### Overview

#### [1] Permissibility Affirms – A) [Unjust](https://dictionary.cambridge.org/us/dictionary/english/unjust) is defined as not morally right, therefore the negative must prove that the resolution is expressly right or good since neutrality means it’s not necessarily right and the aff would win B) Reciprocity – it’s reciprocal since the neg gets exclusive access to T which gives them a 2-1 advantage on the theoretical layer – granting me permissibility solves since I get a 2-1 substantive advantage

#### [2] Presumption Affirms – A) Epistemics – we wouldn’t be able to start a strand of reasoning since we’d have to question that reason B) Otherwise we’d have to have a proactive justification to do things like drink water C) Its Intuitive – If I told you my name was sebastian you’d believe me

#### [3] AFF theory is no RVI, Drop the debater, competing interps, under an interp that aff theory is legit A) infinite abuse since otherwise it would be impossible to check NC abuse B) the 2n can dump on a script to a CI and go for RVI’s making it impossible to check abuse C) The 1ar is too short to win theory and substance D) The 2n can always create infinite reasonability arguments the 2ar can’t get through.

#### [4] No 2n theory arguments and paradigm issues – A) All the paradigm issues were in the aff which means any 2n argument is new and can’t be evaluated B) it becomes impossible to check NC abuse if you can dump on reasons the shell doesn't matter in the 2n

#### [5] Let’s make a deal – The negative must concede that either Permissibility or presumption affirms. Violations are preemptive and inherent to the interp. A) key to 1AR strat, the 1AR is much too short to win multiple layers such as theory, framework and contention as well as disprove arguments like skepticism so I need creative outs and triggers to substantively compensate. B) Anything else incentivizes the NC to load up with multiple forms of triggers but splitting up the two forces more nuanced engagement as they can be leveraged against one another.

### Framework

#### The Is-Ought gap results in an inability to evaluate ethics – Only constitituvism resolves it because it can discern a logical ethical obligation from a matter of fact.

Grey Contextualizes the argument [The author doesn’t agree with this argument’s conclusion, and his words are solely used to eloquently define the argument] Grey, JW. "The Is/Ought Gap: How Do We Get "Ought" from "Is?"" *Ethical Realism*. N.p., 19 July 2011. Web. 28 Oct. 2015.

**Facts are states of affairs—actual things that exist and relations between things that exist.** That a cat is on the mat is a fact. **It’s unclear how what morally ought to be the case can be a fact.** What morally ought to be is often quite different from the actual state of affairs in the world. A thief steals, a murderer kills, and so on. People aren’t actually doing what they ought to do. How can a state of affairs that ought to exist be said to be a fact when what ought to be the case is often quite different from what actually exists or happens in the world? Anti-realists see no good answers for these questions, but they think anti-realism can solve the problem by avoiding it. **If there are no moral facts, then we no longer need to answer these questions. In some sense *what ought to be the case* really does exist**—as the forms. We can somehow know these forms through contemplation or intuition. Perhaps we experienced the forms before we were born and can remember them throughout our lives. For Plato certain forms are “moral facts” that exist in a way similar to any other state of affairs. We ought to acquire characteristics of the forms, such as goodness, virtue, justice, wisdom, and moderation. Once we have those characteristics (perfections or virtues), we will do what we morally ought to. No one acquires virtues completely, and people who do so well are better people who don’t. Simply put, **the** Platonic **solution is that what ought to be the case is based primarily on actually existing** abstract **objects, and we are “what ought to be” insofar as we approximate these objects. What we ought to do is based on what we will do naturally once we are perfect**.

#### Thus, constitituvism is a meta-ethical determinant for the validity of moral theories.

#### Further –

#### [1] Normativity – Both internalist and externalist theories of ethics fail as they are either merely optional or non-universal. Constitutivism solves as we cannot participate in action without a constitutive aim to that action. For instance, playing chess always necessitates achieving checkmate even if it doesn’t require that we have fun.

#### Kastafanas 14, Kastafanas, Paul. "Constitutivism About Practical Reasons". *Philarchive.Org*, 2014, <https://philarchive.org/archive/KATCAP>.

#### Consider a perfectly homely normative claim, such as “you have to go to the movies.” If we ask what would render this claim true, the answer seems clear: a fact about the agent’s motives. If the claim is true for Allen but false for Betty, this is due to the fact that Allen desires to see the film and Betty does not. It is natural to think that in just this way, reasons will be tied to facts about agent’s motives. But what about claims such as “you have reason not to murder”? That claim seems different. It purports to be universal, applying to all agents. Moreover, it does not seem to depend on the agent’s motives. Suppose Allen has many motives in favor of murdering his uncle (getting revenge for past slights, collecting an inheritance, etc.), and no motives that count against it (he’s a sociopath with no compunction about harming others, and he thinks he’s clever enough to contrive a plan that leaves him with no risk of getting caught). In this simplified case, all of Allen’s motives count in favor of murdering his uncle; none count against it. Nonetheless, most of us want to say that he has reason not to murder. So we face contrary pressures: in certain cases, the claim that reasons are grounded in motives looks exceedingly plausible, indeed obvious; in others, the same claim looks like it generates unacceptable consequences. And so we get a familiar, well-worn philosophical debate: internalists defend the claim that all normative claims are generated in facts about the agent’s motives, whereas externalists deny this. More precisely: (Internalism) Agent A has reason to φ iff A has, or would have after procedurally rational deliberation, a desire or aim whose fulfillment would be promoted by φ-ing. (Externalism) It can be true both that (i) agent A has reason to φ, and (ii) A does not have, and would not have after procedurally rational deliberation, a desire or aim whose fulfillment would be promoted by φ-ing. Each of these theories faces certain difficulties. Internalism has trouble with apparently universal normative claims, such as “you should not murder.” Externalism is tailor-made to capture universal normative claims. Nonetheless, it faces several challenges, including the much-discussed problems of practicality and queerness. First, consider practicality. Moral claims are supposed to be capable of moving us. Recognizing that φ-ing is wrong is supposed to be capable of motivating the agent not to φ. But we might wonder how a claim that bears no relation to any of our motives could have this motivational grip. As Bernard Williams puts it, “the whole point of external reasons statements is that they can be true independently of an agent’s motivations. But nothing can explain an agent’s (intentional) actions except something that motivates him so to act” (1981, 107). William’s suggestion is that if the fact that murder is wrong is to exert a motivational influence upon the person’s action, then the agent must have some motive that is suitably connected to not murdering. And this pushes us back in the direction of internalism. Second, consider Mackie’s argument from queerness. Motives are familiar things, so it seems easy enough to imagine that claims about reasons are claims about relations between actions and motives. Internalism therefore has little difficulty with Mackie’s argument. But what would the relata in an external reasons statement be? Are we to imagine that a claim about reasons is a claim about a relation between an action and some independently existing value? This would be odd: as Mackie puts it, “if there were objective values then they would be entities or relations of a very strange sort, utterly different than anything else in the universe” (1977, 38). For if such values existed, then it would be possible for a certain state of affairs to have “a demand for such-and-such an action somehow built into it” (1977, 40). And this, Mackie concludes, would be a decidedly queer property. In sum: both externalism and internalism have attractive features, yet incur substantial costs. Traditional internalism grounds normative claims in familiar features of our psychologies, yet for that very reason has trouble generating universal normative claims. Externalism generates universal normative claims with ease, yet encounters the problems of practicality and queerness. So we have a pair of unappealing options, and the debate continues. Constitutivism attempts to resolve this dilemma. To put it in an old-fashioned way, constitutivism sublates internalism and externalism, seeing each position as containing a grain of truth, but also as partial and one-sided. The constitutivist agrees with the internalist that the truth of a normative claim depends on the agent’s aims, in the sense that the agent must possess a certain aim in order for the normative claim to be true. However, the constitutivist traces the authority of norms to an aim that has a special status—an aim that is constitutive of being an agent. This constitutive aim is not optional; if you lack the aim, you are not an agent at all. So, while the constitutivist agrees with the internalist that reasons derive from the agent’s aims, the constitutivist holds that there is at least one aim that is intrinsic to being an agent. Accordingly, the constitutivist gets one of the conclusions that the externalist wanted: there are universal reasons for acting.13 Put differently, there are reasons for action that arise merely from the fact that one is an agent. Specifically, these are the reasons grounded in the constitutive aim. So constitutivism can be viewed as an attempt to resolve the dispute between externalists and internalists about practical reason, by showing that there are reasons that arise from non-optional aims.14 In so doing, it generates universal reasons while sidestepping the problems of practicality and queerness.

#### [2] Obligations are constitutive of features that define different entities.

Geach [bracketed for clarity] GOOD AND EVIL By P. T. GEACH<http://www.pitt.edu/~mthompso/readings/geach2.pdf>

There are familiar examples of what I call attributive adjectives. 'Big' and' small' are attributive [adjectives]; ' x is a big flea' does not split up into 'x is a flea' and 'x is big', nor 'x is a small elephant' into ' x is an elephant' and ' x is small '; for if these analyses were legitimate, a simple argument would show that a big flea is a big animal and a small elephant a small animal. Again, the sort of adjective that the mediaevals called alienans is attributive; 'x is a forged banknote' does not split up into 'x is a banknote' and 'x is forged', nor 'x is the putative father of y' into ' x is the father of y' and ' x is putative'. On the other hand, in the phrase 'a red book'' red' is a predicative adjective in my sense, although not grammatically so, for 'is a red book' logically splits up into ' is a book' and' is red'. I can now state my first thesis about good and evil : ' good' and 'bad' are always attributive, not predicative, adjectives. This is fairly clear about 'bad' because 'bad' is something like an alienans adjective; [for example] we cannot safely predicate of a bad A what we predicate of an A, any more than we can predicate of a forged banknote or a putative father what we predicate of a banknote or a father. We actually call forged money' bad' ; and we cannot infer e.g. that because food supports life bad food supports life. For' good' the point is not so clear at first sight, since ' good' is not alienans-whatever holds true of an A as such holds true of a good A. But [C]onsider the contrast in such a pair of phrases as ' red car ' and' good car '. I could ascertain that a distant object is a red car because I can see it is red and a keener-sighted but colour-blind friend can see it is a car; there is no such possibility of ascertaining that a thing is a good car by pooling [Through] independent information that it is good and that it is a car. This sort of example shows that ' good' like ' bad' is essentially an attributive adjective. Even when ' good ' or ' bad ' stands by itself as a predicate, and is thus grammatically predicative, some substantive has to be understood; there is no such thing as being just good or bad, there is only being a good or bad so-and-so. (If I say that something is a good or bad thing, either 'thing' is a mere proxy for a more descriptive noun to be supplied from the context ; or else I am trying to use ' good ' or 'bad' predicatively, and its being grammatically attributive is a mere disguise. The latter attempt is, on my thesis, illegitimate.)

#### Impact Calc – [1] Use epistemic confidence: a) Impossible to determine probability of framework and offense being true as truth isn’t scalar b) Modesty assumes outside knowledge or judge biases on whether certain arguments are true which trades off with competitive equity [2] The constitutive aim of debate is to test the truth or falsity of the resolution because affirm means to prove true and negate means to deny the truth of

#### Constitutivism requires practical reason as the basis for ethics:

#### [1] Regress – Ethical theories must have a basis. We can always ask why we should follow the basis of a theory, so they aren’t morally binding because they don’t have a starting point. Practical reason solves – When we ask why we should follow reason, we demand a reason, which concedes to the authority of reason itself making reason constitutive of any justification.

#### [2] Inescapability – Every agent intrinsically values practical reason when they go about setting and pursuing an end under a moral theory, as it presupposes that the end they are committing is an intrinsic good. That necessitates practical reason as a necessary means to follow through on any given end.

#### [3] Action Theory – Every action can be broken down to infinite amounts of movements, i.e. me moving my arm can be broken down to the infinite moments of every state my arm is in. Only reason can unify these movements because we use practical reason to achieve our goals, means all actions collapse to reason.

#### Therefore, In order to respect each agent as a practical reasoner, we require a universal set of moral laws for what counts as a violation of the principles of rational reflection. Thus, the standard is consistency with the categorical imperative as enacted through the omnilateral will towards self-unification.

#### [1] Absent universal ethics morality becomes arbitrary since it can be meaninglessly applied in different ways without reason. Non-arbitrariness is a side constraint – only non-arbitrary principles can hold agent culpable for their actions since otherwise we could make up ethical rules for different situations to punish people.

#### [2] A priori principles like reason apply to everyone since they are independent of human experience. That means to allow one to violate a rule without another would be a contradiction. Contradictions are a side constraint – it’s an inescapable condition that undermines all arguments since something can’t be both true and false simultaneously

#### [3] Motivation – The categorical imperative is intrinsically motivational since it respects the nature of agency, which is the mechanism by which we can set and pursue any end – absent the motivation to pursue ends you would no longer be an agent, which means to be an agent necessitates being motivated to act.

#### [4] Degree of wrongness – Pre-requisite to moral evaluations – No tailoring objection – self-unification is an ongoing project and thus terminates in a complete, scalar ethical system.

Gibson Kantian Constitutivism: Problems and Prospects By Kyle Gibson https://ir.canterbury.ac.nz/bitstream/handle/10092/100707/Gibson,%20Kyle\_Final%20PhD%20Thesis.pdf?sequence=1

The sense of agency required to establish scalar deontology is the sense that only exists in the subject as they undertake the activity constitutive of agency (making decisions, the ongoing attempt to unify themselves). Notice that this is the same sense of agency that both Kant and Korsgaard utilise to establish that people have value: they do not argue that only people who successfully unify themselves have value, they argue that all people have value because, like you, they all face the problem of self unification. You would, after all, have value even if you never unified yourself successfully. Scalar deontology is established on the notion of agency that exists from the perspective of a subject facing the problem of agency (the problem of unifying oneself by deciding what to do) but establishing scalar deontology on these grounds is not a problem because the value of humanity requires that same sense of agency. So, while measuring one’s agency in a past sense, examining whether a particular decision unified you or not, does not allow for a scalar measure of value that is not problematic for scalar deontology because such a sense of agency also does not allow for the valuing of subjects that failed to unify themselves; that is to say, our value (the value of persons) comes from the sense of 142 agency grounded in the perspective of the active subject, so it is no surprise that the scalar nature of value comes from this same sense of agency. Another way of explaining the point, the sense in which agency as conceived by Kant and Korsgaard entails a scalar understanding of value, is that the value of non-unified agents is found in the extent to which they are engaged in the ongoing activity of becoming unified. It does not matter whether they ultimately succeed at that goal or not, they have value because they are engaged in the activity of trying to constitute themselves; furthermore, from the perspective of the subject engaged in this activity it is never the case that one actually does become fully unified, but this is not problematic because their value, as an agent (a person), is established by partaking in the activity. This is a different way of explaining the same argument for the value of humanity put forward by Kant and Korsgaard which is why I am arguing that their positions, broadly understood in relation to their grounding in the nature of agency, are compatible with scalar deontology. From the perspective of the subject, the agent, engaged in self constitution, they never actually become unified because the activity is never complete: there is always another decision to make. One might argue that their unity could be measured in isolated cases, such as reflecting on one particular decision or when they have died, but that entails considering agency in a different sense than the sense in which agency is the source of value; because agency is the source of value in the sense that agency explains the perspective of a subject attempting to unify themselves. My point is that there is an element to agency that Korsgaard has not fully appreciated: the extent to which one is coherently self constituted is not absolute, one is not simply coherent or not. Rather, one seeks to become coherent and the reason for this is that autonomy itself has a goal, there is something it is aiming at, and that goal is not so much finished as furthered. This claim, that the extent to which one is coherently self constituted is not absolute, is not compatible with Korsgaard’s constitutivism, on the face of the matter, because, as Korsgaard explains, one has either acted according to the correct principle or one has not. This, apparent, incompatibility can be overcome when the importance of the temporal element of agency is considered: the claim, put more accurately, is that the extent to which one is coherently self constituted is not absolute when considering the agent over time which is, after all, how the agent sees themselves and the context in which the agent attempts to constitute themselves (not as a finished project, but as an ongoing one). Another way to explain this point, that may help in clarifying the issue, is that value exists when considering the agent that faces the problem of self constitution rather than considering the agent that has already acted. Remember, freedom exists when making the choice rather than after the fact and, according to Kant and Korsgaard, value is derived from autonomy accordingly. We must value our own autonomy, by exercising it, because that is a necessity from the perspective of the subject; one cannot be in the position of making a decision without 143 also valuing one’s ability to make a decision. The subject’s perspective during the activity of 62 reflection/deliberation is also the position from which one values self constitution; or, rather, it is because of this perspective that one is faced with the problem of unifying oneself. Because it is from this perspective that this activity, self unification, exists it is also from this perspective that normativity exists (remember that, according to Korsgaard, normativity is grounded in autonomy which is the process of self unification). This entails a scalar understanding of value because from this perspective unifying oneself is not something one has done but it is something that one is doing. Notice that the crucial element of this line of argument is establishing that the constitutive activity of normativity is an ongoing activity. Once this is established a scalar understanding of value follows because it limits the understanding of value to what facilitates the aims of the activity more or less (because the activity can no longer be considered something that is accomplished or not). This can also be explained, in Korsgaard’s terms, by referring to the sense in which obligations exist as reactions to threats to one’s identity (see Korsgaard (1996b pp. 102-103). In order for failure to unify oneself to be a threat to my identity it must be my mistake. An ‘error’ in self unification is possible because I find my agency in the problem facing me, the problem of agency (deciding what to do in the context of reflection), and that problem is what exists over time. It exists over time because agency exists over time and the mistakes made in attempting to solve that problem are mine because agency exists over time; because autonomy and freedom, and therefore normativity, exists over time. It is the solving of this problem that can be furthered more or less because it is not an activity that is completed. Although particular problems that are faced may be solved the ongoing problem of unifying oneself is not and it is this point that is the ‘evidence’ of my claim. By evidence I intend to invoke the same manner of justification employed by Korsgaard (1996b) when she argues that the structure of conscious thought, the necessary elements of reasoning, that supports her explanation of agency and its constitutive elements (pp. 92-93). My point is that the same structural elements of agency identified by Korsgaard in this manner also demonstrates that agency is an ongoing activity. We find, in the structure of our own mind, that we face the problem of reflection (what to do and how to utilise practical reason in order to make that decision), as Korsgaard argues, but we also find that this is an ongoing process.

#### Only evaluate Intents:

#### [1] Otherwise ethical theories hold agents responsible for consequences external to their will which removes any reason to be moral because agents cannot control what they are being punished for

#### [2] Induction fails – it’s incoherent to justify the past to justify the future because there’s no logical certainty that what has happened before will happen again

#### [3] Since it requires evaluating end-states we can’t know whether the action was good until after it was taken which means the judge cannot determine whether the aff is good

#### [4] Consequences empirically impossible to predict. Menand 05, Louis Menand (the Anne T. and Robert M. Bass Professor of English at Harvard University) “Everybody’s An Expert” The New Yorker 2005 <http://www.newyorker.com/magazine/2005/12/05/everybodys-an-expert//> “Expert Political Judgment” is not a work of media criticism. Tetlock is a psychologist—he teaches at Berkeley—and his conclusions are based on a long-term study that he began twenty years ago. He picked two hundred and eighty-four people who made their living “commenting or offering advice on political and economic trends,” and he started asking them to assess the probability that various things would or would not come to pass, both in the areas of the world in which they specialized and in areas about which they were not expert. Would there be a nonviolent end to apartheid in South Africa? Would Gorbachev be ousted in a coup? Would the United States go to war in the Persian Gulf? Would Canada disintegrate? (Many experts believed that it would, on the ground that Quebec would succeed in seceding.) And so on. By the end of the study, in 2003, the experts had made 82,361 forecasts. Tetlock also asked questions designed to determine how they reached their judgments, how they reacted when their predictions proved to be wrong, how they evaluated new information that did not support their views, and how they assessed the probability that rival theories and predictions were accurate. Tetlock got a statistical handle on his task by putting most of the forecasting questions into a “three possible futures” form. The respondents were asked to rate the probability of three alternative outcomes: the persistence of the status quo, more of something (political freedom, [e.g.] economic growth), or less of something (repression, [e.g.] recession). And he measured his experts on two dimensions: how good they were at guessing probabilities (did all the things they said had an x per cent chance of happening happen x per cent of the time?), and how accurate they were at predicting specific outcomes. The results were unimpressive. On the first scale, the experts performed worse than they would have if they had simply assigned an equal probability to all three outcomes—if they had given each possible future a thirty-three-per-cent chance of occurring. Human beings who spend their lives studying the state of the world, in other words, are poorer forecasters than dart-throwing monkeys, who would have distributed their picks evenly over the three choices.

### Contention

#### I contend that Resolved: The appropriation of outer space by private entities is unjust. Check all questions of the advocacy in CX to prevent frivolous theory debates.

#### 1] Astrobiology – Out of the possibility of extraterrestrial reasoners, we have an obligation to respect their habitats and not interfere through exploration.

Brian Patrick Green 2014, Santa Clara University, "Ethical Approaches to Astrobiology and Space Exploration: Comparing Kant, Mill, and Aristotle," Scholar Commons, <https://scholarcommons.scu.edu/markkula/5/>

But to assume that Kant has not considered these questions is an enormous mistake. In 1755, quite early in his career, Kant published the book Universal Natural History and Theory of the Heavens, where he described the solar nebular hypothesis (now the accepted theory for how the solar system formed).4 More than that, Kant not only allowed that extraterrestrial intelligences might exist, he believed that if they did not yet exist, that someday they would,5 and that some of these ETIs would be inferior and some superior to humans in intelligence.6 One might wonder if the young Kant’s belief in ETIs continued into his older years, when he was writing on ethics. There is good evidence that it does. Writing his Foundations of the Metaphysics of Morals, 30 years after his work on the nebular hypothesis, Kant is explicit – he is not just discussing humans, but “all rational beings.” 7 So with respect deontology and extraterrestrial intelligent life, Case 1) on the chart, Kant would extend the same full dignity and respect to ETIs which humans owe to each other, in accord with his categorical imperative, which requires the universalizability of moral norms8 and treating all rational beings as ends in themselves.9 For deontology and non-intelligent life, Case 2), Kant argues that animals, as non-rational beings, are of only relative worth. They are not as ends in themselves, not persons, but things.10 If humans discovered non-intelligent life on other worlds (most likely microbes, but if larger then we would have to carefully evaluate what it means to be intelligent, and make sure the discovered life does not qualify), according to Kant, we could do with it as we pleased. While some contemporary moral philosophers have tried to reinterpret or rehabilitate Kant on animals, these works are developments of Kant’s philosophy; they are not his philosophy itself.11 So while Kantianism might be modifiable into a system which is more friendly towards the rest of the living world, without these modifications it is not. For non-life and Kantian deontology, Case 3), there is likewise a simple answer: nonliving things are just things. Non-living things are not a moral concern, they are merely instrumental, and as such intelligent creatures can treat these things as they wish. However, there is an odd exception to this conclusion which is worth mentioning (and which I note with a star in the table). Kant believed that if other planets were not yet inhabited, they someday would be. If this is the case, then what of planets currently without intelligent life but which may someday have it? Ought we to anticipate these intelligent creatures and therefore respect them proactively by respecting their prospective goods? Kant does not say (perhaps because he was not interested in speculating or because humans were, in his time, far from being in a position to affect the futures of these planets). However, given the importance of rational beings in Kant’s system (rationality, teleology, and morality are the purpose of universe) the answer is possibly, or even probably, yes.

#### 2] Communalism – Private entities are incapable of making omnilateral decisions as privatization entails that they withhold information which limits deliberation over making maxims.

Chiara Cordelli 2016, University of Chicago, Political Science & the College [cordelli@uchicago.edu](mailto:cordelli@uchicago.edu) <https://www.law.berkeley.edu/wp-content/uploads/2016/01/What-is-Wrong-With-Privatization_UCB.pdf>

The intrinsic wrong of privatization, I will suggest, rather consists in the creation of an institutional arrangement that, by its very constitution, denies those who are subject to it equal freedom. I understand freedom as an interpersonal relationship of reciprocal independence. To be free is not to be subordinated to another person’s unilateral will. By building on an analytical reconstruction of Kant’s Doctrine of Right, I will argue that current forms of privatization reproduce (to a different degree) within a civil condition the very same defects that Kant attributes to the state of nature, or to a pre-civil condition, thereby making a rightful condition of reciprocal independence impossible. Importantly, this is so even if private actors are publicly authorized through contract and subject to regulations, and even if they are committed to reason in accordance with the public good. The reason for this, as I will explain, derives from the fact that private agents are constitutionally incapable of acting omnilaterally, even if their actions are omnilaterally authorized by government through some delegation mechanism, e.g. a voluntary contract. Omnilateralness, I will suggest, must be understood as a function of 1) rightful judgment and 2) unity. By rightful judgment I mean the capacity to reason publicly and to make universal rules that are valid for everyone, according to a juridical ideal of right, as necessary to solve the problem of the unilateral imposition of private wills on others. By unity I mean the capacity to make rules and decisions that change the normative situation of others, as a part of a unified system of decision-making. The condition of unity is crucial, as I shall later explain, insofar as there might be multiple interpretations compatible with rightful judgment, which would still problematically leave the definition of people’s rightful entitlements indeterminate. Further, the practical realization of the juridical idea of an omnilateral will, I will contend, requires embeddedness within a shared collective practice of decision-making. In practice, rightful judgment can only obtain when certain shared background frameworks that structure practical reasoning and confer unity to that reasoning are in place. The rules of public administration and the authority structure of bureaucracy should be understood as playing this essential function of giving empirical and practical reality to the omnilateral will, as far as the execution of rules and the concrete definition of entitlements are concerned. Together, these two requirements are necessary, (whether they are also sufficient is a different question), to make an action the omnilateral action of a state, which has the moral power to change the normative situation of citizens, by fixing the content of their rights and duties in accordance with the equal freedom of all. The phenomenon of privatization thus raises the fundamental questions of why we need political institutions to begin with, and what makes an action an action of the state. Insofar as private agents make decisions that fundamentally alter the normative situation (the rights and duties) of citizens, and insofar as, by definition, private agents are not public officials embedded in that shared collective practice, their decisions, even if well intentioned and authorized through contract, cannot count as omnilateral acts of the state. They rather and necessarily remain unilateral acts of men. Hence, I will conclude, for the very same reasons that we have, following Kant, a duty to exit the state of nature so as to solve the twofold problems of the unilateral imposition of will on others and the indeterminacy of rights, we also have a duty to limit privatization and to support, on normative grounds, a case for the re-bureaucratization of certain functions. Therefore, my paper provides foundational reasons to agree with Richard Rorty’s nonfoundational defense of bureaucracy as stated in the opening epigraph, since only agents who are appropriately embedded within a bureaucratic structure, properly understood, are, in many cases, capable of acting omnilaterally. The “bosses” I am here concerned with are not primarily those who 5 can unilaterally impose their will on us in their capacity as private employers, but rather any private actor who acts unilaterally while in the garb of the state.

#### 3] Space Exploration is non universalizable - a). Entails that everyone leaves Earth which means that no one would be around to create the means to leave earth b) Assumes all agents have access to the resources to fund a space trip, and is thus exclusionary.

#### 4] Space is not subject to property rights – a). It has no physical manifestation as space is by definition the absence of matter which means it cannot be measured, bordered, or divided, thus it cannot be owned b). Owning unexplored planets/space is incoherent –it can’t be deemed an agents property unless agents have a rational conception of it

#### 5] Privatization of outer space runs counter to international law. And, Violating I-law is non-universalizable as it entails breaking a promise or contract that states rationally agreed upon

van Eijk 20 [(Cristian, finishing an accelerated BA in Law at the University of Cambridge. He holds a BA cum laude in International Justice and an LLM in Public International Law from Leiden University, and has previously worked at the T.M.C. Asser Institute and the International Commission on Missing Persons.) “Sorry, Elon: Mars is not a legal vacuum – and it’s not yours, either,” 5/11/20, Völkerrechtsblog, [https://voelkerrechtsblog.org/sorry-elon-mars-is-not-a-legal-vacuum-and-its-not-yours-either](https://voelkerrechtsblog.org/sorry-elon-mars-is-not-a-legal-vacuum-and-its-not-yours-either%20)]

On October 28th, Elon Musk’s company SpaceX published its Terms of Service for the beta test of its Starlink broadband megaconstellation. If successful, the project purports to offer internet connection to the entire globe – an admirable, albeit aspirational, mission. I must confess: Starlink’s terrestrial impact is a pet issue of mine. But this time, something else caught my attention. Buried in said Terms of Service, under a section called “Governing Law”, I discovered this curious paragraph: “Services provided to, on, or in orbit around the planet Earth or the Moon… will be governed by and construed in accordance with the laws of the State of California in the United States. For Services provided on Mars, or in transit to Mars via Starship or other colonization spacecraft, the parties recognize Mars as a free planet and that no Earth-based government has authority or sovereignty over Martian activities. Accordingly, Disputes will be settled through self-governing principles, established in good faith, at the time of Martian settlement.” CAN HE DO THAT? In short, the answer is a resounding “no”. Outer space is already subject to a system of international law, and even Elon Musk cannot colombus a new one. Who’s responsible for Elon Musk? Two provisions of the Outer Space Treaty (OST), both also customary, are particularly relevant here. OST article II: “Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.” OST article III: “States… shall carry on activities in the exploration and use of outer space, including (…) celestial bodies, in accordance with international law”. SpaceX is a private entity, and is not bound by the Outer Space Treaty – but that does not mean it can opt out. Its actions in space could have consequences for the United States in three ways. First, the US, as SpaceX’s launch state, bears fault-based liability for injury or damage SpaceX’s space objects cause to other states’ persons or property (OST article VII, Liability Convention articles I, III). Second, the US, as SpaceX’s state of registry, is the sole state that retains jurisdiction and control over SpaceX objects (OST article VIII, Registration Convention article II). Both refer to objects in space and are irrelevant. According to article VI OST, States “bear international responsibility for national activities in outer space”, including Mars, including those by “non-governmental entities”. The US, as SpaceX’s state of incorporation, must authorise and continuously supervise SpaceX’s actions in space to ensure compliance with the OST (OST article VI) and international law (OST article III). In practice, this task is done by the US Federal Communications Commission, which licenses and regulates SpaceX. Article VI OST sets a specific rule of attribution, supplementing the customary rules of state responsibility (Stubbe 2017, pp. 85-104). SpaceX acts with US authorisation, and its conduct in space within and beyond that authorisation is attributable to the US (ARSIWA articles 5, 7). In the absence of circumstances precluding wrongfulness, the result is straightforward. If SpaceX breaches a US obligation under international law, the US bears responsibility for an internationally wrongful act..

#### 6] Libertarianism turns don’t apply – Privatization of space inherently relies on an anti-libertarian state-based model

Shammas and Holen 19 [(Victor L. Oslo Metropolitan University, Tomas B. Independent scholar) “One giant leap for capitalistkind: private enterprise in outer space,” Palgrave Communications, 1-29-19, https://www.nature.com/articles/s41599-019-0218-9] TDI

But the entrepreneurial libertarianism of capitalistkind is undermined by the reliance of the entire NewSpace complex on extensive support from the state, ‘a public-private financing model underpinning long-shot start-ups' that in the case of Musk’s three main companies (SpaceX, SolarCity Corp., and Tesla) has been underpinned by $4.9 billion dollars in government subsidies (Hirsch, 2015). In the nascent field of space tourism, Cohen (2017) argues that what began as an almost entirely private venture quickly ground to a halt in the face of insurmountable technical and financial obstacles, only solved by piggybacking on large state-run projects, such as selling trips to the International Space Station, against the objections of NASA scientists. The business model of NewSpace depends on the taxpayer’s dollar while making pretensions to individual self-reliance. The vast majority of present-day clients of private aerospace corporations are government clients, usually military in origin. Furthermore, the bulk of rocket launches in the United States take place on government property, usually operated by the US Air Force or NASA.Footnote13 This inward tension between state dependency and capitalist autonomy is itself a product of neoliberalism’s contradictory demand for a minimal, “slim” state, while simultaneously (and in fact) relying on a state reengineered and retooled for the purposes of capital accumulation (Wacquant, 2012). As Lazzarato writes, ‘To be able to be “laissez-faire”, it is necessary to intervene a great deal' (2017, p. 7). Space libertarianism is libertarian in name only: behind every NewSpace venture looms a thick web of government spending programs, regulatory agencies, public infrastructure, and universities bolstered by research grants from the state. SpaceX would not exist were it not for state-sponsored contracts of satellite launches. Similarly, in 2018, the US Defense Advanced Research Projects Agency (DARPA)—the famed origin of the World Wide Web—announced that it would launch a ‘responsive launch competition', meaning essentially the reuse of launch vehicles, representing an attempt by the state to ‘harness growing commercial capabilities' and place them in the service of the state’s interest in ensuring ‘national security' (Foust, 2018b).