# 1NC

## Shell

#### Interpretation: “medicines” is a generic bare plural. The aff may not defend that member nations of the World Trade Organization ought to reduce intellectual property protections for a medicine or subset of medicines.

Nebel 19. [Jake Nebel is an assistant professor of philosophy at the University of Southern California and executive director of Victory Briefs. He writes a lot of this stuff lol – duh.] “Genericity on the Standardized Tests Resolution.” Vbriefly. August 12, 2019. <https://www.vbriefly.com/2019/08/12/genericity-on-the-standardized-tests-resolution/?fbclid=IwAR0hUkKdDzHWrNeqEVI7m59pwsnmqLl490n4uRLQTe7bWmWDO_avWCNzi14> TG

Both distinctions are important. Generic resolutions can’t be affirmed by specifying particular instances. But, since generics tolerate exceptions, plan-inclusive counterplans (PICs) do not negate generic resolutions. Bare plurals are typically used to express generic generalizations. But there are two important things to keep in mind. First, generic generalizations are also often expressed via other means (e.g., definite singulars, indefinite singulars, and bare singulars). Second, and more importantly for present purposes, bare plurals can also be used to express existential generalizations. For example, “Birds are singing outside my window” is true just in case there are some birds singing outside my window; it doesn’t require birds in general to be singing outside my window. So, what about “colleges and universities,” “standardized tests,” and “undergraduate admissions decisions”? Are they generic or existential bare plurals? On other topics I have taken great pains to point out that their bare plurals are generic—because, well, they are. On this topic, though, I think the answer is a bit more nuanced. Let’s see why. “Colleges and universities” is a generic bare plural. I don’t think this claim should require any argument, when you think about it, but here are a few reasons. First, ask yourself, honestly, whether the following speech sounds good to you: “Eight colleges and universities—namely, those in the Ivy League—ought not consider standardized tests in undergraduate admissions decisions. Maybe other colleges and universities ought to consider them, but not the Ivies. Therefore, in the United States, colleges and universities ought not consider standardized tests in undergraduate admissions decisions.” That is obviously not a valid argument: the conclusion does not follow. Anyone who sincerely believes that it is valid argument is, to be charitable, deeply confused. But the inference above would be good if “colleges and universities” in the resolution were existential. By way of contrast: “Eight birds are singing outside my window. Maybe lots of birds aren’t singing outside my window, but eight birds are. Therefore, birds are singing outside my window.” Since the bare plural “birds” in the conclusion gets an existential reading, the conclusion follows from the premise that eight birds are singing outside my window: “eight” entails “some.” If the resolution were existential with respect to “colleges and universities,” then the Ivy League argument above would be a valid inference. Since it’s not a valid inference, “colleges and universities” must be a generic bare plural. Second, “colleges and universities” fails the [upward-entailment test](https://plato.stanford.edu/entries/generics/#IsolGeneInte) for existential uses of bare plurals. Consider the sentence, “Lima beans are on my plate.” This sentence expresses an existential statement that is true just in case there are some lima beans on my plate. One test of this is that it entails the more general sentence, “Beans are on my plate.” Now consider the sentence, “Colleges and universities ought not consider the SAT.” (To isolate “colleges and universities,” I’ve eliminated the other bare plurals in the resolution; it cannot plausibly be generic in the isolated case but existential in the resolution.) This sentence does not entail the more general statement that educational institutions ought not consider the SAT. This shows that “colleges and universities” is generic, because it fails the upward-entailment test for existential bare plurals. Third, “colleges and universities” fails the adverb of quantification test for existential bare plurals. Consider the sentence, “Dogs are barking outside my window.” This sentence expresses an existential statement that is true just in case there are some dogs barking outside my window. One test of this appeals to the drastic change of meaning caused by inserting any adverb of quantification (e.g., always, sometimes, generally, often, seldom, never, ever). You cannot add any such adverb into the sentence without drastically changing its meaning. To apply this test to the resolution, let’s again isolate the bare plural subject: “Colleges and universities ought not consider the SAT.” Adding generally (“Colleges and universitiesz generally ought not consider the SAT”) or ever (“Colleges and universities ought not ever consider the SAT”) result in comparatively minor changes of meaning. (Note that this test doesn’t require there to be no change of meaning and doesn’t have to work for every adverb of quantification.) This strongly suggests what we already know: that “colleges and universities” is generic rather than existential in the resolution.

#### Violation: They spec live-saving medicines

#### Standards:

#### [1] precision – the counter-interp justifies them arbitrarily doing away with random words in the resolution which decks negative ground and preparation because the aff is no longer bounded by the resolution. Independent voter for jurisdiction – the judge doesn’t have the jurisdiction to vote aff if there wasn’t a legitimate aff.

#### [2] Limits and ground – their model allows affs to defend anything from Covid vaccines to HIV drugs to Insulin— there's no universal DA since each has different functions and political implications — that explodes neg prep and leads to random medicine of the week affs which makes cutting stable neg links impossible — limits key to reciprocal engagement since they create a caselist for neg prep and it takes out ground like DAs to certain medicines which are some of the few neg generics when affs spec medicines.

#### [3] TVA solves – you could’ve read your plan as an advantage under a whole res advocacy.

#### Voters:

#### Jurisdiction – their aff but not affirming the resolution, which is a voter since the ballot asks who did the better debating in the context of the res.

#### Accessibility – all of your arguments presuppose people feel save enough in the space to respond to them.

#### No RVIs – a] illogical – fairness is a burden just like the aff has the burden of inherency b] norming – I can’t concede the counterinterp if I realize I’m wrong which forces me to argue for bad norms c] chilling effect – debaters are scared to check real abuse which means inf abuse goes unchecked d] substance crowdout – prevents 1AR blipstorms and allows us to get back to substance

#### Drop the debater – 1. Deterrence – Prevents reading the abusive practice in the future since it’s not worth risking the loss which is k2 norm setting indefensible practices die out 2. TS – Otherwise you’ll read a bunch of abusive practices for the time trade off 3. Epistemic Skew – The round has already been skewed so it’s impossible to evaluate the rest of the flow 4. Drop the arg is incoherent because it’s their advocacy so they must defend their model.

#### Competing interps: 1. Reasonability causes a race to the bottom where we read increasingly unfair practices that minimally fit the brightline 2. Necessitates judge intervention to see if we meet th brightline and 3 collapses because we use offense defense paradigm. Drop the debater on theory: 1.. 2. Its key to deterring future abuse

#### 1NC Theory o/w – 1. Lexicality – If the neg was abusive it was reactionary to aff abuse which means it’s justified 2. Norm setting – 1ar theory can never set norms since I only get 1 speech so we can’t fully develop the debate 3. Infinite abuse – Otherwise it would justify the aff baiting theory and uplayering and allows them to get away with infinite abuse just by being the better theory debater

## Shell

**A: Interp – Debaters must only read a framework that is not consistency the categorical imperative.**

**B: Violation – You read categorical imperative.**

**C: Standards –**

**1. Inclusion – It’s bad for inclusion:**

**A) it’s ableist.**

**Ryan 11**, Intro to ethics @ Birmingham University Phil 140; “Cognitive Disability, Misfortune, and Justice”; Jan 17; <http://parenethical.com/phil140win11/2011/01/17/group-3-cognitive-disability-misfortune-and-justice-deontology-ryan/>

In Kant's deontological ethics, one has a duty to treat humanity not as a means, but as an ends. However, Kant's criterion for being part of humanity and moral agency is not biological. In order to be considered fully human, and a moral agent, one must be autonomous and rational. **If one lacks rationality** and autonomy **they** cannot escape the chain of causality to act freely from moral principles, and hence **are not moral agents. Kant's moral program fails to account for those who are cognitively impaired because they lack** autonomy and **rationality.** Since Kant's requirement for moral agency is so cut-and-dry and leaves no room for ambiguity, there is no clear moral distinction made between the cognitively impaired and other non-human animals. In the case of Kant, there could be no universal moral law from the categorical imperative that would apply to the cognitively impaired and not non-human animals as well. Kant and McMahan are similar, in that their standards for moral agency exclude the cognitively impaired (rationality/autonomy and psychological capacities respectively). In Kant's morality, those who are rational and autonomous are to be treated as ends in themselves. In the case of the cognitively impaired, there is no such requirement. Similarly, in McMahan's moral theory, those who are human and unfortunate are entitled to compensation by society under the dictates of justice. However, according to McMahan the cognitively impaired are not human in the relevant sense (possessing certain psychological capacities and features) so they are **not entitled to compensation.** In excluding the cognitively impaired from moral agency, both Kant and McMahan reach a conclusion that many of us find unsettling, in which we might give the cognitively impaired a moral preference over a similarly endowed non-human animal, is because of a responsibility to respect the family members of the cognitively endowed, not because [that] they have **[no]** any **value as moral agents in themselves.**

**B) It’s homophobic.**

Alan **Soble**, American philosopher and author of several books on the philosophy of sex. He taught at the University of New Orleans from 1986 to 2006. He is currently Adjunct Professor of philosophy at Drexel University in Philadelphia, Kant and Sexual Perversion, The Monist 86:1 (Jan. **2003**), pp. 55-89, <https://philpapers.org/archive/SOBKAS> ///AHS PB

Kant's Vorlesung treatment of the crimina carnis contra naturam sounds like Aquinas's and (ignoring the chronology) looks like an extension to other practices of what Kant wrote about masturbation in the Tugendlehre: **Uses of sexuality which** are contrary to natural instinct and to animal nature are crimina carnis contra naturam. First among them we have onanism. This is abuse of the sexual faculty without any object, the exercise of the faculty in the complete absence of any object of sexuality. The practice is contrary to the ends of humanity and even opposed to animal nature. By it man sets aside his person and degrades himself below the level of animals.74 Kant does not mention that the masturbator might create an object through imagination. What the masturbator does is to have a sexual experience without any worldly object (Aquinas) and hence **cannot preserve the species**. But notice that Kant says that masturbation "is contrary to the ends of humanity and even opposed to animal nature," as if its being contrary to nature is of independent and secondary moral importance. What seems crucial for Kant is that masturbation "**is contrary to the ends of humanity," that is, directly violates the Second Formulation**. Kant immediately continues by completing his sparse inventory of three objectionable, sexually unnatural, practices: A second crimen carnis contra naturam is **intercourse** between sexus homogenii, **in which** the object of sexual impulse is a human being but **there is homogeneity instead of heterogeneity of sex**. . . . This practice too **is contrary to the ends of humanity; for the end of humanity in respect of sexuality is to preserve the species without debasing the person; but in this instance the species is not being preserved** (**as it** can be by a crimen carnis secundum naturam), but the person is set aside, the self is degraded below the level of the animals, and humanity is dishonoured. The third crimen carnis contra naturam occurs when the object of the desire is in fact of the opposite sex but is not human. Such is sodomy, or intercourse with animals. This, too, **is** contrary to the ends of humanity and **against our natural instinct. It degrades mankind below the level of animals, for no animal turns in this way from its own species**.75

**2. Ground – A) Reciprocal – Deontic frameworks always only flow one side since the author would ultimately decide on one action or another B) Weighing – It’s impossible to weigh under deontic frameworks since there’s no arguments like magnitude, probability, etc C) Topic – All arguments are written in the context of util which means there’s very little ground that is actually topic specific on both sides. Ground controls the internal link to fairness since I can’t make arguments if they just don’t exist.**

# Case

#### On 1ar theory first

On the a point

[1] if we win the shell proves you made our strategy impossible first anyway

[2] allows the 1n to skew the majority of the 2n making it impossible for the 2n to win

On b

[1] only applies if it’s an indict to the shell and its contextual o the shell you read not a general statement.

[2] just means you aren’t efficient at debate

On c

[1] The time choices are arbitrary, it was the majority of the 1NC strategy

[2] TS NU – 13-13

## On the offense

#### [1] Not having IP protections violates the categorical principle.

**Van Dyke 18 -** “The Categorical Imperative for Innovation and Patenting” on july 17, 2018 By Raymond Van Dyke has been an intellectual and technology attorney and consultant for over 25 years, specializing in IP procurement, prosecution, IP portfolio building and management, licensing, legislative advocacy and expert witnessing. He is licensed to practice law in Washington, DC, Maryland, New Jersey, New York, Texas, and the Patent & Trademark Office of the United States. He is also admitted to practice before the Supreme Court of the United States, the Court of Appeals for the Federal, Second, Third, Fourth and Fifth Circuits, as well as the Federal Court of Claims and the Court of International Trade. For more information or to contact see his profile at Van Dyke Law. [https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/] // ahs emi

As we shall see, applying Kantian logic entails first acknowledging some basic principles; that the people have a right to express themselves, that that expression (the fruits of their labor) has value and is theirs (unless consent is given otherwise), and that government is obligated to protect people and their property. Thus, an inventor or creator has a right in their own creation, which cannot be taken from them without their consent. So, employing this canon, a proposed Categorical Imperative (CI) is the following Statement: creators should be protected against the unlawful taking of their creation by others. Applying this Statement to everyone, i.e., does the Statement hold water if everyone does this, leads to a yes determination. Whether a child, a book or a prototype, creations of all sorts should be protected, and this CI stands. This result also dovetails with the purpose of government: to protect the people and their possessions by providing laws to that effect, whether for the protection of tangible or intangible things. However, a contrary proposal can be postulated: everyone should be able to use the creations of another without charge. Can this Statement rise to the level of a CI? This proposal, upon analysis would also lead to chaos. Hollywood, for example, unable to protect their films, television shows or any content, would either be out of business or have robust encryption and other trade secret protections, which would seriously undermine content distribution and consumer enjoyment. Likewise, inventors, unable to license or sell their innovations or make any money to cover R&D, would not bother to invent or also resort to strong trade secret. Why even create? This approach thus undermines and greatly hinders the distribution of ideas in a free society, which is contrary to the paradigm of the U.S. patent and copyright systems, which promotes dissemination. By allowing freeriding, innovation and creativity would be thwarted (or at least not encouraged) and trade secret protection would become the mainstay for society with the heightened distrust.

#### [2] Property is an extension of free will so it must be protected.

**Marks 19** - “Patent Law’s Latent Schism” by Matthew G. Sipe\* Frank H. Marks Visiting Associate Professor, George Washington University Law School; J.D., Yale Law School; B.A., University of Virginia. [https://www.law.uh.edu/wipip2019/full-draft/MSipe\_draft.pdf] // ahs emi

Immanuel Kant provides such an articulation of property, grounded fundamentally in service of maximizing individual autonomy.30 As Professor Merges explains: People have a desire to carry out projects in the world. Sometimes, those projects require access to and control over external objects. . . . For Kant, this desire must be given its broadest scope, to promote the widest range of human choice, and therefore human projects. . . . Consider Michelangelo, approaching a large block of marble. He may have a plan, a mental picture of what he wants to do, what design he wants to impose on that chunk of rock. . . . To fully realize this vision, to work out his plan for the marble, he needs to know that he can count on two things: continued access to it, and noninterference by others.31 For Kant, free will is a defining characteristic of persons as compared to objects; “[w]e can dispose of things which have no freedom, but not of a being which has free will.”32 That internal free will is only reified, however, by forming intentions and acting on objects in the external world.33 By so doing, the individual becomes connected to the object, which gives rise to what Kant defines as property: that “with which I am so connected that another’s use of it without my consent would wrong me.”34

#### [3] IP is a procedural prerequisite to property rights since before one can make something their property, they must first be able to conceive of owning the property. This makes reducing IP rights equivalent to theft since taking away the products of one’s mind inherently also interferes with their ability to own physical products.

#### [4] When one labors to create a product, using the product without their consent uses them as a mere means to an end since you’re using their labor for your own benefit – any piece of IP, especially medicines, requires labor to produce making it property.

#### [5] Taking away intellectual property is a contradiction in conception, since if every agent was able to take the intellectual property then a] it would no longer be property and thus would not exist making the initial act incoherent and b] no one would make IP since there’s no incentive to so there’d be no IP to steal.

#### On Hogdson 10

[1] don’t let them go for this as offense since it wasn’t indexed as it

[2] says “Freedom requires property”, proves that patents are good

[3] People still have the ability to use the products that are a result of a patent meaning there is no violation of freedom occurring, this card is talking about literal material things that have uses.

[4] Patents are not an absolute property right like the card describes – a. if someone feels like its unfit they can dispute it, b. patents expire c. improvement patents ensures other people can engage.

#### On Cernea and Uskai –

[1]] no weighing between which property rights matter or what actual right is, don’t let 1ar explanation to finesse lack of warranting away

[2] ca marks – turns this

[3] misunderstands how patens work – its not saying people can’t have the same idea or use the products, it just says one group gets control over production.

[4] hold the line - the end of the card is 3 claims without warrants

#### On Bierson and Koch –

[1] no brightline for self-preservation or necessity, I can say anything is a life threatening issue and act accordingly – leads to infinite violations of freedom and abandoning ethics. Induction fails takes out

[2] the card solves itself, it legit says that nations posses a right to break patents if its necessary in that situation – that means that u don’t reduce ip, u just keep it and they can break them if its needed

[3] government buying back a patent solves