#### Ethics must be derived from the constitutive features of agents – ethics based internally fail because they can’t generate universal obligations and ethics based externally fail because they are nonbinding as agents could opt-out and have no motivation to follow them which means they fail to guide action.

#### Constitutivism solves – it allows for universal obligations among all agents but they are binding and cannot be opted out of.

#### Next, only practical reason is constitutive:

#### [1] Regress – to question why one should reason concedes its authority since it is an act of reasoning itself which proves it’s binding and inescapable

#### [2] Agents can shift between different identities but doing so requires reason - it unifies the subject and is the only enterprise agents cannot escape

#### Ferrero 09 (Luca Ferrero, [Luca Ferrero is a Philosophy professor at University of California, Riverside. His areas of interest are Agency Theory, including Intentionality and Personal identity; Practical Reasoning; and Meta-Ethics], “Constitutivism and the Inescapability of Agency”. Oxford Studies in Metaethics, vol. IV, Jan 12, 2009. <https://philarchive.org/archive/FERCATv1> BHHS AK recut

Agency is special in two respects. First, agency is the enterprise with the largest jurisdiction.¹² All ordinary enterprises fall under it. To engage in any ordinary enterprise is ipso facto to engage in the enterprise of agency. In addition, there are instances of behavior that fall under no other enterprise but agency. First, intentional transitions in and out of particular enterprises might not count as moves within those enterprises, but they are still instances of intentional agency, of bare intentional agency, so to say. Second, agency is the locus where we adjudicate the merits and demerits of participating in any ordinary enterprise. Reasoning whether to participate in a particular enterprise is often conducted outside of that enterprise, even while one is otherwise engaged in it. Practical reflection is a manifestation of full-fledged intentional agency but it does not necessarily belong to any other specific enterprise. Once again, it might be an instance of bare intentional agency. In the limiting case, agency is the only enterprise that would still keep a subject busy if she were to attempt a ‘radical re-evaluation’ of all of her engagements and at least temporarily suspend her participation in all ordinary enterprises.

#### That justifies universalizability - insofar as there is no a priori distinction between reasoners, a reason for one agent must also be a reason for another; if all agents cannot set and pursue an end, it is not constitutive of agency. Willing a maxim that violates freedom is a contradiction in conception – you cannot violate someone’s freedom without having your own freedom to do so.

#### Thus, the standard is consistency with the universal freedom– actions that terminate in contradictions when universalized are bad, so only our restrictions can solve Impact calc: Intentions first – only the intention in pursuing a certain end is relevant when considering whether or not it is universalizable.

#### Prefer for action theory - Any action can be split into infinite smaller actions. For example, when I’m taking a bite of food, I am making infinite movements of my hand and mouth – only the intention unifies the action. If we can’t unify action, we can’t call actions moral or immoral because they are made up of infinite parts.

#### Also Prefer Additionally –

#### [1] We must value freedom insofar as we value our ends which justifies valuing the freedom of agents setting and pursuing ends since anything else would be contradictory. This means we can’t treat others as a mere means to an end

Gewirth ’84 [Alan Gewirth, “The Ontological Basis of Natural Law: A Critique and an Alternative,” The American Journal of Jurisprudence, Vol. 29, No. 1 (1984), Pg. 95–121. Gewirth was professor of philosophy at the University of Chicago.] CHSTM \*\*Brackets for gendered language/grammar\*\* BHHS AK recut

Let me briefly sketch the main line of argument that leads to this conclusion. As I have said, the argument is based on the generic features of human action. To begin with, every agent acts for purposes he [they] regards as good. Hence, he [they] must regard as necessary goods the freedom and well-being that are the generic features and necessary conditions of his action and successful action in general. From this, it follows that every agent logically must hold or accept that he has [they have] rights to these conditions. For if he were to deny that he has [they have] these rights, then he [they] would have to admit that it is permissible for other[s] persons to remove from him the very conditions of freedom and well-being that, as an agent, he [they] must have. But it is contradictory for him to hold both that he must have these conditions and also that he may not have them. Hence, on pain of self-contradiction, every agent must accept that he has rights to freedom and well-being. Moreover, every agent must further admit that all other agents also have those rights, since all other actual or prospective agents [they] have the same general characteristics of agency on which [they] must ground his [their] own right-claims.¶ What I am saying, then, is that every agent, simply by virtue of being an agent, must regard his freedom and well being as necessary goods and must hold that he and all other actual or prospective agents have rights to these necessary goods. Hence, every agent, on pain of self-contradiction, must accept the following principle: Act in accord with the generic rights of your recipients as well as of yourself. The generic rights are rights to the generic features of action, freedom, and well-being. I call this the Principle of Generic Consistency (PGC), because it combines the formal consideration of consistency with the material consideration of the generic features and rights of action

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#### [2] Performativity – arguing against my framework presupposes freedom because without freedom to reason you would not be able to make arguments and try to win. – this means that contesting any of my arguments proves my framework true.

#### 3] Consequentialism fails – A] Predictions 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

#### 4] Kant is a heuristic by which we should approach problems of justice – the rejection of deceit and coercion creates rigid constraints, but leaves room for specificity and more detailed answers to conflict.

O'Neill, Onora (2000). Bounds of Justice. Cambridge University Press.

This sketch of a reading of Kant's account of practical reason by itself does nothing to rebut the classic charge that the Categorical Imperative leads only to empty formalism. Perhaps the demand for universalizability will draw no significant ethical distinctions, let alone help us to think about justice. After all, the limited conception of practical reason just proposed enjoins only the rejection of non-universalizable principles, on the grounds that these are not even competent for general authority in guiding thought or action. Kant's account of reason is only a second-order constraint on our adoption of principles for dealing with life and thought Here I can offer no more than the merest sketches to suggest why there may be arguments from the demand of universalizability to certain principles of obligation, some of them relevant to any public domain, and so to justice.25 The sketches do not stick to Kant's own way of developing his practical philosophy, which is often designed around rather awkwardly schematic illustrations designed to give instances that fill out a set grid of perfect and imperfect duties to self and to others, of which he thinks only perfect duties to others relevant to questions of justice. 26 If we take simply the idea that we can offer reasons for the adoption only of those principles which (we take it) others on the receiving end of reasoning could also adopt, then a range of types of action must be rejected. We cannot offer reasons to all for adopting principles of deceit (one of Kant's favourite examples), of injury or of coercion. For we cannot coherently assume that all could adopt these principles: we know that were they even widely adopted, those acting on them would meet at least some success, and hence that at least some others would be the victims of this success, so that contrary to hypothesis they could not be universally adopted. The rejection of these principles provides a starting point for constructing a more detailed account of principles of justice. Of course, these are very indeterminate principles: but they are less indeterminate than many of the principles of liberty and equality that have recently been the preferred building blocks for theories of justice. One of the interesting respects in which they are more determinate is that they are evidently principles for finite, mutually vulnerable beings – for beings who might in principle suffer by being the victims of deceit, injury or coercion. Principles of equality and liberty are on the surface more abstract. However, despite the fact that they leave so much open, these are significant constraints, since there are also many sorts of action and institution whose fundamental principles could not be followed by all – for example, principles based on deceit, injury or coercion.27 Those who refuse to base lives or policies on injury or on deceit may have many options in most situations - and yet taken both individually and jointly, these constraints can be highly demanding.

#### 5]Oppression is caused by arbitrary exclusion of others – only universalizability makes sure that we include everyone equally. Farr 02

Arnold Farr. [Arnold Farr is a Philosophy professor at the University of Kentucky. His research interests are German idealism, Marxism, critical theory, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy. He has published numorous articles and book chapters on all of these subjects], “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?”, 2002, blog.ufba.br/kant/files/2009/12/Can-a-Philosophy-of-Race-Afford-to-Abandon-the.pdf. /BHHS AK recut

The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. Kant is often accused of making the moral agent an abstract, empty, noumenal subject. Nothing could be further from the truth. The Kantian subject is an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. The very fact that I cannot simply satisfy my desires without considering the rightness or wrongness of my actions suggests that my empirical character must be held in check by something, or else I behave like a Freudian id. My empirical character must be held in check by my intelligible character, which is the legislative activity of practical reason. It is through our intelligible character that we formulate principles that keep our empirical impulses in check. The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally significant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. The Formula of Universal Law enjoins no more than that we act only on maxims that are open to others also.16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individual think beyond his or her own particular desires. The individual is not allowed to exclude others as rational moral agents who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. Hence, the universalizability criterion is a principle of consistency and a principle of inclusion. That is, in choosing my maxims I attempt to include the perspective of other moral agents.

### Offense

#### Acquisition of property can never be unjust – to create rights violations, there must already be an owner of the property being violated, but that presupposes its appropriation by another entity.

Feser 1, (Edward Feser, 1-1-2005, accessed on 12-15-2021, Cambridge University Press, "THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION | Social Philosophy and Policy | Cambridge Core", Edward C. Feser is an American philosopher. He is an Associate Professor of Philosophy at Pasadena City College in Pasadena, California. [https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)[brackets](https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)%5bbrackets) for gen lang]//phs st

There is a serious difficulty with this criticism of Nozick, however. It is just this: There is no such thing as an unjust initial acquisition of resources; therefore, there is no case to be made for redistributive taxation on the basis of alleged injustices in initial acquisition. This is, to be sure, a bold claim. Moreover, in making it, I contradict not only Nozick’s critics, but Nozick himself, who clearly thinks it is at least possible for there to be injustices in acquisition, whether or not there have in fact been any (or, more realistically, whether or not there have been enough such injustices to justify continual redistributive taxation for the purposes of rectifying them). But here is a case where Nozick has, I think, been too generous to the other side. Rather than attempt —unsatisfactorily, in the view of his critics—to meet the challenge to show that initial acquisition has not in general been unjust, he ought instead to have insisted that there is no such challenge to be met in the first place. Giving what I shall call “the basic argument” for this audacious claim will be the task of Section II of this essay. The argument is, I think, compelling, but by itself it leaves unexplained some widespread intu- itions to the effect that certain specific instances of initial acquisition are unjust and call forth as their remedy the application of a Lockean proviso, or are otherwise problematic. (A “Lockean proviso,” of course, is one that forbids initial acquisitions of resources when these acquisitions do not leave “enough and as good” in common for others.) Thus, Section III focuses on various considerations that tend to show how those intuitions are best explained in a way consistent with the argument of Section II. Section IV completes the task of accounting for the intuitions in question by considering how the thesis of self-ownership itself bears on the acqui- sition and use of property. Section V shows how the results of the previ- ous sections add up to a more satisfying defense of Nozickian property rights than the one given by Nozick himself, and considers some of the implications of this revised conception of initial acquisition for our under- standing of Nozick’s principles of transfer and rectification. II. The Basic Argument The reason there is no such thing as an unjust initial acquisition of resources is that there is no such thing as either a just or an unjust initial acquisition of resources. The concept of justice, that is to say, simply does not apply to initial acquisition. It applies only after initial acquisition has already taken place. In particular, it applies only to transfers of property (and derivatively, to the rectification of injustices in transfer). This, it seems to me, is a clear implication of the assumption (rightly) made by Nozick that external resources are initially unowned. Consider the following example. Suppose an individual A seeks to acquire some previously unowned resource R. For it to be the case that A commits an injustice in acquiring R, it would also have to be the case that there is some individual B (or perhaps a group of individuals) against whom A commits the injustice. But for B to have been wronged by A’s acquisi- tion of R, B would have to have had a rightful claim over R, a right to R. By hypothesis, however, B did not have a right to R, because no one had a right to it—it was unowned, after all. So B was not wronged and could not have been. In fact, the very first person who could conceivably be wronged by anyone’s use of R would be, not B, but A himself, since A is the first one to own R. Such a wrong would in the nature of the case be an injustice in transfer—in unjustly taking from A what is rightfully his—not in initial acquisition. The same thing, by extension, will be true of all unowned resources: it is only after some- one has initially acquired them that anyone could unjustly come to possess them, via unjust transfer. It is impossible, then, for there to be any injustices in initial acquisition.7

#### To own yourself and use your own freedom is to be able to interact with external objects. Anything else makes you unable to exercise your own freedom on other things and creates a contradiction.

Feser 2, (Edward Feser, 1-1-2005, accessed on 12-15-2021, Cambridge University Press, "THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION | Social Philosophy and Policy | Cambridge Core", Edward C. Feser is an American philosopher. He is an Associate Professor of Philosophy at Pasadena City College in Pasadena, California. [https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)[brackets](https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)%5bbrackets) for gen lang]//phs st

There is. An alternative, soft-line approach could acknowledge that the initial acquirer who abuses a monopoly over a water hole (or any similar crucial resource) does commit an injustice against those who are disad- vantaged, but such an approach could still hold that the acquirer never- theless has not committed an injustice in acquisition —his acquisition was, as I have said, neither just nor unjust. Nor does he fail to own what he has acquired; he still cannot be said to have stolen the water from anyone. Rather, his injustice is an unjust use of what he owns, on a par with the unjust use I make of my self-owned fist when I wield it, unprovoked, to bop you on your self-owned nose. In what sense does the water-hole owner use his water unjustly, though? He doesn’t try to drown anyone in it, after all— indeed, the whole problem is that he won’t let anybody near it! Eric Mack gives us the answer we need in what he has put forward as the “self-ownership proviso” (SOP).28 This is a proviso not (as the Lock- ean proviso is) on the initial acquisition of property, but rather on how one can use his property in a way that respects others’ self-ownership rights. It is motivated by consideration of the fact that the talents, abilities, capac- ities, energies, etc., that a person rightfully possesses as a self-owner are inherently “world-interactive”; that is, it is of their very essence that they are directed toward the extra-personal environment.29 Your capacity to use your hand, for instance, is just a capacity to grasp and manipulate external objects; thus, what you own in owning your hand is something essentially grasping and manipulating.30 Now if someone were to cut off your hand or invasively keep you from using it (by tying your arm against your body or holding it behind your back), he would obviously be violating your self-ownership rights. But there are, Mack suggests, other, noninvasive ways in which those rights might be violated. If, to use an example of Mack’s, I effectively nullify your ability to use your hand by creating a device that causes anything you reach for to be propelled beyond your grasp, making it impossible for you ever to grasp or manip- ulate anything, I have violated your right to your hand as much as if I had cut it off or tied it down. I have, in any case, prevented your right to your hand from being anything more than a formal right, one that is practically useless. In the interests of guaranteeing respect for substantive, robust rights of self-ownership, then, “[t]he SOP requires that persons not deploy their legitimate holdings, i.e., their extra-personal property, in ways that severely, albeit noninvasively, disable any person’s world-interactive powers.” 31 The SOP follows, in Mack’s view, from the thesis of self-ownership itself; or, at any rate, the considerations that would lead anyone to accept that thesis should also, in his view, lead one to accept the proviso.32 A brief summary of a few of Mack’s thought experiments should suffice to give a sense of why this is so.33 In what Mack calls the Adam’s Island example, Adam acquires a previously uninhabited island and later refuses a shipwrecked Zelda permission to come ashore, as a result of which she remains struggling at sea (and presumably drowns). In the Paternalist Caging example, instead of drowning, Zelda becomes caught offshore in a cage Adam has constructed for catching large sea mammals, and, rather than releasing her, Adam keeps her in the cage and feeds her regularly. In the Knuckle-Scraper Barrier example, Zelda falls asleep on some unowned ground, whereupon a gang of oafish louts encircles her and, using their bodies and arms as barriers, refuses to let her out of the circle (accusing her of assault if she touches them in order to climb over or break through). In the Disabling Property Barrier example, instead of a human barrier, Adam constructs a plastic shield over and around the unowned plot of ground upon which Zelda sleeps, accusing her of trespassing upon his property when she awakens and tries to escape by breaking through the plastic. And in the (similarly named) Disabling Property Barriers example, seem to suggest an Aristotelian-Thomistic conception of natural function, and though this by no means troubles me, it might not be what Mack himself has in mind (nor, of course, is it something every philosopher is going to sympathize with). Mack’s view nevertheless seems to require something like this conception. And something like it —enough like it to do the job Mack needs to be done, anyway—is arguably to be found in Larry Wright’s well- known reconstruction, in modern Darwinian terms, of the traditional notion of natural function. See Larry Wright, “Functions,” Philosophical Review 82, no. 2 (1973): 139–68. Adam, instead of enclosing Zelda in a plastic barrier, encloses in plastic barriers every external object that Zelda would otherwise be able to use — thus, in effect, enclosing her in a larger, all-encompassing plastic barrier of a more eccentric shape. In all of these cases, Mack says, although Zelda’s formal rights of self-ownership have not been violated—no one has invaded the area enclosed by the surface of her skin —her rights over her self-owned powers, and in particular her ability to exercise those powers, have nevertheless been nullified. But a plausible self-ownership- based theory surely cannot allow for this. It cannot, for instance, allow the innocent Zelda justly to be imprisoned in any of the ways described! If Mack is right, then it seems we have, in the SOP, grounds for holding that a water-hole monopolist would indeed be committing an injustice against anyone he refuses water to, or to whom he charges exorbitant prices for access. The injustice would be a straightforward violation of a person’s rights to self-ownership, a case of nullifying a person’s self- owned powers in a way analogous to Adam’s or the knuckle-scrapers’ nullification of Zelda’s self-owned powers. It would not be an injustice in initial acquisition, however. The water-hole monopolist still owns the water hole as much as he ever did; he just cannot use it in a way that violates other individuals’ self-ownership rights (either by drowning them in it or by nullifying their self-owned powers by denying them access to it when there is no alternative way for them to gain access to the water necessary for the use of their self-owned powers). Is Mack right? The hard-liner might dig in his heels and insist that none of Mack’s examples amount to self-ownership-violating injustices; instead, they are merely subtle but straightforward property rights violations or cases of moral failings of various other sorts (cruelty, selfishness, etc.). The Adam’s Island case, for starters, is roughly analogous to the example of the water-hole monopolist, so that it arguably cannot give any non-question- begging support to the SOP, if the SOP is then supposed to show that the water-hole example involves an injustice. The Disabling Property Barriers case might also be viewed as unable to provide any non-question-begging support, since Adam’s encasing everything in plastic might plausibly be interpreted as his acquiring everything, in which case we are back to a water-hole-type monopoly example. The Knuckle-Scraper Barrier and Dis- abling Property Barrier examples might be explained by saying that in falling asleep on the unowned plot of land, Zelda in effect has come (at least temporarily) to acquire it, and (by virtue of walking) to acquire also the path she took to get to it, so that the knuckle-scrapers and Adam violate her property rights (not her self-ownership rights) in not allowing her to escape. The Paternalist Caging example can perhaps be explained by arguing that in building the cage, Adam has acquired the water route leading to it, so that in swimming this route (and thus getting caught in the cage) Zelda has violated his property rights and, therefore, can justly be caged. Accordingly, the hard-liner might insist, we can explain all of these examples in a hard-line way and thus avoid commitment to the SOP. Such a hard-line response would be ingenious (well, maybe), but still, I think, ultimately doomed to failure. Can the Paternalist Caging example, to start with, plausibly be explained away in the manner that I have suggested? Does Adam commit no injustice against Zelda even if he never lets her out? It will not do to write this off merely as a case of excessive punishment (explaining the injustice of which would presumably not require commitment to the SOP). For suppose Adam says, after a mere five minutes of confinement, “I’m no longer punishing you; you’ve paid your debt and are free to go, as far as I’m concerned. But I’m not going to bother exerting the effort to let you out. I never forced you to get in the cage, after all —you did it on your own —and you have no right to the use of my self-owned cage-opening powers to fix your mistake! So teleport out, if you can. Or get someone else —if you can find someone —to let you out.” Adam would be neither violating Zelda’s rights to external property nor excessively punishing her in this case; nor would he be invasively vio- lating her self-ownership rights. But wouldn’t he still be committing an injustice, however noninvasively? Don’t we need something like the SOP to explain why this is so? The barrier examples, for their part, do not require Zelda’s walking and falling asleep on virgin territory, which thus (arguably) becomes her prop- erty. We can, to appeal to the sort of science-fiction scenario beloved of philosophers, imagine instead a bizarre chance disruption of the structure of space-time that teleports Zelda into Adam’s plastic shell or into the midst of the knuckle-scrapers. There is no question now of their violating her property rights; yet don’t they still commit an injustice by nullifying her self-owned powers in refusing to allow her to exit? Consider a parallel example concerning property ownership itself. If your prized $50,000 copy of Captain America Comics number 1, due to another rupture in space-time or just to a particularly strong wind that blows it out of your hands and through my window, suddenly appears on the floor of my living room, do I have the right to refuse to bring it back out to you or to allow you to come in and get it? Suppose I attempt to justify my refusal by saying, “I won’t touch it, and you’re free to have it back if you can arrange another space-time rupture or gust of wind. But I refuse to exert my self-owned powers to bring it out to you, or to allow you on my property to get it. I never asked for it to appear in my living room, after all!” Would anyone accept this justification? Doesn’t your property right in the comic book require me to give it back to you? The hard-liner might suggest that this example transports the SOP advocate out of the frying pan and into the fire. For if the SOP is true, wouldn’t we also have to commit ourselves to a “property-ownership proviso” (POP) that requires us not to nullify anyone’s ability to use his external private property in a way consistent with its “world-interactive powers”? If I build a miniature submarine in my garage, and you have the only swimming pool within one thousand miles, must you allow me the use of your pool lest you nullify my ability to use the sub? If (to take an example of Cohen’s cited by Mack) I own a corkscrew, must I be provided with wine bottles to open lest the corkscrew sadly fail to fulfill its full potential?34 Mack’s response to this line of thought seems basically to amount to a bit of backpedaling on the claim that his proviso really follows from the notion of self-ownership per se —so as to avoid the conclusion that a (rather unlibertarian and presumably redistributionist) POP would also, in par- allel fashion, follow from the concept of property ownership. His response seems, instead, to emphasize the idea that the considerations favoring self-ownership also favor, via an independent line of reasoning, the SOP.35 In my view, however, a better response would be one that took note of some relevant disanalogies between property in oneself and property in external things. Note first that the self-owned world-interactive powers, the possible use of which the SOP is intended to guarantee, are possessed by a living being who is undergoing development, which involves passing through various stages; therefore, these powers are ones that flourish with use and atrophy or even disappear with disuse.36 To nullify these powers even for a limited time, then, is (very often at least) not merely temporarily to inconvenience their owner, but, rather, to bring about a permanent reduc- tion or even disablement of these powers. By contrast, a submarine (or a corkscrew) retains its powers even when left indefinitely in a garage (or a drawer). This difference in the effect that nullification has on self-owned powers versus extra-personal property plausibly justifies a difference in our judgments concerning the acceptability, from the point of view of justice, of such nullification in the two cases; that is, it justifies adoption of the SOP but not of the POP.37 Second, there is an element of choice (and in particular, of voluntary acquisition) where extra-personal property is concerned that is morally relevant here.

### Case

#### ROTB is to vote for the debater who best proves the truth/falsity of the resolution

#### 1) Debate is a competitive game- even if there are different ways to play the game, you would not determine who wins based on those factors

#### 2) Jurisdiction: All the judge has the power to do is vote for the better debater. This entails determining who wins. Jurisdiction functions first since judges are not bound to anything else; there is no need for you to act as a critical educator if a debater tells you to in the same way you don't have to dance if I read that in my speech.

**3) The definition of to affirm is state as a fact while to negate is to to deny the truth of- constitutive of both debate and the judge to vote off TT, ow bc Constituvism is non optional and inescapable**

**4) Inclusion- Any offense can function under truth testing**

### CP

#### CP: The appropriation of outer space by private entities is unjust in all instances except Active Debris Removal.

#### Governments ought to permit the appropriation of outer space for designated safety zones and tech stationing for active debris removal by private entities.

#### Debris removal is necessary and only private entities have the incentive and capability to do it.

**Giordano 21** (David Giordano is the Vice President of Mentorship for CBLA. Elsewhere at Columbia Law School, he serves on the Columbia Journal of Transnational Law, and is the Treasurer of Columbia OutLaws. During his 1L Summer, David was an intern at the Securities and Exchange Commission’s Division of Corporation Finance. Prior to law school, David worked as a Corporate Paralegal at the New York office of Cleary Gottlieb Steen & Hamilton LLP. David attended The George Washington University where he obtained a B.A. in psychology. “Space Debris: Another Frontier in the Commercialization of Space”. October 31, 2021.)

As **satellites** and other projectiles blast into orbit, upon collision they **can disintegrate into** shards, sometimes just centimeters wide, that remain in orbit, risking further collision. Hollywood captured the potential perils of **fairly large pieces of space debris** in the opening minutes of the 2013 film [*Gravity*](https://www.warnerbros.com/movies/gravity), where space junk threatens the lives of astronauts on a mission. Outside the realms of fictional space-thrillers, **even the smallest pieces of space junk can present real danger**. In 2016, a tiny piece of **space junk**, believed to be a paint chip or a piece of metal no more than a few thousandths of a millimeter across, [cracked the window of the International Space Station](https://www.popsci.com/paint-chip-likely-caused-window-damage-on-space-station/). In May 2021, a piece of space **debris** [punctured](https://www.nbcnews.com/science/space/space-junk-damages-international-space-stations-robotic-arm-rcna1067) **the robotic arm of the I**nternational **S**pace **S**tation. This is seriously concerning, as, [according to the European Space Agency](https://www.esa.int/Safety_Security/Clean_Space/How_many_space_debris_objects_are_currently_in_orbit), there are 670,000 pieces of space debris larger than 1cm and 170,000,000 between 1mm and 1cm in width. Unfortunately, **public action and policy struggles to keep up with these risks**. International law affords little clarity on the problem, as its control is a novel, [emerging field](https://www.technologyreview.com/2021/08/23/1032386/space-traffic-maritime-law-ruth-stilwell/) with many technical [tracking](https://www.space.com/space-situational-awareness-house-hearing-february-2020.html) and [removal](https://www.scientificamerican.com/article/space-junk-removal-is-not-going-smoothly/#:~:text=There%20is%20no%20doubt%20that,antisatellite%20weapon%2C%E2%80%9D%20she%20says.) challenges. **None of the existing space treaties** [directly tackle the issue](https://oxfordre.com/planetaryscience/view/10.1093/acrefore/9780190647926.001.0001/acrefore-9780190647926-e-70), rendering [responsibility for it](https://scholarship.law.upenn.edu/jil/vol41/iss1/6/) ambiguous. Absent such responsibility, [legal incentives are non-existent](https://www.courthousenews.com/lack-of-space-law-complicates-growing-debris-problem/)**.** [Guidelines are occasionally issued](https://www.unoosa.org/pdf/limited/l/AC105_2014_CRP14E.pdf) by international governing bodies, but provide little legal significance and are [more targeted at the practicalities of tracking and removal](https://scholarship.law.upenn.edu/jil/vol41/iss1/6/). The nation best positioned to notify space actors of collision risks is the United States, and the burden of that task currently falls on the [Department of Defense](https://www.govexec.com/media/d1-mission-space.pdf). However, the Trump administration issued a [directive in 2018](https://www.cnbc.com/2018/06/18/national-space-council-trump-signs-space-debris-directive.html), shifting the responsibility from the DoD to the Department of Commerce, and the [transition has yet to materialize](https://www.govexec.com/media/d1-mission-space.pdf), leaving DoD struggling to keep pace [with increasing commercial activity](https://www.mckinsey.com/industries/aerospace-and-defense/our-insights/look-out-below-what-will-happen-to-the-space-debris-in-orbit). In the face of public paralysis, **addressing the problem through industry looks more and more attractive.** This has led some to call for a new legal order that still leaves room for government, but reframes who the rules exist to serve. Rather than our current, rudimentary treaty regime designed to [prevent international conflict](https://www.theverge.com/2017/1/27/14398492/outer-space-treaty-50-anniversary-exploration-guidelines), [commentators](https://space.nss.org/wp-content/uploads/NSS-Position-Paper-Space-Debris-Removal-2019.pdf) have called for an additional regime resembling [maritime law](https://www.technologyreview.com/2021/08/23/1032386/space-traffic-maritime-law-ruth-stilwell/) that preserves the interests of a more diverse set of stakeholders, including those in the future that can bring technology and interests to space that may not yet exist. These commentators shun the common conception that space regulation should resemble air-traffic control, which is suited to a narrower set of uses (transport). Under such a “maritime” regime, the light touch of central regulatory bodies, and perhaps their non-existence, is preferred, just as it has been on the seas. This way, individual nations have a degree of flexibility in instituting controls they see fit while leaving room for industry to address problems and introduce new uses for space. Furthermore, **governments seem ready and willing to construct the legal and incentive framework in concert with such private action.** [In a joint statement this summer](https://www.gov.uk/government/news/g7-nations-commit-to-the-safe-and-sustainable-use-of-space), **G7 members expressed openness to resolving** the technical aspects of the **debris** problem **with private institutions, and there is** some **promising progress**. Apple co-founder [Steve Wozniak](https://www.space.com/apple-cofounder-steve-wozniak-space-junk-company) signaled his plans to address the problem through a new company with a telling name: Privateer Space. **Astroscale**, a UK-based company, successfully **launched a pair of satellites** in the Spring of 2021 [that will remove certain space debris from orbit](https://astroscale.com/astroscale-celebrates-successful-launch-of-elsa-d/)**.** Astroscale also [stated their desire](https://astroscale.com/space-sustainability/) to work with governments and international governing bodies to craft policy with private efforts to control the problem top of mind. In light of public policy’s silence on space debris, the initiative of actors like Astroscale involving themselves in policy may be advised, as it could [promote further private investment](https://docs.google.com/document/d/1NCO5Vvjf-kgoZLNfgaOn4bDj_CAfyD1Qhz2oW3TrcHc/edit) in technology for space **debris removal**. A popular [policy recommendation](https://reason.org/policy-brief/u-s-space-traffic-management-and-orbital-debris-policy/) among experts is the establishment of public-private partnerships, and Astroscale has entered several such agreements including with [Japan](https://www.satellitetoday.com/in-space-services/2021/07/27/space-clean-up-company-astroscale-signs-partnerships-with-mhi-and-japanese-government/) and the [European Space Agency](https://spacenews.com/astroscale-clearspace-aim-to-make-a-bundle-removing-debris/). Other **actors include** [ClearSpace](https://www.space.com/esa-startup-clearspace-debris-removal-2025)**,** [OneWeb](https://www.hou.usra.edu/meetings/orbitaldebris2019/orbital2019paper/pdf/6077.pdf)**, and** [D-Orbit](https://www.satellitetoday.com/in-space-services/2021/09/10/esa-awards-d-orbit-uk-contract-for-debris-removal-demonstration/)**.** Some may want to push back against further private involvement. The congestion of space is, in part, industry’s fault, and if we conceptualize orbital space as a common resource, it might be right to fear the effects of the [Tragedy of the Commons](https://www.britannica.com/science/tragedy-of-the-commons). Critics may seek to bolster international treaties, give legal teeth to the guidelines occasionally issued by the UN, and preserve the public posture of the heavens. These may be welcome adjustments, but unlike a pond that industry overfishes or a well that industry dries up, here industry is working to add more fish and water. Moreover, governments stand to benefit from this private decluttering, as well, as [they are expected](https://astroscale.com/wp-content/uploads/2020/02/Reg-V-Development-of-Global-Policy-for-Active-Debris-Removal-Services-v2.0.pdf) to be major customers of some of these private actors. As for the public posture, space has long been a commercial place. Telecommunications companies and government contractors historically depend on space. As the number of commercial satellites set to launch skyrockets, it seems natural to craft policies that are responsive to their interests and provide incentives to remedy issues created in the course of spacefaring, such as space debris. **In light of the** long silence of international law on such issues and the demonstrated **motivation by private actors**, **space debris represents the latest frontier in the abdication of space from the public concern to the private.**