## 1

**Interpretation:** **The affirmative must specify the degree to which they reduce property rights in a delineated card in the 1AC.**

**Violation: You don’t.**

**Standards:**

#### 1 – Stable advocacy – 1AR clarification delinks neg positions that prove why property rights are bad because it’s not what they defend – for example, a small reduction in property rights probably wouldn’t link to the innovation DA, but a complete elimination would – wrecks neg ballot access and kills in depth clash – CX doesn’t check since it kills 1NC construction pre-round.

#### 2 – Real World – Policy-makers have to specify the mandates of the plan – also means zero solvency, absent spec, states can circumvent the aff’s policy since there is no delineated way to enforce what property rights are reduced.

#### 3 – Resolvability – Constantly morphing advocacies makes debate impossible because the judge doesn’t know what you defend or if a DA even links – comes first because the judge has to pick a winner and loser.

**Paradigms:**

**Fairness – debate is a competitive activity that requires fairness for objective evaluation.**

#### Neg gets drop the debater – A] Prep skew – They can frontline every shell to be efficient at DAs to deflate theory B] 1AR Flex – You can moot all 6 min of my offense and restart the debate on unpredictable layers while kicking your arguments.

**Competing interps – A] Reasonability is arbitrary and encourages judge intervention since there’s no clear norm B] It creates a race to the top where we create the best possible norms for debate.**

#### No RVIs – A] Illogical, you don’t win for proving that you meet the burden of being fair – outweighs since it’s a prerequisite for evaluating any other argument B] RVIs incentivize baiting theory and prepping it out which leads to maximally abusive practices C] Getting faster solves. D] No RVI’s with a Brightline of two shells – solves time skew warrants since there’s only two shells to respond to.

**1NC theory first – A] If I was abusive, it was because the 1AC was B] You have persuasive advantages in the 2AR on top of infinite prep time.**

## 2

#### Interpretation: 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. The negative may not read PICs.

#### Violation: They spec COVID medicines.

#### The standard is limits – their model allows affs to defend anything from Covid vaccines, HIV drugs, Insulin, antibiotics, CRISPR, cancer, cannabis— 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. TVA solves – you could’ve read your plan as an advantage under a whole res advocacy. Potential abuse doesn’t justify in round abuse, and having no prep leads to cheaty word PICs and Process CPs which are net worse.

## 3

### NC

#### In order to prove the resolution, the aff must prove that it is conceptually coherent to reduce medical IP protections. To clarify, they must prove that when the member nations of the WTO guarantee IP reductions, they cannot structurally falter from that obligation. Prefer:

#### 1 – Textuality – ‘ought’ implies ‘can’, which means that the state cannot falter from an absolute obligation.

**Britannica** – Encyclopædia Britannica, inc. (n.d.). Ought implies can. Encyclopædia Britannica. Retrieved October 15, 2021, from https://www.britannica.com/topic/ought-implies-can.

**Ought implies can**, in [ethics](https://www.britannica.com/topic/ethics-philosophy), the principle according to which an agent has a [moral](https://www.merriam-webster.com/dictionary/moral) obligation to perform a certain action only if it is possible for him or her to perform it. In other words, if a certain action is impossible for an agent to perform, the agent cannot, according to the principle, have a moral obligation to do so. Attributed to the German [Enlightenment](https://www.britannica.com/event/Enlightenment-European-history) philosopher [Immanuel Kant](https://www.britannica.com/biography/Immanuel-Kant), the principle of ought implies can has been regarded as a minimal condition on the plausibility of any [ethical](https://www.merriam-webster.com/dictionary/ethical) theory: viz, no such theory is justifiable if it implies that agents have duties to perform actions that they are unable to perform.

#### 2 – Real world – The aff would be an incoherent policy if it was impossible – that’s why policy makers don’t debate over absurd policies like pursuing immortality for Agastya.

#### 3 – Conceptual necessity – If states cannot conceptually be obligated to externally take an action, then it means the principle of reducing I{ is incoherent – it presupposes some binding force. Means A] you’d still negate even if the burden is false since it proves the resolution false B] The burden comes first because it evaluates what it means to affirm or negate.

#### 4 – Hijacks your role of the ballot – A] Strategies against oppression must be pragmatic to avoid ivory-towered theorizing B] Considering if an IP reduction is favorable relies on its relation to the states that pass it.

#### Negate – the constitutive feature of the law is that the sovereign creates it, but the sovereign lives outside of the law and has complete control over the it. The sovereign is the only authority over the law, creating a state of exception; the state cannot undermine the sovereign in the state of exception. Thus, any principle that mandates the state to act is impossible.

Agamben 04 – Agamben, Giorgio. “Homo Sacer – Sovereign Power and Bare Life”. Translated by Daniel Heller-Rozan. Published 2004. Bracketed for gendered language

The paradox of sovereignty consists in the fact **the sovereign is**, at the same time, **outside and** **inside the juridical order. If the sovereign is** truly **the one to** **whom the** juridical **order grants the** **power** **of proclaiming a state of exception** and**, therefore**, of suspending the order's own validity, then "**the sovereign stands outside** the juridical order and, nevertheless, belongs to it, **since it is up** **to him [them] to decide if the constitution is to be** **suspended** in toto" (Schmitt, Politische Theologie, p. 13). The specification that the ¶ sovereign is "at the same time outside and inside the juridical order" (emphasis added) is not insignicant: **the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law**. This means that the paradox can also be formulated this way: "**the law is outside itself**," or: "1, the sovereign, who am outside the law, declare that there is nothing outside the law [che non c'e un ori gge]." ¶ The topology implicit in the paradox is worth reflecting upon, since the degree to which sovereignty marks the limit (in the dou­ ble sense of end and principle) of the juridical order will become clear only once the structure of the paradox is grasped. Schmitt presents this structure the structure of the exception (Ausnahme): ¶ The exception is that which cannot be subsumed; it defies general codification, but it simultaneously reveals a specically juridical formal element: the decision in absolute purity. The exception appears in its absolute form when it is a question of creating a situation in which juridical rules can be valid. **Every** general **rule demands** **a regular**, everyday **frame** oflife **to which it can be factually applied** and which is submitted to its regulations. The rule requires a homogeneous me­ dium. This factual regularity is not merely an "external presupposi­ tion" that the jurist can ignore; it belongs, rather, to the rule's imma­ nent validity. There is no rule that is applicable to c**haos. Order must be established for juridical order** to m e sense. A regular situation must be created, and **sovereign is he who definitely decides if this** **situation** **is** actually **effective**. l law is "situational law." The sovereign creates and guarantees the situation as a whole in irs totality. **He** **has the monopoly over** **the** nal **decision**. Therein consists **the** essence of **State sovereignty**, which **must** therefore **be** properly juridically de ned not as the monopoly to sanction or to rule but as **the monopoly to decide**, **where** the word "**monopoly" is** **used in a general sense** that is still to be developed. The decision reveals the essence of State authority most clearly. Here the decision must be distinguished from the juridical regulation, and (to formulate it paradoxically) authority proves itself not to need law to create law. .. . The exception is more interesting than the regular case. The latter proves nothing; the excep­ tion proves everything. **The exception does not only confirm the rule; the rule as such lives o the exception alone**. A Protestant theologian who demonstrated the viral intensity of which theological reflection was still capable in the nineteenth century said: "The exception explains the general and itself. And when one really wants to study the general, one need only look around for a real exception. It brings everything to light more clearly than the general itself After a while, one becomes disgusted with the endless talk about the general-there are exceptions. If they cannot be explained, then neither can the general be explained. Usually the difficulty is not noticed, since the general is thought about not with passion but only with comfortable superficiality. The exception, on the other hand, thinks the general with intense passion." (Politische Theologie, pp. 19-22) ¶ It is not by chance that in defining the exception Schmitt refers to the work of a theologian (who is none other than S0ren Kierke­ gaard). Giambattista Vico had, to be sure, armed the superiority ¶ of the exception, which he called "the ultimate configuration of facts," over positive law in a way which was not so dissimilar: '' esteemed jurist is, therefore, not someone who, with the help of a good memory, masters positive law [or the general complex of laws], but rather someone who, with sharp judgment, knows how to look into cases and see the ultimate circumstances off acts that merit equitable consideration and exceptions from general rules" (De antiquissima, chap. 2). Yet nowhere in the realm of the juridical sciences can one nd a theory that grants such a high position to the exception. For what is at issue in the sovereign exception is, according to Schmitt, the very condition of possibility of juridical rule and, along with it, the very meaning of State authority. **Through the state of exception, the sovereign** "creates and **guarantees the situation**" **that the law needs for its own validity**. But **what is this "situation**," what is its structure, **such that it consists in nothing other than the suspension of the rule**? ¶ X The Vichian opposition between positive law (ius theticum) and exception well expresses the particular status of the exception. The exception is an element in law that transcends positive law in the form of its suspension. The exception is to positive law what negative theology is to positive theology. While the latter a rms and predicates determinate qualities of God, negative (or mystical) theology, with its "neither . . . nor . . . ," negates and suspends the attribution to God of any predicate whatsoever. Yet negative theology is not outside theology and can actually be shown to function as the principle grounding the possibility in general of anything like a theology. Only because it has been negatively presupposed as what subsists outside any possible predicate can divinity become the subject of a predication. Analogously, only because its validity is suspended in the state of exception can positive law define the normal case as the realm of its own validity. ¶ r.2. The exception is a kind of exclusion. **What is excluded from the general rule is an individual case**. But the most proper characteristic of the exception is that what is excluded in it is not, on account of being excluded, absolutely without relation to the rule. On the contrary, **what is excluded in the exception** **maintains itself** ¶ **in relation to the rule in the form of the rule's suspension**. The rule applies to the exception in no nger app ing, in withdrawing om it. **The state of exception** **is** thus **not the chaos that** **precedes order but rather the situation that results from its suspension**. In this sense, the exception is truly, according to its etymological root, taken outsi (ex-capere), and not simply excluded. ¶ It has o en been observed that the juridico-political order has the structure ofan inclusion of what is simultaneously pushed outside. Gilles Deleuze and Felix Guattari were thus able to write, "Sovereignty only rules over what it is capable of interiorizing" (Deleuze and Guattari, Mil p teaux, p. 5); and, concerning the "great confinement" described by Foucault in his Madness and Civilition, Maurice Blanchot spoke of society's attempt to "confine the outside" (en rmer le dehors), that is, to constitute it in an "interiority of expectation or of exception." Confronted with an excess, the system interiorizes what exceeds it through an interdiction and in this way "designates itself as exterior to itself" (L ntretien in ni, p. 292) . The exception that defines the structure of sovereignty is, however, even more complex. **Here what is outside is included not simply by means of an interdiction or an internment**, **but** rather **by means of the suspension of the juridical order's** **validity-by letting the juridical order**, that is, **withdraw from the exception** and aban­ don it. The exception does not subtract itself from the rule; rather, the rule, **suspending itself, gives rise to the** **exception** and, maintaining itself in relation to the exception, rst constitutes itself as a rule. The particular "force" of law consists in this capacity of law to maintain itself in relation to an exteriority. We shall give the name relation of exception to the extreme form of relation by which something is included solely through its exclusion. ¶ **The situation created in the exception has the peculiar characteristic that it cannot be defined** either as a situation of fact or as a situation of right, but instead institutes a paradoxical threshold of indistinction between the two. It is not a fact, since **it is only created through the suspension of the rule**. But for the same reason, it is not even a juridical case in point, even if it opens the possibility ¶ of the force of law. **This is the ultimate meaning** of the paradox that Schmitt formulates when he writes **that the sovereign[s] decision "proves itself not to need law to create law."** What is at issue in the sovereign exception is **not so much the control or neutralization of** an **excess as the creation and definition of the very space in which the juridico-political order can have validity.** In this sense, **the sovereign exception is the** fundamental **localization** (Ortung), **which does not limit itself to distinguishing what is inside from** what is **outside but** instead **traces a threshold** (the state of exception) **between the two, on** the basis of which outside and inside, **the normal situation and chaos**, enter into those complex topological relations that make the validity of the juridical order possible. ¶ The "ordering of space" that is, according to Schmitt, constitu­ tive of the sovereign nomos is therefore not only a "taking of land" (Landesnahme)-the determination of a juridical and a territorial ordering (of an Ordnung and an Ortung)-but above all a "taking of the outside," an exception (Ausnahme). ¶

## 4

### NC

#### Permissibility and Presumption negate:

#### 1 – "Ought" in the resolution mean that you need to prove an obligation – permissibility means that AFF isn’t obligatory

#### 2 – Probability – There are infinite number of ways to prove a statement false and only one way to prove it true, so the resolution is more likely to be false.

#### Util collapses into contractarianism, or the contracts from which individuals constrain actions to serve their self-interest.

#### 1 – Pleasure and pain are only motivational to the individual who senses them, which means only a system of mutual self-restraint can enter agents into binding agreements to respect each other’s pleasure and pain.

#### 2 – Even if there is an external source of the good, pain and pleasure are only examples of things that agents might find motivational, it’s not a wholistic account of everyone’s self-interest which means only contracts can ensure agents follow ethical principles.

#### 3 – Performativity – You agree to 4 minutes of prep – going over would result in a loss or disqualification – their performance proves the AC collapses to the NC.

#### 4 – Consequences fail – A] They only judge actions after they occur, which fails action guidance B] Every action has infinite stemming consequences, because every consequence can cause another consequence C] Every action is infinitely divisible, only intents unify action because we intend the end point of an action – but consequences cannot determine what step of action is moral or not D] If you're held responsible for things other than an intention ethics aren't binding because there are infinite events occurring over which you have no control, so you can never be moral as you are permitting just action E] There's no objective arbiter to evaluate consequences

#### Now negate:

#### 1 – IP rights are included in multiple international contracts which the AFF violates.

**WIPO** – WIPO, 11-9-1998, accessed on 8-25-2021, World Intellectual Property Organization, "Intellectual Property and Human Rights", https://www.wipo.int/edocs/pubdocs/en/wipo\_pub\_762.pdf

The World Intellectual Property Organization (WIPO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) take pleasure in issuing the proceedings of the Panel Discussion on "Intellectual Property and Human Rights" which took place in Geneva on November 9, 1998, to mark the Fiftieth Anniversary of the Universal Declaration of Human Rights (UDHR). Intellectual property rights are enshrined as human rights in the UDHR. Article 27 of the Universal Declaration provides that: "(]) Everyone has the right.freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits; (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author." These rights are further emphasized by Article 15 of the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), Article 19 of the International Covenant on Civii'and Political Rights, 1966 (ICCPR), the Vienna Declaration and Program of Action, 1993 (VDPA), and other international and regional instruments.

#### 2 – Consent – the aff disregards the consent of medicine producers and allows it to be violated by removing patents – that negates because violating a party’s consent is an act of violating a hypothetical contract since their side of the contract isn’t accounted for.

## 5 – Brett Hedge

#### Reject 1ar Theory

#### 7 - 6 time skew

#### No 3nr, so 2ar gets to weigh however they want

#### Judge psychology – judges are more likely to by 2a arguments as they are the last speech

#### Method testing – too many theory flows make it impossible to test the aff method 1ar theory uniquely adds too much

#### Resolvability – 1. Reciprocity you get a 2-1 speech advantage

#### 2. Norming – we only get 2 speeches of new arguments to deliberate over your shell which isn’t enough time and could create worse norms

#### f. there’s no such thing as infinite abuse as nc only has 7 minutes

#### g. 1ar theory used as a strategic advantage means infinite abuse claims should be viewed through grain of salt

#### Reasonability on 1AR shells – 1AR theory is very aff-biased because the 2AR gets to line-by-line every 2NR standard with new answers that never get responded to– reasonability checks 2AR sandbagging by preventing really abusive 1NCs while still giving the 2N a chance.

#### DTA on 1AR shells - They can blow up a blippy 20 second shell to 3 min of the 2AR while I have to split my time and can’t preempt 2AR spin which necessitates judge intervention and means 1AR theory is irresolvable so you shouldn’t stake the round on it.

#### RVIs on 1AR theory – 1AR being able to spend 20 seconds on a shell and still win forces the 2N to allocate at least 2:30 on the shell which means RVIs check back time skew – ows on quantifiability

#### Aff gets one 1ar shell: [a] Norming—multiple shells create no risk outs that spread out the 2nr and make testing each of them impossible—if they have 4 minutes on a frivolous shell like spec status they can win on it via brute force even though it’s a bad norm [b] Strat skew—multiple shells make the 2nr impossible by spreading it out too much to win any one layer—the 2nr will always undercover something and can’t win.

#### No new 1ar theory paradigm issues – 1AC paradigm issues check – you knew the 1n could be abusive so you can set up an out on theory anything else means the 2n and 2ar are forced to make new arguments causing intervention to determine the credence of those arguments.