# NC

#### The metaethic is constitutivism.

Internalist ethics fail since they can’t have universal obligations which means not everybody has the same conception of morality

Externalist ethics fail since it is completely nonbinding and doesn’t motivate agents since it begs the question of why they exist and why we care.

The solution is constitutivism which derives ethics from the immutable features of agents. It sovles since all people are the same, and we cannot escape our own subjectivity.

And, practical reason is constitutive.

#### [1] Regress – every moral theory can be infinitely questioned which proves its base nonbinding since any agent can opt out of it. Reason sovles since asking for a reason concedes its authority. Bindingness matters since otherwise morality would be optional and cannot explain goodness.

#### [2] Hijacks – All actions concede reason since to obtain goodness, you need to be able to take action and set and pursue ends meaning reason is the source of all value.

#### [3] Is/Ought Gap – experience just describes how the world is but doesn’t indicate how it ought to be which means there must be an a priori conception of good

#### [4] Agency is inescapable – we can shift between different identities over time but that shift is an instance of agency, and it also takes practical reason to see which enterprises are most desirable.

#### Thus, we share a unified perspective – everyone around me must arrive at the same conclusions through the use of reason. It’s incoherent to say 2+2=4 for me but not you.

#### However, freedom is a necessary right because violating someone’s freedom creates a contradiction in conception. We cannot will the extension of our freedom since it justifies others doing it to us

Engstrom [Stephen Engstrom, (Professor of Philosophy @ the University of Pittsburgh) "Universal Legislation as the Form of Practical Knowledge" http://www.academia.edu/4512762/Universal\_Legislation\_As\_the\_Form\_of\_Practical\_Knowledge, DOA:5-5-2018 // recut]

Given the preceding considerations, it’s a straightforward matter to see how a maxim of action that assaults the freedom of others with a view to furthering one’s own ends results in a contradiction when we attempt to will it as a universal law in accordance with the foregoing account of the formula of universal law. Such a maxim would lie in a practical judgment that deems it good on the whole to act to limit others’ outer freedom, and hence their self-sufficiency, their capacity to realize their ends, where doing so augments, or extends, one’s own outer freedom and so also one’s own self-sufficiency.  Now on the interpretation we’ve been entertaining, applying the formula of universal law involves considering whether it’s possible for every person—every subject capable of practical judgment—to share the practical judgment asserting the goodness of every person’s acting according to the maxim in question. Thus in the present case the application of the formula involves considering whether it’s possible for every person to deem good every person’s acting to limit others’ freedom, where practicable, with a view to augmenting their own freedom. Since here all persons are on the one hand deeming good both the limitation of others’ freedom and the extension of their own freedom, while on the other hand, insofar as they agree with the similar judgments of others, also deeming good the limitation of their own freedom and the extension of others’ freedom, they are all deeming good both the extension and the limitation of both their own and others’ freedom. These judgments are inconsistent insofar as the extension of a person’s outer freedom is incompatible with the limitation of that same freedom.

#### And, All agents must accept the state as necessary to enforce rights claims.

Ripstein 04 [Arthur Ripstein, (University Professor of Law and Philosophy, [University of Toronto](https://scholar.google.com/citations?view_op=view_org&hl=en&org=8515235176732148308)) "Authority and Coercion" Philosophy & Public Affairs, 32: 2–35, 2004, http://onlinelibrary.wiley.com/doi/10.1111/j.1467-6486.2004.00003.x/abstract, DOA:12-16-2017 // WWBW//recut]

Kant explains **the need for** the three branches of **government** in Rousseau’s vocabulary **of the “general will.” Kant finds this concept helpful, since it manages to capture the way in which the specificity of the law and the monopoly on [the law’s] its enforcement do not thereby make it the unilateral imposition of one person’s will upon another. Instead, it is what Kant calls an “omnilateral” will, since all must agree to set up procedures that will make right possible**. All must agree, because **without such procedures, equal freedom is impossible**, and so the external freedom of each is impossible. But the sense in which they must agree is not just that they should agree**; it is that they cannot object to being forced to accept those procedures, because any objection would be nothing more than an assertion of the right to use force against others unilaterally.** Once the concept of the General Will is introduced, it provides further constraints on the possibility of a rightful condition, and even explains the ways in which a state can legitimately coerce its citizens for reasons other than the redress of private wrongs. Kant’s treatment of these issues of “Public Right” has struck many readers as somewhat perfunctory, especially after his meticulously detailed, if not always transparent, treatment of private right. He treats these issues as he does because he takes them to follow directly from the institution of a social contract. The details of his arguments need not concern us here, because he does not claim that these exhaust the further powers of the state. Instead, he puts them forward as additional powers a state must have if it is to create a rightful condition, and it is the structure of that argument that is of concern here.

#### Thus the standard is consistency with a system of equal freedoms.

#### Impact Calc:

#### The standard is non consequentialist so the state has no right to try to predict rights violations, it can only punish ongoing ones since it doesn’t understand intent. Prefer for action theory – any action can be split into infinite smaller actions. When I am eating a sandwich it is infinitely small movements of my arm. Only my intention can unify what an action means. This is necessary for ethics because it requires a judgement of a coherent action.

#### Prefer additionally:

#### [1] Consequentialism fails – A] Induction fails – 1. saying that induction works relies on induction itself because it assumes that past trends will continue, which means it’s circular and unjustified 2. It assumes specific causes of past consequences which can’t be verified as the actual cause B] Butterfly effect - every action has infinite consequences so it is impossible to evaluate an action; one government policy could end up causing nuclear war in a million years. C] Aggregation is impossible – pleasure and pain are subjective – we have no idea how many headaches equal a migraine D] Infinite obligations – I have infinite obligations to maximize pleasure with no way to order them which freezes action.

#### [2] Performativity – contesting the fw needs freedom which concedes its authority since you couldn’t do it without freedom.

#### I’ll defend the status quo.

#### Negate:

#### [1] The aff violates the categorical imperative and is non-universalizable- governments have a binding obligation to protect creations

**Van Dyke 18** Raymond Van Dyke, 7-17-2018, "The Categorical Imperative for Innovation and Patenting," IPWatchdog, <https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/> SJ//DA recut SJKS

**As we shall see, applying Kantian logic entails first acknowledging some basic principles; that the people have a right to express themselves, that that expression (the fruits of their labor) has value and is theirs (unless consent is given otherwise), and that government is obligated to protect people and their property. Thus, an inventor or creator has a right in their own creation, which cannot be taken from them without their consent. So, employing this canon, a proposed Categorical Imperative (CI) is the following Statement: creators should be protected against the unlawful taking of their creation by others. Applying this Statement to everyone, i.e., does the Statement hold water if everyone does this, leads to a yes determination. Whether a child, a book or a prototype, creations of all sorts should be protected, and this CI stands. This result also dovetails with the purpose of government: to protect the people and their possessions by providing laws to that effect, whether for the protection of tangible or intangible things. However, a contrary proposal can be postulated: everyone should be able to use the creations of another without charge. Can this Statement rise to the level of a CI? This proposal, upon analysis would also lead to chaos. Hollywood, for example, unable to protect their films, television shows or any content, would either be out of business or have robust encryption and other trade secret protections, which would seriously undermine content distribution and consumer enjoyment. Likewise, inventors, unable to license or sell their innovations or make any money to cover R&D, would not bother to invent or also resort to strong trade secret. Why even create? This approach thus undermines and greatly hinders the distribution of ideas in a free society, which is contrary to the paradigm of the U.S. patent and copyright systems, which promotes dissemination. By allowing freeriding, innovation and creativity would be thwarted (or at least not encouraged) and trade secret protection would become the mainstay for society with the heightened distrust.**

#### [2] The aff encourages free riding- that treats people as ­means to an end and takes advantage of their efforts which violates the principle of humanity

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**Also, allowing the free taking of ideas, content and valuable data, i.e., the fruits of individual intellectual endeavor, would disrupt capitalism in a radical way. The resulting more secretive approach in support of the above free-riding Statement would be akin to a Communist environment where the State owned everything and the citizen owned nothing, i.e., the people “consented” to this. It is, accordingly, manifestly clear that no reasonable and supportable Categorical Imperative can be made for the unwarranted theft of property, whether tangible or intangible, apart from legitimate exigencies.**

#### That’s non universalizable since your ability to free ride hinders other people’s to freeride.

# K

#### Utilitarianism is morally repugnant:

#### [A] Util justifies atrocities since it justifies allowing us to harm some for the benefit of others – it would say we have a moral obligation to torture someone to save the life of another person.

#### [B] Util can’t justify intrinsic wrongness – We can’t know whether our action was good until we’ve evaluated the state of affairs they’ve produced since it’s based on the outcome of the action. For example, if asked the question “is slavery ok?”, a utilitarian would not be able to say no because there are situations in which it would be morally obligatory to do so if it maximized pleasure. Probability doesn’t solve because that just allows for moral error and freezes action while attempting to calculate the perfect decision.

#### [C] Util Justifies Death good – the absence of pleasure is not bad since there is no life to calculate its lossed value and experience its absence but the lack of pain is actively good even if that good cannot be enjoyed by anyone because it would still have net value. This puts them in a double bind: Either A) we intuitively know killing people is wrong in which case you reject util or B) they condone death as good in which case their offense affirms.

#### [D] It’s racist – Deployments of utilitarianism often privilege one group of people over another since their lives are seen as more valuable, their pain seen as more intolerable. Only our framing can resolve these issues. Because we value equality.

#### Your endorsement of utilitarianism is a voting issue for accessibility. It makes debate intrinsically unsafe by justifying repugnant conclusions and proves that violence already happened. Accessibility 1st. Outweighs ur arguments on ballot proximity because this comes as a prefiat impact.

#### [1] It’s a prerequisite to engaging in round – people need to be able to access the space before being able to debate

#### [2] safety – the ballot is key to motivate you to not read frameworks that justify repugnant conclusions. Ensuring nobody feels threatened by argumentation is important

# Case

#### IPR hasn’t harmed access – manufacturing capacity alt cause – this is in your own first piece of evidence.

Mercurio 2/12 (Bryan Mercurio, [Simon F.S. Li Professor of Law at the Chinese University of Hong Kong (CUHK), having served as Associate Dean (Research) from 2010-14 and again from 2017-19. Professor Mercurio specialises in international economic law (IEL), with particular expertise in the intersection between trade law and intellectual property rights, free trade agreements, trade in services, dispute settlement and increasingly international investment law.], 2-12-2021, “WTO Waiver from Intellectual Property Protection for COVID-19 Vaccines and Treatments: A Critical Review“, No Publication, accessed: 8-8-2021, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3789820) ajs

2. Intellectual property rights have not hampered access to COVID-19 vaccines A WTO waiver is an extreme measure which should only be used when existing WTO obligations prove inadequate. This was the case in relation to the compulsory licencing provisions under Article 31 of the TRIPS Agreement, which essentially precluded Members with no or inadequate manufacturing capabilities from making use of the flexibility granted in the TRIPS Agreement. 25 This was also the case with the Kimberley Process, which attempts to eliminate trade in “conflict diamonds”. 26 Although the IP waiver proposal states that “there are several reports about intellectual property rights hindering or potentially hindering timely provisioning of affordable medical products to the patients”, 27 the sponsors did not provide further elaboration or evidence to support their declaration that “many countries especially developing countries may face institutional and legal difficulties when using flexibilities available [under the TRIPS Agreement]”. 28 Instead, many of the examples used by India and South Africa point to problems not with the TRIPS Agreement but rather to failures at the domestic level. As mentioned above, the WTO allowed for the importation of medicines under a compulsory licence in 2003, and yet many developing countries have yet to put in place any framework to allow their country to make use of the flexibility. 29 This is not an institutional problem of the international system but rather a problem at the country level. Two additional factors which make the proposed waiver unnecessary and potentially harmful. First, pharmaceutical companies are selling the vaccine at extremely reasonable rates and several announced plans for extensive not-for-profit sales.30 Although agreements between the pharmaceutical companies and governments are not publicly disclosed, the Belgian Secretary of State Eva De Bleeker temporarily made publicly available in a tweet the prices the EU is being charged by each manufacturer. The De Bleeker tweet indicated the European Commission negotiated price arrangements with six companies, with the range of spending between €1.78 and €18 per coronavirus vaccine dosage. Specific price per dose listed for each of the six vaccines was as follows: Oxford/AstraZeneca: (€1.78), Johnson & Johnson (€8.50), Sanofi/GSK (€7.56), CureVac (€10), BioNTech/Pfizer (€12) and Moderna (€18).31 While much as been made of the fact that South Africa agreed to purchase 1.5 million doses of the Oxford/AstraZeneca from the Serum Institute of India (SII) at a cost of €4.321 per dose,32 these criticisms are directed at the lack of transparency in pharmaceutical licenses and production contracts – an issue which would be wholly unaddressed by a waiver of IPRs. Moreover, while the disparity in pricing is concerning the overall per dosage rate South Africa is paying nevertheless represents value for money given the expected health and economic returns on investment. Despite the disparity in pricing between nations, the larger point remains that the industry has not only rapidly produced vaccines for the novel coronavirus but is making them available at unquestionably reasonable prices. Second, the proposed waiver will do nothing to address the problem of lack of capacity or the transfer of technology and goodwill . Pharmaceutical companies have not applied for patents in the majority of developing countries – in such countries, any manufacturer is free to produce and market the vaccine inside the territory of that country or to export the vaccine to other countries where patents have not been filed.33 Patents cannot be the problem in the countries where no patent applications have been filed, but the lack of production in such countries points to the real problem – these countries lack manufacturing capacity and capability. While advanced pharmaceutical companies will have the technology, know-how and readiness to manufacture, store and transport complex vaccine formulations, such factories and logistics exist in only a handful of countries.34 Regardless of whether an IP waiver is granted, the remaining countries will be left without enhanced vaccine access and still reliant on imported supplies. With prices for the vaccine already very low, it is doubtful that generic suppliers will be able to provide the vaccine at significantly lower prices. Under such a scenario, the benefit of the waiver would go not to the countries in need but to the generic supplier who would not need to pay the licence fee or royalty to the innovator. Thus, the waiver would simply serve to benefit advanced generic manufacturers, most of which are located in a handful of countries, including China and Brazil as well as (unsurprisingly) India and South Africa. Countries would perhaps be better off obtaining the vaccine from suppliers that have negotiated a voluntary licence from the patent holder, as such licences include provisions for the transfer of technology, know-how and ongoing quality assurance support.