## 1AC

#### The meta-ethic is constitutivism.

#### First, inescapability – the exercise of practical rationality requires that one regards it as intrinsically good – that justifies a right to freedom.

Wood [Allen W. Wood, (Stanford University, California) "Kantian Ethics" Cambridge University Press, 2007, https://www.cambridge.org/core/books/kantian-ethics/769B8CD9FCC74DB6870189AE1645FAC8, DOA:8-12-2020 // WWBW]//rct st

Kant holds that the most basic act through which people exercise their practical rationality is that of setting an end (G 4:437). To set an end is, analytically, to subject yourself to the hypothetical imperative that you should take the necessary means to the end you have set (G 4:417). This is the claim that you rationally ought to do something whether or not you are at the moment inclined to do it. It represents the action of applying that means as good (G 4:414) – in the sense of “good” that Kant explicates as: what is required by reason independently of inclination (G 4:413). Kant correctly infers that any being which sets itself ends is committed to regarding its end as good in this sense, and also to regarding the goodness of its end as what also makes application of the means good – that is, rationally required independently of any inclination to apply it. The act of setting an end, therefore, must be taken as committing you to represent some other act (the act of applying the means) as good. In doing all this, however, the rational being must also necessarily regard its own rational capacities as authoritative for what is good in general. For it treats these capacities as capable of determining which ends are good, and at the same time as grounding the goodness of the means taken toward those good ends. But to regard one’s capacities in this way is also to take a certain attitude toward oneself as the being that has and exercises those capacities. It is to esteem oneself – and also to esteem the correct exercise of one’s rational capacities in determining what is good both as an end and as a means to it. One’s other capacities, such as those needed to perform the action that is good as a means, are also regarded as good as means. But that capacity through which we can represent the very idea of something as good both as end and as means is not represented merely as the object of a contingent inclination, nor is it represented as good only as a means. It must be esteemed as unconditionally good, as an end in itself. To find this value in oneself is not at all the same as thinking of oneself as a good person. Even those who misuse their rational capacities are committed to esteeming themselves as possessing rational nature. It also does not imply that a more intelligent person (in that sense, more “rational”) is “better” than a less intelligent one. The self-esteem involved in setting an end applies to any being capable of setting an end at all, irrespective of the cleverness or even the morality of the end setting. Kant’s argument supports the conclusion, to which he adheres with admirable consistency throughout his writings, that all rational beings, clever or stupid, even good or evil, have equal (absolute) worth as ends in themselves. For Kantian ethics the rational nature in every person is an end in itself whether the person is morally good or bad.

#### Second, regress – we can always ask why we should follow a theory, so they aren’t binding because they don’t have a starting point. Practical reason solves – When we ask why we should follow reason, we demand a reason, which concedes to the authority of reason itself, so it’s the only thing we can follow.

#### Third, consequences fail – A) Induction Fails – You only know induction works because past experiences have told you it has, but that is in itself a form of induction, so you use induction to prove induction – that’s circular B) Is-Ought Fallacy – Naturalistic frameworks fail to derive an imperative to act. That is, even if you win pleasure biologically valuable, your framework doesn’t answer why we have a moral obligation to follow biology without appealing to a higher-order framework.

#### Fourth, ideal theory is good – criticisms are of misapplication, ONLY analysis of ideal theory can allow non-ideal theory to effectively guide action

Táíwò (Olúfẹ́mi O. Táíwò, Olúfẹ́mi O. Táíwò is an American philosopher and professor of philosophy at Georgetown University., 3-3-22, accessed on 9-16-2022, , "Uncommon Features:Defending Ideal Theory with Model-to-World Inference", http://www.olufemiotaiwo.com/uploads/1/0/2/1/102141076/uncommon\_features\_3-2-22\_for\_website.pdf) //phs st

What exactly is different about theorizing that is normatively laden? One possibility is that our acts of theorizing are in and of themselves morally laden. The objection that stems from this position is that ideal theory is objectionable because of what it does – abstracts from real world conditions of oppression and injustice – rather than what comes of its so doing.

But it’s hard to read those who attack ideal theory as having meant this version of the objection. Mills, for example, asks whether the idealizations of ideal theory can possibly “serve the interests” of women and of racially oppressed people, which implies a consequential argument. But the plausibility of this argument hinges far too much on the particular examples. It’s a good deal easier to say how the idealizations of Wiredu’s ideal theory might serve the interests of, say, ethnic minorities on the African continent who might be ignored altogether in contexts like Nigeria’s, where explicit reference to ethnicity (particularly by the larger groups) has historically driven domination and conflict.54 It is less likely that Mills has pointed out a crucial problem with ideal theory as such here and more likely that Mills has identified particularly important aspects of social domination that any theory or model, ideal or not, could benefit from including.

It's also worth taking a second look at how the burden of proof has been assigned here. It is less than obvious what the practical payoff of an opposition to ideal theory in favor of explicit theorizing about oppressed groups will be. Adolph Reed and Merlin Chowkwanyun argue that a spate of social science inspired by motivations like Mills’ has uncovered a great deal of evidence about a great many specific racial disparities in specific contexts, but this very specificity comes with a considerable cost: obscuring the very causal factors that we would need to intervene on to prevent them.55

In the aptly titled article “Fuck Nuance”, sociologist Kieran Healy argues persuasively that nuance is only superficially attractive as a criterion of social theory, and may serve as an impediment to learning when valued inappropriately.56 Pointing out racial disparities may be good argumentative fodder against those who deny the existence, reach, or importance of racism. But suppose we already were persuaded that racism exists and pervades society. Does it materially and significantly help the racial justice struggle to spend social resources proving that discrimination pervades kindergarten education slightly more in Tulsa than it does in Kansas City? Would such granularity “serve the interests” of Black and brown students in either case, who are confronting a system of racial injustice that cuts across the differences in their contexts? It is precisely the kind of unity across differences that motivates the use of idealizations and abstractions. Non-ideal theorists seem to take it to for granted that more empirical and historical analysis of the racial origins of such disparities is of practical use in responding to them, but it is far from clear how such a focus helps, which undermines the advantage of practical relevance they take themselves to have over ideal theorists. This challenge is particularly pressing if the attentional/resource cost or research design that allows us to uncover the disparity precludes investigation of the sort of factors that might explain what is different about Tulsa rather than simply reveal that Tulsa is different.57

The possibility that replacing ideal theory with empirically laden non-ideal theory could be counterproductive pushes back effectively against even the more deontological framing of the problem: that it’s somehow intrinsically immoral or unjust to theorize without explicit reference to axes of oppression like race, gender, and disability. It seems plausible that whatever principle would recommend making explicit reference to these would be a subsidiary principle in a larger set of principles oriented around the broader themes of racial, gender, and disability justice. How could it be more morally weighty to follow the subsidiary principle that recommends that we socially signal via our models that we care about, say, racial justice, than to actually advance the political project of dismantling structural racism? Shouldn’t a higher level principle override in this sort of instance? If not, what could count in favor for constructing our set of racial justice principles in so self-defeating a fashion? Opponents of ideal theory should tell us.

Even if we take Mills to have correctly assigned the burden of proof, the same kind of arguments that undermined the principle based advocacy of abandoning ideal theory also undermine an approach that focuses on the consequences of different kinds of theorizing. We can group the consequences under consideration by domain.

First, consequences internal to academia. Perhaps “ideal theory” of the Rawlsian or Wiredian sort will lead to bad consequences in the discipline itself because ideal theory will act as an ideology or will otherwise signal strong commitments to researchers about what aspects of the world are important to a description of how it works. That is, maybe not explicitly theorizing about gender, disability, or race communicates that a political philosopher need not learn about these phenomena to effectively do their job.

But we could even concede to Mills that the particular ideal theories, as received by the discipline, function ideologically in this sense without being further committed to preferring non-ideal theory or avoiding ideal theory. We could, for instance, adopt a race, ability, and gender-blind (for example) ideal theory and pair it with a non-ideal theory or set of these that were conscious about the aforementioned aspects of identity, thus fulfilling both the desiderata of theorizing about oppression explicitly and whatever ideal theories might be good for. Or we could campaign to change how philosophers are educated on axes of oppression directly: by changing the content of graduate requirements, holding symposia on these issues for mid-career philosophers, and other interventions of this sort.

If any of these are potentially effective responses, then the criticisms of ideal theory are perhaps better directed at the lacunae of appropriate, matching non-ideal theories rather than at the content of the ideal theory. If it is inadequate, we are owed an answer why – and, again, an appeal to what the ideal theory has or lacks seems orthogonal to the problem, unless it is established that an ideal theory precludes examination of systems of oppression. That strong claim is not established by observing that the ideal theory simply doesn’t itself examine oppression in the desired ways. It is hard to attribute whatever negative consequences stem from oppression-silent ideal theory to the content of the ideal theory itself, rather than the broader epistemic environment in which it intervenes.

Second, the consequences external to academia. Perhaps anti-ideal theorists are concerned about the effects of ideal theory in the world – either downstream of the previous set of concerns, because of the influence philosophers’ reception of theory has outside of the discipline, or perhaps in some direct sense that bypasses how other philosophers respond to ideal theory. The latter seems implausible, given how seldom academic papers are read at all.58

Also, the earlier response helped along by Reed and Chowkwanyan puts pressure on the most plausible explanation of the problem here: that theorists’ inattention should be understood as a negative consequence for social justice. But say we had gotten rid of ideal theory and that resulted in theorists taking axes of oppression more seriously, as the non-ideal theorists advocate for. Would that have been a positive development for the struggles for social justice? Perhaps, but perhaps not – if what researchers do when they study social justice is distracting or otherwise counterproductive. There seems to be at least some evidence that at the very least, despite laudable intentions, researchers’ effects on the injustices they study are not uniformly positive. Yet more reason that we ought to focus on the actual effects our theories have, rather than the abstract categories we sort them into.

#### Criticisms are misdirected – ideal theory should serve as an informative model, not an exact replica of the real world.

Táíwò (Olúfẹ́mi O. Táíwò, Olúfẹ́mi O. Táíwò is an American philosopher and professor of philosophy at Georgetown University., 3-3-22, accessed on 9-16-2022, , "Uncommon Features:Defending Ideal Theory with Model-to-World Inference", http://www.olufemiotaiwo.com/uploads/1/0/2/1/102141076/uncommon\_features\_3-2-22\_for\_website.pdf) //phs st

I now focus on negative arguments that switching to non-ideal theory is unlikely to help us diagnose or solve the problems Mills and other theorists have attributed to ideal theory. The main problem with the arguments against ideal theory as such is that the problems attributed to ideal theory as such are better described as problems with model-to-world inference.

First, a brief refresher of Mills’ case against ideal theory. In “Ideal Theory as Ideology”, Mills asks, echoing much of the non-ideal theory literature that followed:

Can it possibly serve the interests of women, white and nonwhite, to ignore female subordination, represent the family as ideal, and pretend that women have been treated as equal persons? Obviously not. Can it possibly serve the interests of people of color to ignore the centuries of white supremacy and to pretend that a discourse originally structured around white normativity now substantively, as against just terminologically, includes them? Obviously not. Can it possibly serve the interests of the poor and the working class to ignore the ways in which an increasingly inequitable class society imposes economic constraints that limit their nominal freedoms and undermine their formal equality before the law? Obviously not.32

But, as this paper suggests, I don’t think this is quite as obvious as advertised. It is obvious that there is a non-accidental connection between the tendencies of ideal theories and ideal theorists to and the forms of oppression and domination Mills points out. What is not obvious is that the connection is causal in the particular way needed for the argument to go through: that the privileging of ideal theory over non-ideal theory itself exacerbates these structures of domination, whether in the domain of philosophy or more generally.

Of course, we could give an alternative etiology of the problem, which would in turn suggest a different functional relationship between philosophers’ reluctance to engage real world forms of oppression and domination and the social structures they are thereby ignoring. Perhaps the tendency of the literature to ignore actual injustice reflects the preferences selected for by an unfair world, but exerts no causal influence on that world’s unfairness. For example: perhaps it is true that classical music aficionados are overrepresented amongst philosophers. But if it were also true that both classical music and academic philosophy select for a certain class background we could explain the covariance here without suspecting that we had uncovered evidence that classical music appreciation among academic philosophers is a significant aspect of the class-based disadvantage inherent to capitalism.

Without the veneer of analogy: perhaps it is simply the case that philosophers’ reluctance to engage real world forms of oppression and domination and their penchant for ideal theory are simply both symptoms of the same disease – that philosophy selects for the people least likely to take it upon themselves to research oppression - rather than the latter causing or enabling the former. Then, the reluctance of philosophers to engage real world forms of oppression and domination is explained by the sociological forces that produce philosophers in general, not the theoretical decisions that produce ideal theory, and ideal theory plays no role in the explanation.

A more serious challenge to Mills’ framing of the issue here involves returning to the two key assumptions referred to in the introduction: the common features account of models’ role in knowledge production, and the related assumption that models should be taken to make descriptive claims about real-world systems. Recall that a common features account of what makes theories or models informative requires that they share common features with the aspects of the real world they investigate.33 This would ground the model-to-world inference that Mills makes here, when he takes it that the targeted aspects of the ideal theory “model” are committed to describing real-world political systems.

For all he says here, Mills could even be read as presupposing a much stronger claim: Weisberg’s completeness ideal for models, the representational ideal on which every aspect of the target system must be represented in the model).34 However, my arguments against his position work equally well against the weaker “common features” reading of his argument’s implicit commitments, which seems the more charitable interpretation of his position. For the remainder of the paper I will assume the common features reading in my response.

Mills’ discussion here involves not only this narrow view of models, but the second mistake as well, which is helped along by the first. Reading a common features account working in the background would make sense of why Mills identifies the assumption of equality among persons as a distortion of the actual world rather than simply a potentially innocuous or even informatively distortive feature of the relevant models as such. Such an account of how political theories work, after all, would take them to be making implicit claims about the real-world counterparts of their component features. That is why kind of idealizations Rawls makes about the well-formed society amounts to pretending that “women have been treated as equal persons” in the real world rather than simply a description of the model world under construction.35

In “Idealization and Abstraction in models of Justice” Hancox-Li introduces an effective response to this point by discussing an abstract “collaboration game” model developed by Justin Bruner and Cailin O’Connor.36 Agents play the game multiple times and maximize their payoffs by using strategies that have proved effective for them or other players in the past. Bruner and O’Connor show that, when the population is divided into a majority and a minority group, it effects what strategies the players employ and learn from: majority players make larger demands of minority players, and minority players prefer to collaborate with other minorities or not at all. Hancox-Li points out that the model predictions are consistent with a real world phenomenon: women preferring to collaborate with women in multiple fields of inquiry.37

But Bruner and O’Connor’s model of abstract “minorities” maximizing numerical payoffs does not reflect a number of complications that actual women face. One idealization Hancox-Li focuses on is that players in Bruner and O’Connor’s model only learn from previous versions of this same collaboration game. Women researchers, on the other hand, have presumably learned about gender in a variety of contexts before they ever became researchers (in home, in early education, etc.). Is the model distorting reality in an objectionable way? Hancox-Li’s answer:

It might seem that I have made a dodgy move in claiming that the model can remain silent on other sources of learning instead of introducing the falsehood that they do not exist [emphasis his]. I confess that I find it hard to distinguish clearly between these two alternatives, since “remaining silent” and “introducing a falsehood” may only be metaphorically applied to models, as opposed to speakers or texts [emphasis mine]. Some readers may have the intuition that omitting other sources of learning in the collaboration game counts as introducing a falsehood even if we are interested only in the question of how people learn from collaboration alone. But if we follow these readers’ intuitions and take the exclusion of real-world causal factors from a model to always be introducing falsehoods, we are led to the conclusion that all social-science models introduce falsehoods, and are thus idealized in the way that Mills deplores.38

Hancox-Li’s point involves distinguishing between the content of a model and a description of a target system. Empowered with the previous section, we can also flesh this point out further. First, Mills seems to assume that we should treat models as descriptions of the target system and hold them to the criterion of descriptive accuracy. However, three out of the four possible model desiderata considered here would license viewing the model as potentially informative or useful without saddling it with the expectation that it should be built on common features shared with the part of the real world we aim to use it to learn about.

I don’t mean here to advocate for this particular construal of “normative understanding” models as a reading of Rawls or anyone else in particular. Instead, I mean to point out two things. First, if Rawls failed to adequately theorize about race, his use of ideal theory is not the reason why. The claim that racial justice (or any other sort) is not an important category from the standpoint of justice is in no sense implied or licensed by its omission from a proffered model of justice.39 Models, unlike researchers, do not speak. As such, we should be slower to decide what it means that x or y is not represented in a model.

Secondly, if those of us invested in racial justice (or any other sort) mean to accomplish it, we shouldn’t decide what the possibilities for an entire approach to knowledge production are by way of these sorts of arguments, which I argue misunderstand the possibilities for models and modelling in our moral and political life. If we, for example, took the relevant criterion for models serving an “ideal” political theory to be something like “normative understanding”, then the models produced to provide normative understanding could play the role of adjudicating between the appropriateness of different racial justice-pursuing strategies, which could be planned out using still other models.

#### Fifth, changes in the subject stem from practical reason: that means the core of the subject remains the same, it’s an internal link.

**Tiberius** [Tiberius, Valerie. “Practical Reason and the Stability Standard.” Ethical Theory and Moral Practice, Vol. 5, No. 3, Papers Presented to the Annual Conference of the British Society for Ethical Theory, Glasgow, 13-15 July 2001 (Sep. 2002), pp. 339-354. Springer] \*\* brackets for clarity //rct phs st

The notion of stability at work here is not temporal endurance. The kind of reflection that is not to change the agent's attitudes is reflection she deems appropriate and the notion of 'appropriate reflection' here is irreducibly normative.5 Judgments about continued or stable attitudes are normative judgments, not empirical predictions. The emphasis on stability, then, should not be taken to imply that there is one, fixed, stable pattern that provides the ultimate and perpetual goal of all reasoning. The ideally stable pattern of attitudes I have described above is not a static ideal that could be represented by a hypothetical, idealized agent whose choices determine the choices that actual people have reason to make. Because on my view what counts as appropriate reflection is inherently normative, and the norms of appropriate reflection evolve along with the people who endorse them, there is no fact of the matter about what an ideally stable version of a particular person would choose that can be determined outside of the context of that person's reflection and deliberation. The ideal of stability, then, is a regulative ideal, in the sense that we can use it to make judgments about the ways in which our own choices could be improved. It is not a fixed ideal that determines the correct choices independently of the process of reasoning.6 The point of the ideal is to urge us toward improvement, not to describe a state of perfection. An important implication of taking the ideal of stability in this way is that what a person has reason to choose is likely to change over time as the person has new experiences and improves her own views about ideal reflection. Furthermore, taking the ideal of stability to be one [is] of improvement rather than perfection also has implications for the appropriate goal of reasoning. According to the stability standard interpreted as a norm of improvement, it is not the goal of reasoners to arrive at a stable state at which there is no further need for reasoning. Rather, a reasoner's proper goal is to make choices that are part of the most stable pattern now, with the knowledge that what choice will be most stable in the future might very well be different.7

#### We have a unified perspective – If I say that 2+2=4, I understand not only that I know that 2+2=4, but that everyone around can arrive at the same conclusion too because they create practical syllogisms to justify their conclusion. But, willing a maxim that violates the freedom of others is a contradiction – that’s bad.

Engstrom, Stephen (Professor of Ethics at UPitt). “Universal Legislation As the Form of Practical Knowledge.” <https://ld.circuitdebater.org/w/images/8/89/Engstrom_-_Universal_Legislation_as_a_Form_of_Practical_Knowledge.pdf> rct st

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

#### Only a collective will that can have power over individuals can guarantee the enforcement of good maxims. Thus, the standard is consistency with the omnilateral will.

#### I defend the resolution “Resolved: Justice requires open borders for human migration.”

#### Affirm –

#### Immigration restrictions beg the question and violate the fundamental equality of persons by appealing to morally arbitrary distinctions

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My contention is that this distinction cannot be made an ethical one through appeal to liberal values, because any attempt to provide an ethical justification for it will commit the basic logical error of “begging the question”—that is, assuming the validity of the distinction in the first place. This is an established logical fallacy known as petitio principii, in which the truth of the proposition that must be proved is actually assumed—either implicitly or explicitly—in one of the premises of the argument, and so emerges intact in the conclusion without ever being established: one “begs the question” being asked.31 Arguments can beg the question in a number of ways, for example by relying on a premise that says the same thing as the conclusion, or ignoring an impor- tant assumption that the argument rests on. In the case of the immigration debate, the question being asked is whether the distinction between members and nonmembers of a political community can be morally justified in the context of moral egalitarianism, such that members have the right to exclude nonmembers. The problem is that many attempts to show that members do have the right to exclude nonmem- bers assume the moral validity of the members/nonmembers distinction, although they claim to establish it.

Let’s consider a range of possible arguments for the right to exclude to see if they commit this logical error. First, we can argue that the right to exclude arises from the priority of the rights of citizens over those of noncitizens: citizens have rights to welfare, etc., embodied within their citizenship (citizenship just is—among others things—this bundle of rights), and noncitizens do not; and respecting these rights necessitates discriminating between members and nonmembers of the political community, which entails the right to exclude. However, we are asking for an ethical justification of the right to exclude that can show why access to welfare resources, etc., is restricted to citizens in the first place. All we are being told here is that citizens hold rights that noncitizens do not, but this is to take the members/ nonmembers boundary for granted. The point is that non- citizens could access those welfare resources if they had the right to be included as citizens—there is nothing problem- atic in saying that a set of resources will be distributed within the boundary of a group of people, if everybody has equal opportunity to become a member of that group. What is at stake is the right to membership itself. Any argument that claims the right to exclude arises because states have special obligations to their own members that they do not have to nonmembers, or because citizens have special obli- gations to fellow citizens that they do not have to nonciti- zens, begs the fundamental question.

A second argument is that members have the right to exclude because they have contributed to the economic prosperity of their nation-state through work and taxation and other forms of contribution, and have the right to benefit from these “cooperative schemes.” Nonmembers have made no such contribution, and so to allow them access to the national “cake” is unfair. Members therefore have the right to exclude nonmembers from that national cake, and this necessarily takes the form of excluding them from membership as such. However, there are two complications here. First, as Elizabeth Anderson observed, we live in a globalized economy. Globalization is a highly complex phenomenon, but all we need note here is that the notion that citizens of a state are the only ones who con- tribute to its economic prosperity does not stand up, and perhaps has not done so for centuries. Many people throughout the globe have contributed to the level of wealth and welfare in, for example, the United Kingdom, and yet don’t get access to a slice of the cake.32

Second, if we set aside the outside world (as many political theorists succeed in doing) and concentrate only on the people who reside within the territory of the state, the fact is that many citizens do no work that contributes to the economy of the community, while many noncitizens do. We cannot assume that all citizens work and pay taxes and that no noncitizens do, and so it is not obvious who the economic “stakeholders” in a society are.33 This is, of course, true of those who are within the territory legally but do not have citizenship, but it is also often just as true of those who are present illegally. The evidence is that those present illegally make a positive economic contribution (keeping in mind our caution about empirical evidence).34 And so the right to exclude cannot rest on the question of who has contributed to economic prosperity of the state, even if we artificially restrict our focus on those who are within the territory.35

What if we focus the argument on those citizens who do make a contribution and potential migrants who have not yet entered and so have made no contribution? Surely, then, these citizens have the right of territorial exclusion because they have contributed to the national wealth (but so would everybody else present in the territory who is contributing, which is an odd implication, but we will arti- ficially set that aside for now) but these potential immi- grants have not: admitting these immigrants within the territory would enable them to share in a national pros- perity to which they have not contributed, as would admit- ting them to national membership. But the fact remains that those inside the boundary are able to contribute to the national wealth because they are on the inside, and the out- siders are unable to contribute because they are on the outside: they wish to enter and make a contribution. The fact that they have not made a contribution up to this point does not carry much moral weight, because what is at stake is the right to make a contribution. According to the argument, members have the right to exclude outsiders from the distribution of membership because they have made a contribution to the national wealth that outsiders have not; they are able to make that contribution because they have the right to make a contribution; and they have that right because they are included in the distribution of membership and outsiders are not. But what right have they got to be included in the distribution of membership while outsiders are not? The argument begins to take on an appearance of circularity if the answer to that question is: because they have made a contribution to the national wealth that outsiders have not.

A strange assumption seems to be at work here, that only members of the political community have the right to be members. At first sight this assumption may not seem strange at all, but extremely obvious. However, there is in fact something profoundly odd in restricting the right to be a member to those who are already members. It seems quite possible, and indeed plausible, that there can be associations where nonmembers have the right to become members. There may be some that, once we have achieved some kind of criteria, we have the automatic right to become members of if we so wish. When I was a child, I subscribed to a comic that ran its own club, such that if your birthday appeared in the issue, you had the right to become a member of that club upon applying. For all I know, I am still a member of the Harold Hare Club. Of course, in this kind of case it may be that the association has the right to set the criteria, but still, the principle of moral equality means that anybody who meets the criteria has the right of entry. And it may well be that some associations of this kind are so important to peo- ple’s welfare or the value of their life prospects that they cannot set their own criteria, which are, instead, fixed by some higher authority. Or there may be associations where anybody has the right to membership on application. Facebook seems to be this kind of association so far as I am aware.

When it comes to national membership, unless we know the ethical basis of the distinction between mem- bers and nonmembers, we do not know why members should have a right to membership that outsiders do not have: the members/nonmembers division seems to be just given and the right of membership distributed subse- quently only to those who are already members—in other words, the distribution of membership and the right to membership coincide. In that case, the right to member- ship does not give rise to the distribution of membership, but the other way round, and this is, as I’ve pointed out, a rather strange situation. Unless we have a moral justifica- tion for the distribution of membership that explains why the right of membership coincides with it, it is difficult to see how any moral justification for the right of exclusion can be coherent. There is nothing in the nature of associa- tions that means the distribution of membership and of the right of membership must coincide, for, as we have seen, there are many kinds of association where the right to be a member extends beyond its boundaries. Why isn’t a nation-state this kind of association?

In fact, particular nation-states are like this to some degree, recognizing that certain outsiders meet the criteria of membership and so have the right to become members. For example, the law of return to Israel recognizes this kind of relationship. This law grants every Jewish person, wher- ever they are, the right to enter Israel as an oleh (Jewish person immigrating to Israel) and become an Israeli citizen. “Jewish” here means a person who is born of a Jewish mother or has converted to Judaism and is not a member of another religion. Israeli citizenship becomes effective on the day of arrival within the territory or on the receipt of an oleh’s certification, whichever is later. Since 1970 the right has been extended to include the children and grandchil- dren of a Jewish person, and the spouse, or spouse of a child or grandchild of a Jewish person.36 In fact this kind of arrangement is not that uncommon. For example, any immigration regime that allows the acquisition of citizenship through marriage is in effect granting the right to membership to noncitizens, in that although the spouse has the right to take up the citizenship of his/her partner, they can always decline.

This family of arguments, then, only works to justify the right of exclusion by assuming that the rights of those inside the membership boundary have priority over the rights of those who wish to enter. But why should we assume this? It needs to be shown why the rights of mem- bers should have moral priority over the rights of nonmem- bers, and what we have seen is that this is surprisingly hard to do within the context of an egalitarian liberal theory that takes the moral equality of persons seriously. Which side of a border someone is born on is clearly morally arbitrary from this point of view, and so their location cannot be used to justify the moral priority of insider-rights over outsider-rights. The only way in which location could be used to justify the ethical priority of claims is through free- dom of choice—if people have freely chosen to be here rather than there. And so the only way the egalitarian liberal can claim that members’ rights have moral priority over outsiders’ rights is if the members have freely chosen to be members and the outsiders have freely chosen to remain as outsiders—in other words, under conditions of freedom of movement.37 Ironically, it seems that the only thing that can justify the morality of special rights between conation- als that override rights to nonnationals is, in fact, complete freedom of international movement.38