I negate, presume NEG because the AFF has a proactive burden to prove the resolution true.

**Next**, we must adopt moral principles that stem from individual perspectives.

**First**, the general will is not an aggregation of individual wills, but a reflection of the individual interests of every citizen.  Although citizens rally around a sovereign this does not deny that only individuals are capable of writing and following laws. Thus, individuals should be treated as distinct from the overall interests of society because individual perspectives determine what is “good” in the first place.

**Second**, Harm cannot be experienced by a group of people, only by individual persons. There is no way to add up each individual’s suffering to attribute some significance to numbers i.e. 10 people with headaches can’t be equated to one migraine. The same would be true for a system of equal freedom, because each person’s individual freedom can’t be added up to a coherent total value.

**Third**, Legal institutions must ensure substantive moral membership to all citizens in order for their coercion to be legitimate because the reason individuals sacrifice certain rights is the assumption that their sovereign status will be respected. For instance, German Jews had votes in the elections that led to Hitler’s regime but they were not moral members of that community and were therefore able to be violated.

**Other ethical theories** can’t account for all the individual perspectives in society because they either ignore the suffering of the few to give way to the suffering or ignore claims of suffering because they would not allow one person to be sacrificed in some manner to alleviate the suffering of others.

**The value is morality**. Only a meta-ethical account for the origins of morality can resolve conflicting ethical claims because it determines what qualifies as a normative principle.

**First**, moral theories must account for individual reasons. The idea that one can be held morally culpable presumes agents act based on reasons: irrational agents such as bears for example aren’t held to moral standards. The fact that we reflect on actions after they have occurred and make determinations if they are good and use that to guide future actions shows how humans act based on reason. Thus a complete ethical theory has to be able to motivate us to act according to our own personal reasons e.g. the directive “don’t murder” only matters if there is some reason for me to not murder.

*[Utility does not do so since forces individuals to sacrifice themselves for others and so disrespects their ability to assess their reasons for action.]*

**Second**, since morality deals with interpersonal obligations, it only exists within a community because the rationalizations of one person would not inform them how to treat others, only how they feel about certain things. The individual requires input from others to understand what sort of actions they find acceptable. And, humans have a need to justify their actions to one another.  Even the worst murderers like Hitler and Stalin attempt to give justification for their crimes because only justifications can motivate our actions.  Since ethics is meant to guide action and not just be deductively pleasing, it must account for our interpersonal relationships and intuitions.

*[Deontology is incomplete since it can’t explain our internal convictions as it posits that every person must have unlimited and unconditional value never to be violated even in the face of extinction.]*

**Only** contractualism accounts for the sources of morality because it effectively balances our intuitions and rational decisions by generating rules based on reasonable co-operation between persons. Rational persons consent to a contractualist ethic because it ensures that their individual entitlements are given weight and that their perspective will always be incorporated into how society treats them. Contractualism also corresponds to our moral intuitions because it is based on the relationships between people and our need to justify our actions to others. The guiding principle of contractualism is that an action is wrong if it wouldn’t be allowed principles for guiding action that no one could reasonably reject. **Thus, the standard is acting according to principles to which none could reasonably reject**.

**As contractualism is based on the consent of individuals** – implicit in whether they could reasonably reject a principle or not - it is preferable to other moral frameworks because consent ultimately determines what is permissible. For instance, consent determines whether euthanasia is murder.

**And**, to know if a principle is reasonably rejectionable I must take into account the perspective of others, that is, if a principle imposes a certain burden on me but the alternative would impose a greater burden on someone else than I do not have cause to reject that principle because the concern of the other individual is more pressing.

**Next**, suffering has normative properties since moral properties supervene on physical ones. That is, our moral predispositions only arise out of our empirical experience and our reflection upon those experiences. The physical reaction elicited by suffering develops a predisposition against it meaning that true ethical systems ought to seek ways to minimize it. **Moreover**, moral theories that ignore suffering’s normative properties cannot produce binding reasons for agents to act in particular ways since they do not offer any benefits for those that choose to follow them.

*[Finally, contractualism is preferable to contractarianism because it does not privilege those in the position of power in terms of forming agreements. Under contractarianism – weaker persons can be manipulated into joining agreements since it is in their ultimate self interest but contractualism avoids this problem because each individuals claim to suffering holds the same normative weight as anothers.]*

I contend that there is no contractual obligation for juries to nullify in the face of perceived injustice.

**The victim** of a crime at the has a strong claim to reasonably reject a policy that allows for that wrongdoing to go insufficiently addressed. Jury nullification allows those who are guilty to go free because of some other circumstance. Victims have already suffered severe harm at the hands of their aggressors from murder to assault etc. and not responding proportionally sends the message that it was permissible to commit these acts.

**Also**, members of society may reasonably reject a principle that does not allow for punishment to those who break the law because they have a fair expectation through abiding by certain rules that others will as well. Even when the crime has no obvious victim, everyone in society is still harmed because the offender places themselves above the rules, and therefore above everyone else.

**Moreover**, individuals who disrespect the rights of others and disregard whether another’s reasonable rejection would have significance on the decisions they make no longer retains a right to reasonably reject an action. Contractualism is premised on justifications to other humans, so our interactions must be governed with an ethic of care and responsibility. At the point where criminals show they do not share concern for the interests of others they cannot hold an expectation that others in society will treat him any differently.

**Next**, not acknowledging the proper desert of offenders in terms of relative suffering means that individuals can no longer control how they are treated because desert is what grants determines how people are treated e.g. if you want to be promoted you earn that by working hard. When people can no longer control how they are treated all of society is subject to arbitrary suffering caused by the offenders wrongdoing, because absent control people are less able to affect how others treat them, which would be rejected.

AT Circular, don’t know what is reasonably rejectionable

Reasonable rejection is well defend in contractualism; it is not simply based on saying an action is wrong. **Ashford and Mulgan 12**[[1]](#footnote--1)

To respond to this objection, contractualists must explain why **‘x is wrong’ and ‘x is unfair’ are not the sort of claims that can feature as a reason for rejecting a principle.** They must also demonstrate that admitting reasons not based directly on well-being does not commit us to admitting ‘x is wrong’ and ‘x is unfair’. The contractualist answer appeals to the conceptual link between wrongness and justification. Whether an act is wrong depends, not only on its direct impact on individuals, but also on whether a principle permitting it can be justified to all concerned. **‘Because it is wrong’ is not the kind of reason that can be fed into the contractualist apparatus, since it is not something that happens to individuals. Instead, wrongness is something that very apparatus constructs out of individuals' reasons. The same goes for ‘because it is unfair’.** In the example of the racist principle, I reject the principle, not because it treats me unfairly overall, but because it illicitly places weight on an inappropriate moral distinction. **My *complaint* concerns how a principle treats *me*. To know whether an action is wrong, we must compare different people's complaints, which we do by comparing one principle's treatment of me with the way alternative principles treat others.**

AT Pluralist Challenge

Contractualism is preferable, because it accounts for individuals’ intentions. **Ashford and Mulgan 9**[[2]](#footnote-0)

The contractualist replies that **what is most morally relevant in the case of torture is that suffering is brought about *through the agency of another* — not just that suffering occurs. This is why being tortured is morally much worse than suffering similar injuries through a lightening strike** — the former is an affront to my human dignity in a way that the latter is not. If we agree that this is the really significant fact, then **the advantage now lies with the contractualist, whose moral theory explicitly gives a central place to the notion of agency**. (As ever, the dialectic can continue, as utilitarians can reply that torture is morally worse than a lightning strike because it involves a gross failure of benevolence). **For a** foundational **consequentialist** account of morality (such as utilitarianism), **the wrongness of the action is based solely and directly on the suffering it would cause.** Against such an account, the contractualist argues that the moral importance of promoting well-being is always mediated via its effect on the justifiability of the relevant principle: if an action fails to show sufficient concern for someone's well-being then that person has strong grounds for objecting to the principle. **It is, furthermore, important to recall that contractualism deals in ‘could reasonably reject’ not in ‘does reject’. Contractualism does not say that gratuitously causing suffering is not wrong *until* someone objects to it**, or that gratuitously causing suffering would not be wrong at all *if* no-one happened to object to it. **There is nothing accidental about the fact that a particular act of gratuitously causing suffering is wrong.** Rather, gratuitously causing suffering is always intrinsically wrong — because it is (always and everywhere) the kind of thing that provides grounds for reasonable rejection

AT 5 on a rock vs. 1 on a rock all dying

We can still save the group of people dying without contradicting contractualist principles. **Ashford and Mulgan 9**[[3]](#footnote-1):

Recall that **an agent's reason for rejecting a principle can be based**, not on its effect on her well-being, but **on** what that principle says about her or **how it treats her.** Imagine one of the five swimmers on the first rock arguing as follows: **“Coin tossing is clearly the right principle if there is one person on each rock, as it balances their competing reasons. If you apply the same principle when there are five on this rock, you are saying it makes no difference that there are five rather than one. So you are acting exactly as if I wasn't here, facing this life and death situation.** A principle that allows you — in effect — to ignore my plight in this way doesn't show respect for me. **If there were one person on each rock, their claims to be rescued would cancel out. So we then look to see whether there are other people on either rock. There are several such people, and I am one of them. My claim to be rescued remains un-trumped. So you should rescue the five.”**

AT Overly Demanding

In situations such as this, contractualism can provide alternative reasons for rejection. **Ashford and Mulgan 9**[[4]](#footnote-2)

**If contractualism is to avoid being extremely demanding, the challenge is to stop short of the stringent principle.** We need to find a principle that allows me to choose my own lesser good over a (significantly) greater good for someone else — and then to show that this principle cannot be reasonably rejected. For instance, **suppose I spend my spare evening** (and spare income) **going to the movies rather than donating the time and money to a charity which could thus have saved someone's life.** We need an explanation of why those who die as a result cannot reasonably reject the principle that permits this behaviour. The most promising answer lies, once again, in the possibility that **my grounds for rejecting a principle are not necessarily confined to its direct impact on my well-being. I might reject a principle requiring me to devote all my time and energy to charity, not simply because of the burdens it imposes on me but because, in leaving me no room for my own personal projects, it fails to respect me as a person.**

1. Elizabeth Ashford (DPhil from Oxford, professor at St Andrews, former Visiting Faculty Fellow in Ethics at the Harvard University Edmond J. Safra Center for Ethics, and former H.L.A. Hart Visiting Fellow at the Oxford University Centre for Ethics and the Philosophy of Law) and Tim Mulgan (DPhil from Oxford. He taught at the Universities of Reading, Oxford, Otago, and Auckland before coming to St Andrews in June 2005 as Professor of Moral and Political Philosophy). “Contractualism.” Stanford Encyclopedia of Philosophy. 2 August 2012. <http://plato.stanford.edu/entries/contractualism/> [↑](#footnote-ref--1)
2. Elizabeth Ashford (DPhil from Oxford, professor at St Andrews, former Visiting Faculty Fellow in Ethics at the Harvard University Edmond J. Safra Center for Ethics, and former H.L.A. Hart Visiting Fellow at the Oxford University Centre for Ethics and the Philosophy of Law) and Tim Mulgan (DPhil from Oxford. He taught at the Universities of Reading, Oxford, Otago, and Auckland before coming to St Andrews in June 2005 as Professor of Moral and Political Philosophy). “Contractualism.” Stanford Encyclopedia of Philosophy. 2 August 2012. <http://plato.stanford.edu/entries/contractualism/> [↑](#footnote-ref-0)
3. Elizabeth Ashford (DPhil from Oxford, professor at St Andrews, former Visiting Faculty Fellow in Ethics at the Harvard University Edmond J. Safra Center for Ethics, and former H.L.A. Hart Visiting Fellow at the Oxford University Centre for Ethics and the Philosophy of Law) and Tim Mulgan (DPhil from Oxford. He taught at the Universities of Reading, Oxford, Otago, and Auckland before coming to St Andrews in June 2005 as Professor of Moral and Political Philosophy). “Contractualism.” Stanford Encyclopedia of Philosophy. 2 August 2012. <http://plato.stanford.edu/entries/contractualism/> [↑](#footnote-ref-1)
4. Elizabeth Ashford (DPhil from Oxford, professor at St Andrews, former Visiting Faculty Fellow in Ethics at the Harvard University Edmond J. Safra Center for Ethics, and former H.L.A. Hart Visiting Fellow at the Oxford University Centre for Ethics and the Philosophy of Law) and Tim Mulgan (DPhil from Oxford. He taught at the Universities of Reading, Oxford, Otago, and Auckland before coming to St Andrews in June 2005 as Professor of Moral and Political Philosophy). “Contractualism.” Stanford Encyclopedia of Philosophy. 2 August 2012. <http://plato.stanford.edu/entries/contractualism/> [↑](#footnote-ref-2)