# 1NC

*To negate* means ‘to deny the existence, evidence, or truth of’[[1]](#footnote-1) so presume neg. *Ought* implies a moral obligation[[2]](#footnote-2), so I value morality. Norms must be communicative. **Benhabib[[3]](#footnote-3):**

The theory of communicative ethics has been named by Habermas also a "cognitivist ethics of language." The cognitivism of this theory rests with its assumption that **normative statements** like "Child molesting is wrong," cannot be translated into a statement like "I dislike child molesting," as the emotivists claim. The predicate "is wrong" in this statement is to be understood as a **[are] claim[s] that there are good reasons to adopt the rule in our practices** that children ought not be molested. To establish this meta-ethical premise Habermas develops the concepts of moral rightness and wrongness by means of a theory of practical argumentation. Basing himself on Stephen Toulmin's work in The Uses of Argument, maintains that just as **the truth of theoretical claims** can be **[is] established in light of an argument in which they are shown to only be warranted with good grounds**, so too **the validity of normative claims can only be established via practical argumentations in which they are shown to be defensible with good grounds.** Arguments dealing with theoretical truth claims, with statements about what the case is, or with **practical assertions**, with statements **about what ought to be done**, **are** named "**discourses.**" Discourses are described as special argumentation procedures in which both facts about what is the case and norms about what is right are challenged and no longer taken for granted. In discourses we "suspend belief' in the truth of propositions and the validity of normative claims that we ordinarily take for granted in our everyday transactions.6 **The aim of discourses is to generate a "rationally motivated consensus" on controversial claims**. The concept of the "ideal speech situation" is introduced in this context. The "ideal speech situation" specifies the formal properties that discursive argumentations would have to possess if the consensus thus attained were to be distinguished from a mere compromise or an agreement of convenience. **The ideal speech situation is a "meta-norm" that applies to theoretical as well as to practical reason**. It serves to delineate those aspects of an argumentation process which would lead to a "rationally motivated" as opposed to a false or apparent consensus.

The communicative meta-norm entails retribution. **Fork[[4]](#footnote-4):**

Imagine you’re discussing something with someone and then, just after you make a point that they think is foolish, they slap you in the face and tell you to stop being silly. Perhaps they jokingly wag their finger at you. Then they continue the discussion. What do you do? I can’t speak for everyone, but I think one common reaction would be an **outrage** out of all proportion to the actual pain suffered, and **[is] based** instead on a feeling of humiliation and disrespect. The desire this might produce could be expressed principally as ‘desire that things not go on as normal’. Maybe you slap them back, or shout at them, or leave immediately. In each case, the goal is (at least in part) **to ‘mark’ the unacceptability of that action** – or to put it another way, to ‘refute’ the ‘message’ that the action expressed, namely that it’s ok for this person to do that. That is, **the action taken in response** would be ***not* aimed at producing any effect,** not at *causal* power, **but would be *communicative***. Its rationale would be as **part of an ongoing ‘discourse’ about how to act. If somebody watching had assumed that actions all ‘aim at ends’ in the sense of some result they produce**, or was in another way committed to looking at actions as *actions*, and not as *assertions*, then **they might** well be confused, and **find it hard to make sense of your response**. What did it acheive? This, I think, is what is often going on in discussions about ‘justifications for punishment’. There are broadly two sorts of theories about why we punish/why we should punish/whatever – I want to consider the debates without implying endorsement of any of their assumptions, let alone their real applications and history. Some say ‘it’s useful’ – whether by ‘deterrence’, ‘incapacitation’, or ‘rehabilitation’, it aims at some sort of good. The other says ‘it’s deserved’, or ‘it’s proportionate’ or ‘it’s justice’. And one of the notable things about this latter is how hard it’s often been to explain. The former, ‘acheive some good’ approach makes a fairly obvious sense: you do something so that fewer bad things will happen. Everybody wants fewer bad things to happen. That’s pretty much definitional. There’s no problem combining this with some broader ethical theory. But why does hurting one person make any sense, apart from this? After all, now a bad thing is happening, that could easily have been avoided: isn’t that the opposite of good? That is, there’s a certain theoretical standpoint from which retribution becomes entirely opaque. And not just a theoretical standpoint: this opacity appears for many people as natural and intuitive. It *feels obvious* that two wrongs don’t make a right. And often the ways used to express retributive intuitions just reinforce this bafflement. One locution that appears in some philosphers is that ‘the punishment erases the crime’, or ‘nullifies the guilt’. But this sounds crazy. Killing a murderer doesn’t bring their victim back to life. But then – contemplating a serious crime (whether illegal or not) can usually produce some retributive impulses, even in the most scrupulous consequentialist. To avoid that would basically mean never feeling anger – but to lump everything under the heading ‘anger = emotion = irrelevant’ is to distort, not clarify, the issue. So my suspicion is that what’s happening here is a conflict between seeing acts of punishment as actions, with the standards of justification appropriate to actions (such as producing a desirable result), and seeing them as statements. The latter idea could be put like this: why do we find something more abhorrent about murder than death from illness? **Why do actions produced by deliberate human action have an emotional charge absent from things that just happen?** It’s because they add more than the tragic result: **they make a statement is that ongoing ‘discourse’** I referred to earlier – **the murderer says ‘murdering this person is reasonable’. And while we cannot undo the action’s effects, we can** (and must!) ***deny the statement*.** We must deny it for if we do not, it will stand unchallenged, and our assent will be implicit, and we must deny it in actions because words are cheap and easy, and cannot convey our force of condemnation. That’s not necessarily a position confined to any particular political tendency. It includes both a policeman tasing someone to ‘assert’ (that they have) authority, or a country making war to avenge a ‘slight’ to its ‘dignity’, and someone refusing to submit to oppression, despite the personal costs that defiance imposes, because they feel it utterly unacceptable to be silent in the face of injustice. It’s a dimension that most political tendencies participate in to some degree. This is supported by a few observations about common (though not universal) intuitions on which crimes are more horrendous. For some people, a gay person’s murder by homophobes provokes less outrage than would a straight person’s merely larcenous murder, because the ‘statement made’, that gays should die (under certain conditions), has a certain naturalness and reasonableness about it (they probably did something to provoke it…), while for other people, it provokes a stronger outrage, because the statement made is ‘more powerful’ from the history of precisely such attitudes – **it draws on the societal endorsement of this and related attitudes, and because it is a ‘stronger’ statement, it is even more important to deny it.** That is, identities and concepts like ‘gay’ and ‘gay-bashing’ affect the emotional significance that people perceive in the action. It would be absurd to say that they do this because they make the result itself more or less significant – one person’s life is equal to one other person’s. But the statement is different.

**So,** I negate.

1. http://www.thefreedictionary.com/negate [↑](#footnote-ref-1)
2. http://dictionary.reference.com/browse/ought [↑](#footnote-ref-2)
3. Seyla Benhabib, “The Utopian Dimension in Communicative Ethics,” New German Critique, No. 35, Special Issue on Jurgen Habermas (Spring - Summer, 1985), pp. 83-96. SM [↑](#footnote-ref-3)
4. Alderson Warm-Fork, “The Real Basis of Punishment: Retribution as Communication,” October 14, 2009. SM [↑](#footnote-ref-4)