### Overview

#### [1] Permissibility Affirms – A) Hijacks obligation-based definitions – Having an obligation means that we have the best reason. All reasons to take or not take an action are evaluated comparatively on the basis of the strength of reasons. Sufficient strength requires only that the reason be equal to comparative reasons. If no valid justification exists, then all reasons are sufficient in comparison to the other equally invalid justifications. 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

### 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 [The author personally disagrees with the conclusion of 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

#### That 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.

#### [4] Naturalistic Fallacy – Naturalism fails

#### Moore 03,

[Moore, G. E. “Principia Ethica” <http://fair-use.org/g-e-moore/principia-ethica/>. Published 1903] SHS ZS

Good, then, if we mean by it that quality which we assert to belong to a thing, when we say that the thing is **good**, **is incapable of any definition**, in the most important sense of that word. The most important sense of definition is that in which a definition states what are the parts which invariably compose a certain whole; and in this sense **good has no definition because it** is simple and **has no parts**. **It is** one of those innumerable objects of thought which are themselves **incapable of definition**, because they are the ultimate terms of reference to which whatever is capable of definition must be defined. That there must be an indefinite number of such terms is obvious, on reflection; since we cannot define anything except by an analysis, which, when carried as far as it will go, refers us to something, which is simply different from anything else, and which by that ultimate difference explains the peculiarity of the whole which we are defining: for every whole contains some parts which are common to other wholes also. There is, therefore, no intrinsic difficulty in the contention that **good denotes a simple and indefinable quality**. There are many other instances of such qualities. **Consider yellow**, for example. **We may** try to **define it**, **by** describing its physical equivalent; we may state what kind of **light-vibrations** must stimulate the normal eye, in order that we may perceive it. **But** a moment’s reflection is sufficient to shew that those light-vibrations are not themselves what we mean by yellow. **They are not what we perceive**. Indeed, we should never have been able to discover their existence, unless we had first been struck by the patent difference of quality between the different colours. The most we can be entitled to say of those vibrations is that they are what corresponds in space to the yellow which we actually perceive. Yet **a mistake of this** simple **kind has** commonly **been made about good**. **It may be true that all things which are good are also something else**, just as it is true that all things which are yellow produce a certain kind of vibration in the light. And it is a fact, that Ethics aims at discovering what are those other properties belonging to all things which are good. **But** far **too many philosophers have thought that when they named those other properties they were actually defining good**; that these properties, in fact, were simply not other, but absolutely and entirely the same with goodness. This view I propose to call the naturalistic fallacy and of it I shall now endeavour to dispose.

#### 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.

#### [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.

#### 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 member nations of the WTO ought to reduce intellectual property protections on medicine. Ill defend the resolution as a general principle – Check questions of the advocacy in cx

#### Here’s the list of IPPs I defend:

**WIPO:** World Intellectual Property Organization [UN agency that specifically deals with IP law] "What is Intellectual Property (IP)?" WIPO, <https://www.wipo.int/about-ip/en> AA

What is Intellectual Property? Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. IP is protected in law by, for example, patents, copyright and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.

#### **Enforcement is done through normal means.**

WTO No Date "Whose WTO is it anyway?" <https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm> //Elmer

**When WTO rules impose disciplines** on countries’ policies, **that is the outcome of negotiations among WTO members.** The rules are **enforced** **by** the **members themselves** **under agreed procedures that they negotiated**, **including the possibility of trade sanctions**. But those sanctions are imposed by member countries, and authorized by the membership as a whole. This is quite different from other agencies whose bureaucracies can, for example, influence a country’s policy by threatening to withhold credit.

#### 1. Universalizability – A) IP is created to encourage innovation but necessarily entails a prevention of innovation through restriction of necessary prior knowledge and B) In attempting to allow freedom, it restricts it. **Pievatolo 10,** Pievatolo, Maria. “Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?” *Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?*, 7 Feb. 2010, bfp.sp.unipi.it/chiara/lm/kantpisa1.html. SJEP

In the Metaphysics of Morals, Kant seems to take for granted that the objects of real rights are only corporeal entities or res corporales: «Sache ist ein Ding, was keiner Zurechnung fähig ist. Ein jedes Object der freien Willkür, welches selbst der Freiheit ermangelt, heiß daher Sache (res corporalis)». [32](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2478823) Theoretically, however, such a negative definition could have been appropriate to incorporeal things as well. According to Kant, the rightful possession of a thing should be distinguished from its sensible possession. Something external would be rightfully mine «only if I may assume that i could be wronged by another's use of a thing even though I am not in possession of it» (AA.06 [245:13-16](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/245.html)). The rightful possession is an intelligible, not sensible, relation. I can claim that my bicycle is mine only if I am entitled to require that nobody takes it even when I leave it alone in the backyard. Kant's theory of property is very different from Fichte's principle of property as explained in his 1793 essay, according to which we are the rightful owners of a thing, the appropriation of which by another is physically impossible. For this reason, according to Fichte, the originality of the exposition entitles an author to claim a rightful property on his work. Is it really so obvious that originality implies property? Property is a comfortable social convention that allows us to avoid to quarrel all the time over the use of material objects. It is so comfortable just because it is physically possible to appropriate things; we do not need to invoke property when something cannot be separated from someone. I say both that my fingerprints or my writing style are "mine" and that my bicycle is "mine". But these two "mine" have a different meaning: the former is the "mine" of attribution; the latter is the "mine" of property. The former can be used to identify someone, and conveys the historical circumstance that something is related exclusively to someone; the latter points only to an accidental relation with an external thing, if we consider it from a physical point of view. It is possible to lie on a historical circumstance, by plagiarizing a text, i.e. by attributing it to a person who did not wrote it. However, properly speaking, no one can "steal" the historical connection between "my" writing style and me: the convention of property is useless, in this case. Besides, if Fichte's principle were the only justification of property right, it would undermine the very concept of it: as it is physically possible to "attribute" my bicycle to another, when I leave it alone in the backyard, everyone would be entitled to take it for himself. As Kant would have said, a legal property right cannot be founded on sensible situations, but only on intelligible relations. Although he defines things as res corporales, Kant determines the rightful possession of a thing as a possession without detentio, by ignoring all its sensible facets. Such a possession - a possession of a thing without holding it - is exerted on an object that is "merely distinct from me", regardless of its position in space and time. Space and time, indeed, are sensible determinations and should be left out of consideration. According to the postulate of practical reason with regard to rights, property is justified by a permissive law of reason: [33](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533469) if a rightful possession were not possible, every object would be a res nullius and nobody would be entitled to use it. Kant implicitly denies that a res nullius can be used by everyone at the same time. His tacit assumption suggests that the objects of property, besides being distinct from the subjects, are excludable and rivalrous as well, just like the res corporales. Kant asserts that something external is mine if I would be wronged by being disturbed in my use of it even though I am not in possession of it (AA.6, [249:5-7](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/249.html)). If property is a merely intelligible relation with an object that is simply distinct from the subject, we have no reason to deny that such an object might be immaterial as well, just like the objects of intellectual property. Why, then, does Kant refrain from using the very concept of it? According to him, a speech is an action of a person: it belongs to the realm of personal rights. A person who is speaking to the people is engaging a relationship with them; if someone else engages such a relationship in his name, he needs his authorization. The reprinter, as it were, does not play with property: he is only an agent without authority. Speeches, by Kant, cannot be separated from persons: he has seen the unholy promised land of intellectual property without entering it. According to Kant, before the acquired rights, everyone has a moral capacity for putting others under obligation that he calls innate right or internal meum vel tuum (AA.06, [237:24-25](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/237.html)). The innate right is only one: freedom as independence from being constrained by another's choice, insofar it can coexist with the freedom of every other in accordance with a universal law. Freedom belongs to every human being by virtue of his humanity: in other words, it has to be assumed before every civil constitution, because it is the very possibility condition of law. Freedom implies innate equality, «that is, independence from being bound by others to more than one can in turn bind them; hence a human being's quality of being his own master (sui iuris), as well as being a human being beyond reproach (iusti) since before he performs any act affecting rights he has done no wrong to anyone, and finally his being authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it - such things as merely communicating his thoughts to them.» (AA.06, [237-238](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/237.html)) [34](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533617) In spite of his intellectual theory of property, [35](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533628) Kant does not enter in the realm of intellectual property for a strong systematic reason. Liberty of speech is an important part of the innate right of freedom. It cannot be suppressed without suppressing freedom itself. If the ius reale were applied to speeches, a basic element of freedom would be reduced to an alienable thing, making it easy to mix copyright protection and censorship. [36](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533656) Property rights are based on the assumption that its objects are excludable and rivalrous and need to be appropriated by someone to be used. We cannot, however, deal with speeches as they were excludable and rivalrous things that need to be appropriated to be of some use, because excluding people from speeches would be like excluding them from freedom. Therefore, Kant binds speeches to the persons and their actions, and limits the scope of copyright to publishing, or, better, to the publishing of the age of print: the Nachdruck is unjust only when someone reproduces a text without the author's permission and distributes its copies to the public. If someone copies a book for his personal use, or lets others do it, or translates and elaborates a text, there is no copyright violation, just because it is not involved any intrinsic property right, but only the exercise of the innate right of freedom. The boundary of Kant's copyright is the public use of reason, as a key element of a basic right that should be recognized to everyone. Kant does not stick to the Roman Law tradition because of conservatism, but because of Enlightenment.

#### 2. Means to an End – Property rights on medicine use individuals suffering from disease or injury as a means for the owners of medicine to make as much profit as possible. This is a direct violation since property owners use their freedom to leverage the life of another agent for their own gain, rather than considering all agents ends that we ought to relieve our instrumental goods for.

Hale 18, Zachary A. Hale, “Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection”, 04/04/18 THE ARKANSAS JOURNAL OF SOCIAL CHANGE AND PUBLIC SERVICE [https://ualr.edu/socialchange/2018/04/04/patently-unfair/] AHS//NPR

III. Conflict Between Intellectual Property Protection and Human Rights Although the right to the protection of “moral and material interests resulting from any scientific, literary, or artistic production,”[32] is a human right as defined in the UDHR and the ICESCR, the current system of intellectual property protection conflicts with and even violates rights that are considered to be fundamental to human life. Although **intellectual property instruments are certainly used to violate essential civil and political freedoms like the freedom of expression, and economic and social freedoms like the freedom to share in the scientific advancements of society**, the most blatant violations of human rights caused by intellectual property protection occur in the fields of nutrition, healthcare, and culture.[33] Of these essential entitlements, **the rights to food and health are made even more significant by their relationship to the most fundamental of all human rights: the right to life**. A. Intellectual Property Protection and the Right to Culture The pursuit of traditional knowledge protection through standards of intellectual property is illustrative of how notions of human rights have informed actors on the contemporary international stage. The inclusion of intellectual property protection in global agreements on economic, social, and cultural rights has enabled indigenous populations to speak of a right to protection of their cultural heritage.[34] Though this claim is defensible (and, in some iterations, compelling), it is dangerous as the basis of protection in the realm of intellectual property. If we accept Kal Raustiala’s assertions that, **“[a]lmost all intellectual property rights are government-granted monopoly rights**,”[35] and that, “existing normative theories of intellectual property seek, among other things, to strike a balance between the public domain and private monopolies,”[36] then we must interpret these communities’ claims to intellectual property rights in relation to the place of traditional knowledge in the public domain. Essentially, **intellectual property protections like patents serve to legally remove an innovation, created in the medium of previous public knowledge, from the public domain**. However, in the case of traditional knowledge concerns, such as agricultural methods and herbal medicine, this removal is necessarily temporary.[37] Thus, the protection of intellectually based components of cultural heritage is not comparable to the more permanent defense that the United Nations Educational, Scientific, and Cultural Organization[ZH1] provides for historical landmarks. Instead, patents provide a temporary protection for certain information with regards to markets and trade law. **The danger here does not lie solely in the theoretical threat it poses to a healthy, creative public domain, but in the aggressive misappropriation of this knowledge at the hands of powerful forces outside the concerned community.** **Thus, though the argument for the protection of traditional knowledge is born of and framed in ideas of human rights, it runs the risk of taking essential elements of traditional culture out of the public domain and allowing for harmful monopolies akin to those we see in the fields of agriculture and healthcare**. B. Intellectual Property and Violations of the Right To Food In the developing nations of the world, access to affordable food is hindered by strict protection of genetically modified seeds, [38] and harmed by the act of biopiracy.[39] This pair of issues reveals two different directions from which intellectual property protection in the agricultural sector can affect human rights. The enforcement of patents on genetically modified organisms keeps various seed prices prohibitively high for rural actors in poor nations, preventing access to resilient crop strains that could supplement production in periods of drought. This represents a structural exclusion of an entire class of agricultural actors. The act of biopiracy, on the other hand, is an aggressive act of systematic inclusion, by which multinational corporations steal agricultural practices and products of indigenous populations and exploit them via intellectual property protection (think of the Texas based RiceTec acquiring a patent on a traditionally Indian strain of Basmati rice).[40] Both of these practices have attracted criticism from non-governmental organizations and members of developing communities, but the legal efforts to prevent them are almost always overcome by the robust international system of intellectual property protection. This tide may be changing, however, as the United Nations Special Rapporteur on the right to food recently identified the application of intellectual property protection to agricultural products as a significant threat to the right to food, especially in developing countries.[41] C. Intellectual Property Protection and the Right to Health **The harmful effect of strict patents on life-saving pharmaceuticals is the most visible structural violence perpetrated by the international intellectual property system**. **Even those not informed in the particulars of patent law can see the injustice in allowing millions of preventable deaths in the name of protecting massive pharmaceutical companies**. **The clear and offensive moral implications of this particular strain of intellectual property protection have led multilateral organizations to approve of relaxation in the case of essential medicines**.[42] Both the United Nations Special Rapporteur on the right to health and the United Nations Special Rapporteur in the field of cultural rights have alerted the international community to the tensions between exclusive production and essential public access.[43] Additionally, the Global Commission on HIV and the Law has called upon the United Nations to develop a special intellectual property regime to regulate the protection of medicines in a way that protects human rights.[44] **The ability of patent-holding corporations to demand high prices for protected innovations has created avoidable public health crises around the world, and the current work towards improving this situation is challenged by agreements that aim to strengthen rather than relax international intellectual property protections.** While pharmaceutical patent protection creates the most significant threats to fundamental human rights, it has also been the site of some of the most promising ideas for intellectual property reform.[45] The following section will explore alternative approaches to intellectual property protection that could expand access to technology and ensure the enjoyment of all human rights.

#### And, your free-riding turns make no sense. Absolute protection on patents allows free-riding and stifles scientific growth

**Vethan Law Firm 16,** (Vethan Law, 11-14-2016, accessed on 9-12-2021, Info.vethanlaw, "Free Rider Problem: What Is IP and the Problem of Free Riding?", https://info.vethanlaw.com/blog/intellectual-property-what-is-ip-and-the-problem-of-free-riding)

The free rider problem found in intellectual property protection is that owners of patents, overly supported by the judicial and legislative branches, believe their patents provide them absolute rights. This can create a free rider problem because patents are not developed in a vacuum outside of the flow of history or the allocation of resources. Many patent owners, by virtue of “standing on the shoulders of giants," free ride on resources, goods or services for which they have not paid. Fundamental scientific discoveries such as the principles of internal combustion, general and special relativity, the double-helix structure, and binary code were never patented; the famous scientists behind them never “monetized” in the current parlance. New inventors know this, and craft their patent strategies accordingly. The cumulative result of this is an “under-provision of those goods and services,” i.e. work in basic science, or the kind of work that falls outside of patentable subject matter. There is an accompanying over-eagerness to secure patent rights as though they conferred worth in and of themselves, rather than merely striking the right monopoly vs. novelty balance necessary to foster innovation. Too often, this comes even at the expense of determining whether the patented article or process will be otherwise legally compliant, or profitably marketable!

#### 3. Kingdom of Ends – A) Intellect – the intellectual realm is a public good because no agent has special access to it, which means cornering off aspects of it for ownership is incoherent, since non-naturalism entails an equal accessibility to the realm of ideas, individuals cannot claim to own a portion of that realm B) Medicine – Medicine specifically is a necessary good that an agent in a kingdom of ends would never claim ownership over, because it is necessarily required for an agent to exist. In the same way no agent would allow for an individual to have ownership over the chemical compound that comprises water, no agent would allow for ownership of medicinal properties.

#### And, your property rights libertarianism turns are incoherent: A) Logic – it’s impossible for an individual to claim ownership over a non-natural property because the protections of property requires a good to be protected. You cannot ensure another agents doesn’t steal an idea since the idea exists purely metaphysically in the realm of ideas B) Creationism – Property rights are based on the notion of an individual mixing a unique aspect of themselves with a physical property that justifies a deserving of ownership, but intellectual property is not created by individuals, but rather, is discovered. That means we’d be providing arbitrary ownership of an idea to an agent that didn’t create it.

### Underview

#### Ideal theory is a necessary aspect of any critique

Shelby 13, Shelby, Tommie [Tadwell Titcomb Professor of African-American Studies and Philosophy, Harvard University]. “Racial Realities and Corrective Justice: A Reply to Charles Mills.” *Critical Philosophy of Race* 1.2 (2013): 145-162. The trouble with Mills’s view is that he regards nonideal theory as independent of ideal theory, indeed as an alternative to it. But nonideal theory—the study of the principles that should guide our responses to injustice—cannot succeed without knowing what the standards of justice are (and perhaps also what justifies these standards). It is not clear how we are to develop a philosophically adequate and complete theory of how to respond to social injustice without first knowing what makes a social scheme unjust. When dealing with gross injustices, such as slavery, we may of course be able to judge correctly that a social arrangement is unjust simply by observing it or having it described to us, relying exclusively on our pre-theoretic moral convictions. We don’t need a theory for that. But with less manifest injustices, or when our political values seem to conflict, or when we’re uncertain about what justice requires, or when there is great but honest disagreement about whether a practice is unjust, we won’t know which aspects of a society should be altered in the absence of a more systematic conception of justice. Without a set of principles that enables us to identify the injustice-making features of a social system, we could not be confident in the direction social change should take, at least not if our aim is to realize a fully just society. In light of these considerations, I have two questions about Mills’s project: If we abandon the framework for ideal theorizing, how do we determine which principles of justice should guide our reform or revolutionary efforts, and how do we justify these principles if we must rely exclusively on nonideal theory? Unless Mills is prepared to relinquish the goal of realizing a fully just society, he owes an answer to these questions.