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### Advantage

#### We got lucky with COVID – future pandemics will be much worse and existing provisions in TRIPs are not used --- the status quo can’t solve.

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A proponent of IP protections may insist TRIPS already includes built-in exceptions adequate to the task. Article 31 grants governments rights to issue licenses for using a patent during the patent term without a patent holder’s consent. This exception was used 144 times between 2001 and 2016 to create flexibilities for 89 countries.29 In 2017, it was extended to allow licensed countries to export products to countries that lack production capacity. Isn’t that enough?

In reply, Article 31 will not take us very far. While useful for some applications, it is cumbersome. For example, for pharmaceutical products, after applying for an exception, exporting countries must prove products go only to destination nations, are readily identifiable based on variations of colour or shape, and include only product necessary to meet requirements of an eligible country; importing nations must notify the TRIPS

council of receipt. Fulfilling these requirements would needlessly delay the vital task of vaccinating the world.

Finally, critics might point to the case of Moderna, which voluntarily pledged (in October 2020) not to enforce its patents during the pandemic. Since companies have not lined up to produce Moderna’s vaccine, doesn’t that show the ineptitude of temporary waivers? In reply, a single pledge by a single company is a start, but insufficient to catalyse the global changes needed. In conclusion, loosening the grip of IP protections is not a miracle fix, and there are many other barriers to a safer world. This paper filled a gap in current debates about IP protections for COVID-19 vaccines by focusing on ethics. In the final analysis, a temporary waiver of IP protections is the world’s best bet.

#### Developing countries need assistance – it’s time for the U.S. to step up to the plate and do its job

Stone 21 – Judy Stone is an Infectious Disease specialist; “Covid Vaccine Equity - Developing Countries Need Our Help”; Forbes, May 11, 2021; <https://www.forbes.com/sites/judystone/2021/05/11/vaccine-equitydeveloping-countries-need-our-help/?sh=10939a363ec8> //advay

A few months ago India was doing relatively well and the U.S. was getting crushed by a devastating second Covid-19 wave. Now it’s the reverse. Public health measures were implemented too sporadically (U.S.) and reversed too quickly (both), with predictable results. While the U.S. is beginning to focus attention on the growing catastrophe in India, not enough attention is being given to other areas in the region. Countries like Bangladesh, Nepal, Pakistan, Laos and others in the region may soon be matching the explosive growth of Covid in India. Nepal is one of the poorest countries. Although it has a population of 30 million people, there are only 1595 ICU beds and 480 ventilators throughout the entire country. (This is not much less than in India, at ~1 ICU bed/19,000, but the US has ~1/3800). There are only 80 physicians per 100,000 people, compared to 93 per 100,000 in India or 259 per 100,000 in the US. With a 50% positivity rate for Covid testing, how long do you think those few beds and limited healthcare will last before being completely overwhelmed. Cases in Nepal have increased by 1,645% in the past month. Thailand had a similar rate of increase, with most of their cases being the U.K. variant B.1.1.7, which is known to be more transmissible. Part of the problem in Nepal is that its Prime Minister, Oli, like India’s PM Modi, and Donald Trump had allowed religious festivals and large political gatherings to continue as politically expedient, at the expense of public health and safety. Heavily reliant on tourism to support its economy, Mount Everest has been opened to climbers; there have been outbreaks reported from the base camp although the government has denied this. And much as our former president recommended injecting bleach, PM Oli has reportedly suggested gargling with guava leaves, which is at least less immediately hazardous, although still as useless as treatment. This uncontrolled pandemic will endanger us all by increasing the likelihood of further mutations emerging and spreading globally. India has a new “variant of interest,” called B.1.617⁠, which is also spread more rapidly. The South African variant, B.1.351, is also circulating in India, along with the UK’s B.1.1.7⁠. This—and the huge number of cases—are what prompted the US to ban travel from India. One of the problems in the region is that India’s Serum Institute was to supply much of the area with vaccines. Instead, India is desperate, unable to meet its own country’s needs, and has banned the export of vaccines. Nepal has instead turned to China and Russia, who are engaging in vaccine diplomacy who are donating supplies while the US has been sitting on the sidelines.

#### It’s not too late---COVID will continue across the developing worlds for years to come. Plus, the plan helps for black swan future pandemics.

Brink **Lindsey 21**. Vice President, Niskanen Center; Writes for Brookings, “Why Intellectual Property and Pandemics Don’t Mix,” Brookings, June 3, 2021, <https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/>, RJP, **DebateDrills**.

Although focusing on these immediate constraints is vital, we cannot confine our attention to the short term. First of all, the COVID-19 pandemic is far from over. Although Americans can now see the light at the end of the tunnel thanks to the rapid rollout of vaccines, most of the world isn’t so lucky. The virus is [currently raging in India and throughout South America](https://www.nytimes.com/interactive/2021/world/covid-cases.html), overwhelming health care systems and inflicting suffering and loss on a horrific scale. And consider the fact that Australia, which has been successful in suppressing the virus, recently announced it was sticking to plans to keep its borders closed until mid-2022. Criticisms of the TRIPS waiver that focus only on the next few months are therefore short-sighted: this pandemic could well drag on long enough for elimination of patent restrictions to enable new vaccine producers to make a positive difference.

Furthermore, and probably even more important, this is almost certainly not the last pandemic we will face. Urbanization, the spread of factory-farming methods, and globalization all combine to increase the odds that a new virus will make the jump from animals to humans and then spread rapidly around the world. Prior to the current pandemic, the 21st century already saw outbreaks of SARS, H1N1, MERS, and Ebola. Everything we do and learn in the current crisis should be viewed from the perspective of getting ready for next time.

#### A temporary waiver is sufficient---it creates momentum for America to repeat against harsher future pandemics which spills over

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The extraordinary circumstances of a global pandemic demand more than minimal or even moderate social responsibility. Everyone in a position to help must show the high degree of social responsibility the moment calls for. Governments, especially in wealthy nations, should stand up to influence peddling by pharmaceutical companies,26 and should do their part, beginning with WTO members voting for a temporary waiver to IP protections for COVID-19 vaccines.

Against our proposal it might be claimed a temporary waiver is not enough. Manufacturing COVID-19 vaccines requires technical know-how, technology, raw materials and equipment, which are lacking in many LMICs. Pfizer, for example, says its vaccine requires 280 components from 86 suppliers in 19 countries, along with specialised equipment and trained personnel.27 Since it takes more than simply waiving IP to vaccinate the world, what good is a temporary waiver?

In response, we agree temporarily losing the right to exclude companies from manufacturing vaccines is not enough. However, it can help break the logjam, creating a climate favourable to investment, since it removes the threat of being sued or prosecuted. Expedient investment strategies should focus on developing and repurposing existing capacities; Guzman notes that some middle-income countries are already producing COVID-19 vaccines, and some manufacturers in LMICs are already able to manufacture viral vector vaccines, such as AstraZeneca’s, and to contribute to the fill-and-finish stage of vaccine production.28

#### Future pandemics at 10x more deadly – absent a solution we’re all going to die

Ceballos 5/27 Gerardo Ceballos [PhD, Dr Gerardo Ceballos is an ecologist and conservationist at the Universidad Nacional Autonoma de Mexico. He is particularly recognized for his influential work on global patterns of distribution of diversity, endemism, and extinction risk in vertebrates. He is also well-known for his contribution to understanding the magnitude and impacts of the sixth mass extinction.], 5/27/21, “THE SIXTH MASS EXTINCTION AND THE FUTURE OF HUMANITY”, Population Matters, <https://populationmatters.org/news/2021/05/sixth-mass-extinction-and-future-humanity> DD AG

Somewhere, sometime in late 2019, a coronavirus from a wild species, perhaps a bat or a pangolin, infected a human in China. This could have been an obscure event, lost without trace in the annals of history, as it is very likely this has occurred many times in the last centuries. But this particular event was somehow different. The coronavirus became an epidemic first and a pandemic later. Covid-19 became the worst pandemic since the Spanish flu in 1918. The horrific human suffering it has caused, and its economic, social and political impacts, are still unraveling.

The reason Covid-19 and more than forty other very dangerous viruses, such as Lassa fever, HIV and Ebola, have jumped from wild animals to humans in the last four decades is the destruction of natural environments and the trafficking and consumption of wild animals.

The wildlife trade is to satisfy the insatiable and extravagant demand for these species in the Asian market, in countries such as China, Vietnam and Indonesia. The illegal wildlife trade is a gigantic business. It is as lucrative as the drug trade, but without the legal implications. The immense appetite of China and other Asian societies for exotic animals has promoted exponential growth in trade and profits. Wild and domestic animals sold in “wet markets” are kept in unsanitary and unethical conditions. There, feces, urine and food waste from cages at the top spill into cages at the bottom, creating the perfect conditions for viruses to leap from wild animals to domestic animals and humans. Thousands of wildlife species or their products are traded annually.

Wildlife trade is one of several human impacts, including habitat loss and fragmentation, pollution, toxification and invasive species, that have caused the extinction of thousands of species and threaten many more. Indeed, most people are unaware that the current extinction crisis is unprecedented in human history. Extinction occurs when the last individual of a species dies. The UN recently estimated that one million species, such as the panda, the orangutan and the Sumatran rhino, are at risk of extinction.

The second finding is that population extinctions, which are the prelude to species extinctions, are occurring at very fast rates (Ceballos et al., 2017). Around 32 percent of a sample of 27,000 species have declining populations and have experienced massive geographic range contractions. Population extinctions are a very severe and widespread environmental problem which we have called “Biological Annihilation”.

Finally, our third finding indicates that the magnitude of the extinction crisis is underestimated because there are thousands of species on the brink of extinction (Ceballos et al., 2020). Those species will likely become extinct in the near future unless a massive conservation effort is launched soon.

Many times, people have asked me why we should care about the loss of a species. There are ethical, moral, philosophical, religious and other reasons to be concerned. But perhaps the one that is most tangible for most people is the loss of ecosystem services, which are the benefits that humans derive from the proper function of nature. Ecosystem services include the proper mix of gases in the atmosphere that support life on Earth, the quantity and quality of water, pollination of wild crops and plants, fertilization of the soil, and protection against emerging pests and diseases, among many others. Every time a species is lost, ecosystem services are likely to erode and human well-being is reduced.

The loss of so many ecosystems and species is pushing us towards the point of collapse of civilization. The good news is that there is still time to reduce the current extinction crisis. The species and ecosystems that we manage to save in the next 10 – 15 years will define the future of biodiversity and civilization. What it is at stake is the future of mankind.

### Solvency

#### The patent system for pandemic-related drugs is currently out of balance---there’s spurious over-patenting under the guise of innovation, which paradoxically hurts innovation by juicing profits. A temporary waiver in the U.S. for pandemics rebalance the system.

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When we take the longer view, we can see a fundamental mismatch between the policy design of intellectual property protection and the policy requirements of effective pandemic response. Although patent law, properly restrained, constitutes one important element of a well-designed national innovation system, the way it goes about encouraging technological progress is singularly ill-suited to the emergency conditions of a pandemic or other public health crisis. Securing a TRIPS waiver for COVID-19 vaccines and treatments would thus establish a salutary precedent that, in emergencies of this kind, governments should employ other, more direct means to incentivize the development of new drugs. Here is the basic bargain offered by patent law: encourage the creation of useful new ideas for the long run by slowing the diffusion of useful new ideas in the short run. The second half of the bargain, the half that imposes costs on society, comes from the temporary exclusive rights, or monopoly privileges, that a patent holder enjoys. Under U.S. patent law, for a period of 20 years nobody else can manufacture or sell the patented product without the permission of the patent holder. This allows the patent holder to block competitors from the market, or extract licensing fees before allowing them to enter, and consequently charge above-market prices to its customers. Patent rights thus slow the diffusion of a new invention by restricting output and raising prices.The imposition of these short-run costs, however, can bring net long-term benefits by sharpening the incentives to invent new products. In the absence of patent protection, the prospect of easy imitation by later market entrants can deter would-be innovators from incurring the up-front fixed costs of research and development. But with a guaranteed period of market exclusivity, inventors can proceed with greater confidence that they will be able to recoup their investment.For the tradeoff between costs and benefits to come out positive on net, patent law must strike the right balance. Exclusive rights should be valuable enough to encourage greater innovation, but not so easily granted or extensive in scope or term that this encouragement is outweighed by output restrictions on the patented product and discouragement of downstream innovations dependent on access to the patented technology.Unfortunately, the U.S. patent system at present is out of balance. Over the past few decades, the expansion of patentability to include software and business methods as well as a general relaxation of patenting requirements have led to wildly excessive growth in these temporary monopolies: the number of patents granted annually has [skyrocketed roughly fivefold](https://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm) since the early 1980s. One unfortunate result has been the rise of “non-practicing entities,” better known as patent trolls: firms that make nothing themselves but buy up patent portfolios and monetize them through aggressive litigation. As a result, a law that is supposed to encourage innovation has turned into a [legal minefield](https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=4620&context=clr) for many would-be innovators. In the pharmaceutical industry, firms have abused the law by piling up patents for trivial, therapeutically irrelevant “innovations” that allow them to [extend their monopolies](https://www.i-mak.org/wp-content/uploads/2018/08/I-MAK-Overpatented-Overpriced-Report.pdf) and keep raising prices long beyond the statutorily contemplated 20 years. Patent law is creating these unintended consequences because policymakers have been caught in an ideological fog that [conflates “intellectual property” with actual property rights](https://www.niskanencenter.org/wp-content/uploads/2019/09/LT_IPMisnomer-2-1.pdf) over physical objects. Enveloped in that fog, they regard any attempts to put limits on patent monopolies as attacks on private property and view ongoing expansions of patent privileges as necessary to keep innovation from grinding to a halt. In fact, patent law is a tool of regulatory policy with the usual tradeoffs between costs and benefits; like all tools, it can be misused, and as with all tools there are some jobs for which other tools are better suited. A well-designed patent system, in which benefits are maximized and costs kept to a minimum, is just one of various policy options that governments can employ to stimulate technological advance—including tax credits for R&D, prizes for targeted inventions, and direct government support.

#### The plan seamlessly shifts to a direct support model during pandemics, which allows pharma companies to profit and innovate while speeding up the process---that solves but avoids the innovation DA.

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**PUBLIC HEALTH EMERGENCIES AND DIRECT GOVERNMENT SUPPORT**

For pandemics and other public health emergencies, patents’ mix of costs and benefits is misaligned with what is needed for an effective policy response. The basic patent bargain, even when well struck, is to pay for more innovation down the road with slower diffusion of innovation today. In the context of a pandemic, that bargain is a bad one and should be rejected entirely. Here the imperative is to accelerate the diffusion of vaccines and other treatments, not slow it down. Giving drug companies the power to hold things up by blocking competitors and raising prices pushes in the completely wrong direction.

What approach to encouraging innovation should we take instead? How do we incentivize drug makers to undertake the hefty R&D costs to develop new vaccines without giving them exclusive rights over their production and sale? The most effective approach during a public health crisis is direct government support: public funding of R&D, advance purchase commitments by the government to buy large numbers of doses at set prices, and other, related payouts. And when we pay drug makers, we should not hesitate to pay generously, even extravagantly: we want to offer drug companies big profits so that they prioritize this work above everything else, and so that they are ready and eager to come to the rescue again the next time there’s a crisis.

It was direct support via Operation Warp Speed that made possible the astonishingly rapid development of COVID-19 vaccines and then facilitated a relatively rapid rollout of vaccine distribution (relative, that is, to most of the rest of the world). And it’s worth noting that a major reason for the faster rollout here and in the United Kingdom compared to the European Union was the latter’s [misguided penny-pinching](https://www.nytimes.com/2021/05/17/opinion/europe-vaccines-commission.html?smid=tw-share). The EU bargained hard with firms to keep vaccine prices low, and as a result their citizens ended up in the back of the queue as various supply line kinks were being ironed out. This is particularly ironic since the Pfizer-BioNTech vaccine was developed in Germany. As this fact underscores, the chief advantage of direct support isn’t to “get tough” with drug firms and keep a lid on their profits. Instead, it is to accelerate the end of the public health emergency by making sure drug makers profit handsomely from doing the right thing.

Patent law and direct support should be seen not as either-or alternatives but as complements that apply different incentives to different circumstances and time horizons. Patent law provides a decentralized system for encouraging innovation. The government doesn’t presume to tell the industry which new drugs are needed; it simply incentivizes the development of whatever new drugs that pharmaceutical firms can come up with by offering them a temporary monopoly. It is important to note that patent law’s incentives offer no commercial guarantees. Yes, you can block other competitors for a number of years, but that still doesn’t ensure enough consumer demand for the new product to make it profitable. DIRECT SUPPORT MAKES PATENTS REDUNDANT The situation is different in a pandemic. Here the government knows exactly what it wants to incentivize: the creation of vaccines to prevent the spread of a specific virus and other drugs to treat that virus. Under these circumstances, the decentralized approach isn’t good enough. There is no time to sit back and let drug makers take the initiative on their own timeline. Instead, the government needs to be more involved to incentivize specific innovations now. As recompense for letting it call the shots (pardon the pun), the government sweetens the deal for drug companies by insulating them from commercial risk. If pharmaceutical firms develop effective vaccines and therapies, the government will buy large, predetermined quantities at prices set high enough to guarantee a healthy return.

#### Thus the plan: The United States of America ought to reduce intellectual property protections for the COVID-19 vaccine. The plan’s implemented through a TRIPS waiver for the U.S. We’ll clarify and spec stuff in cross if asked

-- that’s Moderna, Pfizer-BioNTech, Johnson & Johnson/Janssen

#### The plan bolsters the number of vaccines---arguments about supply and logistics are empirically disproven.

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Since consequentialist justifications treat the value of IP as purely instrumental, they are also vulnerable to counterarguments showing that a sought-after goal is not the sole or most important end. During the COVID-19 pandemic, we submit that the vaccinating the world is an overriding goal. With existing IP protections intact, the world has fallen well short of this goal. Current forecasts show that at the current pace, there will not be enough vaccines to cover the world’s population until 2023 or 2024.15 IP protections further frustrate the goal of universal access to vaccines by limiting who can manufacturer them. The WHO reports that 80% of global sales for COVID-19 vaccines come from five large multinational corporations.16 Increasing the number of manufacturers globally would not only increase supply, but reduce prices, making vaccines more affordable to LMICs. It would stabilise supply, minimising disruptions of the kind that occurred when India halted vaccine exports amidst a surge of COVID-19 cases.

It might be objected that waiving IP protections will not increase supply, because it takes years to establish manufacturing capacity. However, since the pandemic began, we have learnt it takes less time. Repurposing facilities and vetting them for safety and quality can often happen in 6 or 7months, about half the time previously thought.17 Since COVID-19 will not be the last pandemic humanity faces, expanding manufacturing capacity is also necessary preparation for future pandemics. Nkengasong, Director of the African Centres for Disease Control and Prevention, put the point bluntly, ‘Can a continent of 1.2billion people—projected to be 2.4billion in 30 years, where one in four people in the world will be African—continue to import 99% of its vaccine?’18

### Framework

#### The standard is maximizing expected wellbeing.

#### 1] Actor specificity – comes first since different agents have different ethical obligations.

#### A] Aggregation – every policy benefits some and harms others, which also means side constraints freeze action.

#### B] No act-omission distinction – choosing to omit is an act itself – people psychologically decide not to act which means being presented with the aff creates a choice between two actions, neither of which is an omission

#### 2] Util is a lexical pre-requisite to any other framework: Threats to bodily security and life preclude the ability for moral actors to effectively utilize and act upon other moral theories since they are in a constant state of crisis that inhibit the ideal moral conditions which other theories presuppose.

#### 3] Substitutability—only consequentialism explains necessary enablers.

Sinnott-Armstrong 92 [Walter, professor of practical ethics. “An Argument for Consequentialism” Dartmouth College Philosophical Perspectives. 1992.]

A moral reason to do an act is consequential if and only if the reason depends only on the consequences of either doing the act or not doing the act. For example, a moral reason not to hit someone is that this will hurt her or him. A moral reason to turn your car to the left might be that, if you do not do so, you will run over and kill someone. A moral reason to feed a starving child is that the child will lose important mental or physical abilities if you do not feed it. All such reasons are consequential reasons. All other moral reasons are non-consequential. Thus, a moral reason to do an act is non-consequential if and only if the reason depends even partly on some property that the act has independently of its consequences. For example, an act can be a lie regardless of what happens as a result of the lie (since some lies are not believed), and some moral theories claim that that property of being a lie provides amoral reason not to tell a lie regardless of the consequences of this lie. Similarly, the fact that an act fulfills a promise is often seen as a moral reason to do the act, even though the act has that property of fulfilling a promise independently ofits consequences. All such moral reasons are non-consequential. In order to avoid so many negations, I will also call them 'deontological'. This distinction would not make sense if we did not restrict the notion of consequences. If I promise to mow the lawn, then one consequence of my mowing might seem to be that my promise is fulfilled. One way to avoid this problem is to specify that the consequences of an act must be distinct from the act itself. My act of fulfilling my promise and my act of mowing are not distinct, because they are done by the same bodily movements.10 Thus, my fulfilling my promise is not a consequence of my mowing. A consequence of an act need not be later in time than the act, since causation can be simultaneous, but the consequence must at least be different from the act. Even with this clarification, it is still hard to classify some moral reasons as consequential or deontological,11 but I will stick to examples that are clear. In accordance with this distinction between kinds of moral reasons, I can now distinguish different kinds of moral theories. I will say that a moral theory is consequentialist if and only if it implies that all basic moral reasons are consequential. A moral theory is then non-consequentialist or deontological if it includes any basic moral reasons which are not consequential. 5. Against Deontology So defined, the class of deontological moral theories is very large and diverse. This makes it hard to say anything in general about it. Nonetheless, I will argue that no deontological moral theory can explain why moral substitutability holds. My argument applies to all deontological theories because it depends only on what is common to them all, namely, the claim that some basic moral reasons are not consequential. Some deontological theories allow very many weighty moral reasons that are consequential, and these theories might be able to explain why moral substitutability holds for some of their moral reasons: the consequential ones. But even these theories cannot explain why moral substitutability holds for all moral reasons, including the non-consequential reasons that make the theory deontological. The failure of deontological moral theories to explain moral substitutability in the very cases that make them deontological is a reason to reject all deontological moral theories. I cannot discuss every deontological moral theory, so I will discuss only a few paradigm examples and show why they cannot explain moral substitutability. After this, I will argue that similar problems are bound to arise for all other deontological theories by their very nature. The simplest deontological theory is the pluralistic intuitionism of Prichard and Ross. Ross writes that, when someone promises to do something, 'This we consider obligatory in its own nature, just because it is a fulfillment of a promise, and not because of its consequences.'12 Such deontologists claim in effect that, if I promise to mow the grass, there is a moral reason for me to mow the grass, and this moral reason is constituted by the fact that mowing the grass fulfills my promise. This reason exists regardless of the consequences of mowing the grass, even though it might be overridden by certain bad consequences. However, if this is why I have a moral reason to mow the grass, then, even if I cannot mow the grass without starting my mower, and starting the mower would enable me to mow the grass, it still would not follow that I have any moral reason to start my mower, since I did not promise to start my mower, and starting my mower does not fulfill my promise. Thus, a moral theory cannot explain moral substitutability if it claims that properties like this provide moral reasons.

#### 4] Phenomenal introspection --- it’s the most epistemically reliable --- historical moral disagreement over internal conceptions of morality such as questions of race, gender, class, religion, etc prove the fallibility of non-observational based ethics --- introspection means we value happiness because we can determine that we each value it --- just as I can observe a lemon’s yellowness, we can make those judgements about happiness.

#### 5] Extinction comes first!

Pummer 15 [Theron, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford. “Moral Agreement on Saving the World” Practical Ethics, University of Oxford. May 18, 2015] AT

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### 6] No intent-foresight distinction—

#### A] Governments have unique responsibility.

Enoch 07 – David. “Intending, Foreseeing, and the State” The Hebrew University in Jerusalem, 9-13-2007. Published by: Legal Theory.

The general difficulty of the intending-foreseeing distinction here stemmed, you will recall, from the feeling that attempting to pick and choose among the foreseen consequences of one’s actions those one is more and those one is less responsible for looks more like the preparation of a defense than like a genuine attempt to determine what is to be done. Hiding behind the intending-foreseeing distinction seems like an attempt to evade responsibility, and so thinking about the distinction in terms of responsibility serves to reduce even further the plausibility of attributing to it intrinsic moral significance.

This consideration—however weighty in general—seems to me very weighty when applied to state action and to the decisions of state officials. For perhaps it may be argued that individuals are not required to undertake a global perspective, one that equally takes into account all foreseen consequences of their actions. Perhaps, in other words, individuals are entitled to (roughly) settle for having a good will, and beyond that let chips fall where they may. But this is precisely what stateswomen and statesmen—and certainly states—are not entitled to settle for.44 In making policy decisions, it is precisely the global (or at least statewide, or nationwide, or something of this sort) perspective that must be undertaken. Perhaps, for instance, an individual doctor is entitled to give her patient a scarce drug without thinking about tomorrow’s patients (I say “perhaps” because I am genuinely not sure about this), but surely when a state committee tries to formulate rules for the allocation of scarce medical drugs and treatments, it cannot hide behind the intending-foreseeing distinction, arguing that if it allows45 the doctor to give the drug to today’s patient, the death of tomorrow’s patient is merely foreseen and not intended. When making a policy-decision, this is clearly unacceptable.

Or think about it this way (I follow Daryl Levinson here):46 perhaps restrictions on the responsibility of individuals are justified because individuals are autonomous, because much of the value in their lives comes from personal pursuits and relationships that are possible only if their responsibility for what goes on in the (more impersonal) world is restricted. But none of this is true of states and governments. They have no special relationships and pursuits, no personal interests, no autonomous lives to lead in anything like the sense in which these ideas are plausible when applied to individuals persons. So there is no reason to restrict the responsibility of states in anything like the way the responsibility of individuals is arguably restricted.47

States and state officials have much more comprehensive responsibilities than individuals do. Hiding behind the intending-foreseeing distinction thus more clearly constitutes an evasion of responsibility in the case of the former. So the evading-responsibility worry has much more force against the intending-foreseeing distinction when applied to state action than elsewhere.

#### B] If we foresee a consequence, then it becomes part of our deliberation which makes it intrinsic to our action since we intend it to happen.

#### 7] Only consequentialism explains degrees of wrongness—if I break a promise to meet up for lunch, that is not as bad as breaking a promise to take a dying person to the hospital. Only the consequences of breaking the promise explain why the second one is much worse than the first. Intuitions outweigh—they’re the foundational basis for any argument and theories that contradict our intuitions are most likely false even if we can’t deductively determine why.

#### 8] Reject calc indicts and util triggers permissibility arguments:

#### A] Empirically denied—both individuals and policymakers carry out effective cost-benefit analysis which means even if decisions aren’t always perfect it’s still better than not acting at all

#### B] Theory—they’re functionally NIBs that everyone knows are silly but skew the aff and move the debate away from the topic and actual philosophical debate, killing valuable education

#### C] Morally abhorrent – it would say we have no obligation to prevent genocide and that slavery was permissible which is morally abhorrent and makes debate unsafe for minority debaters

#### 9] Nothing in the 1AC triggers presumption or permissibility – but they should affirm:

#### A] 1ar time skew means 1ar has to answer 7 minutes of offense and hedge against a 6 minute 2nr collapse, if the neg can’t prove the aff false you should presume its true

#### B] You presume statements true unless proven false – If I tell you my name is Arnav you believe me unless you have evidence to the contrary

#### C] Presuming statements are false is impossible – we can’t operate in the world if we can’t trust anything we hear

#### D] Triggers kill substantive education and force a 1ar restart so you should punish them for doing so

#### E] Allow 2ar responses to blippy 1nc tricks—key to protect time-crunched 1ars and disincentivize blip-storms that aren’t complete arguments. Evaluate every speech in the debate—key to assessing the better debater otherwise the neg always wins

#### 10] Truth testing makes up rules to constrain discussion of race and cement the status-quo and is just plain wrong

Overing and Scoggin 15 “In Defense of Inclusion”; September 10, 2015; John Scoggin (coach for Loyola in Los Angeles and former debater for the Blake School in Minneapolis. His students have earned 77 bids to the Tournament of Champions in the last 7 years. He’s coached 2 TOC finalists, a TOC quarterfinalist, and champions of many major national tournaments across the country) and Bob Overing (former debater for the USC Trojan Debate Squad, and current student at Yale Law School. As a senior in high school, he was ranked #1, earned 11 bids and took 2nd at TOC. In college, he cleared at CEDA and qualified to the NDT. His students have earned 98 career bids, reached TOC finals, and won many championships.); <http://premierdebatetoday.com/2015/09/10/in-defense-of-inclusion-by-john-scoggin-and-bob-overing/> //BWSWJ

In establishing affirmative and negative truth burdens, truth-testing forecloses important discussions even of the resolution itself. Consider the fact that in 1925-1926, there were two college policy topics, one for men and one for women. Men got to debate child labor laws, and women had to debate divorce law. On the truth-testing view, the women debating the women’s topic would be barred from discussing the inherent sexism of the topic choice and the division of topics to begin with. Or consider the retracted 2010 November Public Forum topic, “Resolved: An Islamic cultural center should be built near Ground Zero.” Many debaters would feel uncomfortable arguing that resolution, just like they did on the 2012 January/February LD topic about domestic violence. We both know individuals who felt the domestic violence topic was so triggering that they did not want to compete at all. We can draw two conclusions from examples like these. First, there are good reasons to not debate a particular topic. These reasons have been spelled out over decades of debate scholarship ranging from Broda-Bahm and Murphy (1994) to Varda and Cook (2007) to Vincent (2013). Second, truth-testing prevents either team from making the argument that the topic is offensive or harmful. A hypothetical case, such as a resolution including an offensive racial epithet, makes the problem more obvious. Maybe the idea behind the resolution is good, but there’s something left out by analysis that stops there and ignores the use of a derogatory slur. Truth-testing makes irrelevant the words in the topic and the words used by the debaters. Thus, it fails to capture the reasons that any good person would “negate” or even refuse to debate an offensive topic. Clearly, there are elements of a topical advocacy beyond its truth that are worthy of questioning. Nebel (2015) acknowledges that some past resolutions were potentially harmful to debate (1.2, para. 5). Rather than exclude affected students as ‘not following the rules’ of semantics or truth-testing, we conclude that they should not be required to debate the topic. Nebel grapples with harmful topics in the following passage: I don’t think there is a magic-bullet response to critiques of the topic…I think they must be answered on a case-by-case basis, in their own terms…The question boils down to whether or not the topic is harmful for students to debate, and whether those harms justify breaking, or making an exception to, the topicality rule (1.2, para. 5) This statement is hard to square with Nebel’s thesis that semantic interpretations of the resolution come “lexically prior” (in other words, they always come first). He wants to allow exceptions, but doing so proves that harmfulness concerns can and do trump the topicality rule. As Nebel’s struggle with the critique of topicality illustrates, every article that claims to espouse a comprehensive view of debate must allow some exceptions to comply with our intuitions. The exceptions do not prove the rule. They prove there is a high level of concern in debate for affording dignity and respect to different kinds of arguments and modes of argumentation. There is no one principle of proper debate. Once the door is open for external factors like harmfulness, the inference to the priority of pragmatics is an easy one to make. If we care about the effects of debating the resolution on the students debating it, then other values like exclusion, education, and fairness start to creep in. If we can justify avoiding discussion of a bad topic on pragmatic grounds, we can also justify promoting discussion of a good topic. Any advantage to allowing discursive kritiks, performances, and roles of the ballot further justifies this pragmatic view against truth-testing. NDT champion Elijah Smith (2013) warns that without these argument forms, we “distance the conversation from the material reality that black debaters are forced to deal with every day”. Christopher Vincent (2013) built on that idea, arguing that universal moral theory “drowns out the perspectives of students of color that are historically excluded from the conversation” (para. 3). While we don’t agree wholesale with these authors, their work unequivocally demonstrates the value of departures from pure truth-testing. While we may not convince our opposition that they should presume value in kritik-based strategies, they should remain open to them. In a recent article for the Rostrum, Pittsburgh debate coach Paul Johnson (2015) extolled the ‘hands-off’ approach. Let the debaters test whether the arguments have merit, rather than deciding beforehand: In a debate round, one may argue the impertinence of theses about structural racism with regards to a particular case…But when we explicitly or implicitly suggest such theses have little to no value by deciding in advance that they are inaccurate, we are forswearing the hard, argumentative work of subjecting our own beliefs to rigorous testing and interrogation (p. 90) Suggesting that non-topical, race-based approaches are “vigilantist” and “self-serving” “adventure[s]” is to demean the worth of these arguments before the debate round even starts (Nebel 2015, 1.1, para. 2). The claim that they ‘break the rules’ or exist ‘outside the law’ otherizes the debaters, coaches, and squads that pursue non-traditional styles. Especially given that many of these students are students of color, we should reject the image of them as lawless, self-interested vigilantes. Students work hard on their positions, often incorporating personal elements such as narrative or performance. To defend a view of debate that excludes their arguments from consideration devalues their scholarship and the way they make debate “home.” That’s unacceptable. Branse notes “the motivation for joining the activity substantially varies from person to person” yet excludes some debaters’ motivations while promoting others (5, para. 4). We agree with Smith on the very tangible effects of such exclusion: “If black students do not feel comfortable participating in LD they will lose out on the ability to judge, coach, or to force debate to deal with the truth of their perspectives” (para. 5). Of course, we do not believe that Nebel or Branse intend their views to have these effects, but they are a concern we need to take seriously. III. Changing the Rules In Round One thought is that rejecting truth-testing is the wrong solution. Instead, we should create a better topic-selection process or an NSDA-approved topic change when the resolution is particularly bad. These solutions, however, are not exclusive of a rejection of truth-testing. An offensive topic might be reason to reform the selection process and to stop debating it immediately. Good role of the ballot arguments are the best solution because they pinpoint exactly why a debater finds the resolution inadequate. They highlight the problems of the proposed topic of discussion, and outline reasons why a different approach is preferable. While Branse believes these examples of in-round rule-making are problematic, we think debate rounds are an excellent location for discussing what debate should be. The first reason is the failure of consensus. Because there are a wide variety of supported methods to go about debating, we should be cautious about paradigmatic exclusion. While we don’t defend the relativist conclusion that all styles of debate are equally valuable, there is significant disagreement that our theories must account for. Truth-testing denies a number of ways to debate that many find valuable. The second reason is the internalization of valuable principles. Even people who do not think kritiks are the right way to debate have taken important steps like removing gendered language from their positions. NDT champion Elijah Smith (2013) identified hateful arguments and comments “you expect to hear at a Klan rally” as commonplace in LD rounds and the community (para. 2). We’d like to think those instances are at least reduced by the argumentation he’s encouraged. For instance, the much-maligned “you must prove why oppression is bad” argument now sees little play in high-level circuit rounds. Truth-testing forecloses this kind of learning from the opposition. Roles of the ballot and theory interpretations are examples of how in-round argumentation creates new rules of engagement. We welcome these strategies, and debaters should be prepared to justify their proposed rules against procedural challenges. The arguments we have made thus far are objections to truth-testing as a top-down worldview used to exclude from the get-go, not in-round means of redress against certain practices. There is a major difference between a topicality argument in a high school debate round and a prominent debate coach and camp director’s glib dismissal of non-topical argument as follows: [Y]ou can talk about whatever you want, but if it doesn’t support or deny the resolution, then the judge shouldn’t vote on it (Nebel 2015, 1.2, para. 4) Branse is equally ideological: Within the debate, the judge is bound by the established rules. If the rules are failing their function, that can be a reason to change the rules outside of the round. However, in round acts are out of the judge’s jurisdiction (2, para. 12) We take issue with debate theorists’ attempts to define away arguments that they don’t like. At one point, Jason Baldwin (2009) actually defended truth-testing for its openness, praising the values of the free market of ideas: That’s how the marketplace of ideas is supposed to work. But it is supposed to be a free marketplace where buyers (judges) examine whatever sellers (debaters) offer them with an open mind, not an exclusive marketplace where only the sellers of some officially approved theories are welcome (p. 26) Unfortunately for the truth-tester, debate has changed, and it will change again. What was once a model that allowed all the arguments debaters wanted to make – a prioris, frameworks, and meta-ethics – is now outdated in the context of discursive kritiks, performance, and alternative roles of the ballot. IV. Constitutivism, Authority, and the Nature of Debate Branse’s goal is to derive substantive rules for debate from the ‘constitutive features’ of debate itself and the roles of competitors and judges. We’ll quote him at length here to get a full view of the argument: [P]ragmatic benefits are constrained by the rules of the activity….education should not be promoted at the expense of the rules since the rules are what define the activity. LD is only LD because of the rules governing it – if we changed the activity to promoting practical values, then it would cease to be what it is (2, para. 7) Internal rules of an activity are absolute. From the perspective of the players, the authority of the rules are non-optional. (2, para. 12) The resolution, in fact, offers one of the only constitutive guidelines for debate. Most tournament invitations put a sentence in the rules along the lines of, “we will be using [X Resolution].” Thus, discussion confined to the resolution is non-optional (3, para. 5) [T]he delineation of an “affirmative” and a “negative” establishes a compelling case for a truth testing model…two debaters constrained by the rules of their assignment – to uphold or deny the truth of the resolution…[J]udging the quality of the debaters requires a reference to their roles. The better aff is the debater who is better at proving the resolution true. The better neg is the debater who is better at denying the truth of the resolution. The ballot requests an answer to “who did a comparatively better job fulfilling their role”, and since debaters’ roles dictate a truth-testing model, the judge ought to adjudicate the round under a truth testing model of debate. The judge does not have the jurisdiction to vote on education rather than truth testing (3, para. 7-8) Once a judge commits to a round in accordance with a set of rules…the rules are absolute and non-optional (4, para. 4) Similarly, Nebel uses contractual logic – appealing to the tournament invitation as binding agreement – to justify truth-testing: “The “social contract” argument holds that accepting a tournament invitation constitutes implicit consent to debate the specified topic….given that some proposition must be debated in each round and that the tournament has specified a resolution, no one can reasonably reject a principle that requires everyone to debate the announced resolution as worded. This appeals to Scanlon’s contractualism (1.1, para. 2) This approach is attractive because it seeks to start from principles we all seem to agree on and some very simple definitions. The primary problem is that the starting point is very thin, but the end point includes very robust conclusions. The terms “affirmative” and “negative” are insufficient to produce universal rules for debate, and certainly do not imply truth-testing (Section I, paragraph 3.) Branse does some legwork in footnoting several definitions of “affirm” and “negate,” but does little in the way of linguistic analysis. We won’t defend a particular definition but point out that there are many definitions that vary and do not all lend themselves to truth-testing. On a ballot the words “speaker points” are as prominently displayed as the words “affirmative” or “negative,” but neither Branse nor Nebel attempt to make any constitutive inference from their existence. Further, to find the constitutive role of a thing, one needs to look at what the thing actually is, rather than a few specific words on a ballot. Looking at debates now, we see that they rarely conform to the truth-testing model. It is simply absurd to observe an activity full of plans, counterplans, kritiks, non-topical performances, theory arguments, etc. and claim that its ‘constitutive nature’ is to exclude these arguments. Not only that, but the truth-testing family has been heavily criticized in both the policy and LD communities (Hynes Jr., 1979; Lichtman & Rohrer, 1982; Mangus, 2008; Nelson, 2008; O’Donnell, 2003; O’Krent, 2014; Palmer, 2008; Rowland, 1981; Simon, 1984; Snider, 1994; Ulrich, 1983). The empirical evidence also points toward argumentative inclusion in three important ways. The first is argument trends. The popularity of kritiks, a prioris, meta-ethics, etc. confirm that at different times the community at large has very different views of what constitutes not only a good argument but also a good mode of affirming or negating. The second is argument cycles. An alternate view would suggest that debate evolves and leaves bad arguments by the wayside. Nevertheless, we see lots of arguments pop in and out of the meta-game, suggesting that we have not made a definitive verdict on the best way to debate. The third is judge deference. While people’s views on proper modes of debate shift, we retain a strong deference to a judge’s decision. Judges have different views of debate; if there were some overarching principle that all judges should follow, we would expect tournament directors to enforce such a rule. In sum, there is no way to view debate as a whole and see truth-testing as the general principle underlying our practices. The existence of a judge and a ballot are also insufficient to produce universal rules for debate. Branse thinks “[t]he ballot requests an answer to ‘who did a comparatively better job fulfilling their role.’” While that may be a valid concern, it is dependent on what the judge views the roles of debaters to be. The absence of any sort of instruction other than determining the ‘better debating’ or the ‘winner’ most naturally lends itself to a presumption of openness. In fact, many practices very explicitly deviate from the constitutive roles Branse lays out. Some counterplans (PICs, PCCs, topical CPs and the like) may do more to prove the resolution than disprove it, yet are generally accepted negative arguments. Another type of objection to Branse’s view is an application of David Enoch’s “agency shmagency” argument. Enoch (2011) summarizes in his paper “Shmagency revisited”: [E]ven if you find yourself engaging in a kind of an activity…inescapably…and even if that activity is constitutively governed by some norm or…aim, this does not suffice for you to have a reason to obey that norm or aim at that aim. Rather, what is also needed is that you have a reason to engage in that activity…Even if you somehow find yourself playing chess, and even if checkmating your opponent is a constitutive aim of playing chess, still you may not have a reason to (try to) checkmate your opponent. You may lack such a reason if you lack a reason to play chess. The analogy is clear enough: Even if you find yourself playing the agency game, and even if agency has a constitutive aim, still you may not have a reason to be an agent (for instance, rather than a shmagent) (p. 5-6) The application to chess helps us see the application to debate. Truth-testing may be the constitutive aim of doing debate, but it does not follow that our best reasons tell us to test the truth of the resolution. In fact, you may have no reasons to be a truth-testing debater in the first place. If “affirmative” means “the one who proves the resolution true,” we’ve demonstrated times when it’s better to be “shmaffirmative” than “affirmative.” Finally, we think one of the most important (perhaps constitutive) features of debate is its unique capacity to change the rules while playing within the rules. Education-based arguments and non-topical arguments are just arguments – they’re pieces on the chess board to be manipulated by the players. Branse concedes that in APDA debate, the resolution is “contestable through a formal, in-round mechanism (3, para. 9). LD and policy debate also have this mechanism through theory arguments, kritiks, and alternative roles of the ballot. Branse is right that in soccer and chess, there is no way to kick a ball or move a chess piece that would legitimately change the rules of the game. Debate is different. While soccer and chess have incontrovertible empirical conditions for victory (checkmates, more goals at fulltime), debate does not. In fact, discussing the win conditions is debating! Whenever a debater reads a case, they assume or justify certain win conditions and not others. This deals with Branse’s “self-defeatingness” objection because debate about the rules does not create a “free-for-all” — it creates a debate (6, para. 1). The truth-testing judge does not get to pick and choose what makes a good debate; to do so is necessarily interventionist. This demonstrates truth-testing is more arbitrary and subjective [2] than the education position Branse criticizes (4, para. 4; 5, para. 2, 5). To be truly non-interventionist, we should accept them as permissible arguments until proven otherwise in round. Of course, not all rules are up for debate. There is a distinction between rules like speech times (call these procedural rules) and rules like truth-testing (call these substantive rules). The former are not up for the debate in the sense that the tournament director could intervene if a debater refused to stop talking. The latter are debate-able and have been for some time. No tournament director enforces their pet paradigm. Because the tournament director, not the judge, has ultimate authority, we liken her to the referee in soccer. On this view, the judge is not the referee tasked with enforcing “the rules”; she should decide only on the basis of arguments presented in the debate. Tournaments are not subject to any form of higher authority and are not obligated to follow NSDA rules, TOC guidelines, or anything else to determine a winner. Something is only a procedural rule if it is enforced by the tournament, and truth-testing has not and shouldn’t be enforced in this manner. To our knowledge, no bid tournament director has ever imposed a truth-testing burden on all competitors. If anything is a binding contract, it is the judge paradigm. Judge philosophies or paradigms are explicitly agreed to in writing because each judge establishes their own, and there is no coercion at play. Most tournaments mandate or strongly encourage written paradigms, have time to review them, and accept judge services instead of payment for hiring a judge. These norms establish a clearer contractual agreement in favor of judge deferral than universal truth-testing. We have tested the constitutive and contractual arguments by considering how truth-testing is not a procedural rule like speech times. As such, it cannot accrue the benefits of bindingness, authority, and non-arbitrariness. We can also test the argument in the opposite direction. There are some rules that seem even more “constitutive” of debate than the resolution but are not examples of procedural rules. For instance, every judge and debate theorist would likely reject completely new arguments in the 2AR, but there is nothing within Branse’s constitutive rules (speech times, the resolution, the aff and neg) to justify the norm. The no-new-arguments rule does not need to be written in a rulebook to have a lot of force. V. Pragmatic Justifications for Truth-testing With the priority of pragmatics established and constitutive arguments well addressed, we turn to some hybrid arguments that attempt to justify truth-testing by appealing to pragmatics. Nebel argues that the advantages stemming from truth-testing must be weighed against all exceptions to it and that the advantages of debating the ‘true meaning’ of the topic nearly always outweigh: It would be better if everyone debated the resolution as worded, whatever it is, than if everyone debated whatever subtle variation on the resolution they favored. Affirmatives would unfairly abuse (and have already abused) the entitlement to choose their own unpredictable adventure, and negatives would respond (and have already responded) with strategies that are designed to avoid clash…people are more likely to act on mistaken utility calculations and engage in self-serving violations of useful rules (1.1, para. 2) However, the advantages of topicality for the semantic/truth-testing view hold on the pragmatic view as well. We agree that the reasons to debate the meaning of the topic are strong. The only difference is that the pragmatic theory can explain the possibility of exceptions to the rule without interpretive contortion. It makes much more sense to understand that strict topicality is just a very good practice than to tout it as an absolute, lexically prior, constitutively- and contractually-binding rule. Ultimately, all benefits to topicality and debating something other than the resolution are weighed on the same scale, so we should adopt the theory that explicitly allows that scale. We are unconvinced that direct appeals to pragmatic considerations would be worse on pragmatic grounds than an external and absolute rule like ‘always be topical.’ If topicality is as important and beneficial as Nebel says it is, then it should be easy to defend within a particular debate, avoiding the worst slippery slope scenarios. Nebel also argues that the pragmatic view “justifies debating propositions that are completely irrelevant to the resolution but are much better to debate” (1.1, para. 5). Branse makes the same claim about education: “Education as a voting issue legitimizes reading positions and debating topics that have no association with the resolution” (5, para. 3). This alarmism we’ve answered with our discussion of harmful resolutions. There is no empirical indication of a slippery slope to a world where no one discusses the topic. The disadvantages to one debate round departing from topical debate are quite small, and we have no problem biting the bullet here. Sometimes (and it may be very rare), it’s better not to debate the resolution. There may also be reasons to debate something else even when the resolution is very good. Black students should not have to wait for a reparations topic to talk about race in America. As conversations about racial oppression and police brutality grow louder and louder, it becomes increasingly unreasonable to defend a view of debate that ignores their relevance to the everyday lives of our students. It should be clear that the pragmatic view takes no absolute stance on topicality or burdens. A debate practice may be pragmatic in one context but not another. For that reason, we reject the narrowness of truth-testing.

#### 11] Ought shows an obligation

Dictionary.com, ND, “ought”, <https://www.dictionary.com/browse/ought> AG

—used to express obligation

12] Epistemic Modesty - it’s key to maximize phil educatiton

### Underview

#### 1] 1AR theory – a) AFF gets it because otherwise the neg can engage in infinite abuse, making debate impossible, b) drop the debater – the short 1AR irreparably skewed from abuse on substance and time investment on theory, c) no RVIs – the 6-minute 2nr can collapse to a short shell and get away with infinite 1nc abuse via sheer brute force and time spent on theory, d) competing interps – 1AR interps aren’t bidirectional and the neg should have to defend their norm since they have more time. Also, aff theory outweighs – it’s much larger strategic loss since 1 minute of it is ¼ of the 1AR versus 1/7 of the 1NC which means there is probably more abuse if I’m willing to devote that much more time. Fairness and education are voters – debate’s a game that needs rules to evaluate it and education’s why schools have debate programs