The ROB is consistency with conditions of non-alienation, focusing on how subjects liberate themselves rather than what they act on **Jaeggi:**

Jaeggi, Rahel. “Alienation.” Columbia University Press, cup.columbia.edu/book/alienation///

[7:40](https://nsdflagship2021.slack.com/archives/C025LGZHSCT/p1624322450011900)

In “The Ethics of Antiquity and Modernity” Tugendhat raises the problem of whether it is possible to reformulate antiquity’s inquiry into the nature of happiness (or the good life) under modern conditions. **A modern inquiry into the good life must**, on the one hand, do justice to the view that its answer can**not “deny the autonomy** and thus the interpretive sovereignty **of those concerned**,” **and** its method **must** be such that it **avoid**s **committing itself to a** “specific and **unjustifiable picture of the human being**.”3 On the other hand, if modern ethical theory is to recover the interpretive content of ancient ethics, it must be able to identify an objective criterion that allows us to say “whether it is going well or badly for a person independently of their actual perceptions of their present or future well-being.” **What is needed, then, is a criterion that, on the one hand, is not identical with the desires or preferences a person actually has and that, on the other hand, does not call into question the interpretive sovereignty of the person and with it the modern ideal of self-determination.** Tugendhat’s proposed solution is to develop a formal conception of psychological health. **Starting from** (what appears to him to be) an unproblematic definition of physical health in terms of “functional capacity,” he develops for psychological health a conception of **the “functional capacity of willing” and its possible impairment**.4 Tugendhat elaborates his criterion with the example of compulsive behavior: a volition that is compulsive in some sense would count as impaired and hence as being disturbed in its functional capacity**. This provides a standpoint that is immanent to the subject’s will and, at the same time, not subjective in the sense in which contingent** and **unevaluated preferences are**: “In this way we would attain precisely what is sought, a point of view that is independent of the respective subjective goals of our willing but that nevertheless derives its authority from the perspective of willing itself. As willing (freely choosing) beings, we always will to be unlimited in our free choosing.”5 **Wit**h **the standard of the “impairment of the functional capacity of willing,”** which asks whether we have ourselves at our command in what we will, Tugendhat **has achieved a middle ground between subjectivistic and objectivistic positions** of the sort he was looking for. One could call such a positio**n a “qualified subjectivism.”**6 This provides us with a starting point for overcoming the opposition between modern antipaternalism and the paternalism of a more substantial ethical theory: whether something is good for me always depends (antipaternalistically) on my personal view, on whether I in fact want it. This view, however, must be qualified in the sense that the volition it expresses must be a “true volition” and therefore not subject to internal constraints. **I must be free in what I will; I must have my will at my command if it is to count as my own. This criterion is**, in the first place, **formal: it concerns the How, not the What, of willing. That is, I need not will anything in particular**; rather, I must be able to will what I will in a free or self-determined manner. **It is not necessary, then, to identify a “true object of willing,” but only a certain way of relating, in one’s willing, to oneself and to what one wills**. As Tugendhat puts it, “the question of what we truly will concerns not the goals of our willing but the How of willing.” Second**, this criterion is immanent: the criterion is the functional capacity of willing itself**, a claim posited by the act of willing itself. When I say, “I want to be able to do what I will,” I must also mean, “I want to be able—freely—to will.” My account of the problem of **alienation can be linked up with this conception of willing in the following way: instances of alienation can be understood as obstructions of volition and thereby**—formulated more generally—**as obstructions in the relations individuals have to themselves and the world**. With the help of Tugendhat’s conception of having oneself at one’s command, instances of alienation can be reconstructed in terms of disturbed ways of establishing relations to oneself and to the world. In this way the problem of alienation is tied to that of freedom. FREEDOM AND ALIENATION My thesis is that **alienation can be understood as a particular form of the loss of freedom**, as an obstruction of what could be called, following Isaiah Berlin, **positive freedom**. 8 Formulating the notoriously controversial distinction as briefly as possible, freedom in this sense refers not (merely negatively) to the absence of external coercion but (positively) **to the capacity to realize valuable ends**. In the sense described (and criticized) by Berlin, positive freedom has a variety of implications: The “positive” sense of the word “liberty” derives from the wish on the part of the individual to be his own master. I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men’s, acts of will. I wish to be a subject, not an object; to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from outside. I wish to be somebody, not nobody; a doer—deciding, not being decided for, self-directed and not acted upon by external nature or by other men as if I were a thing, or an animal, or a slave incapable of playing a human role, that is, of conceiving goals and policies of my own and realizing them. . . . I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by references to my own ideas and purposes. **I feel free to the degree that I believe this to be true, and enslaved to the degree that I am made to realize that it is not.** 9 As unsystematic and indeterminate the various dimensions of positive freedom might be, the important point is that conceptions of positive freedom always depict the free life as not alienated and vice versa.10 As Robert Pippin puts it, only those acts and intentions that I can “link . . . with me such that they count as due to me or count as mine” are “instances of freedom.”11 Being a human being rather than a thing means, according to this view, ascribing to oneself what one wills and does, taking responsibility for it and (therefore) being able to identify with it. Understood in this way, the concept of **alienation concerns itself with the complex conditions of “linking” one’s actions and desires** (or, more generally, one’s life) **with oneself, “counting them as due to” oneself, or making them “one’s own.”** It also concerns itself with the various obstructions and disturbances that can affect these relations. One is not always already “with oneself;” one’s actions and desires are not always one’s own from the start, and one’s relation to the surrounding natural and social world is equally constitutive and threatened. Positively formulated, clarifying the various dimensions of alienation enables us to specify the conditions for being able to understand one’s life as one’s own (and therefore to lead one’s life freely). An unalienated life, according to this view, is not one in which specific substantial values are realized but one that is lived in a specific—unalienated—manner. The belief that everyone should be able to live her own life no longer stands in opposition, then, to the project of alienation critique. Rather, **the absence of alienating impediments and the possibility of appropriating self and world without such impediments is a condition of freedom and self-determination.**

Volition is the structure of the will, what defines us as human beings but normative theories start from a flawed starting point: either paternalistic or completely libertarian, structuring rules with arbitrary punishments is alienating, since it’s paternalistic **Jaegg 2**:

From the perspective of liberal theory one aspect of the critique of alienation appears problematic above all others: **theories of alienation appear to appeal to objective criteria that lie beyond the “sovereignty” of individuals to interpret for themselves what the good life consists in**. Herbert Marcuse exemplifies this tendency of many theories of alienation in One Dimensional Man—a book that provided a crucial impulse for the New Left’s critique of alienation in the 1960s and 1970s— when, unconcerned with the liberal objection, he defends the validity of diagnoses of **alienation with respect to the increased integration and identification with social relations** that **characterize the members of affluent industrial societies:** “I have just suggested that the concept of alienation seems to become questionable when the individuals identify themselves with the existence which is imposed upon them and have in it their own development and satisfaction. This **identification is not illusion, but reality**. However, the reality constitutes a more progressive stage of alienation. The latter has become entirely objective; **the subject which is alienated is swallowed up by its alienated existence**.”10 The subjective satisfaction of those who are integrated into objectively alienated relations is, according to Marcuse, “a false consciousness which is immune against its falsehood.”11 Here, however, the theory of alienation appears to have made itself immune to refutation. It would seem, then, that the concept of alienation belongs to **a perfectionist ethical theory that presupposes, broadly speaking, that it is possible to determine what is objectively good for humans by identifying a set of properties or a set of functions inherent in human nature—a “purpose”—that ought to be realized. But if the foundation of modern morality** and the fundamental conviction of liberal conceptions of s**ociety is the idea “that it should be left to each individual how he lives his own life”** 12—that individuals are sovereign with respect to interpreting their own lives**—then a theory of alienation that relies on objective perfectionist ideals appears to reject this idea in favor of a paternalist perspective that claims to “know better.”** For the latter (and as seems to be the case for Marcuse), it is possible for something to count as objectively good for someone without him subjectively valuing it as such. By the same token, **it is possible to criticize a form of life as alienated or false without there being any subjective perception of suffering**. But can someone be alienated from herself in the sense outlined here if she herself fails to perceive it? Can we claim of someone that she is alienated from her own desires or driven by false (alienated) needs or that she pursues an alienated way of life if she claims to be living precisely the life she wants to lead? In diagnoses of alienation the question arises, then, whether there can be objective evidence of pathology that contradicts individuals’ subjective assessments or preferences. This is a dilemma that is difficult to resolve. On the one hand, the concept of alienation (this is what distinguishes it from weaker forms of critique) claims to be able to bring to individuals’ prima facie evaluations and preferences a deeper dimension of critique—a critical authority—that functions as a corrective to their own assertions. On the other hand, it is not easy to justify the position of such a critical corrective. What could the objective criteria that overrule the assessments and preferences of individuals be in this case? 13 The arguments from human nature frequently appealed to in this context demonstrate, even in their most methodologically sophisticated, “thin” variants, the problems that plague attempts to derive normative standards from some conception of human nature. 14 **Even if there is**—in a banal sense—**something humans share on the basis of their natural, biological constitution, and even if**—in a banal sense—**certain functional needs can be derived from these basic presuppositions of human life** (all humans need nourishment or certain climatic conditions in order to survive), **these basic conditions imply very little when it comes to evaluating how humans, in relation to issues beyond mere survival, lead their lives**. On the other hand, the more human nature is given a specific content such that it becomes relevant to (culturally specific) forms of life, the more controversial and contestable the claims become. How are we to define human nature when its extraordinary variability and malleability appear to be part of human nature itself?15 And how are we to pick out among diverse forms of human life those that really correspond to human nature, given that even forms of life criticized as alienated have been in some way developed, advanced, and lived by human beings?

[Rahel Jaeggi(August 2014). “Alienation.” Columbia University Press. Translated by Frederick Neuhouser and Alan E. Smith. Edited by Frederick Neuhouser. Rahel Jaeggi is professor of social and political philosophy at the Humboldt University in Berlin. Her research focuses on ethics, social philosophy, political philosophy, philosophical anthropology, social ontology, and critical theory. LHP JW]

Subjectivity is defined only through volitional relationships-there is no inner core **Jaeggi 3:**

The positions of both authors can be reduced to the following common denominator: **roles are less alienating than constitutive for the development of persons and personality**. **They** are constitutive in the sense that they **are directly bound up with a person’s development** and, so, “productive.” At first glance this position might seem to come down on one side of the two alternatives—an unconditional affirmation of roles—but after giving a brief account of the position, I will make use of it to move beyond the two alternatives. Once the “productivity thesis” has been articulated, it will be possible to distinguish between alienating and non-alienating aspects of role behavior. THE HUMAN BEING AS DOPPELGÄNGER Roles are productive. In and through them we first become ourselves. This is the essence of Helmuth Plessner’s conception of the positive significance of roles (which he developed as a direct response to critiques of them as alienating). “**The human being is always** himself only in **‘doubling’ in relation to a role** figure **he can experience**. Also, all that he sees as comprising his authenticity is but the role he plays before himself and others.2**2 Roles** on this view **are not only necessary in order to make social interaction possible**, whether this be a “being together” of individuals or a benign “passing each other by;” **interaction mediated by roles is also constitutive of an individual’s relation to herself**. When Plessner speaks of a “doubling in relation to a role figure,” he means that one depends on roles not only to become a “figure” of experience for others but also in order to become such a figure for oneself. Plessner’s thesis that the human being is a Doppelgänger is grounded in a comprehensive theory of human nature that, beginning from the fundamental concept of “eccentric positionality,” is critical of every idea of immediacy or spontaneity.23 According to Plessner: **The distance that the role creates in family life, as well as in one’s profession**, work, or public offices, **is** **the human** being’s characteristic **detour to his fellow human bein**g; it is the means of his immediacy. Whoever wants to see in this an instance of selfalienation misunderstands the human essence and foists on it a possibility of existence such as animals have on the level of life or angels have on the spiritual level. . . . Only the human being appears as a Doppelgänger, on the outside in the figure of his role and on the inside, privately, as himself. 24 Although at first glance the talk of a Doppelgänger raises the suspicion that Plessner, too, is trapped in a model of doubling that relies on an opposition between authenticity and role behavior—between the inner and the outer—this suspicion turns out to be unwarranted: **the Doppelgänger character of human beings is illusory because there are not two real entities there; our character as a “double” is a construct. There is no**t an **internal division** here to be overcome; **rather, doubling is constitutive of the human self. “**The human being cannot abolish his status as a Doppelgänger without negating his humanity. He cannot complain of this doubling and play it off against the ideal of an original oneness, for I can be one only with something, with someone, even if it is only myself. **The human being gets a hold of himself in others. He encounters these others** on a detour via roles, exactly **as the others encounter him.**”25 If the other “gets a hold of himself” in the other, and if these two can encounter each other only through roles, then **a self that is prior to or outside roles is a fiction**. When Plessner says that “I can be one only with something, with someone, even if it is only myself,”26 he is referring to a constitutive internal division that precedes all possible unity—it points to the fact that **one’s relation to oneself must also be conceived of as a certain kind of relation, namely, one mediated by a relation to the outside or to others. Thus I am not “someone” already at the outset; I can become someone only in relation to others and hence only via the roles in which we reciprocally encounter one another**: “The human being gets a hold of himself in others.” Behind all roles, then, there is nothing or, in any case, there is no “authentic being” there. No matter where we look, behind roles we find nothing we can grab hold of except for more roles that one “plays before oneself and others.” **We could call this an onion conception of the self: there are various layers but no inner core**.

**The way we form relations and interactions, through appropriation gives us active agency over our own lives. Therefore, the capacity for action precedes rules that govern action inside and outside the debate space Jaeggi 4:** What does it mean to appropriate something?12 If the concept of appropriation refers to a specific relation between self and world, between individuals and objects (whether spiritual or material), what precisely does this relation look like, what are its particular character and its specific structure? Various aspects come together here, and together they account for the concept’s appeal and potential. As opposed to the mere learning of certain contents, talk of appropriation emphasizes that something is not merely passively taken up but actively worked through and independently assimilated. **In contrast to merely theoretical insight into some issue, appropriation**—comparable to the psychoanalytic process of “working through”—**means that one can “deal with” what one knows, that it stands at one’s disposal as knowledge and that one really and practically has command over it**. And appropriating a role means more than being able to fill it: one is, we could say, identified with it. **Something that we appropriate does not remain external to ourselves. In making something our own, it becomes a part of ourselves** in a certain respect. This suggests a kind of introjection and a mixing of oneself with the objects of appropriation. **It also evokes the idea of productively and formatively interacting with what one makes one’s own.** Appropriation does not leave what is appropriated unchanged. **This is why the appropriation of public spaces, for example, means more than that one uses them. We make them our own by making a mark on them through what we do in and with them, by transforming them** through appropriative use such that they first acquire a specific form through this use (though not necessarily in a material sense). Although it has one of its roots in an account of property relations, the concept of appropriation, in contrast to mere possession, emphasizes the particular quality of a process that first constitutes a real act of taking possession of something. Accordingly, appropriation is a particular mode of seizing possession.13 Someone who appropriates something puts her individual mark on it, inserts her own ends and qualities into it. This means that sometimes we must still make something that we already possess our own. **Relations of appropriation,** then, are characterized by several features: appropriatio**n is a form of praxis, a way of relating practically to the world**. **It refers to a relation of penetration, assimilation, and internalization in which what is appropriated is at the same time altered, structured, and formed.** The crucial point of this model (also of great importance for Marx) is a consequence of this structure of penetration and assimilation: appropriation always means a transformation of both poles of the relation. **In a process of appropriation both what is appropriated and the appropriator are transformed**. In the process of incorporation (appropriative assimilation) the incorporator does not remain the same. This point can be given a constructivist turn: what is appropriated is itself constituted in the process of appropriation; by the same token, what is appropriated does not exist in the absence of appropriation. (In some cases this is obvious: there is no public space as such without its being publicly appropriated; but even social roles exist only insofar as they are constantly reappropriated.) One now sees the potential and the peculiar character of the concept: the possibility of appropriating something refers, on the one hand, to a subject’s power to act and form and to impose its own meaningful mark on the world it appropriates. (A successful appropriation of social roles or activities and, by extension, the appropriating relation one can take to one’s life in general constitute something like self-determination and being the author of one’s own life.) On the other hand, a process of appropriation is always bound to a given, previously existing content and thereby also to an independent meaning and dynamic over which one does not have complete command. (**Thus a role**, for example, **in order to be appropriated, must always be “found” as an already existing model and complex of rules; it can be reinterpreted but not invented from scratch**. Skills that we appropriate are constrained by success conditions; leading our own life depends on circumstances over which we do not have complete command.) There is, then, an interesting tension in the idea of appropriation between what is previously given and what is formable, between taking over and creating, between the subject’s sovereignty and its dependence. The crucial relation here is that between something’s being alien and its accessibility: objects of appropriation are neither exclusively alien nor exclusively one’s own. As Michael Theunissen puts it, “I do not need to appropriate what is exclusively my own, and what is exclusively alien I am unable to appropriate.”14 In contrast to Marx, then, for whom appropriation is conceived of according to a model of reappropriation, the account of the dynamic of appropriation and alienation that I am proposing reconceives the very concept of appropriation. This involves rehabilitating what is alien in the model of appropriation and radicalizing that model in the direction of a nonessentialist conception of appropriation. Appropriation would then be a permanent process of transformation in which what is appropriated first comes to be through its appropriation, without one needing to fall back into the myth of a creation ex nihilo. Understanding appropriation as a relation in which we are simultaneously bound to something and separated from it, and in which what is appropriated always remains both alien and our own, has important implications for the ideas of emancipation and alienation bound up with the concept of appropriation. The aspiration of a **successful appropriation of self and world would be, then, to make the world one’s own without it having been already one’s own and in wanting to give structure to the world and to one’s own life without beginning from a position of already having complete command over them**.

 Prefer additionally:

1. Motivation – the structure of the will is the primary source of all our desires, reasons, and beliefs since it generates what counts as motivational to the subject

**2.**    **Self-alienation – Institutions are comprised of agents which requires that every agent play a role in establishing the conditions of non-alienation – anything else is indifference that only re-establishes alienation and violates the structure of the will. Jaeggi 5,** Jaeggi, Rahel. “Alienation.” Columbia University Press, cup.columbia.edu/book/alienation///Scopa.Second, if alienation is a form of powerlessness and impotence, then the theory of alienation concerns itself with both more and something other than straightforward relations of domination. What we are alienated from is always at once alien and our own. **In alienated relations we appear to be, in a complicated manner, both victims and perpetrators. Someone who becomes alienated in or through a role at the same time plays this role herself**; someone who is led by alien desires at the same time has those desires—and we would fail to recognize the complexity of the situation if we were to speak here simply of internalized compulsion or psychological manipulation. **Social institutions that confront us as rigid and alien are at the same time created by us. In such a case we are not**—and this is what is specific to the diagnosis of alienation—**master over what we (collectively) do**. As Erich Fromm vividly puts it: [The bourgeois human being] produces a world of the greatest and most wonderful things; but these, his own creations, confront him as alien and threatening; although they have been created, he no longer feels himself to be their master but their servant. The whole material world becomes the monstrosity of a giant machine that prescribes the direction and tempo of his life. The work of his hands, intended to serve him and make him happy, becomes a world he is alienated from, a world he humbly and impotently obeys.1 **In relations of alienation the feeling of impotence does not necessarily imply the existence of an actual power—an agent—that creates a condition of impotence**. Typically the theory of alienation— whether in the form of Heidegger’s “They” or Marx’s analysis of capitalism—concerns itself with subtle forms of structural heteronomy or with the anonymous, dominating character of objectified relationships that appear to take on a life of their own over and against individual agents. Formulated differently, the concept of alienation posits a connection between indifference and domination that calls for interpretation. **The things, situations, facts, to which we have no relation when alienated do not seem indifferent to us without consequence. They dominate us in and through this relation of indifference**.

**3.  – Conditions of alienation render the subject a commodity, unable to act on or claim our subjectivity--self-realization is impossible. Thus, any form of debate or engagement with discourse requires a non-alienated subject, the K is a pre-requisite. Before**

**Lutz 09** [(John Lutz is an Associate professor of English at the C.W. Post Campus of Long Island University. He received a Ph.D. in comparative literature (1998) from The State University of New York at Stony Brook and an M.A. (1991) and B.A. (1989) in English literature from Long Island University. )“A Marxian Theory of the Subject: Commodity Fetishism, Autonomy, and Psychological Deprivation.” Rethinking Marxism, 2021, Accessed 4 Sept. 2021. [https://sci-hub.st/https://doi.org/10.1080/08935690902955120](https://sci-hub.st/https:/doi.org/10.1080/08935690902955120)]

**Alienated** in an imaginary other that presents the appearance of a unified self, the **subject of capitalism** **understands** his or **her existence through the ‘‘empty speech’’ of the commodity**, a me´connaissance that **reproduces** the negative effects of commodity fetishism on human lives. Always found alongside commodity fetishism, indeed, a condition that forms an irreducible aspect of its continued existence, is **profound psychologica**l and physical **impoverishment**. As a subjective process understood within the entire ensemble of social and economic relations constitutive of capitalism, fetishism is underwritten by a libidinal economy of the subject that functions to reproduce psychic impotence, an economy predicated upon the presence of an absence, or better, a fragmentation of subjectivity engendered by the contradictions endemic to the social relations of production and exchange. **Commodities** **operate as objects** of social desire invested with the magical ability to fulfill desires **that**, because they are substitutions for basic human needs derived from economic relations that simultaneously engender and negate those same needs, can **only result in the deprivation of active, creative human satisfactions**. In this sense, fetishism functions as a mechanism of concealment: ‘‘[t]he fetish itself\*/a photograph, a lock of hair, or whatever is chosen\*/becomes invested with presence, and so symbolically ‘stands in’ for absence or loss’’ (Gamman and Makinen 1995, 27). The material presence of the commodity as a fetish points to an absence both in the objective relations between subjects, that is to say, the absence of genuine community, and within the psychic economy of individuals. The hidden but all too real effect of this dialectical relationship between the libidinal economy of subjects and the objective economic process is powerlessness, an existential condition of lack that must be reproduced in order to sustain the consumption of substitutive satisfactions in the form of commodities and money. From the standpoint of a Marxian theory of subjectivity, the compulsion to consume or hoard exchange value derives from the substitution of money and commodities for the kinds of activities that would exist in a society of freely associated producers, a process which, through the internalization of social contradictions as much as the material reality of these contradictions, deprives subjects of the ability to develop themselves. In this way, Marx dramatically illustrates the contradiction between the social process immanent in the commodity, a process that entails the progressive domination of human subject**s**, and the emancipatory promise that all commodities present in their mystified form. To the extent that **capitalism** **requires**, under pain of its own extinction, the quantitative expansion of existing consumption, the creation of new needs by propagating existing ones in the widest possible circle, the production of new needs, and the discovery and creation of new use values (Marx 1973, 408), it sets in motion an irrational process that inverts the natural relationship between human beings and nature, **a relationship where individuals** **would** have the capacity to **realize themselves through their self-objectification in labor, and undermines their capacity** **to engage in self-originating activities that** might genuinely **enrich them** and allow for the creation of an authentic community. To the extent that the commodity continues to serve as an epistemological category, its true character as **a form of domination remains invisible to the subject of capitalism;** however, the double existence of the commodity as a material manifestation of relations of domination and as an idealized representation of autonomy corresponds to the double existence of subjects under capitalism. Marx’s theory of fetishism describes not simply the contradictions immanent in the objective relations of production and exchange, but contradictions played out in the consciousness of subjects, contradictions that must be viewed, in part, as constitutive of subjectivity itself. As Jack Amariglio and Antonio Callari aptly put it, Marx’s theory of ‘‘commodity fetishism depicts the social constitution of the individual as a ‘precondition’ for commodity trade as much as an effect of this trade’’ (1993, 190).

1. The AC controls the internal link to all oppression based frameworks because the oppressed are those who are alienated. And, the aff framework has unique advantages to an oppression based framework because it attempts to address all of morality and gives a specific response to how to take action against oppression.
2. If we don’t meet the aff framework, all pursuits of morality fail and devolve into nothing, making it impossible to fulfill moral obligations.

     c) Claiming impossibility of an action is an excuse people use to get out of moral obligation, risk of offense on the aff means we must do it even if it is theoretically impossible.

**I defend the resolution as a general principle, I’ll define appropriation of outer space and am willing to specify other aspects my opponent wants within reason**

**“Appropriation of outer space” by private entities refers to the exercise of exclusive control of space. I**

TIMOTHY JUSTIN **TRAPP**, JD Candidate @ UIUC Law, ’13, TAKING UP SPACE BY ANY OTHER MEANS: COMING TO TERMS WITH THE NONAPPROPRIATION ARTICLE OF THE OUTER SPACE TREATY UNIVERSITY OF ILLINOIS LAW REVIEW [Vol. 2013 No. 4]

The issues presented in relation to the nonappropriation article of the Outer Space Treaty should be clear.214 The ITU has, quite blatantly, created something akin to “property interests in outer space.”215 It allows nations to exclude others from their orbital slots, even when the nation is not currently using that slot.216 This is directly in line with at least one definition of outer-space appropriation.217 [\*\*Start Footnote 217\*\*Id. at 236 (“**Appropriation of outer space**, therefore, **is ‘the exercise of exclusive control** or exclusive use’ **with a sense of permanence, which limits other nations’ access** to it.”) (quoting Milton L. Smith, The Role of the ITU in the Development of Space Law, 17 ANNALS AIR & SPACE L. 157, 165 (1992)). \*\*End Footnote 217\*\*]The ITU even allows nations with unused slots to devise them to other entities, creating a market for the property rights set up by this regulation.218 In some aspects, this seems to effect exactly what those signatory nations of the Bogotá Declaration were trying to accomplish, albeit through different means.219

I contend that the appropriation of outer space by private entities is unjust.

First, the appropriation of space as a private property is inherently alienating

**Wright 1** [Will Wright, Sage publications, “The Wild West: The Mythical Cowboy and Social Theory,” pgs. 90-91, 2001]/ lm

All forms of class structure are unjust for Marx, but **the structure of private property is** the most **oppressive and unjust, the most alienating**. Humans are ‘naturally’, essentially productive according to Marx. Humans produce what they need to live, and **individuals can only be fully human when they are not structurally separated from the products they make**. Society can only be just and individuals truly fulfilled when they all have a sense of ownership and control over the products they make. Any structure of **class control, therefore, distorts this human essence since the privileged class owns and controls what the working class produces.** In all class structures before capitalism, however, the lower class lived on the land and thus had some degree of direct control over what they produced. As a result, they could build their own homes, grow their own food, cut wood for heat, and make their own clothes. But private property inevitably creates industry, and **in** an industrial structure of **private property, workers are** completely separated, completely **alienated, from the products they make.** Unlike feudal peasants, industrial workers have no traditional rights, no minimal control, over their own products. They are fully alienated from these products; therefore, for Marx, they are also alienated from their labor, from their own human essence, from all other humans, from all social relations. This is the structure of alienation for Marx, the structure of **capitalist oppression**, and it **arises from** the structure of **private property.** Private property is uniquely oppressive because workers are separated from all productive property – the means of production – and owners can only be self-interested, with no traditional, moral constraints. This means workers become commodities to be bought and sold, and this is another way of saying they are alienated. In another version of this same analysis, Marx argues that private property is a form of theft[!!!] where owners are

stealing from the workers. The idea of alienation is Marx’s social critique of the market, and this idea of theft is his economic critique of the market.

**Private space appropriation will facilitate conditions of alienation by expanding and preserving capitalism through commodifying the universe**

**Shammas and Holen 19**

[Victor L. Shammas Oslo Metropolitan University, Work Research Institute (AFI), Oslo, Norway, Tomas B. Holen Independent scholar, Oslo, Norway, nature, Humanities and Social Sciences Communications, “One giant leap for capitalistkind: private enterprise in outer space,” January 29 2019, [https://www.nature.com/articles/s41599-019-0218-9]/lm](https://www.nature.com/articles/s41599-019-0218-9%5d/lm)

But how are we to understand NewSpace? In some ways, NewSpace signals the emergence of capitalism in space. The production of carrier rockets, placement of satellites into orbit around Earth, and the exploration, exploitation, or colonization of outer space (including planets, asteroids, and other celestial objects), will not be the work of humankind as such, a pure species-being (Gattungswesen), but of particular capitalist entrepreneurs who stand in for and represent humanity. Crucially, they will do so in ways modulated by the exigencies of capital accumulation. These enterprising capitalists are forging a new political-economic regime in space, a post-Fordism in space aimed at profit maximization and the apparent minimization of government interference. A new breed of charismatic, starry-eyed entrepreneurs, including Musk’s SpaceX, Richard Branson’s Virgin Galactic, and Amazon billionaire Jeff Bezos’s Blue Origin, to name but a selection, aim at becoming ‘capitalists in space' (Parker, [2009](https://www.nature.com/articles/s41599-019-0218-9)) or space capitalists. Neil Armstrong’s famous statement will have to be reformulated: **space will not be the site of ‘one giant leap for [hu]mankind', but rather one giant leap for capitalistkind**.[Footnote5](https://www.nature.com/articles/s41599-019-0218-9) With the ascendancy of NewSpace, humanity’s future in space will not be ‘ours', benefiting humanity tout court, but will rather be the result of particular capitalists, or capitalistkind,[Footnote6](https://www.nature.com/articles/s41599-019-0218-9) toiling to recuperate space and bring its vast domain into the fold of capital accumulation: **NewSpace sees outer space as the domain of private enterprise, set to become the ‘first-trillion dollar industry'**, according to some estimates, **and likely to produce the world’s first trillionaires** (see, e.g., Honan, [2018](https://www.nature.com/articles/s41599-019-0218-9))—as opposed to Old Space, a derisive moniker coined by enthusiastic proponents of capitalism-in-space, widely seen to have been the sole preserve of the state and a handful of giant aerospace corporations, including Boeing and Lockheed Martin, in Cold War-era Space Age.

No longer terra nullius, space is now the new terra firma of capitalistkind: its naturalized terroir, its next necessary terrain**. The logic of capitalism dictates that capital should seek to expand outwards into the vastness of space**, a point recognized by a recent ethnography of NewSpace actors (Valentine, [2016](https://www.nature.com/articles/s41599-019-0218-9), p. 1050). The operations of capitalistkind serve to resolve a series of (potential) crises of capitalism, revolving around the slow, steady decline of spatial fixes (see e.g., Harvey, [1985](https://www.nature.com/articles/s41599-019-0218-9), p. 51–66) as they come crashing up against the quickly vanishing blank spaces remaining on earthly maps and declining (terrestrial) opportunities for profitable investment of surplus capital (Dickens **and Ormrod,** [**2007a**](https://www.nature.com/articles/s41599-019-0218-9)**, p. 49–78).**

**A ‘spatial fix' involves the geographic modulation of capital accumulation, consisting in the outward expansion of capital onto new geographic terrains, or into new spaces, with the aim of filling a gap in the home terrains of capital**. Jessop ([2006](https://www.nature.com/articles/s41599-019-0218-9), p. 149) notes that spatial fixes may involve a number of strategies, including the creation of new markets within the capitalist world, engaging in trade with non-capitalist economies, and exporting surplus capital to undeveloped or underdeveloped regions. The first two address the problem of insufficient demand and the latter option creates a productive (or valorizing) outlet for excess capital. Capitalism must regularly discover, develop, and appropriate such new spaces because of its inherent tendency to generate surplus capital, i.e., capital bereft of profitable purpose. In Harvey’s ([2006](https://www.nature.com/articles/s41599-019-0218-9), p. xviii) terms, a spatial fix revolves around ‘geographical expansions and restructuring…as a temporary solution to crises understood…in terms of the overaccumulation of capital'. **It is a temporary** solution **because** these newly **appropriated spaces** will in turn **become exhausted** of profitable potential and are likely to produce their own stocks of surplus capital; while ‘capital surpluses that otherwise stood to be devalued, could be absorbed through geographical expansions and spatio-temporal displacements' (Harvey, [2006](https://www.nature.com/articles/s41599-019-0218-9), p. xviii), **this** outwards **drive** of capitalism **is inherently limitless**: there is no end point or final destination for capitalism. Instead, capitalism must continuously propel

itself onwards in search of pristine sites of renewed capital accumulation. In this way, Harvey writes, society constantly ‘creates fresh productive powers elsewhere to absorb its overaccumulated capital' (Harvey, [1981](https://www.nature.com/articles/s41599-019-0218-9), p. 8).

Historically, **spatial fixes have played an important role in conserving the capitalist system.** As Jessop ([2006](https://www.nature.com/articles/s41599-019-0218-9), p. 149) points out, ‘The export of surplus money capital, surplus commodities, and/or surplus labour-power outside the space(s) where they originate enabled capital to avoid, at least for a period, the threat of devaluation'. But these new spaces for capital are not necessarily limited to physical terrains, as with colonial expansion in the nineteenth century; as Greene and Joseph ([2015](https://www.nature.com/articles/s41599-019-0218-9)) note, various digital spaces, such as the Internet, can also be considered as spatial fixes: the Web absorbs overaccumulated capital, heightens consumption of virtual and physical goods, and makes inexpensive, flexible sources of labor available to employers. Greene and Joseph offer the example of online high-speed frequency trading as a digital spatial fix that furthers the ‘annihilation of space by time' first noted by Marx in his Grundrisse (see Marx, [1973](https://www.nature.com/articles/s41599-019-0218-9), p. 524).

In short, outer space serves as a spatial fix. It swallows up surplus capital, promising to deliver valuable resources, technological innovations, and communication services to capitalists back on Earth. This places outer space on the same level as traditional colonization, analyzed in Hegel’s Philosophy of Right, which Hegel thought of as a product of the ‘inner dialectic of civil society', which drives the market to ‘push beyond its own limits and seek markets, and so its necessary means of subsistence, in other lands which are either deficient in the goods it has overproduced, or else generally backward in creative industry, etc.' (Hegel, [2008](https://www.nature.com/articles/s41599-019-0218-9), p. 222). In this regard, SpaceX and related ventures are not so very different from maritime colonialists and the trader-exploiters of the British East India Company. But there is something new at stake. As the Silicon Valley entrepreneur Peter Diamandis has gleefully noted: ‘There are twenty-trillion-dollar checks up there, waiting to be cashed!' (Seaney and Glendenning, [2016](https://www.nature.com/articles/s41599-019-0218-9)). **Capitalistkind consists in the naturalization of capitalist consciousness and practice,** the (false) universalization of a particular mode of political economy **as inherent to the human condition, followed by the projection of this naturalized universality into space**—capitalist humanity as a Fukuyamite ‘end of history', the end-point of (earthly) historical unfolding, but the starting point of humanity’s first serious advances in space.

While some elements of the astrosociological community, such as the Astrosociology Research Institute (ARI),[Footnote14](https://www.nature.com/articles/s41599-019-0218-9) insist on elucidating the “human dimension” in outer space, Dickens and Ormrod recognize that this humanization-through**-capitalism really involves the ‘commodification of the universe'** ([2007b](https://www.nature.com/articles/s41599-019-0218-9), p. 2). While Dickens and Ormrod develop similar arguments to those sketched here—from their concept of an ‘outer spatial fix' to their argument about **outer space becoming woven into circuits of capital accumulation**—they were writing at a time when their remarks necessarily remained speculative: the commercialization of space was still in its infancy. In an inversion of Hegel’s owl of Minerva, reality has since largely confirmed their ideas and caught up with theory. Above all, when considering the various ventures ongoing in space today, it is not so much the universalizing human dimension as the specifically capitalist dimension that is striking. With the advent of NewSpace, outer space is becoming not the domain of a common humanity but of private capital.

The very centrality of these maneuvers has initiated a **new** phase in the history of **capitalist relations,** that of ‘charismatic accumulation'—certainly not in the sense of any ‘objective' or inherent charismatic authority, but with a form of illusio, to speak with Bourdieu, vested in the members of capitalistkind by their uncanny ability to **spin mythologizing self-narratives.** This has always been part of the capitalist game, from Henry Ford and onwards, but the charismatic mission gains a special potency in the grandiose designs of NewSpace’s entrepreneur**s. Every SpaceX launch is a quasi-religious spectacle, observed by millions capable of producing a real sense of wonder in a condition of (legitimizing) collective effervescence.**

We have already noted that it is not humanity, conceived as species-being, a Gattungswesen, that makes its way into space. The term Gattungswesen, of course, has a long intellectual pedigree, harking back to Hegel, Feuerbach, Marx, and others. The term can ‘be naturally applied both to the individual human being and to the common nature or essence which resides in every individual man and woman', Allan Wood ([2004](https://www.nature.com/articles/s41599-019-0218-9), p. 17) writes, as well as ‘to the entire human race, referring to humanity as a single collective entity or else to the essential property which characterizes this entity and makes it a single distinctive thing in its own right'. Significantly, the adherents of **NewSpace often resort to the idea of humanity in its broad universality (e.g.,**

**Musk,** [**2017**](https://www.nature.com/articles/s41599-019-0218-9)**), but this denies and distorts the modulation of humanity by its imbrication with the project of global (and post-global, i.e., space-bound) capitalism. It is precisely th[is]e sort of false universality implied in the humanism of the supporters of NewSpace that Marx subjected to a scathing critique in the sixth of his Theses on Feuerbach. Here Marx noted that the human essence is not made up of some ‘abstraction inherent in each single individual' (**[**1998**](https://www.nature.com/articles/s41599-019-0218-9)**, p. 570). Instead, humans are defined by the ‘ensemble of social** relations' in which they are enmeshed. Under NewSpace, it is not humanity, plain and simple, that ventures forth, but a specific set of capitalist entrepreneurs, carrying a particular ideological payload, alongside their satellites, instruments, and supplies, a point noted by other sociologists of outer space, or ‘astrosociologists' (Dickens and Ormrod, [2007a](https://www.nature.com/articles/s41599-019-0218-9), [2007b](https://www.nature.com/articles/s41599-019-0218-9)).

 The way public spaces are oriented towards private entities like Elon Musk proves how private appropriation creates conditions of alienation

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**The privatization of the Milky Way has begun.**

Last summer, **the** bipartisan [**ASTEROIDS Act**](https://www.congress.gov/bill/113th-congress/house-bill/5063) was introduced in Congress. The legislation’s **aim is to grant US corporations property rights over** any natural resources — like the platinum-group metals used in electronics — that they extract from asteroids.

Whether and how we should go to space are not profound philosophical questions, at least not primarily. What’s at stake is not just the “stature of man,” as Hannah Arendt [put it](http://www.thenewatlantis.com/publications/the-conquest-of-space-and-the-stature-of-man), but **a** political-economic **struggle over the future of the celestial commons**, which could result in a dramatic intensification of inequality — or a small step for humankind toward a more egalitarian state of affairs on our current planet.Undoubtedly, there are good reasons to be skeptical about going to space. Some have argued that it shifts attention away from solving the difficult problems of economic and environmental justice on Earth — think of Gil Scott-Heron’s spoken-word poem “Whitey on the Moon,” which juxtaposes the deprivation of the American underclass with the vast resources diverted to space. Scott-Heron’s critique is powerful, but it’s important to remember that he was denouncing an unjust economic system. He wasn’t issuing a timeless condemnation of space pursuits as such. Whether the aims of providing for all and developing outer space are mutually exclusive depends on the political forces on the ground.

We might also question whether mining asteroids would be detrimental to our current planet’s environment in the medium term. If we don’t find a renewable way to blast off into outer space, **the exploitation of** these **resources** could **lead to an intensification of,** not a move away from, **the fossil-fuel economy.**

If the environmental impact of space mining turns out to be large, it would be analogous to fracking — a technological development that gives us access to new resources, bu**t with devastating ecological side effects** — and ought to be opposed on similar grounds. On the other hand, some speculate that mining the Moon’s Helium-3 reserves, for example, could provide an abundant [source of clean energy](https://io9.gizmodo.com/5908499/could-helium-3-really-solve-earths-energy-problems). The terrestrial environmental impact of space activity remains an open question that must be explored before we stake our hopes on the economic development of outer space.

Philosophers have suggested that we might have ethical duties to preserve the “natural” states of celestial bodies. Others fear that our activities might unknowingly wipe out alien microbial life. **We should remain sensitive to the** aesthetic and cultural value of outer space, as well as the **potential for extinction and the exhaustion of resources misleadingly proclaimed to be limitless.**

Of course, there’s nothing inevitable about the benefits of productivity gains being distributed widely, as we’ve seen in the United States over the past forty years. This is a problem not limited to space, and **the myth of the “final frontier” must not distract us from** the already **existing problems** of wealth and income distribution **on Earth.**

Private appropriation of outer space fails because accessible space-based resources are neither renewable nor replaceable. Thus any taking of an outer space resource denies the access of others to “as much and as good” of that particular resource, impeding on volition, which is alienating **Steinel**.

Gains and losses are most acceptably shifted when they’re primarily the results of circumstance, and least acceptably shifted when they’re principally the products of choices made by those who incur them. And **what counts as circumstance**, I suggest, **is** pretty adequately **captured by** what we would include under the heading of “**nature**.” “Nature” covers a lot: **there are places where it rains all the time and places where it never rains; places with oil deposits and places with serious geological faults**; crowded and less crowded cyberspace locations; and genes that code for Kentucky blue grass, poison ivy, viruses, koala bears, cystic fibro- sis, schizophrenia, Pavarotti-type vocal chords, some elements of human intelligence, and so forth.  **Rights to** natural **resources** - to nature, compendiously construed - **are rights to bits of** all these various, and **variously valued, things.** So if we follow Locke and a number of other thinkers in that tradition, if we hold that **anyone claiming ownership over some bits of nature must leave “enough and as good for others”**, **we’re led** by a series of plausible steps to the conclusion that, in a fully appropriated world, **each person is entitled to an equal portion of the value of these bits of nature.** That is, **all owners of natural resources must pool the value of what they own in a fund - ultimately a global fund - to an equal portion of which everyone everywhere has a moral right.**

Steiner, Hillel. “Left libertarianism and the ownership of natural resources.” *Bleeding Heart Libertarians,* April 24, 2012. [Left-Libertarianism and the Ownership of Natural Resources - Bleeding Heart Libertarians](https://bleedingheartlibertarians.com/2012/04/left-libertarianism-and-the-ownership-of-natural-resources/)

The implication is that while space may be infinite, the accessible space is not, so appropriating it for private use is inherently immoral because it denies others to do the same thing since accessible space is finite.