences.**

#### 1] Is/Ought Gap – experience in the phenomenal world only tells us what is since we can only perceive what is, not what ought to be. But it’s impossible to derive an ought from descriptive premises, so there needs to be additional a priori premises within the noumenal world to make a moral theory.

#### The existence of extrinsic goodness requires unconditional human worth—that means we must treat others as ends in themselves.

Korsgaard ’83 (Christine M., “Two Distinctions in Goodness,” The Philosophical Review Vol. 92, No. 2 (Apr., 1983), pp. 169-195, JSTOR) OS/Recut Lex AKu \*brackets for gendered language

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action,[they] he or she supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). In order for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a sufficient condition of their goodness. Kant considers what this might be: it cannot be an object of inclination, for those have only a conditional worth, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). It cannot be the inclinations themselves because a rational being would rather be free from them. Nor can it be external things, which serve only as means. So, Kant asserts, the unconditionally valuable thing must be "humanity" or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happiness of others-the ends that they choose-and, in general, to make the highest good our end.

#### Practical reason is inescapable - Any moral rule faces the problem of regress – I can keep asking “why should I follow this.” Regress collapses to skep since no one can generate obligations absent grounds for accepting them. Only reason solves since asking “why reason?” requires reason to do in the first place which concedes its authority.

### Offense

#### 1] Patents protect private companies.

Na 19 [Blake Na, "Protecting Intellectual Property Rights in the Pharmaceutical Industry", Chicago-Kent | Journal of Intellectual Property, 4-19-2019, https://studentorgs.kentlaw.iit.edu/ckjip/protecting-intellectual-property-rights-in-the-pharmaceutical-industry/, accessed: 8-24-2021.] //Lex VM

Patent Rights A pharmaceutical company may apply for a patent from the PTO at any time in the development lifetime of a drug.[12] A drug is patentable if it is non-obvious, new, and useful.[13] The drug must be non-obvious when comparing the drug with another previously invented drug, i.e., it does not bring the same type of information as the other drugs. The drug must also not exist, and it must have a purpose. Intellectual property rights, especially patent rights, are the foundation of the pharmaceutical industry. The industry heavily depends on the future profits which innovation (and as a result, exclusivity) enable. Drug patents grant the originator company to market exclusivity for a fixed term of 20 years from the patent’s original filing date. By giving this 20-year patent term in which the government cannot regulate the price, market exclusivity allows pharmaceutical companies to have a monopoly over the market. To maximize their profit, pharmaceutical companies work on extending the exclusivity of a drug. For example, AbbVie extended the manufacturing exclusivity of Humira by delaying generic companies from manufacturing generic entrants until 2023. The market exclusivity can be lengthened anywhere between 180 days to 7 years. Thus, due to efforts to derive profits from patents, pharmaceutical companies’ patents contribute to roughly 70-80 percent of their overall revenues. Patents in the pharmaceutical industry are normally referred to as their product portfolio and are the most effective method for protecting innovation and creating significant returns on investments. Accordingly, as mentioned above, patents help in recouping costs related to research, development, and marketing of a drug. Patents not only help pharmaceutical companies recoup investments, they can also act as a shield against infringement claims. Strong patent protection can safeguard drugs from potential infringers. Without consent from the patentee, other competing companies cannot use, make, or distribute the invention. However, because a drug can be easily imitated by competitors, bringing an infringement suit can also protect a patentee’s rights. Recently, DUSA Pharmaceuticals, Inc.—an arm of the Indian pharmaceutical company Su Pharma and ranked among the top 50 global Pharma Companies—was recently granted injunctive relief from a U.S. court against Biofrontera Inc. in a patent infringement case[14]. The court’s order prohibited Biofrontera from making use of information, including sales data, marketing data, technical information, and unpublished clinical data, of DUSA Pharmaceuticals[15]. Although bringing an infringement suit is a valuable remedial measure for patentees, pharmaceutical companies often face difficulty with the high costs and uncertainty of litigation

#### That negates – A] Promise breaking – states promised legally binding IP protections to companies who might not have otherwise developed medicines – the aff is a unilateral violation of that contract. B] That’s a form of restricting the free economic choices of individuals.

#### 2] IP is a reflection of our will and a form of property.

Merges 11 [Merges, Robert P. "Will and Object in the World of IP." Justifying Intellectual Property, Cambridge, Harvard UP, 2011, pp. 76-78. ISBN: 0674049489,9780674049482. Found on Libgen.] //Lex VM

It is clear enough at this point that Kant thought reliable expectations about ongoing possession of objects enables something positive to take place. Stable possession permits the imprinting of some aspect of a person, what Kant called his will, onto objects so as to enable the person to more fully flourish. Though nuances abound, Kant’s basic idea regarding the will24 is simple enough: Will is that aspect of a person which decides to, and wants to, act on the world.25 It has three distinctive qualities: it is personal, autonomous, and active. It is highly individual, a function of each person’s preferences and desires; Lewis White Beck says that will is “bent upon the satisfaction of some arbitrary purpose.” It is this aspect or feature of ourselves that we imprint or stamp on the world through our choices and the resulting actions that carry out or manifest these choices. Right here, in this foundational element, we see a radically individualistic and autonomous view of humans. Although this is balanced by a universalizing, transpersonal sense of reason in other parts of his philosophy,26 a highly individual will is nonetheless central to Kant’s view of human thought and action, and thus an essential aspect of what he thought it means to be human.27 will and object in the world of ip. It is tempting to get caught up in the terminology and conceptual complexity of Kant’s ideas of persons, will, and objects. To prevent that happening, it seems wise at this point to talk about some specific examples. How exactly does Kantian autonomy work? What does it look like in the context of IP rights? After we have a better grasp of these ideas, and of how they relate to Kant’s rationale for property, we can turn to an equally important topic: the limits on individual autonomy that Kant built into his theory. Our earlier example of Michelangelo showed how stable possession is required for a creator to fully work his will on a found object— in that case, a block of marble. The same basic logic applies in all sorts of cases. Individual farmers and landowners generate and then bring to life a vision for the lands they work on;28 inventors transform off- the- shelf materials into prototypes, rough designs, and finished products; and artists work in media such as paint and canvas, paper and pen, textiles and wood, keyboard and iPad, and so on, to give life to a concept or mental image. Wherever personal skill and judgment are brought to bear on things that people inherit or find, we see evidence of the Kantian process of will imprinting itself on objects. It even happens when the objects at hand are themselves intangible. A composer working out a new instance of a traditional form— a fugue or symphony, blues song or tone poem— is working on found objects just as surely as the farmer or inventor. Even in our earlier example, some of the objects that Michelangelo works on in the course of carving his sculpture are intangible: received conventions about how to depict an emotion; traditional groupings of figures in a religious set piece, such as the Pieta; or accepted norms about how to depict athletic grace or youthful energy. He may take these pieces of the cultural tableau and refine them, or he may subtly resist or transform them. However he handles them, these conventions are just as much objects in his hands as the marble itself.29 As with found physical objects, extended possession of these objects- intransformation is required to fully apply the creator’s skill and judgment. And because of this, Kantian property rights come into play with intangible objects as well. Let me say a word about this complex, and perhaps controversial, possession of intangible objects. It has often been argued that this feature of IP, the control of copies of an intangible work, constitutes a form of “artificial scarcity,”30 that it runs counter to an ethically superior regime where information is shared freely— and is maybe even counter to the nature of information, which, some say, “wants to be free.”31 According to Kant, all property rights have this element of artifice, because they define a conceptual type of possession. Property is not just a matter of physical contact between person and object; it describes a relationship that is deeper and goes well beyond the basic acts of grasping and holding. I can hear one objection to this right away. Yes, Kant speaks of legal ownership as a special relation between a person and an object. But, the objection might run, in his writings he refers only to physical objects, for example, an apple (à la Locke). So maybe the ownership relation is limited to that sort of thing? No. I give no weight to the fact that Kant uses only examples of tangible, physical property in most of the sections of the Doctrine of Right (DOR).32 Kant describes an additional type of possession that makes it crystal clear that the idea is not in any way limited to physical things—the expectation of future performance under a contract. He posits that one could not properly be said to “possess” a right to performance under an executory contract (one that has been signed or agreed to, but not yet performed) unless “I can maintain that I would have possession . . . even if the time of the performance is yet to come.”33 With that legal relation established, however, “[t]he promise of the [promisor] accordingly belongs among my worldly goods . . . , and I can include it under what is mine.”34 The synonymous use of “possession,” “object,” “belonging,” and “mine” in the case of a tangible, physical thing such as an apple and an intangible thing such as a promise of future contractual performance is too clear to require much comment. “Object” is very abstract for Kant, and can of course therefore include IPRs.35

### Overview

#### 1] Reason precludes – in order to engage in their role of the ballot and challenge settler colonialism we need to be able to reason to figure out the best methodology of that.

#### 2] Our framework controls the internal link to the alternative – we need to be able to set and pursue the end of decolonization which requires following the categorical imperative.

#### 3] Violating the categorical imperative is the root cause of settler colonialism – colonialism occurs as a result of treating natives as a mere means to their end of domination and taking property which is not universalizable. Also resolves the ontology warrants since they stem from treating natives as a means to an end.

#### 4] Permutation do both – a decolonial mindset along with the categorical imperative is net better since while we work towards endorsing the alternative the categorical imperative prevents further exploitation of natives by other colonial regimes like China or Russia who want to fill in.

#### 5] Kantian theory is an essential part of anti-colonial critique—it’s key to deconstructing traditional notions of subjectivity and civilization – justifies perm do the alt in the mindset of the aff.

#### Khurana 14 (Kant and Colonialism: Historical and Critical Perspectives. Oxford University Press, 2014. Reviewed by Thomas Khurana. <http://ndpr.nd.edu/news/60245-kant-and-colonialism-historical-and-critical-perspectives/>. RW [Recut by Lex CH]

Yet his attitude contrasts starkly with the way in which, in his last works, **Kant describes colonial rule as an unambiguous violation of right** and accuses states in the Western European world of the horrifying "injustice they show in *visiting* foreign lands and peoples (which with them is tantamount to *conquering* them)."[3] With these practices, **the "European savages"** (AA 8:354), as Kant calls them, **do not advance the progress of civilization**, as they pretend to do, but **rather display a barbarism that goes beyond the alleged "savagery" of the "foreign peoples".** Kleingeld and Ypi both argue that **Kant's** changed **position is connected to a** changed **understanding of the relevance of racial differences**. As Kleingeld points out, Kant omits any characterization of the races from his 1798 *Anthropology from a Pragmatic Point of View* as he comes to realize that race cannot have any pragmatic relevance. **Racial differences are the object of physiological knowledge of the human being**, which is concerned with "what *nature* makes of the human being;" such knowledge has no direct bearing on our pragmatic knowledge of the human being, which is concerned with what man *"*as a free-acting being makes of himself, or can and should make of himself" (AA 7:119). Ypi suggests that Kant's shifting views in this regard might be connected to his changed understanding of biological predispositions: Kant's shift from a preformationst to an epigenetic account of living organization transforms his understanding of the role of natural predispositions in the actualization of a living being's potential. Against this background, he drops the reference to preformed germs that separate human races and that lay at the basis of the respective racial hierarchy in his earlier writings. (2) The second main theme concerns the way in which the **critical perspective on colonial practices** that Kant arrived at in his last writings **is rooted in his philosophy of right.** As Arthur Ripstein points out, **Kant distinguishes** three distinct wrongs of colonialism: (i) **the wrongfulness of colonial conquest**, (ii) the wrongfulness of the status of a colony and (iii) the wrongfulness of the **[and] ways in which colonial rule is typically carried out**. The first wrong (i) is based on the fact that **colonial conquest amounts to** a "**way of acquiring territory through the use of force**" (148) **and** is hence continuous with forms of **aggressive war, which Kant considers illegitimate**. Colonial wars are especially problematic, as they are inconsistent with the continued existence of both belligerents, a requirement to be respected by any rightful type of warfare. (ii) Even in cases where colonial rule might come about as a consequence of a defensive and hence legitimate war, colonial rule is still objectionable as a *post bellum* mode of governance. Colonial rule entails that one nation continually rules over another and is thus at odds with the right of the inhabitants of the colony to govern themselves through their own institutions. In this regard, even annexation would seem to be a better solution as this at least allows the inhabitants of the colony to enjoy full membership in the newly extended state, a status whereby they are able to rule themselves. The inhabitants of the colony by contrast remain merely passive citizens. (iii) Finally, the third wrong in colonialism concerns the specific way in which colonial rule is exerted. Granted that colonial rule as such is wrong, it still allows for an internal normative standard: if we hold colonial rule to what it itself claims to be doing, we should require that proper colonial rule should operate on behalf of the inhabitants of the colony and should not work to realize the private purposes of the colonizers. According to Kant's characterization, European colonial practices are guilty of all three wrongs of colonialism. Given these wrongs, it might seem natural to expect **Kant** to articula**tes a specific right to resist colonial rule** and **an immediate obligation** to compensate colonies for the wrongs they have endured. As Ripstein, Anthony Pagden and Peter Niesen make clear, however, Kant's position on these issues is more complicated. On Kant's account, illicit means of acquisition can still give rise to good title. Even though a state might have extended its territory by means of an aggressive war and therefore through illegitimate means, we must respect the integrity of the new territory once peace has been established. The obvious danger in this regard is that Kant thereby opens the possibility of an *ex post facto* justification of war and colonial rule (Ripstein: 153) and seems to block the right to "any kind of struggle for independence" (Pagden: 41). Regarding the possibility of restorative justice, Kant is "on record as opposing the rectification of historical wrongs" (Niesen: 183) as he demands that historical grievances be laid to rest in order to allow for a true peace. As Niesen tries to argue, there is, however, still room to formulate principles of restorative justice regarding colonial practices on the level of international and cosmopolitan law that Kant could endorse (see also Pagden: 40).Secondly, it might have been helpful to include contributions that do not circle around the few passages in which Kant explicitly comments on colonialism, as most contributions do, but widen the perspective. Apart from the question whether Kant was apologetic or critical of colonialism, we might ask whether Kant's philosophy has the resources necessary to fully grasp the problem and dynamic of colonialism in the first place. If we assume that colonialism is in some deeper sense connected to global commerce and capitalism, as some post-Kantian authors have argued, does Kant indeed provide the resources to understand and criticize the full scope of colonialist practices? And could it not also be the case that while critical of the colonial practices of his time, Kant retained underlying commitments that tie him to the age of colonialism, even if unwillingly? Two such commitments that are touched upon in this volume and that deserve further investigation are Kant's understanding of the process of civilization and the fundamental link he draws between property and right. Regarding the process of civilization, Kant seems to embrace at various points that the desire to own and to master are irreducible vehicles for the unfolding of humanity's potential. Against this background, competitive commerce and even war seem to be necessary elements in nature's hidden plan for us. Would such a view not give rise to the idea that certain colonial practices are somehow justified by the contribution they make to the civilizing process? And does Kant's conception of this civilizing progress not imply that, even if certain colonial means are problematic, it is in general a good thing to involve "savages" in this civilizing process?[6] The fact that **Kant distinguishes mere civilization from moralization** and criticizes our age for being excessively civilized but not moral yet[7] gives him **the resources for a critical stance towards the idea of civilization**. Yet, it might still be true that Kant for the most part presents civilization as a necessary condition of moralization, so that the civilization and its vices might appear as if necessary and ultimately justified.