### Kantian Contractualism AC

Ought “used to express[es] justice, moral rightness, or the like” so I value morality, which requires of theory of reasons to provide a guide of action.

#### Two types of reasons exist- desire-based and value-based. Desire-based theories claim moral rules stem from an agent’s desires, whereas value-based theory claims that the action is right or wrong because of facts about states of affairs that give rise to reasons, independently of the particular person. Only a value based theory can truly give reasons to act.

Parfit, Derek Parfit, On What Matters.

Subjectivists cannot, however, make such claims. These claims appeal to differences between

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have as our aims, that make these events good or worth achieving.

#### Desire-based theories of reason make a mistake by confusing meta-hedonic desires with hedonic likings and dislikings. Something isn’t good merely because we want it.

Parfit 2, Derek Parfit, On What Matters

Since these claims are controversial, we can return to those nonaesthetic sensations that people

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that we like, nothing is good merely because we want this thing.

#### Thus the correct moral principle must be universally acceptable. Since internal desires are non-normative, no person’s viewpoint is privileged as multiple rational agents must be able to reach the same conclusions. Kantian contractualism best meets this constraint.

Ross, Jacob Ross, Ch. 10: “Parfit” in *12 Modern Philosophers*, ed. Christopher Belshaw and Gary Kemp, 2009, http://books.google.com/books?id=ehS2Nua-1kYC&printsec=frontcover#v=onepage&q&f=false

A better candidate for the fundamental principle of morality is thus the following: one

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the best version of Kantianism, but also the best version of contractualism.

#### Thus the standard is adherence to Kantian contractualism. Parfit clarifies:

“the Kantian Contractualist Formula: Everyone ought to follow the principles whose universal acceptance everyone could rationally will, or choose.”

Prefer the standard since it is the best way to come to agreement under moral theories.

Parfit 3, Derek Parfit, On What Matters

The Kantian Formula has other advantages. Though Rawls’s veil of ignorance ensures impartiality,

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-deontic reason, so this formula can support non-Utilitarian principles.

#### And even if I lose that a desire-based theory is irrelevant, that only provides greater reason to prefer the framework given that we are motivated to justify ourselves to others- three warrants.

Hughes and de Wijze, JONATHAN HUGHES and STEPHEN DE WIJZE, Department of Government, University of Manchester, MORAL CONTRACTUALISM COMES OF AGE, Res Publica 7: 187–194, 2001, http://link.springer.com/article/10.1023%2FA%3A1011938021890?LI=true

The significance of this for the narrower domain of “what we owe each other

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should and should not count as reasons for action in any particular context.

#### The standard is comparative- to reject a principle one must prove an alternative that is better.

Alm, CONTRACTUALISM, RECIPROCITY, COMPENSATION BY DAVID ALM JOURNAL OF ETHICS & SOCIAL PHILOSOPHY VOL. 2, NO. 3 | MARCH 2008

The moral content of contractualism comes from the notion of reasonable rejection: it explains

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is much weaker, and so they could not themselves reasonably reject it.

This coheres with the structure of rejection since even if principles are bad, it would be unreasonable to reject if the alternatives were worse.

. . .

Next, reject claims to utilitarianism since there is no sum of individuals who receives the sum of pain and pleasure.

. . .

#### Current criminal justice procedures favor prosecutors. A) Investigation resources.

Findley 11, Findley, Keith A., Adversarial Inquisitions: Rethinking the Search for the Truth (August 3, 2011). New York Law School Law Review, Vol. 56, No. 911, 2011-12; Univ. of Wisconsin Legal Studies Research Paper No. 1165. Available at SSRN: http://ssrn.com/abstract=1904588 or http://dx.doi.org/10.2139/ssrn.1904588

Yet the adversaries in our system are anything but equal. And, as I

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significant percentage of cases, the defense undertakes virtually no independent investigation.13

#### B) Methods of evidence gathering.

Findley 2, Findley, Keith A., Adversarial Inquisitions: Rethinking the Search for the Truth (August 3, 2011). New York Law School Law Review, Vol. 56, No. 911, 2011-12; Univ. of Wisconsin Legal Studies Research Paper No. 1165. Available at SSRN: http://ssrn.com/abstract=1904588 or http://dx.doi.org/10.2139/ssrn.1904588

Similarly, the way we produce and present forensic science evidence—an increasingly essential

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will say what the party wants. Objective truth takes a back seat.

#### C) Defendants are in a double-bind: either accept an incredibly high burden of proof or claim lack of sufficient of evidence and risk incredibility.

Bakken 08, Tim Bakken [Professor of law at the United States Military Academy at West Point; former homicide prosecutor of the Kings County (Brooklyn) District Attorney's Office in New York City.], “TRUTH AND INNOCENCE PROCEDURES TO FREE INNOCENT PERSONS: BEYOND THE ADVERSARIAL SYSTEM.” Copyright (c) 2008 University of Michigan Journal of Law Reform, University of Michigan Journal of Law Reform, Spring, 2008, 41 U. Mich. J.L. Reform 547

After conviction, an innocent defendant might argue for the first time that he is

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contrast to his later, post-conviction argument that he is innocent.

#### The impact is wrongful convictions- thousands of innocents are jailed away every year.

Bakken 2, TIM BAKKEN, “Models of Justice to Protect Innocent Persons.” NEW YORK LAW SCHOOL LAW REVIEW VOLUME 56 | 2011/12

The innocent-person conviction problem remains monumental. It probably amounts to a “

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are in prison or jail for crimes they did not commit.”26

#### Thus I advocate that the US criminal justice system create innocence procedures for those who testify as innocent.

Bakken 3, Tim Bakken [Professor of law at the United States Military Academy at West Point; former homicide prosecutor of the Kings County (Brooklyn) District Attorney's Office in New York City.], “TRUTH AND INNOCENCE PROCEDURES TO FREE INNOCENT PERSONS: BEYOND THE ADVERSARIAL SYSTEM.” Copyright (c) 2008 University of Michigan Journal of Law Reform, University of Michigan Journal of Law Reform, Spring, 2008, 41 U. Mich. J.L. Reform 547

The purpose of innocence procedures is to discover whether a defendant's claim of innocence is

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incentives to in-vestigate innocence claims completely and with the utmost integrity.

#### He continues:

In return for a government investigation of innocence and highly favorable jury instructions, a

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pleas are limited to guilty, not guilty, or nolo contendere. n61

#### Innocent convictions come first under the standard:

1. No rational person could accept a principle where she could suffer massive amounts of harm without cause.

. . .

1. Certainty- there’s no possible benefit to convicting an innocent person given that such a person did no harm to anyone in the first place.

. . .

#### Underview: Accept a reflective equilibria perspective on the framework debate- hypermethodist principles defeat the purpose of moral discussion.

Scanlon, An Interview with Tim Scanlon. Interviewed by Yasha Mounk. The Utopian. 2012. http://www.the-utopian.org/T.M.-Scanlon-Interview-2

This is what we were talking about earlier with debate. A lot of people

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to critical examination. I always thought that was a really great point.

Reflective equilibria is meta-ethically neutral- reasons to prefer an argument is not sufficient to reject my considerations. This requires the negative to give specific counter-examples as reasons to reject a theory to factor into consideration.