# SeptOcto Particularism NC

### Framework

#### Permissibility and presumption flow neg: 1) Dictionary.com[[1]](#footnote-1) defines to affirm as “to confirm or ratify” implying positive justification, 2) Presuming obligations true is self-defeating since it forces the aff into the impossible burden of disproving the infinite set of alternative obligations that have also been presumed true. 3) If know nothing about P, presuming truth means I would presume both P and not P true without positive justification causing a contradiction.

#### Ethics must begin with the Ethical. Since our subjectivity is bound by the world around us, any attempt to encapsulate ethics in rules fails insofar it would either just reflect back the world to us or be corrupted by hidden moral premises we desire.

#### Thus our engagements in morality must be contextual. Just as how in chemistry different substances have reactions varying based on what they are mixed with, any conception of rightness or wrongness is based in the situation.

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There is a question whether we are simply to abandon the less speciﬁc versions of our principles, as Scanlon seems to suggest, or whether they can remain in play in some way. Richard Holton (2002) offers a picture which is broadly similar to Scanlon's but which allows the superseded principles to remain on the scene.17 Holton is pursuing the idea that there is no one set of principles that entails, and hence justiﬁes, each true moral claim. But he takes this to be compatible with holding that each true moral claim is entailed by some true principle (together with appropriate non-moral truths). The thought is that we can ﬁnd a way of adding new principles to the old ones, principles that are in some way built on the old ones, but do not amend or replace them. We have, as it were, a nested set of principles of different layers. There is the principle ‘do not kill’, and there is the principle ‘do not kill except in self-defence’. Where Scanlon would say that the latter principle replaces the former, Holton says that both remain sound, but that the question which one we are to use depends on the circumstances, in the following way. We can perfectly well apply the simple principle ‘do not kill’, in cases where there is no further relevant feature to be borne in mind (such as that one needs to defend oneself). So a moral argument could run like this: 1. It is wrong to kill. 2. This would be a killing. 3. There are no further relevant features. 4. So: it would be wrong to do this. If, however, self-defence is at issue, the third premise is false, and we need a different argument, thus: 1. It is permitted to kill in self-defence. 2. This would be a self-defending killing. 3. There are no further relevant features. 4. So: it is permissible to do this.

#### **This also applies to how our moral understandings our created and perceived. For example, the way I process watching a murder changes radically from when I am 4 to 40. In the same way our ability to understand, create, and apply moral knowledge varies based on the position and state.**

#### Thus the Standard is consistency with the particularity of moral judgments

#### [1] Indeterminacy: rules can’t secure their own application – applying a norm to new situations is indeterminate. If you see the sequence 2, 4, 6 then you might think the next number is 8 or 10 based on different possible rules. You could try to explain what you mean, but all language is defined by social rules built on past usage – there’s no secure foundation. This applies to all norms including moral ones – applying it properly isn’t defined by the norm but by being attentive to the right set of unspecifiable moral considerations. My argument is about a problem with the *application* of all moral principles, not the content of any one – this means it takes out the aff even if their framework true, since it’s impossible to defend the application of the principle to any specific case, let alone all of them.

#### [2] Action Theory. Absolute principles can never guide action because they can never conflict with anything since by their very nature they are the only principle in the world. Thus in a moral conflict between reasons such as the resolution an absolute principle would hold that both sides justifications where just the same principle which A) is incoherent and B) makes weighing between them impossible.

#### [3] Logic: Its impossible for something to have meaning without contrasting an equally strong something.

Jonathan Dancy, British philosopher, who has written on ethics and epistemology. He is currently Professor of Philosophy at University of Texas at Austin and Research Professor at the University of Reading , Moral Particularism, pub 2001, <https://plato.stanford.edu/entries/moral-particularism/> Accessed 8/17/18 ///AHS PB

Sadly, the account of relevance that this all depends on is not defensible. It is, after all, true of any feature whatever that if it were the only relevant feature, it would decide the issue. The word ‘relevant’ appears within this formulation, and it cannot be removed. For if we said merely that if this feature were *the only feature*, it would decide the issue, we would have said something that is probably both false and, worse, incoherent. It would be incoherent because the idea that a feature could be present alone, without any other features whatever, is surely nonsense. The idea that an action could be merely kind, say, without having any other features at all, makes no sense at all. Further, there may be some features that can only be relevant if some other feature is also relevant—features that (in terms of reasons) only give us reasons if some other feature is giving us reasons as well. For instance, in the Prisoner’s Dilemma one prisoner only has reasons if the other one does. If this can occur, any ‘isolation test’ for reasons must miss some reasons out. Finally, trying to isolate the contribution of a feature by asking how things would have been if no other feature had made any contribution is, when one comes to think of it, a rather peculiar enterprise. It is uncomfortably like trying to determine the contribution made by one football player to his team’s success today by asking how things would have been if there had been no other players on the field. So the notion of relevance that is required as a basis for generalist epistemology is unacceptable.

#### [4] Humility: Human knowledge is infinitely limited by our experience, to claim that we could derive at some transcendental truth is epistemically arrogant, and descends our projects into triviality. Only my framework solves this because we approach dilemmas based on practical circumstance.

Roberts, Robert C., and W. Jay Wood. Intellectual virtues: An essay in regulative epistemology. Oxford University Press, 2007

The threat posed by an undisciplined credulity disposition is gullibility, but in some intellectual ambiences a wholesale fastidiousness about belief formation may be the problem. Plantinga’s discussion of testimony is less polemical than his discussion of self-knowledge, but it might have been directed against a tendency suggested by some of the writings of Descartes, Locke, and Kant. These epistemologists are suspicious of testimony because it seems to compromise the principle that each person should be responsible for his own cognitions and because testimony may seem to be a generally low-grade kind of evidence. But, given natural human limitations, and the way things go according to the human cognitive design plan, the early modern tendency to prescribe a general suspicion of tradition and testimony could be read as an endorsement of epistemic arrogance and fastidiousness an insistence on the right and duty always to “see for oneself”. A character that made us generally suspicious of testimony or overly insistent on having in our own possession all the evidence supporting each of our beliefs, would be a paralyzing intellectual paranoia, a hyperindividualism that would be both unrealistic and, to the extent that it actually got instantiated as a personality trait, detrimental to our cognitive functioning. The virtues of intellectual humility and gratitude could be regarded as a liberation of the credulity disposition from unwarranted intellectual suspicion and distrust, and thus as dispositions promoting warrant in testimony circumstances.

### Offense

#### Now Negate:

#### [1] In the same way the statement I ought to be happy does not prescribe me an obligation make myself happy, the ought used in the resolution questions an evaluative state of affairs. Furthermore, because one cannot be obligated to have a right the resolution must be an infinite judgement. This negates because while some actions can be particularistic in nature, evaluative ought statements don’t have the capacity to be partially true.

#### [2] Even if some protection for sources is good, rights constitute absolute rules based on side constraints and are therefore not particularistic.

Judith Jarvis Thomson, Some Ruminations on Rights, 19 Ariz. L. Rev. 45 (1977) ///AHS PB BRACKETS IN ORIGINAL CARD

The question just how stringent our several rights are is obviously a difficult one. It does not even seem to be obvious that there is any such thing as the degree of stringency of any given right. Perhaps a right may be more or less stringent, as the right holder's circumstances vary, and also, in the case of special rights, as the means by which he acquired the right vary. One thing only is plain: Only an absolute right is infinitely stringent. For only an absolute right is such that every possible infringement of it is a violation of it. Indeed, we may reexpress the thesis that all rights are absolute as follows: all rights are infinitely stringent. There are passages in Anarchy, State, and Utopia which suggest that Nozick thinks all rights are infinitely stringent. He says: "[O]ne might place [rights] as side constraints upon the actions to be done: don't violate constraints C. The rights of others determine the constraints upon your actions . . . . The side-constraint view forbids you to violate these moral constraints in the pursuit of your goals .. .8.s If you use "violate" in the way I suggested we should use it, this "side constraint view" does not amount to much-under that reading of the term, all Nozick says is that we may not wrongly infringe a right. Of course we may not. But I think he does not mean so to use the term "violate", in this passage at any rate: I think that in this passage all he means by it is "infringe." Thus I think that we are to take this "side-constraint view" to say that we may not ever infringe a right. Accordingly, every infringing of a right is wrong. Compare what Nozick says a few pages on: A specific side constraint upon action toward others expenses the fact that others may not be used in the specific ways the side constraint excludes. Side constraints express the inviolability of others, in the ways they specify. These modes of inviolability are expressed by the following injunction: "Don't use people in specified ways."

#### [3] The affirmative in particular establishes an inflexible protection which ignores the plurality of circumstances in which a reporters privilege is applied.Robert G. **Dixon**, Jr, The Constitution Is Shield Enough for Newsmen, Source: American Bar Association Journal, Vol. 60, No. 6 (June, **1974**), pp. 707-710 Published by: American Bar Association Stable URL: https://www.jstor.org/stable/25726775 Accessed: 07-09-2018 ///AHS PB

The Department of Justice has opposed the creation of an absolute privilege for newsmen. The philosophic underpinnings of American law reject absolutes in favor of case-by-case determination. Our constitutional order likewise eschews absolutes, even in the face of relatively unambiguous language. The First Amendment provides that "Congress shall make no law" abridging the freedom of speech or press. And yet there is a long tradition of balancing social values under the First Amendment, ranging from the false shout-of-fire-in-the theater example of Holmes, through the more recent public demonstration, draft card, and flag-burning cases, to Branzburg v. Hayes, 408 U.S. 665 (1972). In that case the Supreme Court rejected judicial creation of a special newsman's privilege and opted instead for a case-by-case analysis of competing interests. Absolute Rules Merit Skepticism Despite the Fifth Amendment's explicit language bar ring compulsory self-incrimination, the Supreme Court since 1896 has upheld the constitutionality of immunity statutes that achieve a compromise between the gov ernment's need to know and a witness's right to forbid the use of any compelled information in a criminal prosecution against him. Another clause of the Fifth Amendment provides that private property shall not "be taken for public use without just compensation." The Supreme Court nevertheless interpreted that provision in United States v. Caltex, 344 U.S. 919 (1952), to permit the government to destroy an oil refinery, when under the threat of imminent invasion by foreign troops, without paying compensation. The Fourth Amendment outlaws only unreasonable searches and seizures. In short, a major teaching of the history of American law is that absolute rules should be looked on with great skepticism. The idea of an absolute privilege for newsmen has strong support in the media, but dissenting voices have been heard. In March of 1973 Clark M?llenhoff, Wash ington bureau chief of the Des Moines Register, was quoted in Time as saying that an absolute privilege could impede law enforcement and give newsmen priv ilege "beyond anything enjoyed today by anyone except absolute monarchs." An absolute newsman's privilege is not analogous to common law evidentiary privileges. The common law privileges exist to protect certain confidential relation ships that are deemed to have intrinsic private value. They are controlled by the private source, and they can be waived. For example, the attorney-client privilege is the privilege of the client and can be waived by him. The physician-patient privilege can be subordinated to ur gent public interests? for example, a statutory duty to report gunshot wounds. When analyzed, a newsman's privilege is not a private evidentiary privilege concept but a journalism power of inquiry concept. What is at issue is not so much the protection of the private confidentiality interest of the source but the power of the journalist himself, as initia tor, to investigate, interrogate, and promise confidentiality if asked. This is done in the ultimate interest of the better performance of the journalist's craft and also of better informing the public. Privilege Is a Power Concept This power of inquiry is an extremely vital part of our democratic process, and an important species of public good results. But dare we make it an absolute, transcending all other interests? Only when we properly perceive the newsman's privilege as a journalism power concept, linked simultaneously to one aspect of public need, can we perceive its challenge and complexity. When power is involved, governmental or private, absolutes can be disastrous. It is small wonder that Senator Ervin has remarked that the subject of reporters' privilege was the most difficult he had faced in formulating a statute in nearly two decades as a sen ator. At its 1974 midyear meeting in Houston in February, the American Bar Association's House of Dele gates rejected the recommendations of its Study Group on Journalists' Shield Legislation, which supported both federal and uniform state shield legislation. The study group recommended either an absolute privilege for confidential sources and statements, or a privilege that would yield only to a compelling and overriding necessity for disclosure in a particular case. Some opponents of the recommendations suggested that the courts should rule on a case-by-case basis on attempts to force disclosure. What are [further] some of society's practical needs for disclosure that would be impeded by a newsman's privilege, particularly an absolute privilege? [such as] The interest in effective law enforcement heads the list. If the information discovered by the press is pivotal, an absolute privilege could be an absolute immunity from prosecution. As phrased by the Supreme Court in constitutional context in Branzburg v. Hayes: "[Wje cannot accept the argument that the public interest in possible future news about crime from undis closed, unverified sources must take precedence over the public interest in pursuing and prosecuting those crimes reported to the press by informants and in thus deterring the commission of such crimes in the future." Defendants' rights may also be at stake. Not only may the creation of a privilege impair the ability of the grand jury to gather information to ensure a fair and correct indictment, but it also may impair the consti tutional right of the defendant to compel testimony in his own behalf. To vindicate the defendant's right to compulsory process under the Sixth Amendment, dis closure may be necessary.

1. http://dictionary.reference.com/browse/affirm?s=t [↑](#footnote-ref-1)