# **Framework:**

**1.**

**Ethical claims must begin with a theory of agency in order to be binding, otherwise they fail to account for the ethical actors themselves. The subject is not exclusively rational, there is a sensible component that is constitutive as well, the driving force between most actions is happiness, I eat an icecream cone not because its consistent with a maxim, but because it will make me happy:**

**Gobsh:**

**To act as a human** being **is to actualize pure reason**, if all goes well. **But no human being is pure reason**. Human beings are rational animals. So **they are** animals, **sensible** organisms, too**. Sensibility is a receptive capacity of representation: a capacity to represent objects through being affected by them. Affection happens at a time and a place. So sensible organisms are spatiotemporal beings.** And **affection depends on the existence of its object.** So sensibility is a capacity whose actualiza tion has conditions the satisfaction of which cannot be the work of this capacity itself. Therefore, **sensibility is limited by whatever else satisfies these conditions.** And so it is a *particular* capacity, a capacity with a specific form. But if a capacity of representation is limited and particular, then its object—the content of its act in general—must be limited and particular, too: its object cannot be that which is, simply as such. **It is for this reason that sensibility differs infinitely from reason, the unconditioned capacity, and that no sensible organism can be pure reason, so that the definition of a human being unites reason and sensibility as two distinct determinations.**

To exist as an animal is, typically, to be engaged in sensible activity.11 So **although human beings exist,** if all goes well, **through actualizing pure reason, sensibility will have to play a role in their rational practical activity.** A merely prudentially rational animal, should such a thing be possible at all, would be determined to act by sensible desire. Reason would merely serve to direct it toward happiness. In a human being, however, reason is, if all goes well, of itself practical. And so the role of sensible desire cannot be that of the determinant, the motor, of human practical activity. As the activity of a rational animal, **human activity**, too, **is oriented toward happiness**. But the subjective **principles of** a human being’s **practical activity**, principles which, as such, determine the manner in which its orientation toward happiness becomes practical, **are acts of *free choice*: acts of a capacity to “be determined to actions by pure will**,”12 *maxims,* as Kant calls them. As conditioned by the moral law, **such maxims presuppose their subject’s acknowledgment of her own happiness as *prima facie* good**: as to be pursued at all in the activity of pure reason.13 In this acknowledgment, a human being constitutes herself as a *person*: as *individualized pure reason,* as a *particular manifestation of the moral law.* Through her maxims, a person, a human being as a particular manifestation of pure reason, determines the character of her pursuit of happiness. And so it is in her maxims, her acts of free choice, a human being rationally displays her sensible nature: the individuality and finitude that make her an animal.

(Gobsch, Wolfram. "The Idea of an Ethical Community: Kant and Hegel on the Necessity of Human Evil and the Love to Overcome It." Philosophical Topics, vol. 42 no. 1, 2014, p. 177-200. Project MUSE [muse.jhu.edu/article/618095](https://muse.jhu.edu/article/618095).) //Lex VM™

**2.**

**The way subjects interact with the world through desire mediated by pure reason is appropriation, subjects attempt to integrate the world in accordance with their desires. However, the appropriation of objects fails to confirm a subject’s normative status. The only way for a subject to be actualized is through mutual recognition.**

**Wood:  
For Hegel, the "object" of a desire is never merely a subjective mental state, such as pleasure or the absence of pain. Hegel interprets desire as a function of self-conscious, spiritual being - an embodied being situated in a world of external objects toward which its desires are directed. Further, Hegel interprets this desire in accordance with his theory of spirit as selfactualization through the overcoming of otherness. The fundamental desire that Hegel attributes to self-consciousness is a desire for self-worth or "selfcertainty." As spirit, the self engages in an activity of positing an object and then interpreting itself in terms of it. Self-certainty is gained only through 84 RECOGNITION something external, which is brought into harmony with the self, an objectivity whose independence is done away with or "negated." This negation of the object refers to my using it up or consuming it (as when I literally eat it up), but also includes my shaping or forming it. Even more broadly, it covers any sort of integration of it into my plans and projects. In the most abstract form, it occurs when I assert my dominion over the object in the social forms suitable to property ownership (PR §§ 54-70). The attempt to achieve self-certainty through the appropriation of things proves inadequate. Satisfaction taken in external objects merely leads to a new desire for a new object. This result only points to the fact that the desiring self-consciousness is always dependent on a new object, whereas its aim was rather to establish its own independence, and the nothingness of the object (EG § 428). What self-consciousness needs is an object that brings about this negation within itself without ceasing to be an object. But only a self-consciousness is able to endure the "contradiction" of negating itself or being its own other (PhG 11162). In other words, "self-consciousness reaches its satisfaction only in another self-consciousness" (PhG 1 175). From the standpoint of self-certainty, the fundamental problem with nonhuman objects of desire is that they can contribute to my self-worth only secondarily or indirectly, by confirming an image of myself that I already have independently of them. Even animals, which are living and conscious objects, cannot provide me directly with a sense of my self-worth, since they possess no conception of a free self, and so I can never find in them a confirming perspective on myself. The only "other" that can form a conception of me as a free self is another free self. Self-consciousness can find satisfaction for its desire for self-certainty only when it comes "outside itself," so that its object becomes "another self" (PhG K 179; EG § 429,A). "Self-consciousness has an existence only through being recognized by another self-consciousness" (NP 78); "Self-consciousness is in and for itself insofar and through the fact that it is in and for itself for another, i.e., it is only as something recognized" (PhG 1f 178). When I see my free selfhood reflected back to me out of another self, I actualize my self-consciousness in the form of "spirit," as a "self-restoring sameness." It is only in relation to another free self that I can be truly free, "with myself in another" as regards my self-certainty. Thus the full actualization of spirit is possible only through the relation between selves that recognize each other. This is why Hegel even goes so far as to say that the essence of spirit it self lies in recognition, in a community of selves, "the I that is a we and the we that is an I"** (PhG 1 177; cf. EG § 436).[Allen W. Wood, (Ruth Norman Halls Professor of Philosophy, Indiana University) "Hegel's Ethical Thought" Cambridge University Press, 1990, https://www.cambridge.org/core/books/hegels-ethical-thought/D409B1F04527F36C32227799D0B303E5, DOA:3-2-2019 // WWBW]

**3.**

**Mutual recognition requires that rights be linked to an intersubjective sociality, actualizing the human spirit through pluralistic relationships that allow separate subjects to all receive and give recognition, thus the standard is an ethics of recognition:**

**Hayden:**

**An ethics and politics of recognition seeks to articulate the situatedness of human rights as political claims to a fully human status that we acquire through our constitutive social relationships. According to theories of recognition, the exercise of rights is closely linked to the intersubjective nature of human self-consciousness. The ability to exercise rights is not only dependent upon the juridical enshrinement of rights in positive law, but even more fundamentally upon the existence of recognition relations through which individuals self-reflexively acquire their distinctive identities, needs, abilities, and talents.**[**34**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn34) **This contrasts with the conventional ‘liberal consensus’ on human rights,**[**35**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn35) **which reflects an overly abstract understanding of the ideal rights-bearing subject as possessing certain natural or ‘inalienable’ rights prior to and independently of all forms of social recognition.**[**36**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn36) **Yet as Hannah Arendt has shown in her critique of such human rights idealism, rights can be exercised only within relationships of mutual recognition. As demonstrated by the paradigm case of the stateless person – the ultimate outsider – rights claims remain politically irrelevant or ineffective if they are unheard and unseen by others who do not recognise the claimant as sufficiently human.**[**37**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn37) **To ‘be human’ is not a ‘self-evident’ or natural fact; it is a sociopolitical condition that comes from being recognised by another as human. In Arendt's formulation, humanity is an interpersonal *status* that we mutually guarantee to one another through recognition in a public realm characterised by the conditions of plurality and frailty.**[**38**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn38) **Mutual recognition, in other words, is what *makes* us human in an interpersonal sense.**[**3**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn39)

[**9**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn39)**Hayden, Patrick. “The Human Right to Health and the Struggle for Recognition: Review of International Studies.” *Cambridge Core*, Cambridge University Press, 30 Nov. 2011,** [**www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744**](http://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744)**.**[**The human right to health and the struggle for recognition | Review of International Studies | Cambridge Core**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744)

# **Prefer additionally:**

1. **Bindingness:**

**Agency as a sensible reasoner is constitutive to forming and acting on ethical norms, only frameworks containing a theory of agency can be binding. Sensibility is key to answering this question as to why we take an ethical action, only internal motivation can say why we follow maxims.**

1. **Externalism-Internalism:**

**Ethical theories must solve the paradox, otherwise we don’t know where value comes from, only mutual recognition solves because it incorporates individual sensibility, but is still capable of deriving objective external norms through acts of reason.**

1. **Grounding:**

**Ethics can only be grounded intersubjectively, otherwise we would just be cognizing abstract concepts which fail to be recognized by an other.**

1. **Linguistic relativity:  
   Without an intersubjective understanding of normativity, ethical theories just take language as given without considering its public nature. Absent language there is no way for my opponent to even advocate for their framework so the fact that I can even understand what my opponent is saying demonstrates the veracity of my framework.**
2. **Actor spec:**

**The actors of the resolution are all nation-states, the only coherent explanation of the state comes from a theory of intersubjective sociality, the state can only justify its actions by appealing to some standard of human rights which always bottoms out at mutual recognition.**

# Contention: **Intellectual property patents for medicine prevents the subject from engaging in intersubjective mutual recognition**

**a)**

**The WTO enforces a hierarchical conception of rights which it prioritizes over real health and the actualization of the human:**

**Hayden 2:**

**The TRIPS Agreement not only is part of the WTO's effort to decisively shape global trade governance, it is also indicative of the conservative framing of institutional space that is unable to address the changing aspirations and needs of a pluralistic world. This conservative framing represents intellectual property as an inherent human right inscribed within the category of socioeconomic rights as a whole. As Philippe Cullet notes, the fields of human rights and intellectual property rights have largely evolved separately.**[**75**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn75) **Yet in recent years the WTO has attempted to merge intellectual property rights into human rights, thereby asserting a hierarchy of ‘economic’ rights that prioritises market-friendly intellectual property rights and subordinates more socially-oriented rights such as HRTH.**[**76**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn76) **The WTO's concern, in other words, is not for *health* as such but rather for an *exceptional property right* regime which is thought to trump the right to health.**[**77**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn77) **Given the absence of a binding global consensus that the right to health has normative priority over intellectual property rights, conflict between competing transnational and local political framings of these rights is unavoidable.**[**78**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn78)

[**9**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744#fn39)**Hayden, Patrick. “The Human Right to Health and the Struggle for Recognition: Review of International Studies.” *Cambridge Core*, Cambridge University Press, 30 Nov. 2011,** [**www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744**](http://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744)**.**[**The human right to health and the struggle for recognition | Review of International Studies | Cambridge Core**](https://www.cambridge.org/core/journals/review-of-international-studies/article/human-right-to-health-and-the-struggle-for-recognition/53B9F9AF8D1EC63C6A8B99B92690E744)

**b) The basic logic of such a patent is one of exclusion, namely I have the right to engage with this object and you don’t, this denies the human status and relegates non-patent holders to the position of an alienated other.**

**The wto defines intellectual property rights as:**

**Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.**

**WORLD TRADE ORGANIZATION.” *WTO*,** [**www.wto.org/english/tratop\_e/trips\_e/intel1\_e.htm**](http://www.wto.org/english/tratop_e/trips_e/intel1_e.htm)**.**

**Exclusion disempowered the subject, alienating creators from intellectual property, destroying intersubjective meaning.**

**Jaeggi:**

On the one hand, the diagnosis of a loss of power, which we experience, when alienated, **in** relation both to ourselves and to a world that has become alien to us: **alienated relations are those in which we are disempowered as subjects**; on the other hand, the diagnosis of a loss of meaning, **which characterizes a world that appears alien to us, as well as our relation to that world and to ourselves.** An alienated world is **a meaningless world, one that is not experienced by us as a meaningful whole**. Thus **alienation refers at once to both** heteronomy—**having one’s properties determined by an other—and** the **complete absence of essential properties or purposes;** moreover, it seems to be one of the main points of the phenomenon described as alienation that in it these two problems—power’s being turned into impotence and **the loss of meaningful involvement in the world**—are intertwined.

**Jaeggi, Rahel, et al. *Alienation*. Columbia Univ Press, 2016.**

**c)**

**Intellectual property rights are mere objects, instead of engaging in intersubjective recognition patent holders continually attempt to grasp new intellectual property, defining themselves only as holders of property, and confirming a pre-existing self image rather than engaging as humans. These patent holders could be engaging with other creators and recreating both themselves and the objects but are instead only engaging in petty acts of exclusion and self staticization.**

# Underview:

**[1] Aff gets 1AR theory which is drop the debater and competing interps. It’s key to check neg abuse, no 1AR theory means neg can be infinitely abusive because nothing can stop them, which outweighs because it means aff can’t win.**

#### **Drop the debater on 1AR theory because the aff can’t split the 2ar between both theory and substance. This also means DTA on 1n theory, it checks abuse and there’s still plenty of time to uplayer and weigh.**

#### **No neg RVIs since**

#### **The neg can dump on the shell for 6 minutes and make the 2AR impossible.**

1. **Bone chilling effect on legitimate aff theory**

#### **1AR Theory before neg theory – a) the neg can win their shell in the long 2nr but it’s impossible for the aff to beat the shell back in the 2ar b) key to check back against abusive neg strategies.**

#### **[2] Presumption affirms a) We assume statements true unless proven false, if I told you my name was Caedmon you’d believe me, and b) people don’t have time to thoroughly investigate the truth of every proposition.**

#### **[3] Permissibility affirms a) Anything else requires infinite justification if I have to prove a proactive obligation for every action I do, which makes action impossible because no one has time for it**

1ar:

This idea is undermined because it assumes that constrained maximizers can recognize each other. **Boucher et al** write:

“The relevance of **Gauthier’s** argument is jeopardized also by is **assumption [is] that CMs and SMs can recognize each other** a fairly high percentage of the time. Gauthier writes: ‘Suppose a population evenly divided between constrained and straightforward maximizers. If the constrained maximizers are able to co-operate successfully in two-thirds of their encounters, and to avoid being exploited by straight-forward maximizers in four-fifths of their encounters, then constrained maximizers may expect to do better than their fellows’. In this crucial passage, **Gauthier assumes, without argument, that people can detect the dispositions of others with a very high degree of accuracy. The assumption is unrealistic**, especially when we recall that **the only difference between a CM and a SM is the disposition they have induced in themselves** regarding what is self-interestedly rational to do. **The motives of both are the same** (self-interest). **They diverge merely in having different conceptions of what is rational** to do in certain situations. **How can people** accurately **detect** which people which rational meta-strategy – **especially when, presumably, SMs seek to disguise their dispositions when interacting with CMs?”**

Boucher, David (Professor of Political Philosophy and International Relations at Cardiff University) and Paul Joseph Kelly (Professor of Government at the London School of Economics). The Social Contract from Hobbes to Rawls. 1994.

Gauthier’s conception of rational agents leads to nonsensicality as they both attempt to maximize yet do not maximize their self-interest. **Darwall** writes:

“To see a particular instance of this problem **consider how we are to describe a** fully Gauthierian agent, that is, an agent who accepts Gauthier’s “**constrained maximize[er]**” account of practical reason. **Such an agent believes it** overridingly **rational** to for her **to respect agreements in Prisoner’s Dilemma situations even though alternative acts would maximize her happiness.** **Her choice is to respect the agreement even thought the choice conflicts with** what she **desires** most. Now if we take seriously Gauthier’s Kantian remarks about the unity of practical consciousness, **it would appear that there is a** rationally **disabling fissure in such an agent. Her structuring of her desires, necessary** a priori **for** the possibility of **rational action, lead[s] to a best alternative that is in conflict with what she** chooses and indeed **regards to be the best choice given her** Gauthierian **conception of rationality. Something seems to have gone wrong**.”

Darwall, Stephen (Professor of Philosophy at Yale University). “Kantian Practical Reason Defended.” Ethics 96.1 (1985): 89-99.

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