## Part 1 is the Burden

Ought is defined as consistency with legal norms. **Kelsen**(Hans Kelsen, “On the Pure Theory of Law,” Israel Law Review, January 1966)

*That it is a "pure" theory of law means: in the first place, that it avoids the erroneous identification of the validity of the law with its effectiveness. By avoiding this identification the Pure Theory of Law geparates jurisprudence as a theory of law from all sciences--natural or social sciences-which describe facts by assertions that under certain conditions certain consequences actually take place. These assertions are is-statements; and the connection between the condition and the consequence has the character of causality. The statements by which a theory of law describes its* object: namely **legal norms**, which are not facts but the meaning of facts, **are ought-statements**. They indicate that under certain conditions certain consequences-the sanctions-ought to take place. It is important to note that **the term "ought" may be used** not only in a prescriptive sense-as in a norm-but also **in a descriptive sense**-as in an assertion about a norm. The science of law **describing,** e.g. the **legal norm** concerning murder does not say: "if a man commits murder, he will be punished", but: "if a man commits**[for example] murder**, he **ought to be punished."** In this statement the term "ought" has a descriptive sense; and the connection be- tween the condition and the consequence has not the character of causality but of imputation. The sanction is not the effect of the delict as its cause, but the sanction is "imputed" to the delict. This imputation is constituted by the legal norm as the meaning of an act of will, whereas the connection be- tween cause and effect is independent of any act of human or superhuman will.

Thus the aff burden is to prove that affirming the resolution is consistent with legal norms while the neg burden is to prove that negating is consistent. Prefer the burden:

1. **Reciprocity:** My burden gets rid of any skep, nibs or permissibility arguments that structurally advantage one side by forcing the debate down to the binary question of whether the law affirms or negates – it’s a 1:1 burden. Reciprocity is key to fairness because ensures equal access to the ballot and outweighs other theory standards because it’s a structural skew, as opposed to a substantive one.

2. **Debatability:** Definitions must not force debaters to affirm or negate in a contradictory or incoherent manner. Ought as a moral obligation does this because A) our inability to judge actions without tainting our evaluations with personal experiences makes it impossible to derive objective conclusions. **Nietzsche[[1]](#footnote-1)**

The falsity of human judgment derives firstly from the condition of the material to be judged, namely very incomplete, secondly from the way in which the sum is arrived at on the basis of this material, and thirdly from the fact that every individual piece of this material is in turn the outcome of false knowledge, and is so with absolute necessity. **Our experience of another person,** for example, no matter how close he stand to us, **can never be complete, so that we would have a logical right to** a total **evaluation of [them] all evaluations are premature** and are bound to be. Finally, **the standard by which we measure, our own being, is** not an unalterable magnitude, we are **subject to moods and fluctuations, and yet we would have to know ourselves as a fixed** standard **to** be able justly to **assess the relation between ourself and anything else** whatever. (Aphorism #32)

B) Any account of morality is regressive since it predicates one universal rule on the existence of another moral rule. Since every human chain of reasoning must be finite according to our finite nature, such a reasoning process must terminate in a rule for which no reason can be given. A moral truth requires reasons why that truth is true and why that truth is true and so forth. C) The open question argument disproves any moral obligations. **Pidgen[[2]](#footnote-2)**:

For any naturalistic or metaphysical ‘X’, **if ‘good’ meant ‘X’, then** (i) **‘X things are good’ would be a** barren **tautology, equivalent to** (ii) **‘X things are X’ or** (iii) **‘Good things are good’.** (1.2) For any naturalistic or metaphysical ‘X’, if (i) ‘X things are good’ were **a** barren **tautology**, it **would not provide a reason** for action (i.e. a reason to **promote X-ness**). (1.3) So for any naturalistic or metaphysical ‘X’, **either** (i) ‘X **things are good**’ **does not provide a reason for action** (i.e. a reason to promote X-ness), **or ‘good’ does not mean ‘X’.**

Debatability outweighs and controls the link to all voters including fairness and education - we need to be able to debate before we access other pragmatic benefits.

3. **Textuality:** The text of the resolution implies a legal reading: the terms “constitutionally protected” and “public colleges and universities” only make sense within the legal system so it the resolution implies a legal obligation. Resolutional context is the most important measure of textuality because it is the only possible thing derived from the text of the resolution itself: things like common usage depend on outside interpretations. Textuality is key to fairness because the text of the resolution is the only basis of pre-round prep for both debaters. Textuality also precludes Ks independently of fairness because it is only possible to engage with them and get their education if they are grounded in the text of the resolution since it frames pre-round prep. 4. **Legal Education:** My burden forces the debate to a legal question, which is the best form of education: **A.** Learning about the law spills over into other forms of education. **Virgo (**Graham Virgo, *Why Study Law at University if I don't want to become a lawyer,* University of Cambridge, Faculty of Law)One of the real benefits of studying Law at university is that **the law is not taken at face value as something which is unchanging, but rather is something which can moulded and developed.** This may be through careful interpretation of the rules or through careful assessment of old precedents to see how they can be applied to new problems. But Law students also engage in discussions and thinking about more radical reform of the law. Law students are encouraged to reflect on the law, to think critically about the law, to consider whether the law is satisfactory, to identify the policies which underpin particular rules and to suggest alternatives. **Law is consequently a very important and useful subject for students to study if they are interested in questions of justice, rights, social policy and law reform.** 4. Intellectual engagement Finally, **students who study Law** at Universityengage in an academic discipline with a very long pedigree. They **discuss the work of ancient philosophers and modern theorists [and]**; they **examine the meaning of justice;** they consider the operation of financial markets, corporations and commerce; they engage with the operation of law in a European and global arena; they analyse social policy and change. Aristotle said that the ‘Law is reason free from Means the burden precludes Ks because learning about the law allows us to learn about the education endorsed by their role of the ballot and much more. **B.** Learning about the intricacies of the law and how it works is key to social change. **Themba-Nixon 2k**[[3]](#footnote-3) Getting It in Writing Much of the work of framing what we stand for takes place in the shaping of demands. By getting into the policy arena in a proactive manner, we can take our demands to the next level. Our demands can become law, with real consequences if the agreement is broken. After all the organizing, press work, and effort, a group should leave a decisionmaker with more than a handshake and his or her word. Of course, this work requires a certain amount of interaction with "the suits," as well as struggles with the bureaucracy, the technical language, and the all-too-common resistance by decisionmakers. Still, if it's worth demanding, it's worth having in writing-whether as law, regulation, or internal policy. From ballot initiatives on rent control to laws requiring worker protections, organizers are leveraging their power into written policies that are making a real difference in their communities. Of course, policy work is just one tool in our organizing arsenal, but it is a tool we simply can't afford to ignore. Making policy work an integral part of organizing will require a certain amount of retrofitting. We will need to develop the capacity to translate our information, data, and experience into stories that are designed to affect the public conversation [and]. Perhaps most important, we will need to move beyond fighting problems and on to framing solutions that bring us closer to our vision of how things should be. And then we must be committed to making it so. Also means the burden outweighs kritiks because making any sort of change that their role of the ballot demands requires learning about the law as a prerequisite.

5. Even if ought does mean moral obligation, following legal norms still comes first. A. moral norms are not identifiable outside of the context from which they arise. Only law can unify these disagreements on an international scale. **Habermas[[4]](#footnote-4)**

It is characteristic of those who advocate such a value-based administration of justice— whether the basics be determined by natural law or in a contextualist fashion — that they share Weber’s premises, but with a change of sign. They place procedures, abstract principles, and concrete values all on the same level. **Since moral principles are** always already **immersed in** concrete-historical **context**s **of action, there can be no justification** or assessment **of norms according to a universal procedure that ensures impartiality**. Neo-Aristotelians are especially inclined to an ethic of **[Legal] institutions** that **renounces the gulf between** norm and reality, or **principle and rule**, annuls Kant’s distinction between questions of justification and questions of application, and reduces moral deliberations to the level of prudential considerations. 31 At the level of a merely pragmatic judgment, normative and purely functional considerations are then indistinguishably intermingled. In this view, the Federal Constitutional Court, in its assessment of values, has no criteria by which it could distinguish the place of normative principles (such as equal treatment or human dig- nity) or important methodological principles (such as proportionality or appropriateness) from functional imperatives (such as economic peace, the efficiency of the military, or, in general, the so-called feasibility proviso). When individual rights and collective goods are aggregated as values in which each is as particular as the next, deontological, teleological, and system theoretical considerations indistinguishably flow into one another. And the suspicion is only too justified that in the clash of value preferences incapable of further rationalization, the strongest interest will happen to be the one actually implemented. This explains, moreover, why the outcome of judicial proceedings can be so well predicted in terms of interests and power constellations. This third line of argument is only of relevance insofar as it draws attention to an unresolved problem. The example of the judiciary’s dealings with deformalized law shows that **the moralization of law** now so manifest **cannot be denied [since]** or annulled;it is internally connected to the wave of legal regulation triggered by the welfare state. However, both natural law —whether in the form of Christian ethics or value ethics—and neo-Aristotelianism remain help- less in the face of this, because they are unsuited to working out the rational core of legal procedures. **Ethics oriented to [non-legal] conceptions of** the **good** or to specific value hierarchies single out particular normative contents. Their **[have] premises** are **too strong to** serve as the **found**ation for **universally binding decisions in a** modern **society characterized by** the **pluralism** of gods and demons. Only theories of morality and justice developed in the Kantian tradition hold out the promise of an impartial procedure for the justification and assessment of principles

B. Contracts preclude the normativity of other ethical theories. Only contracts dictate action without begging the question of why actors ought to comply since they brought the expectations upon themselves and can’t justify disobeying.

**And,** the neg may not contest the aff burden structure if it’s structurally reciprocal. **Time skew:** If the neg contests the burden structure, the 6-7 4-6 speech times will allow the neg to spread out the aff by introducing multiple different layers in the NC and collapse to whatever layer I undercover in the 2NR. Only by forcing the debate to one layer and allowing me to weigh my offense will solve. And, empirics prove that the neg is at significant advantage, meaning generic reasons why there isn’t a time skew are non-responsive. Time skew is the strongest link into fairness because it’s the only objective measure we have coming into the round.

## Part 2 is the Contention

## I’ll defend implementation if asked in CX and make any other specifications they want in order to meet their theory interps. Implementation and further specification are irrelevant under the burden but I am still willing to defend them.

The Constitution is the most relevant legal document:

1. It’s constitutive and defines what laws are okay in the first place. **The State Department[[5]](#footnote-5)**:

It **[The Constitution] establishes the form of the national government and defines the rights** and liberties **of the American people. It also lists the aims of the national government** and the methods of achieving them. Previously, the nation's leaders had established an alliance among the states under the Articles of Confederation. But the Congress created by the Articles lacked the authority to make the states work together to solve national problems. After the states won independence in the Revolutionary War (1775-1783), they faced all the problems of peacetime government. The states had to enforce law and order, collect taxes, pay a large public debt, and regulate trade among themselves. They also had to deal with Indian tribes and negotiate with other governments. Leading statesmen, such as George Washington and Alexander Hamilton, began to discuss the need to create a strong national government under a new constitution. Hamilton helped bring about a constitutional convention that met in Philadelphia, Pennsylvania, in 1787 to revise the Articles of Confederation. But a majority of the delegates at the convention decided instead to write a new plan of government -- the Constitution of the United States. **The Constitution established** not merely a league of states, but **a government that exercised its authority** directly over all citizens. **The Constitution defines the powers delegated to the national government.** In addition, it protects the powers reserved to the states and the rights of every individual

1. Domestic laws that are unconstitutional are vacuous—they will inevitably be struck down or declared unconstitutional by the court so they don’t mean much. That also proves that the constitution is more important because it has the ability to strike down other laws.
2. The constitution gives public bodies the power to enforce other laws or sign international treaties—means it is a prior question to enforcement of those laws.
3. The constitution is the most long-standing legal document in our country—we have had the chance to think about revisions and add amendments over time so it’s the most rigorous.
4. International Law is not as binding as the constitution. **Garcia 15**

This report provides an introduction to the roles that international law and agreements play in the United States. International law is derived from two primary sources—international agreements and customary practice. Under the U.S. legal system, international agreements can be entered into by means of a treaty or an executive agreement. **The Constitution allocates** primary **responsibility for entering** into such **agreements to the executive branch,** but Congress also plays an essential role. First, in order for a treaty (but not an executive agreement) to become binding upon the United States, the Senate must provide its advice and consent to treaty ratification by a two-thirds majority. Secondly, Congress may authorize congressional-executive agreements. Thirdly, many treaties and executive agreements are not self-executing, meaning that implementing legislation is required to provide U.S. bodies with the domestic legal authority necessary to enforce and comply with an international agreement’s provisions. The status of an **international agreement** within the United States depends on a variety of factors. Self-executing treaties have a status equal to federal statute, superior to U.S. state law, and **inferior to the Constitution.** Depending upon the nature of executive agreements, they may or may not have a status equal to federal statute. In any case, self-executing executive agreements have a status that is superior to U.S. state law and inferior to the Constitution. **Treaties** or executive agreements that are not self-executing generally have been understood by the courts to **have limited status domestically;** rather, the legislation or regulations implementing these agreements are controlling.

Court and legal consensus show the Constitution affirms. **FIRE[[6]](#footnote-6)**

**That the First Amendment applies on the public university campus is settled law**. Public universities have long occupied a special niche in the Supreme Court’s First Amendment jurisprudence. Indeed, **the Court has held that First Amendment protections on campus are necessary for the preservation of our democracy.** [**Sweezy v. New Hampshire**](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=354&invol=234)**,** 354 U.S. 234, 250 (1957) In Sweezy, the Court was faced with the question of whether the Attorney General of New Hampshire could prosecute an individual for refusal to answer questions about a lecture delivered at the state university concerning the Progressive Party of the United States. In holding for the teacher, **the Court wrote** eloquently that: The essentiality offreedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation… **Teachers and students must always remain free to inquire, to study and to evaluate**, to gain new maturity and understanding; otherwise our civilization will stagnate and die**.** [**Keyishian v. Board of Regents**, State Univ. of N.Y.](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=385&invol=589), 385 U.S. 589 (1967)In Keyishian, **the Court declared unconstitutional New York statutes** and administrative rules **designed to prevent employment of “subversive” teachers** and professors in state educational institutions and to dismiss them if found guilty of “treasonable or seditious” acts. The Board of Regents of New York had prepared a list of subversive organizations, including the Communist Party, and determined that membership in these organizations was sufficient reason for a teacher’s disqualification. The Court held that the proscription of “treasonable or seditious” conduct and of “advocacy” of violent overthrow was unconstitutional for vagueness: A teacher could not foretell whether statements about abstract doctrine were prohibited, or whether only speech intended to incite action was grounds for dismissal. The Court observed: Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. [**Healy v. James**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=408&invol=169), 408 U.S. 169, 180 (1972) Central Connecticut State College’s president had denied official status to a left-wing student group associated with violence on other campuses. The president said the group’s philosophy was “antithetical to the school’s policies,” its independence from the national organization was “doubtful,” and it “would be a disruptive influence at the college.” Without official status, the group could not announce its activities in the campus newspaper, post notices on college bulletin boards or use campus facilities for meetings. In this decision, the Court first affirmed public college students’ First Amendment rights of free speech and association, saying those constitutional protections apply with the same force on a state university campus as in the larger community. **The Court stated: [T]he precedents** of this Court **leave no room for the view that**, because of the acknowledged need for order, **First Amendment protections should apply with less force on college campuses than in the community at large.** Quite to the contrary, “**the vigilant protection of constitutional freedoms is nowhere more vital than in** the community of **American schools.”** [Papish v. Board of Curators of University of Missouri](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=410&invol=667), 410 U.S. 667 (1973) Papish concerned a University of Missouri student distributing an underground student newspaper which contained an article entitled “Motherfucker Acquitted,” concerning the acquittal of a member of the radical group “Up Against the Wall, Motherfucker.” The student distributing the paper was expelled under a code of conduct that required students “to observe generally accepted standards of conduct” and prohibited “indecent conduct or speech.” **The Court held that “the mere dissemination of ideas-no matter how offensive** to good taste-on a state university campus **may not be shut off** in the name alone of ‘conventions of decency.'” [Widmar v. Vincent](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=454&invol=263), 454 U.S. 263 (1981) The University of Missouri at Kansas City ruled that its facilities could not be used by student groups “for purposes of religious worship or religious teaching,” believed that this prohibition was required under the Establishment Clause. A student religious group that had previously been permitted to use the facilities sued the school after being informed of the change in policy, asserting that their First Amendment rights to religious free exercise and free speech were being violated. The Court’s decision ensured greater access to public facilities by religious organizations, and held that the state was not assumed to be in support of all messages that were communicated in their facilities. In so ruling, the Court reaffirmed its consistent recognition of the applicability of the First Amendment to the public university, concluding that “With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.”

Outweighs:

1. Indicates consensus in people more qualified than you are I or one legal author to make a decision on the issue.
2. Cites multiple cases in the context of the progression of this question.
3. If a restriction on free speech is constitutional, then the speech is not constitutionally protected. So if the neg proves that restrictions on certain types of speech are constitutional, then that speech just isn’t protected so I don’t have to defend it.

1. Human, All Too Human. Friedrich Wilhelm Nietzsche. Translated by R. J Hollingdale. Cambridge: Cambridge University Press, 1996. [↑](#footnote-ref-1)
2. Pigden, Charles. “Russell’s Moral Philosophy.” SEP. 2007. [↑](#footnote-ref-2)
3. (Makani, Executive Director of The Praxis Project, a nonprofit organization helping communities use media and policy advocacy to advance health equity and justice. “Changing the Rules: What Public Policy Means for Organizing” Colorlines 3.2) [↑](#footnote-ref-3)
4. Jurgen Habermas, *Law and Morality, THE TANNER LECTURES ON HUMAN VALUES*, October 1, 1986. SM [↑](#footnote-ref-4)
5. "The Constitution of the United States of America." *Almanac of Policy Issues*. June 2004. Web. <http://www.policyalmanac.org/government/archive/constitution.shtml>. [↑](#footnote-ref-5)
6. FIRE. "State of the Law: Speech Codes." *FIRE*. N.p., n.d. Web. 11 Jan. 2017. <https://www.thefire.org/in-court/state-of-the-law-speech-codes/>. [↑](#footnote-ref-6)