# 1AR- Frontlines- TOC

# 2AC- DA Answers- TOC

## Cyberbullying

### 2AC- Top Level

#### 1. Link turn- free speech makes people less likely to go onto the web and express their ideas there

#### 2. Link turn- free speech ensures that people on the web generate huge backlash and can have their opinions converted through counterspeech

#### 3. Doesn't solve private exchanges between individuals- that exists now and that is what their impact evidence talks about so your impact is inevitable

#### 4. No uniqueness- Colleges don’t have anti-cyberbullying laws in the status quo – nothing’s going to change

**Vacca 15** (Richard Vacca – CEPI Education Law Newsletter; L. Douglas Wilder School of Government and Public Affairs, http://www.cepi.vcu.edu/media/university-relations/cepi/pdfs/newsletters/2015-16/2015-10EdLawNewsletter-CyberbullyinginHigherEd-Conn.pdf, pg. 2,)

However, bullying’s technological cousin, cyberbullying is proving less tractable at all levels. **Cyberbullying in colleges** and universities **is especially insidious**, existing largely under the radar and often **deliberately ignored**. Cyberbullying in higher education is multidimensional, occurring between and among students, student-on-instructor (especially in online learning situations), instructor-onstudent, and even instructor-on-instructor. Little information is available on instructor-on-student cyberbullying, and even less on instructor-on-instructor cyberbullying. These issues are typically closeted within the internal governance of the institution. This commentary will examine the first two dimensions of cyberbullying in colleges and universities: (1) what is known about the incidence and effects of cyberbullying among students, and (2) student cyberbullying of college and university instructors, particularly in the online setting. The commentary will analyze several controversies that reached the courts when students were disciplined for cyberbullying peers or their instructors. Finally, the commentary will offer recommendations for dealing with the problem of cyberbullying in higher education.

#### 5. Uniqueness overwhelms the link- if federal or state law is coming that overwhelms free speech protections in this instance

#### 6. States check and it’s not protected– cyberbullying can be reported to the police who can take actions to stop cyberbullying no reason why universities have to restrict it

**Citron 14** [Danielle Keats Citron, 12-3-2014, "Free Speech Does Not Protect Cyberharassment," No Publication, <https://www.nytimes.com/roomfordebate/2014/08/19/the-war-against-online-trolls/free-speech-does-not-protect-cyberharassment>] NB

Hateful, offensive and distasteful ideas enjoy constitutional protection, so debate on public issues can be “[uninhibited, robust and wide open](http://www.bc.edu/bc_org/avp/cas/comm/free_speech/nytvsullivan.html)” under the First Amendment. But there is a point when trolling escalates beyond the offensive and shocking into [cyberharassment or cyberstalking](http://www.newsweek.com/2014/08/22/how-law-standing-cyberstalking-264251.html) — actions that are not protected. Intermediaries — usually the websites where trolls post comments — can step in to revoke the privilege of anonymity, or even remove abusive speech that violates their community guidelines but when trolling turns into cyberharassment or cyberstalking, the law can and should intervene. Online perpetrators can be criminally prosecuted for [criminal threats](https://casetext.com/case/us-v-grob#.U_J9WlbbcpE), [cyberstalking](http://www.stltoday.com/news/local/crime-and-courts/man-sentenced-in-st-louis-to-years-for-cyberstalking-wife/article_88b15634-5805-11e1-914a-001a4bcf6878.html), [cyberharassment](http://law.justia.com/cases/federal/appellate-courts/ca1/12-2489/12-2489-2014-05-02.html), [sexual invasions of privacy](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2368946) and [bias intimidation](http://cliffviewpilot.com/nj-devilfish-gets-5-years-in-federal-prison-for-threatening-latino-civil-rights-groups/). They can be [sued](http://blogs.wsj.com/law/2007/06/12/students-file-suit-against-autoadmit-director-others/) for defamation and intentional infliction of emotional distress. In a few states, they can also be held to account for [bias-motivated stalking](https://www.bu.edu/law/central/jd/organizations/journals/bulr/volume89n1/documents/CITRON.pdf) that interferes with victims’ important life opportunities, such as employment and education. Law enforcement should be able to use [forensic expertise](https://freedom-to-tinker.com/blog/harlanyu/traceability-anonymous-online-comment/) and warrants to track down individuals who engage in this conduct anonymously.

**Case outweighs:**

1. It takes down the larger culture of militarism which is responsible for their impacts
2. Magnitude- it affects a larger scope of people compared to current small harms within cyberbullying

### 2AC- Not Protected

#### Cyberbullying isn’t protected and there are already laws in place to solve it

**Citron 14** [Danielle Keats Citron, 12-3-2014, "Free Speech Does Not Protect Cyberharassment," No Publication, <https://www.nytimes.com/roomfordebate/2014/08/19/the-war-against-online-trolls/free-speech-does-not-protect-cyberharassment>] NB

Hateful, offensive and distasteful ideas enjoy constitutional protection, so debate on public issues can be “[uninhibited, robust and wide open](http://www.bc.edu/bc_org/avp/cas/comm/free_speech/nytvsullivan.html)” under the First Amendment. But there is a point when trolling escalates beyond the offensive and shocking into [cyberharassment or cyberstalking](http://www.newsweek.com/2014/08/22/how-law-standing-cyberstalking-264251.html) — actions that are not protected. Intermediaries — usually the websites where trolls post comments — can step in to revoke the privilege of anonymity, or even remove abusive speech that violates their community guidelines but when trolling turns into cyberharassment or cyberstalking, the law can and should intervene. Online perpetrators can be criminally prosecuted for [criminal threats](https://casetext.com/case/us-v-grob#.U_J9WlbbcpE), [cyberstalking](http://www.stltoday.com/news/local/crime-and-courts/man-sentenced-in-st-louis-to-years-for-cyberstalking-wife/article_88b15634-5805-11e1-914a-001a4bcf6878.html), [cyberharassment](http://law.justia.com/cases/federal/appellate-courts/ca1/12-2489/12-2489-2014-05-02.html), [sexual invasions of privacy](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2368946) and [bias intimidation](http://cliffviewpilot.com/nj-devilfish-gets-5-years-in-federal-prison-for-threatening-latino-civil-rights-groups/). They can be [sued](http://blogs.wsj.com/law/2007/06/12/students-file-suit-against-autoadmit-director-others/) for defamation and intentional infliction of emotional distress. In a few states, they can also be held to account for [bias-motivated stalking](https://www.bu.edu/law/central/jd/organizations/journals/bulr/volume89n1/documents/CITRON.pdf) that interferes with victims’ important life opportunities, such as employment and education. Law enforcement should be able to use [forensic expertise](https://freedom-to-tinker.com/blog/harlanyu/traceability-anonymous-online-comment/) and warrants to track down individuals who engage in this conduct anonymously.

### 2AC- Regs Fail

**1. Terminal defense – your actor public colleges and universities would be bad at implementing your counterplan since it neglects state action and implementation. Reilly N.D.**

<http://www.luc.edu/media/lucedu/law/centers/childlaw/childed/pdfs/2011studentpapers/reilly_cyberbullying.pdf> Cyber-Bullying: Freedom of Expression vs. Freedom from Harassment Brendan Reilly Loyola University Chicago HW

Therefore, even if **a law** were made **in an attempt to prohibit** such **online harassment**, it **would be very difficult** to formulate a statute to encompass the range of online activities that could lead to tragedy. Finally, **schools are** probably **not** the most **effective entities to regulate such behavior because most “cyber-bullying” occurs outside the school. As discussed in the cases infra, the schools would have to show a nexus between the speech and a disruption at school, which would be very difficult to prove.** Not to mention the difficulties and privacy issues associated with monitoring students’ online activities. Consequently, **the only effective way to regulate “cyber-bullying” is through** a joint effort by **states**, schools, and parents. **The government** needs to **enact a “cyber-bullying” statute**, schools need to remain vigilant for evidence of “cyber-bullying” and act when intervention is necessary, and parents need to monitor their child’s online activity and counsel them about the dangers of such online harassment.

**2. States check – cyberbullying can be reported to the police who can take actions to stop cyberbullying no reason why universities have to restrict it.**

**3. Cyberbullying legislation is vague and won’t solve for anything – instead it chills speech and creates vagueness.**

**NOE 13**

<http://ic.galegroup.com/ic/ovic/ViewpointsDetailsPage/DocumentToolsPortletWindow?displayGroupName=Viewpoints&jsid=86b8d9990680ac70437ab043a7b61192&action=2&catId=&documentId=GALE%7CEJ3010868216&u=nysl_we_bcsd&zid=e5792b8229fbb3d88a51bec521a1e8cf> Anti-Cyberbullying Laws Are a Threat to Free Speech Netiquette and Online Ethics, 2013 From Opposing Viewpoints in Context Content Level Intermediate Listen HW

While many applaud **anti-cyber bullying legislation**, some are concerned that it **gives school officials unbridled authority** that will be used to burnish their image, not protect bullying victims, or **that** it **threatens student free speech.** Furthermore, if their authority is unleashed beyond the school yard, it is essentially limitless. Thus **no student**, even in the privacy of their home, **can write** about controversial topics of concern to them **without worrying that it may be "disruptive**" or cause a "hostile environment" at school. In effect, **students will be punished for off-campus speech based on the way people react to it at school**. Many of **the terms are so vague that they offer no guidance to distinguish permissible from impermissible speech**. In this sense, they are akin to campus speech codes that courts invalidated in the 1990s for vagueness and overbreadth. Consequently, **these laws** don't simply "**chill**" **student free speech**, they plunge it into deep freeze. This [viewpoint] argues that for these reasons, some anti-cyber bullying laws violate the First Amendment and should be struck down as unconstitutional.... The First Amendment, True Threats and Cyber Bullying The battle public school officials have been waging against student Internet speech has not gone unnoticed by legal commentators.

## Court Legitimacy

### 2AC- Straight Turn

#### Overturning law on unconstitutional grounds checks deference and reaffirms the legitimacy of the Supreme Court.

**Rosenfeld 04** (Professor of Constitutional Law, Constitutional Adjudication in Europe and the United States: Paradoxes and Contrast International Journal of Constitutional Law Volume 2, Number 2, October 650-1 TC)

In theory at least, common law adjudication need not involve repudiation of precedents, only their refinement and adjustment through further elaborations. Accordingly, gaps in predictability may be merely the result of indeterminacies; the recourse to notions of fairness are meant primarily to reassure the citizenry that the inevitably unpredictable will never be unjust. Constitutional adjudication, on the other hand, while relying on precedents as part of its common law methodology, must ultimately be faithful to the constitutional provision involved rather than to the precedents. As a result, when precedents appear patently unfair or circumstances have changed significantly, the U.S. Supreme Court is empowered—perhaps obligated pursuant to its constitutional function—to overrule precedent, thus putting fairness above predictability.60 For example, in its recent decision in Lawrence v. Texas,61 the Supreme Court overruled its 1986 decision in Bowers v. Hardwick,62 which held that the due process clause did not extend constitutional protection to homosexual sex among consenting adults, thus upholding a law that criminalized such conduct. More generally, whenever a constitutional challenge raises a significant question that could entail overruling a constitutional precedent, the Supreme Court faces a choice between predictability and fairness. American rule of law, like the Verfassungsstaat, involves constitutional rule through law, but unlike the Rechtsstaat it produces a rule through law where predictability is but one among several, often antagonistic, elements. American rule of law ultimately amounts to a complex, dynamic interplay between competing elements and tendencies. Moreover, it appears, at least initially, that more than the Rechtsstaat or the État de droit, American rule of law depends for its viability on a broad based consensus regarding extralegal norms, such as fairness and substantive notions of justice and equity. Indeed, if there is a consensus on what constitutes fairness or justice, then the tensions between predictability and fairness, and between procedural and substantive safeguards, seem entirely manageable, and the work of the constitutional adjudicator more legal than political. If, on the contrary, there are profound disagreements over what is fair or just, then the work of the constitutional adjudicator is bound to seem unduly political. Accordingly, at least prima facie, the task of the American constitutional adjudicator seems more delicate and precarious than that of her continental counterpart.

#### Enforcing controversial decisions builds legitimacy

**Law 09** (David S., Professor of Law and Political Science – Washington University, “A Theory of Judicial Power and Judicial Review”, Georgetown Law Journal, March, 97 Geo. L.J. 723, Lexis)

Part IV of this Article discusses a counterintuitive implication of a coordination-based account of judicial power. Conventional wisdom suggests that courts secure compliance with their decisions by drawing upon their store of legitimacy, which is undermined by decisions that are unpopular, controversial, or lack intellectual integrity. **[25](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=8c88d133c25a3b4f5051a1f6e7d59e22&docnum=10&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAA&_md5=f69097397b5940fd4142eea50a91eed7&focBudTerms=supreme+court+w%2F35+controvers%21+or+unpopular+w%2F20+decision%21+or+ruling%21+w%2F35+legitimacy&focBudSel=all" \l "n25" \t "_self)** Part IV argues that precisely the opposite is true: an unpopular or unpersuasive decision can, in fact, enhance a court's power in future cases, as long as it is obeyed. Widespread compliance with a decision that is controversial, unpopular, or unpersuasive serves only to strengthen the widely held expectation that others comply with judicial decisions. This expectation, in turn, is self-fulfilling: those who expect others to comply with a court's decisions will find it strategically prudent to comply themselves, and the aggregate result will, in fact, be widespread compliance. Part IV illustrates these strategic insights--and the Supreme Court's apparent grasp of them--by contrasting  [\*734]  *Bush v. Gore* **[26](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=8c88d133c25a3b4f5051a1f6e7d59e22&docnum=10&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAA&_md5=f69097397b5940fd4142eea50a91eed7&focBudTerms=supreme+court+w%2F35+controvers%21+or+unpopular+w%2F20+decision%21+or+ruling%21+w%2F35+legitimacy&focBudSel=all" \l "n26" \t "_self)** with *Brown v. Board of Education* **[27](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=8c88d133c25a3b4f5051a1f6e7d59e22&docnum=10&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAA&_md5=f69097397b5940fd4142eea50a91eed7&focBudTerms=supreme+court+w%2F35+controvers%21+or+unpopular+w%2F20+decision%21+or+ruling%21+w%2F35+legitimacy&focBudSel=all" \l "n27" \t "_self)** and *Cooper v. Aaron*. **[28](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&_m=8c88d133c25a3b4f5051a1f6e7d59e22&docnum=10&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlb-zSkAA&_md5=f69097397b5940fd4142eea50a91eed7&focBudTerms=supreme+court+w%2F35+controvers%21+or+unpopular+w%2F20+decision%21+or+ruling%21+w%2F35+legitimacy&focBudSel=all" \l "n28" \t "_self)**

### 2AC- Impact Turn

#### No risk of tyranny due to Separation of Power violations.

Constitutional Commentary 1996 (Winter, pp. 343-5)

A second, perhaps more interesting, difficulty with the prophylactic approach is that it may rely on a too judicialocentric view of the workings of government that exaggerates the Court's role in the separation-of-powers struggle. Professor Redish's argument rests on the notion that it is vitally important that the Court get its separation-of-powers jurisprudence right. The argument runs something like this: Separation of powers is a bulwark of liberty - without it, the individual protections of the Bill of Rights are nothing but paper. The Court defines separation-of-powers law. If it messes up, then so much for liberty. The Court is bound to mess up if it adopts anything other than a prophylactic approach to separation of powers. It is therefore urgent that the Court adopt this approach. Fortunately, the Framers' design is probably stronger than this argument presupposes. Separation-of-powers gives each branch tools which enable ambition to counteract ambition. The Court gets to decide cases. It justifies its decisions with opinions which the other branches and the citizenry generally follow as authoritative. Thus, although the Court does not have guns or money, it has words. These words are the Court's tools in the separation-of-powers struggle. Any time the Court writes an opinion on separation of powers, it self-consciously uses its particular power to shove the boundaries of branch power - sometimes to profound effect, as a simple hypothetical illustrates. Suppose Chief Justice Marshall had ended Marbury v. Madison with the following paragraph: Then again, Congress has just as much right to interpret the Constitution as I do - perhaps even more, because Congress is the branch closest to the people, and it is the people's Constitution. I was just kidding about that judicial review stuff. History would be very different, partially because such a result in Marbury would have grossly undermined the Court's future ability to compete in the separation-of-powers struggle successfully. On a more general level, Supreme Court opinions on any topic can affect the balance of branch power. For instance, the Supreme Court can undermine its authority by producing poorly reasoned opinions - or, much worse from a realpolitik point of view, unpopular opinions. The power, however, of any given decision to damage a Court staffed by relatively sane Justices is probably limited. This is an institution that has survived Dred Scott and Plessy v. Ferguson. Of course, the other branches also shove at the boundaries of branch power - FDR's Court-packing plan being one notable example of this practice. Sometimes the law of unintended consequences grabs hold. Perhaps the Court-packing plan concentrated the Justices' minds on finding ways to hold New Deal legislation constitutional, but it also blew up in FDR's face politically. At least for the last two hundred years, however, no branch has managed to expand its power to the point of delivering an obvious knock-out blow to another branch. Seen from this broader perspective, cases such as Morrison, Bowsher v. Synar, and Mistretta v. United States surely alter the balance of branch power at a given historical moment, but do not change the fundamental and brute fact that the Constitution puts three institutional heavyweights into a ring where they are free to bash each other. Judicialocentrism tends to obscure this obvious point because it causes people to dwell on the hard cases that reach the Supreme Court. The power of separation of powers, however, largely resides in its ability to keep the easy cases from ever occurring. For instance, Congress, although it tries to weaken the President from time to time, has not tried to reduce the President to a ceremonial figurehead a la the Queen of England. Similarly, Congress does not make a habit of trying cases that have been heard by the courts. This list could be continued indefinitely. The Supreme Court has had two hundred years to muck about with separation-of-powers doctrine. Over that time, scores of Justices - each with his or her own somewhat idiosyncratic view of the law - have sat on the bench. Scholars have denounced separation-of-powers jurisprudence as a mess. But the Republic endures, at least more or less. These historical facts tend to indicate that the Court need not rush to change its approach to separation of powers to prevent a slide into tyranny.

#### Judicial power kills readiness

Chensey 9 (Robert M. is a Professor at University of Texas School of Law, NATIONAL SECURITY FACT DEFERENCE, VIRGINIA LAW REVIEW, 17 September 2009, http://www.virginialawreview.org/content/pdfs/95/1361.pdf, pg. 1426-1428)

Advocates of deference at times also emphasize the collateral ¶ consequences that non-deferential judicial review of executive ¶ branch factual judgments might have on related government operations or activities. On this view, the benefits of judicial review—¶ measured in terms of enforcement of separation of powers values ¶ or even enhancement of accuracy—in some circumstances may be ¶ outweighed by collateral costs entailed by the very process of nondeferential, or insufficiently deferential, review. ¶ When precisely does this argument come into play? Advocates ¶ of deference do not contend that collateral costs outweigh potential benefits in all national security related litigation. Indeed, the ¶ argument played no significant role in most of the examples surveyed in Part I. Most if not all judicial review of government action, after all, entails some degree of disruption to government operations. Government personnel, for example, often are obliged to ¶ spend some amount of time and resources participating, directly or ¶ indirectly, in the process of litigation, whether by serving as witnesses in a formal sense, gathering and reviewing documents, ¶ speaking informally with attorneys or investigators, and so forth. ¶ These litigation related activities to some extent are bound to disrupt the performance of ordinary government functions. ¶ But some such disruptions are more serious than others. Disruption of military activity, for example, may impose unusually high ¶ costs. So said Justice Jackson in Johnson v. Eisentrager,¶ 218 a postWorld War II decision denying habeas rights to a group of Ger-[page 1427] mans convicted of war crimes and detained in a U.S. controlled facility in Germany. Jackson gave many reasons for the decision, but ¶ placed particular emphasis on the undesirable practical consequences that would, in his view, follow from permitting any judicial ¶ review in this setting. These included: disruption of ongoing military operations, expenditure of scarce military resources, distraction of field commanders, harm to the prestige of commanders, and ¶ comfort to armed enemies.219 The government not surprisingly emphasized such concerns in the Hamdi litigation as well, though with ¶ much less success; and similar arguments continue to play a significant role today as courts grapple with still unresolved questions regarding the precise nature of habeas review of military determinations of enemy combatant status.220¶ But even in the enemy combatant setting, where disruption concerns arguably are near their zenith, this argument does not necessarily point in the direction of fact deference as the requisite solution. It did not persuade the Supreme Court in Hamdi to defer to ¶ the government’s factual judgment, nor did it do so in the more recent decision in Boumediene v. Bush dealing with noncitizen detainees held at Guantánamo. The impact of the argument in those ¶ cases instead was to prompt the Court to accept procedural innovations designed to ameliorate the impact of judicial review, rather ¶ than seeking to avoid that impact via deference.221 This is a useful ¶ reminder that even when the executive branch raises a legitimate ¶ concern in support of a fact deference argument, it does not follow ¶ automatically that deference is the only mechanism by which the ¶ judiciary can accommodate the concern. ¶ This leaves the matter of secrecy. Secrecy relates to the collateral consequences inquiry in the sense that failure to maintain secrecy with respect to national security information can have extralitigation consequences for government operations—as well as for [page 1428] individuals or even society as a whole—ranging from the innocuous ¶ to the disastrous. Without a doubt this is a significant concern. But, ¶ again, it is not clear that deference is required in order to address ¶ it. Preservation of secrecy is precisely the reason that the state secrets privilege exists, of course, and it also is the motive for the ¶ Classified Information Procedures Act, which establishes a process ¶ through which judges work with the parties to develop unclassified ¶ substitutes for evidence that must be withheld on secrecy ¶ grounds.222

#### Readiness solves war

Spencer, 2000 (Jack, Research Fellow at Thomas A. Roe Institute for Economic Policy Studies, “The Facts About Military Readiness”, Heritage Foundation, September 15th, http://www.heritage.org/Research/Reports/2000/09/BG1394-The-Facts-About-Military-Readiness)

America's national security requirements dictate that the armed forces must be prepared to defeat groups of adversaries in a given war. America, as the sole remaining superpower, has many enemies. Because attacking America or its interests alone would surely end in defeat for a single nation, these enemies are likely to form alliances. Therefore, basing readiness on American military superiority over any single nation has little saliency. The evidence indicates that the U.S. armed forces are not ready to support America's national security requirements. Moreover, regarding the broader capability to defeat groups of enemies, military readiness has been declining. The National Security Strategy, the U.S. official statement of national security objectives,3 concludes that the United States "must have the capability to deter and, if deterrence fails, defeat large-scale, cross-border aggression in two distant theaters in overlapping time frames."4 According to some of the military's highest-ranking officials, however, the United States cannot achieve this goal. Commandant of the Marine Corps General James Jones, former Chief of Naval Operations Admiral Jay Johnson, and Air Force Chief of Staff General Michael Ryan have all expressed serious concerns about their respective services' ability to carry out a two major theater war strategy.5 Recently retired Generals Anthony Zinni of the U.S. Marine Corps and George Joulwan of the U.S. Army have even questioned America's ability to conduct one major theater war the size of the 1991 Gulf War.6 Military readiness is vital because declines in America's military readiness signal to the rest of the world that the United States is not prepared to defend its interests. Therefore, potentially hostile nations will be more likely to lash out against American allies and interests, inevitably leading to U.S. involvement in combat. A high state of military readiness is more likely to deter potentially hostile nations from acting aggressively in regions of vital national interest, thereby preserving peace.

#### Only readiness prevents flashpoints from escalating to war

Duggan 97 - Dennis Duggan, Assistant Director, National Sec.-Foreign Relations Commission, The American Legion, FNS, April 17, 1997

Mr. Chairman, The American Legion is pleased to appear before this Subcommittee to express its concerns about FY 1998 defense appropriations. The American Legion knows only too well what can happen when diplomacy and deterrence fail. As history has demonstrated, it is important for the President and Congress to continue to uphold their constitutional responsibilities to provide for the "common defense" of the American people in a highly uncertain world. The world is still a dangerous place. There is unrest in the Middle East, in Bosnia and eastern Europe, and on the Korean peninsula. A revitalized Red China is exercising its military and maritime prowess by reaching into the Pacific and to our very shores and cities. Russia is still armed with at least 7,000 intercontinental missiles and opposes the concept of an expanded NATO. The continuous proliferation of weapons of mass destruction and the increase in ethnic and nationalistic wars are prompting more U.S. contingency operations continue to demand attention. Additionally, the United States faces the challenges posed by international terrorism, fundamentalist religious movements and drug cartels, none of which operate within the basic rules of international law. The American Legion has always adhered to the principle that our nation's armed forces must be well-manned and equipped, not to pursue war, but to preserve and protect the hard-earned peace. The American Legion strongly believes the current military downsizing is based more on budget targets and budget deficit reduction than on current and foreseeable threats to the national security well-being of the American people and America's vital interests. Mr. Chairman, The American Legion is convinced that the United States is returning to the days of the "hollow forces." Once Army divisions, Navy aircraft carrier battle groups, and Air Force fighter wings are cut from the force structure, they cannot be rapidly reconstituted without the costly expenditures of time, money, and human lives. History has demonstrated that it has been safer to err on the side of preserving robust forces to protect America's interests.

#### US leadership prevents great power war and existential governance crises

Brooks, Ikenberry, and Wohlforth ’13 (Stephen, Associate Professor of Government at Dartmouth College, John Ikenberry is the Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, William C. Wohlforth is the Daniel Webster Professor in the Department of Government at Dartmouth College “Don’t Come Home America: The Case Against Retrenchment,” International Security, Vol. 37, No. 3 (Winter 2012/13), pp. 7–51)

A core premise of deep engagement is that it prevents the emergence of a far more dangerous global security environment. For one thing, as noted above, the United States’ overseas presence gives it the leverage to restrain partners from taking provocative action. Perhaps more important, its core alliance commitments also deter states with aspirations to regional hegemony from contemplating expansion and make its partners more secure, reducing their incentive to adopt solutions to their security problems that threaten others and thus stoke security dilemmas. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war. 72 How do retrenchment advocates, the bulk of whom are realists, discount this benefit? Their arguments are complicated, but two capture most of the variation: (1) U.S. security guarantees are not necessary to prevent dangerous rivalries and conflict in Eurasia; or (2) prevention of rivalry and conflict in Eurasia is not a U.S. interest. Each response is connected to a different theory or set of theories, which makes sense given that the whole debate hinges on a complex future counterfactual (what would happen to Eurasia’s security setting if the United States truly disengaged?). Although a certain answer is impossible, each of these responses is nonetheless a weaker argument for retrenchment than advocates acknowledge. The first response flows from defensive realism as well as other international relations theories that discount the conflict-generating potential of anarchy under contemporary conditions. 73 Defensive realists maintain that the high expected costs of territorial conquest, defense dominance, and an array of policies and practices that can be used credibly to signal benign intent, mean that Eurasia’s major states could manage regional multipolarity peacefully without the American pacifier. Retrenchment would be a bet on this scholarship, particularly in regions where the kinds of stabilizers that nonrealist theories point to—such as democratic governance or dense institutional linkages—are either absent or weakly present. There are three other major bodies of scholarship, however, that might give decisionmakers pause before making this bet. First is regional expertise. Needless to say, there is no consensus on the net security effects of U.S. withdrawal. Regarding each region, there are optimists and pessimists. Few experts expect a return of intense great power competition in a post-American Europe, but many doubt European governments will pay the political costs of increased EU defense cooperation and the budgetary costs of increasing military outlays. 74 The result might be a Europe that is incapable of securing itself from various threats that could be destabilizing within the region and beyond (e.g., a regional conflict akin to the 1990s Balkan wars), lacks capacity for global security missions in which U.S. leaders might want European participation, and is vulnerable to the influence of outside rising powers. What about the other parts of Eurasia where the United States has a substantial military presence? Regarding the Middle East, the balance begins to swing toward pessimists concerned that states currently backed by Washington— notably Israel, Egypt, and Saudi Arabia—might take actions upon U.S. retrenchment that would intensify security dilemmas. And concerning East Asia, pessimism regarding the region’s prospects without the American pacifier is pronounced. Arguably the principal concern expressed by area experts is that Japan and South Korea are likely to obtain a nuclear capacity and increase their military commitments, which could stoke a destabilizing reaction from China. It is notable that during the Cold War, both South Korea and Taiwan moved to obtain a nuclear weapons capacity and were only constrained from doing so by a still-engaged United States. 75 The second body of scholarship casting doubt on the bet on defensive realism’s sanguine portrayal is all of the research that undermines its conception of state preferences. Defensive realism’s optimism about what would happen if the United States retrenched is very much dependent on its particular—and highly restrictive—assumption about state preferences; once we relax this assumption, then much of its basis for optimism vanishes. Specifically, the prediction of post-American tranquility throughout Eurasia rests on the assumption that security is the only relevant state preference, with security defined narrowly in terms of protection from violent external attacks on the homeland. Under that assumption, the security problem is largely solved as soon as offense and defense are clearly distinguishable, and offense is extremely expensive relative to defense. Burgeoning research across the social and other sciences, however, undermines that core assumption: states have preferences not only for security but also for prestige, status, and other aims, and they engage in trade-offs among the various objectives. 76 In addition, they define security not just in terms of territorial protection but in view of many and varied milieu goals. It follows that even states that are relatively secure may nevertheless engage in highly competitive behavior. Empirical studies show that this is indeed sometimes the case. 77 In sum, a bet on a benign postretrenchment Eurasia is a bet that leaders of major countries will never allow these nonsecurity preferences to influence their strategic choices. To the degree that these bodies of scholarly knowledge have predictive leverage, U.S. retrenchment would result in a significant deterioration in the security environment in at least some of the world’s key regions. We have already mentioned the third, even more alarming body of scholarship. Offensive realism predicts that the withdrawal of the American pacifier will yield either a competitive regional multipolarity complete with associated insecurity, arms racing, crisis instability, nuclear proliferation, and the like, or bids for regional hegemony, which may be beyond the capacity of local great powers to contain (and which in any case would generate intensely competitive behavior, possibly including regional great power war). Hence it is unsurprising that retrenchment advocates are prone to focus on the second argument noted above: that avoiding wars and security dilemmas in the world’s core regions is not a U.S. national interest. Few doubt that the United States could survive the return of insecurity and conflict among Eurasian powers, but at what cost? Much of the work in this area has focused on the economic externalities of a renewed threat of insecurity and war, which we discuss below. Focusing on the pure security ramifications, there are two main reasons why decisionmakers may be rationally reluctant to run the retrenchment experiment. First, overall higher levels of conflict make the world a more dangerous place. Were Eurasia to return to higher levels of interstate military competition, one would see overall higher levels of military spending and innovation and a higher likelihood of competitive regional proxy wars and arming of client states—all of which would be concerning, in part because it would promote a faster diffusion of military power away from the United States. Greater regional insecurity could well feed proliferation cascades, as states such as Egypt, Japan, South Korea, Taiwan, and Saudi Arabia all might choose to create nuclear forces. 78 It is unlikely that proliferation decisions by any of these actors would be the end of the game: they would likely generate pressure locally for more proliferation. Following Kenneth Waltz, many retrenchment advocates are proliferation optimists, assuming that nuclear deterrence solves the security problem. 79 Usually carried out in dyadic terms, the debate over the stability of proliferationchanges as the numbers go up. Proliferation optimism rests on assumptions of rationality and narrow security preferences. In social science, however, such assumptions are inevitably probabilistic. Optimists assume that most states are led by rational leaders, most will overcome organizational problems and resist the temptation to preempt before feared neighbors nuclearize, and most pursue only security and are risk averse. Confidence in such probabilistic assumptions declines if the world were to move from nine to twenty, thirty, or forty nuclear states. In addition, many of the other dangers noted by analysts who are concerned about the destabilizing effects of nuclear proliferation—including the risk of accidents and the prospects that some new nuclear powers will not have truly survivable forces—seem prone to go up as the number of nuclear powers grows. 80 Moreover, the risk of “unforeseen crisis dynamics” that could spin out of control is also higher as the number of nuclear powers increases. Finally, add to these concerns the enhanced danger of nuclear leakage, and a world with overall higher levels of security competition becomes yet more worrisome. The argument that maintaining Eurasian peace is not a U.S. interest faces a second problem. On widely accepted realist assumptions, acknowledging that U.S. engagement preserves peace dramatically narrows the difference between retrenchment and deep engagement. For many supporters of retrenchment, the optimal strategy for a power such as the United States, which has attained regional hegemony and is separated from other great powers by oceans, is offshore balancing: stay over the horizon and “pass the buck” to local powers to do the dangerous work of counterbalancing any local rising power. The United States should commit to onshore balancing only when local balancing is likely to fail and a great power appears to be a credible contender for regional hegemony, as in the cases of Germany, Japan, and the Soviet Union in the midtwentieth century. The problem is that China’s rise puts the possibility of its attaining regional hegemony on the table, at least in the medium to long term. As Mearsheimer notes, “The United States will have to play a key role in countering China, because its Asian neighbors are not strong enough to do it by themselves.” 81 Therefore, unless China’s rise stalls, “the United States is likely to act toward China similar to the way it behaved toward the Soviet Union during the Cold War.” 82 It follows that the United States should take no action that would compromise its capacity to move to onshore balancing in the future. It will need to maintain key alliance relationships in Asia as well as the formidably expensive military capacity to intervene there. The implication is to get out of Iraq and Afghanistan, reduce the presence in Europe, and pivot to Asia— just what the United States is doing. 83 In sum, the argument that U.S. security commitments are unnecessary **for peace** is countered by a lot of scholarship, including highly influential realist scholarship. In addition, the argument that Eurasian peace is unnecessary for U.S. security is weakened by the potential for a large number of nasty security consequences as well as the need to retain a latent onshore balancing capacity that dramatically reduces the savings retrenchment might bring. Moreover, switching between offshore and onshore balancing could well be difªcult. Bringing together the thrust of many of the arguments discussed so far underlines the degree to which the case for retrenchment misses the underlying logic of the deep engagement strategy. By supplying reassurance, deterrence, and active management, the United States lowers security competition in the world’s key regions, thereby preventing the emergence of a hothouse atmosphere for growing new military capabilities. Alliance ties dissuade partners from ramping up and also provide leverage to prevent military transfers to potential rivals. On top of all this, the United States’ formidable military machine may deter entry by potential rivals. Current great power military expenditures as a percentage of GDP are at historical lows, and thus far other major powers have shied away from seeking to match top-end U.S. military capabilities. In addition, they have so far been careful to avoid attracting the “focused enmity” of the United States. 84 All of the world’s most modern militaries are U.S. allies (America’s alliance system of more than sixty countries now accounts for some 80 percent of global military spending), and the gap between the U.S. military capability and that of potential rivals is by many measures growing rather than shrinking. 85

#### Executive flex key to split-second decisions

Gonzalez 13 [Gonzales, Alberto R (Before joining the Bush Administration in Washington, the author served as then-Governor George W. Bush’s General Counsel, the Texas Secretary of State, and was later appointed to the Texas Supreme Court. The author is currently the Doyle Rogers Distinguished Chair of Law at Belmont University College of Law, and Counsel of the Nashville law firm of Waller Lansden). "Drones: The Power to Kill." Geo. Wash. L. Rev. 82 (2013): 1-247] AJ

In previous declarations of war and authorizations to use force, Congress historically has identified against whom such force may be used.242 Identifying a specific individual or group of individuals as the enemy target or combatant, however, is rightly the authority of the President and his battlefield commanders; they have the institutional flexibility and expertise to make these judgments.243 Often these deci- sions are made in a split-second encounter on the battlefield when there is little or no opportunity to question the allegiance or citizen- ship of the person standing across the line.244 If the individual is eye to eye with American forces on the battlefield and armed or showing hostile intent, that is sufficient to respond to him as an enemy combat- ant irrespective of his citizenship.245 If, however, the potential target is known to be an American citizen in a far away, remote location, and the government has time to use a deliberative review process to deter- mine whether the target is an enemy combatant and to place him on the kill list, then the process required from our government to that American citizen becomes less clear.246

#### Courts uniquely bad – increases mismanagement

Gonzalez 13 [Gonzales, Alberto R (Formal Counsel to President and Attonrney General in George W. Bush Admin). Before joining the Bush Administration in Washington, the author served as then-Governor George W. Bush’s General Counsel, the Texas Secretary of State, and was later appointed to the Texas Supreme Court. The author is currently the Doyle Rogers Distinguished Chair of Law at Belmont University College of Law, and Counsel of the Nashville law firm of Waller Lansden). "Drones: The Power to Kill." Geo. Wash. L. Rev. 82 (2013): 1-247] AJ

Such flexibility may be desirable in other contexts. On matters related to national security, foreign policy, and military judgments, however, the courts are the least qualified of the three branches to exercise discretion.333 Judges have neither the expertise nor experi- ence to evaluate threats against the United States, nor the staff neces- sary to develop such expertise.334 Separation of powers would appear to demand less discretion by the courts on these types of issues.335

#### Executive conflict authority is a conflict dampener---prevents escalation of their impacts

Royal ‘11

John-Paul, Institute of World Politics, Class of 2011 Valedictorian, “War Powers and the Age of Terrorism,” <http://www.thepresidency.org/storage/Fellows2011/Royal-_Final_Paper.pdf>

The international system itself and national security challenges to the United States in particular, underwent rapid and significant change in the first decade of the twenty-first century. War can no longer be thought about strictly in the terms of the system and tradition created by the Treaty of Westphalia over three and a half centuries ago. Non-state actors now possess a level of destructiveness formerly enjoyed only by nation states. Global terrorism, coupled with the threat of weapons of mass destruction developed organically or obtained from rogue regimes, presents new challenges to U.S. national security and place innovative demands on the Constitution’s system of making war. In the past, as summarized in the 9/11 Commission Report, threats emerged due to hostile actions taken by enemy states and their ability to muster large enough forces to wage war: “Threats emerged slowly, often visibly, as weapons were forged, armies conscripted, and units trained and moved into place. Because large states were more powerful, they also had more to lose. They could be deterred" (National Commission 2004, 362). This mindset assumed that peace was the default state for American national security. Today however, we know that threats can emerge quickly. Terrorist organizations half-way around the world are able to wield weapons of unparalleled destructive power. These attacks are more difficult to detect and deter due to their unconventional and asymmetrical nature. In light of these new asymmetric threats and the resultant changes to the international system, peace can no longer be considered the default state of American national security. Many have argued that the Constitution permits the president to use unilateral action only in response to an imminent direct attack on the United States. In the emerging security environment described above, pre-emptive action taken by the executive branch may be needed more often than when nation-states were the principal threat to American national interests. Here again, the 9/11 Commission Report is instructive as it considers the possibility of pre-emptive force utilized over large geographic areas due to the diffuse nature of terrorist networks: In this sense, 9/11 has taught us that terrorism against American interests “over there” should be regarded just as we regard terrorism against America “over here.” In this sense, the American homeland is the planet (National Commission 2004, 362). Furthermore, the report explicitly describes the global nature of the threat and the global mission that must take place to address it. Its first strategic policy recommendation against terrorism states that the: U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power (National Commission 2004, 367). Thus, fighting continues against terrorists in Afghanistan, Yemen, Iraq, Pakistan, the Philippines, and beyond, as we approach the tenth anniversary of the September 11, 2001 attacks. Proliferation of weapons of mass destruction (WMD), especially nuclear weapons, into the hands of these terrorists is the most dangerous threat to the United States. We know from the 9/11 Commission Report that Al Qaeda has attempted to make and obtain nuclear weapons for at least the past fifteen years. Al Qaeda considers the acquisition of weapons of mass destruction to be a religious obligation while “more than two dozen other terrorist groups are pursing CBRN [chemical, biological, radiological, and nuclear] materials” (National Commission 2004, 397). Considering these statements, rogue regimes that are openly hostile to the United States and have or seek to develop nuclear weapons capability such as North Korea and Iran, or extremely unstable nuclear countries such as Pakistan, pose a special threat to American national security interests. These nations were not necessarily a direct threat to the United States in the past. Now, however, due to proliferation of nuclear weapons and missile technology, they can inflict damage at considerably higher levels and magnitudes than in the past. In addition, these regimes may pursue proliferation of nuclear weapons and missile technology to other nations and to allied terrorist organizations. The United States must pursue condign punishment and appropriate, rapid action against hostile terrorist organizations, rogue nation states, and nuclear weapons proliferation threats in order to protect American interests both at home and abroad. Combating these threats are the “top national security priority for the United States…with the full support of Congress, both major political parties, the media, and the American people” (National Commission 2004, 361). Operations may take the form of pre-emptive and sustained action against those who have expressed hostility or declared war on the United States. Only the executive branch can effectively execute this mission, authorized by the 2001 AUMF. If the national consensus or the nature of the threat changes, Congress possesses the intrinsic power to rescind and limit these powers.

## Dropouts

### 2AC- Harrison Module

#### 1. Case outweighs- militarism criminalizes dissent and incentives biased research which changes how their innovation impacts manifest themselves

#### 2. Uniqueness overwhelms the link- minority enrollment is so high now indicated by your studies from 2015 but hate incidents are more common so the link is too small to deter enrollment

#### 3. Link Turn- their impact ev. describes diversity is key to new viewpoints and inclusion—but the aff literally fosters open movements for those very purposes

#### 4. The link is nonunique- it describes any other racial incident as being bad but those are increasingly common and speech codes can’t regulate them

## Endowments

### 2AC- Straight Turn [Long]

#### Endowments decreasing now

**Seltzer 1-31** [Rick Seltzer, 1-31-2017, "Endowment returns fell in 2016," No Publication, <https://www.insidehighered.com/news/2017/01/31/endowment-returns-fell-2016>] NB

College and university endowments’ net returns declined for the second straight year in 2016, dropping into negative territory and posting their worst results since the depths of the financial crisis. Endowments returned an average of -1.9 percent in the 2016 fiscal year that ended in June, net of fees, according to an annual survey released Tuesday by the National Association of College and University Business officers and the nonprofit asset management firm Commonfund. That’s significantly below [last year’s return](https://www.insidehighered.com/news/2016/01/27/endowment-returns-24-percent-fiscal-year-2015" \t "_blank) of 2.4 percent and follows a decade of volatile ups and downs. It’s also substantially lower than the 7.4 percent median annual return endowments are generally considered to need to average in order to maintain their purchasing power over time. The year’s negative returns dragged down 10-year average annual returns to 5 percent, down from 6.3 percent a year ago. It knocked the 5-year average annual return rate to 5.4 percent, down from 9.8 percent a year ago. And it pulled the 3-year average annual return rate to 5.2 percent from 9.9 percent last year. Negative returns for the year should not come as a surprise after [early reports](https://www.insidehighered.com/news/2016/09/30/low-endowment-returns-dont-stop-regulation-push" \t "_blank) in the fall indicated the largest college and university endowments struggled in the 2016 fiscal year. But they could still cause problems for institutions trying to balance demands for endowment spending on priorities like financial aid and research against the need to grow the funds so they can continue to exist in the future. “There’s no number here that’s anywhere near 7.4 percent,” said William F. Jarvis, Executive Director of the Commonfund Institute, in a conference call on the results. “This is a period in which formulation of investment policy for long-term institutions becomes very, very challenging.” Even though investment returns plunged, a large majority of survey respondents reported increasing the amount they spent from their endowments. Nearly three-quarters of respondents, 74 percent, said they increased endowment dollars spent to support their institutions’ missions. The median increase among institutions that reported boosting spending came in at 8.1 percent, which was above the rate of inflation. “Our institutions obviously felt, even in an environment where the investment returns were negative, that they have the need to rely on endowment funds,” said John D. Walda, NACUBO president and CEO. Endowment spending has been under the political microscope lately. Some have argued that tax-advantaged endowments should be subject to minimum payout requirements, similar to requirements placed on private foundations. Notably, U.S. Representative Tom Reed, a Republican from New York, [has been an outspoken advocate](https://www.insidehighered.com/news/2016/05/12/congressman-discusses-plan-force-colleges-spend-large-endowments" \t "_blank) of the idea. But Walda said such a change could hurt endowments in the future. “There is, as many of you know, increased pressure from some policy makers and members of Congress to further raise endowment spending by instituting mandatory payout rates with regard to student financial aid,” Walda said. “This could easily hamper an institutions’ ability to manage spending rates in a prudent way.” Regardless of any possible changes to the law, last year’s combination of negative returns and higher spending could signal a problem for colleges and universities that rely on endowment spending for large portions of their operating budgets. Endowment spending funds 9.7 percent of survey respondents’ operating budgets, on average. Large institutions drew even more of their operating budgets from endowment spending. Among institutions with endowment assets of more than $1 billion, endowment spending funded an average of 15.9 percent of operating budgets. Institutions with assets of $25 million or less drew just 4.6 percent of their operating budgets from endowments, on average. That doesn’t mean institutions with small endowments are in the clear, though. They are more exposed to year-to-year fluctuations. “Particularly the small institutions that are in the study, if we have another couple of years of stagnant returns -- if I can call them that -- they’re going to have to seriously consider cutting back on the amount of dollars that are spent at their institutions,” Walda said. “Smaller endowments, I think, have the most volatility to them as a result of these returns, and obviously they have more of a challenge in growing the corpus of the endowment through additional gifting.” A total of 805 institutions participated in this year’s study of endowments. Participants’ endowments totaled $515.1 billion. The average endowment came in at $639.9 million, but that was driven up by a top-heavy field featuring eight endowments totaling $10 billion or more. Almost half of the survey’s participants reported endowments of $100 million or less. All six endowment size categories experienced negative rates of return. Institutions with assets of under $25 million experienced the highest average rate of return, -1 percent. Those with assets between $101 million and $500 million experienced the lowest average return, -2.4 percent. The 1.4 percentage point spread between high and low returns by asset class was narrow compared to previous studies. Last year, the spread was 2.4 percentage points

#### Link turn- HEA finaid bill is due to be reauthorized this year to only allow aid on the condition of free speech

Two part argument

* Federal funding might be low now but that’s cuz the terms and conditions of granting federal aid rn give the government too much leverage and they’ve gut colleges funding already
* New NAS push for update on the Higher Education Act of 2008 is revising the guidelines that public schools receive federal aid on the conditions of allowing speakers on campus and free speech policies – this bill will pass soon with NAS push and considering trump’s emphasis on this

Kurtz 17 Steven Kurtz "Federal Funding And Campus Free Speech: A Proposal". National Review. N. p., 2017. Web. 27 Apr. 2017.KB

It is true that that, in recent years, the federal government has greatly abused the leverage it holds over American higher education through its financial aid. Yet this abuse often consists in issuing rules or using letters of “guidance” (“Dear Colleague Letters”) that go far beyond the legislative intent of Congress. One remedy for this is for Congress to specify its aims in sufficient detail that administrative agencies will find it difficult to either shirk their enforcement obligations, on the one hand, or to abuse their power, on the other. Nor can we allow past abuses to prevent Congress from fulfilling its core function of safeguarding the most fundamental individual rights of America’s citizens. Neither is the taxpayer obligated to subsidize, to the tune of billions of dollars, assaults on basic free speech rights and First Amendment freedoms at America’s public or private colleges and universities The Higher Education Act (HEA), enacted in 1965 and last reauthorized in 2008, provides the primary framework for the federal government’s involvement in higher education. With HEA due to be reauthorized this year, the National Association of Scholars (NAS) has offered a preliminary draft of The Freedom to Learn Amendments, by which it intends to stimulate competition, reduce unnecessary regulation, and counter rampant politicization in American higher education. Included in the Freedom to Learn Amendments are the NAS’s recommendations for ways to ensure that colleges and universities benefiting from federal aid respect and protect the free speech rights of their students. The NAS’s preliminary suggestions for amending HEA provide an excellent foundation for any congressional effort to protect campus free speech. I intend to build upon NAS’s ideas here, expanding on some of its recommendations, adding new ones, and suggesting a solution to the delicate but critical problem of how a cutoff of federal funds to institutions that fail to protect free speech would actually work. Like the NAS’s initial foray into this issue, my proposal is preliminary and designed to elicit comments and suggestions for further revision. To begin with, NAS has helpfully identified a largely forgotten section of HEA in which Congress affirms the importance of protecting “student speech and association rights.” (Title I, Part B, Section 112 of HEA, pp. 22-23) As I read it, this section effectively bars university policies that restrict speech. That is Title I, Section 112 of HEA effectively bars restrictive campus speech codes. (“no student…should, on the basis of participation in protected speech…be subjected to…official sanction,” where “protected speech” is defined as “speech protected under the First and 14th amendments to the Constitution.”) And while Title I, Section 112 of HEA does not directly call for disciplining students who have interfered with the free-speech rights of others, it does assume that such discipline policies will be enacted, since this section explicitly permits colleges to sanction students who willfully disrupt ”a lecture, class, speech, presentation, or performance.” Title I, Section 112 of HEA also upholds the traditional ability of private religious colleges, under the First Amendment’s guarantee of religious liberty, to impose certain limits on speech. It does so by affirming that its definition of protected speech shall not “be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association.” Although the provisions in Title I, Section 112 of HEA express only the “sense of Congress,” NAS proposes to give these provisions force by adding enforcement mechanisms to HEA. These mechanisms would work, first of all, by expanding the definition of “protected speech” to include things like “the right of invited speakers to speak and be heard,” and “rigorous and effective defense of free speech against intimidation, threats of violence, actual violence, and reprisals.” NAS would then require a college seeking to qualify for federal student loans under Title IV of HEA to file a pledge with the Department of Education to uphold student speech and association rights as laid out in the expanded definition of protected speech. NAS would also require colleges receiving federal aid to submit an annual report to the Department of Education detailing any instances in which their pledge to uphold speech and association rights as defined by HEA “has been violated by students or faculty and how the institution has taken steps to punish offenders and better protect the rights of speech and association in the future.” Finally, NAS would have Congress create an independent commission with the power to investigate how universities are fulfilling their pledges to uphold student speech and association rights. The commission would report annually to Congress and: “list non-feasant and mal-feasant colleges and universities,” any of which may then be denied eligibility for Title IV student aid by majority vote of Congress (with the concurrence of the president).

#### Link Turn- Alumni donors are decreasing support because colleges fail to address censorship – takes out uniqueness – only plan solves alumni backlash by endorsing free speech

Wilinger 16 [Jeremy Willinger 16 [Adminstrator of Heterdox Academy, apolitically diverse group of social scientists, natural scientists, humanists, and other scholars who want to improve our academic disciplines and universities. We share a concern about a growing problem: the loss or lack of “viewpoint diversity.” When nearly everyone in a field shares the same political orientation, certain ideas become orthodoxy, dissent is discouraged, and errors can go unchallenged.], "Protests Rise and Donations Drop: Alumni reactions to campus trends," Heterodox Academy, 8-16-2016, http://heterodoxacademy.org/2016/08/16/protests-rise-and-donations-drop-alumni-reactions-to-campus-trends/, ]

Heterodox Academy was founded at a time during which issues of free speech and censorship were playing out on college campuses nationwide. While we appreciated the issues being brought to the table, many of us also marveled at the hostile and exclusionary methods used to bring them into focus. As it turns out, so did many alumni who have since decreased their support to many universities where these protests and requests for censorship were taking place. In a recent New York Times article “College Students Protest, Alumni’s Fondness Fades and Checks Shrink,” Anemona Hartocollis writes about the backlash from alumni as “an unexpected aftershock of the campus disruptions of the last academic year.” More than just a reaction, this is a repudiation of the tactics used by students and of the capitulation by administrators. From the piece: Alumni from a range of generations say they are baffled by today’s college culture. Among their laments: Students are too wrapped up in racial and identity politics. They are allowed to take too many frivolous courses. They have repudiated the heroes and traditions of the past by judging them by today’s standards rather than in the context of their times. Fraternities are being unfairly maligned, and men are being demonized by sexual assault investigations. And university administrations have been too meek in addressing protesters whose messages have seemed to fly in the face of free speech. While the article focuses specifically on Amherst College, it also mentions Princeton, Yale, and Claremont McKenna— all schools that had protests that made the national news. How far has fundraising fallen? Hartocollis reports: Among about 35 small, selective liberal arts colleges belonging to the fund-raising organization Staff, or Sharing the Annual Fund Fundamentals, that recently reported their initial annual fund results for the 2016 fiscal year, 29 percent were behind 2015 in dollars, and 64 percent were behind in donors, according to a steering committee member, Scott Kleinheksel of Claremont McKenna College in California. Important to note are the limited avenues alumni have to truly make their voices heard. Letters to the editor of the alumni magazine and campus paper are but small opportunities in context of how much a monetary gift actually means to the school. Whether this is a temporary drop as a response to trending topics and issues or indicative of a larger, more permanent state of fundraising is yet to be seen. But as we get further away from the initial burst of protests last fall, other stakeholders are beginning to make their voices felt. Alumni in particular-whether they are now on the right or the left—generally endorse free speech and free inquiry quite strongly. They may play an increasingly strong role as we enter the second year of student protests.

#### Link Turn- the aff fosters productive discussions between students and alumni – key to long-term conflict resolution

**Pen America 16** [PEN America stands at the intersection of literature and human rights to protect open expression in the United States and worldwide. We champion the freedom to write, recognizing the power of the word to transform the world. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible. Founded in 1922, PEN America is the largest of more than 100 centers of PEN International. Our strength is in our membership—a nationwide community of more than 4,000 novelists, journalists, poets, essayists, playwrights, editors, publishers, translators, agents, and other writing professionals.], “AND CAMPUS FOR ALL: Diversity, Inclusion, and Freedom of Speech at U.S. Universities,” October 17, 2016, <https://pen.org/sites/default/files/PEN_campus_report_final_online_2.pdf>,

The Role of Alumni One of the more gaping disconnects documented in this report is the one that can arise between students and alumni. The gulf is understandable, even natural. Alumni, particularly those who are heavily engaged with their alma maters, may have warm memories of their time on campus and o en lionize the norms that were then in place. There are understandable concerns that ri s, criticisms, and new ways of thinking may destroy traditions, values, and facets of campus life that they feel should be appreciated. From the student point of view, alumni may at times feel like re- actionary forces, fortifying outdated approaches at a time when change is sorely needed. Rather than having these two constituencies communicate at cross purposes in the media, in separate conversations with administrators, or in the form of contributions silently withheld, universities should do more to foster direct dialogue between stu- dents and alumni. While those charged with filling the college coffers may fear that such exchanges could alienate generous alumni, keeping alumni and students apart for fear that they may antagonize each other is not a workable strategy in the long-term. Students and alumni are both essential con- stituencies on campus. PEN America’s own experience of reaching out to students, engaging in direct dialogue, and hearing their points of view has helped us better understand positions and demands that may have come across from a distance as self-indulgent or misguided. Ultimately, the views of the next generation about how to address diversity, deal with offensiveness, and protect speech will have a decisive impact on the disposition of these questions. Their views cannot be wished away or waited out. On the flip side, students seeking to reshape power structures will need to learn to engage with them. Both sides have much to gain from direct engagement, which university is well placed to facilitate.

#### No link to their scenario- protests don’t deter donors- empirics prove

**Woodhouse 15**: Kellie Woodhouse, December 9, 2015. As colleges grapple with issues of race and diversity, they face questions from alumni and donors -- not all of whom are pleased with new campus efforts. The Alumni Question. Inside Higher Education. <https://www.insidehighered.com/news/2015/12/09/colleges-keep-lines-communication-open-alumni-they-respond-diversity-concerns>. RW

development offices nowadays woo an increasingly diverse set of donors, including millennials and minorities as well as a donor base that has traditionally been a strong source of fund-raising: the older, predominately white and perhaps more conservative set. At Pomona College, minority students threatened to stage a sit-in at the president’s office unless President David Oxtoby agreed to address a list of their demands. Oxtoby agreed to meet with students and discuss their demands -- including meeting with at least one student group a week. When he emailed alumni to keep them informed about race protests and relations on campus, he received a range of responses in return. “The majority of them were supportive and said, ‘This is great, what you’re doing,’ and then a certain number of them were critical, but not always from a point of view of understanding what’s going on. We just take it as an opportunity to engage our alumni,” he said. Oxtoby says he’s not really concerned about how alumni perceptions of the protest will affect giving. There are already “so many excuses not to give,” he continued. “When someone says I’m not going to give because of such and such, it’s one more excuse. Frankly I’ve seen all of them, and most of those people weren’t giving anyway.” And institutions may feel fewer shock waves, in terms of donations, than they might be anticipating. Donor relationships are often built over decades or more of engagement and interaction with a university -- creating bonds between donor and college that are not easily broken, says Ivan Adames, executive director of alumni relations and development at Northwestern University. “At the end of the day you might have a disagreement, but it doesn't diminish that pride that you have in that relationship,” he said. Northwestern has experienced some student demonstrations over race. And though it has received varying responses from alumni, giving has not been impacted. “There would have to be a significant lapse in institutional integrity for it to really be disruptive.” Strauss recalled an institution his firm worked with about a decade ago that was cracking down on its fraternities after a series of troubling incidents. Alumni were contacting administrators expressing frustration with the crackdown, and the university was worried giving would suffer because of alumni concerns. But a survey of 900 alumni found that less than 1 percent of respondents actually said they’d decrease their giving. “They were hearing from all the squeaky wheels,” recalls Strauss, who added that a relatively small proportion of alumni at any institution are substantial donors. It’s the big donors that universities should keep in touch with during times of turmoil on campus. “We used to talk about the 80-20 rule, that 80 percent of the money comes from 20 percent of the donors. For many of these institutions it’s now the 95-5 rule. The concentration has become just amazing,” Strauss said.

### 2AC- Trump Link Turn

#### Turn – restricting free speech results in slashes to federal funding – Trump proves

**Schuppe 2/3** [Jon Schuppe, "Can Trump Block Money as Punishment for UC Berkeley Protests?," NBC News, 2/3/2017] AZ

President Donald Trump's reaction to violent protests against a right-wing speaker at the University of California's Berkeley campus was to suggest he'd pull federal funds for blocking free speech. The president's threat appears unprecedented, and raises questions about how — or if — he could follow through with it. U.S. Rep. Barbara Lee, a Democrat and Trump critic who represents Berkeley, called the president's tweet an "empty threat" and "an abuse of power." A congressional aide followed up later by saying Trump did not have the power to withdraw funding from a university on his own. Frederick Hess, director of education policy studies at the conservative American Enterprise Institute, said he knew of no prior instance of a president linking free speech and federal funding of American universities, which are built on a commitment to fostering civic discourse. But, Hess said, after President Barack Obama administration warned schools that violations of transgender students' rights could put them at risk of losing federal Title IX funds, some on the right began questioning funding research on campuses "which are not serious about their commitment to make sure of unfettered intellectual debate." If Trump is serious about withdrawing funding from UC Berkeley, his administration would first have to determine whether federal law allowed it, Hess said. If so, then he could ask Congress to insert language in the Higher Education Act, which is up for reauthorization. Gary Orfield, the libertarian co-director of The Civil Rights Project at UCLA, said that while the executive branch has the power to try to pull federal funds from public institutions for civil rights violations, it cannot do so on free-speech grounds. UC Berkeley did everything right, he said, and Trump is wrong. "This is an effort to intimidate, and the University of California is not going to be intimidated by this kind of nonsense," Orfield said. "This is one of the world's great universities. But a lot of other universities may just give in." The stakes are huge. The University of California receives billions of dollars in federal funds, including 2.9 billion for research, the category that is most vulnerable to Trump's threat. Berkeley, the system's flagship campus, receives about $370 million of that. In addition, the nearby Lawrence Berkeley National Laboratory is entirely supported by federal funds — $827 million.

#### It's feasible

Rappaport 1/31 [Mike Rappaport (Darling Foundation Professor of Law at the University of San Diego, where he also serves as the Director of the Center for the Study of Constitutional Originalism. Professor Rappaport is the author of numerous law review articles in journals such as the Yale Law Journal, the Virginia Law Review, the Georgetown Law Review, and the University of Pennsylvania Law Review. His book, Originalism and the Good Constitution, which is co-authored with John McGinnis, was published by the Harvard University Press in 2013. Professor Rappaport is a graduate of the Yale Law School, where he received a JD and a DCL), "Protecting Freedom of Speech on College Campuses," Library of Law and Liberty, 1/31/2017]

In a recent post, I discussed the use of left wing institutions by the right. Here I want to discuss a specific idea for promoting a so called right wing idea – protection of free speech on college campuses from violence and other disruption – by using the methods that the left has employed in the past. A common problem on both public and private campuses is that violent and disruptive protesters prevent right wing (and other controversial) speakers from giving speeches and presentations on campuses. In addition to preventing the events from being conducted in an orderly fashion, the threat of these protests sometimes causes schools either to cancel invitations or to refuse to allow invitations in the first place. It is also a common perception, especially of those on the right, that school administrations are not sympathetic to these right wing groups and therefore do not punish or otherwise hold accountable the students who are responsible for these threats and disruptions. How could Congress address this issue? It is not hard to come up with a way – one that is modelled on the institutional mechanisms used by the Department of Education to enforce its understanding of Title IX. Congress could pass legislation supported by the following findings: Free speech on college campuses has been undermined through violence, threats of violence, and the shouting down of speakers. Such actions are inconsistent with the idea of a university and are often illegal under state law, but the universities have failed to sufficiently prosecute such actions or protect speakers. Thus, it is necessary for the government to step in to protect such speech. Congress could provide that any university receiving funds from the government has an obligation to protect freedom of speech on its campus. Schools that receive federal funds have an obligation to have rules against infringements of freedom of speech through violence, threats of violence, and refusals to follow rules that allow speakers uninterrupted time to present their views. Such schools shall undertake to enforce these rules in a diligent manner. At a minimum, schools must take significant efforts to apprehend students who violate these rules, and must at the least record the names of the violators on their records. Schools shall be obligated to suspend for at least one year students who have been determined to have violated the rules more than once. Congress could also require that schools provide annual reports to the Department of Education providing information about the actions undertaken by the school, which events were improperly disrupted, which students were found to have violated the rules, and what penalties were imposed. The Department could also be required to receive complaints from speakers whose presentations were disrupted. Finally, and most importantly, Congress could require that the Department of Education take actions to deny federal funds to schools that violate these rules. These rules would put enormous pressure on schools to start protecting freedom of speech on their campuses. It would no doubt lead to significant resistance from schools, but the threat of a loss of government funds is significant. I should say that I do not necessarily favor such an arrangement. I don’t like a heavy handed federal government micromanaging institutions. But that is what we have already, except it is generally controlled by the left. If that is how our country is going to run, it is worth letting the other side know what its like to be on the receiving end of such heavy handedness.

### AT: Press/Student

#### The evidence draws from a single case of Salaita who was fired for tweeting critically by institutions- it doesn't isolate that funding was actually cut by donors- which means that it was simply the university diagnosing the issue incorrectly

### AT: Vise

#### 1. The small text of the evidence proves that they only evaluate colleges in the Washington Region- that’s not representative of the nation

### AT: PV Links

**1. This card is miscut – the last sentence says that there is NO causation between endowments and free speech protests. . Correlation doesn’t prove causation – the lurking variable is that there was a high donation in the past so there is a lower donation now in comparison**

2. **your argument is about private universities like Princeton so the link is bad.**

### AT: Strake Links

**This argument has the sequencing wrong – it says that endowments are given to influence the politics of the university. It doesn’t mean that if the politics of the university are changed that they would take them away. This link turns your arg since alumni will donate more in order to try to express their beliefs and have the rule be repealed. Your Amherst college link is a private university**

## Hate Speech

### 2AC- Link Turns- Short

### 2AC- Link Turns- Long

### AT: Psych Impact

#### 1. Studies from the 1AC prove that this psychological impact already happens in the status quo- they feel threatened by Trump’s presidency and racist status quo

#### 2. Case outweighs- psychological impact might hurt in the status quo- but future change is necessary in order to stop reoccurring psychological impact

### AT: Turns Movements

#### 1. Turn- psychological impact actually motivates individuals to create change, so they are more likely to join counterspeech movements

#### 2. Our Calleros evidence solves their fear that hate speech might make individuals uncomfortable- but they are joined by others who help them combat the movement

### Extra 1AR Cards

#### Counterspeech is especially effective

**Calleros 95** [Calleros, Charles R. “Paternalism, Counterspeech, and Campus Hate-Speech Codes: A Reply to Delgado and Yun” (Professor of Law, Arizona State University). HeinOnline. Arizona State Law Journal. 1995] NB

Delgado and Yun summarize the support for the counterspeech argument by paraphrasing Nat Hentoff: "[A]ntiracism rules teach black people to depend on whites for protection, while talking back clears the air, emphasizes self-reliance, and strengthens one's self-image as an active agent inchargeofone'sowndestiny."50 DelgadoandYunalsocitetothosewho believe that counterspeech may help educate the racist speaker by addressing 51 the ignorance and fear that lies behind hostile racial stereotyping. But they reject this speech-protective argument, stating that "it is offered blandly, virtually as an article of faith" by those "in a position of power" who "rarely offer empirical proof of their claims. ,,52 The authors argue that talking back in a close confrontation could be physically dangerous, is unlikely to persuade the racist speaker to reform his views, and is impossible "when racist remarks are delivered in a cowardly fashion, by means of graffiti scrawled on a campus wall late at night or on a poster placed outside of a black student's dormitory door." 53 They also complain that "[e]ven when successful, talking back is a burden" that minority undergraduates 54 should not be forced to assume. In rejecting the counterspeech argument, however, Delgado and Yun cast the argument in its weakest possible form, creating an easy target for relatively summary dismissal. When the strategies and experiential basis for successful counterspeech are fairly stated, its value is more easily recognized. First, no responsible free speech advocate argues that a target of hate speech should directly talk back to a racist speaker in circumstances that quickly could lead to a physical altercation. If one or more hateful speakers closely confronts a member of a minority group with racial epithets or other hostile remarks in circumstances that lead the target of the speech to reasonably fear for her safety, in most circumstances she should seek assistance from campus police or other administrators before "talking back." Even staunch proponents of free speech agree that such threatening speech and conduct is subject to regulation and justifies more than a purely educative response. The same would be true of Delgado's and Yun's other examples of speech conveyed in a manner that defaces another's property or 56 When offensive or hateful speech is not threatening, damaging, or impermissibly invasive and therefore may constitute protected speech, 57 education and counterspeech often will be an appropriate response. However, proponents of free speech do not contemplate that counterspeech always, or even normally, will be in the form of an immediate exchange of views between the hateful speaker and his target. Nor do they contemplate that the target should bear the full burden of the response. Instead, effective counterspeech often takes the form of letters, discussions, or demonstrations joined in by many persons and aimed at the entire campus population or a community within it. Typically, it is designed to expose the moral bankruptcy of the hateful ideas, to demonstrate the strength of opinion and numbers of those who deplore the hateful speech, and to spur members of the campus community to take voluntary, constructive action to combat hate and to remedy its ill effects. 58 Above all, it can serve to define and underscore the community of support enjoyed by the targets of the hateful speech, faith in which may have been shaken by the hateful speech. Moreover, having triggered such a reaction with their own voices, the targets of the hateful speech may well feel a sense of empowerment to compensate for the undeniable pain of the speech. 59 One may be tempted to join Delgado and Yun in characterizing such a scenario as one "offered blandly, virtually as an article of faith" and without experiential support. 6° However, campus communities that have creatively used this approach can attest to the surprising power of counterspeech. Examples of counterspeech to hateful racist and homophobic speech at Arizona State and Stanford Universities are especially illustrative.61 In an incident that attracted national attention, the campus community at Arizona State University ("A.S.U.") constructively and constitutionally responded to a racist poster displayed on the outside of the speaker's dormitory door in February 1991. Entitled "WORK APPLICATION," it contained a number of ostensibly employment-related questions that advanced hostile and demeaning racial stereotypes of African-Americans and Mexican-Americans. Carla Washington, one of a group of African- American women who found the poster, used her own speech to persuade a resident of the offending room voluntarily to take the poster down and allow her to photocopy it. After sending a copy of the poster to the campus newspaper along with an opinion letter deploring its racist stereotypes, she demanded action from the director of her residence hall. The director organized an immediate meeting of the dormitory residents to discuss the issues. In this meeting, I explained why the poster was protected by the First Amendment, and the women who found the poster eloquently described their pain and fears. One of the women, Nichet Smith, voiced her fear that all nonminorities on campus shared the hostile stereotypes expressed in the poster. Dozens of residents expressed their support and gave assurances that they did not share the hostile stereotypes, but they conceded that even the most tolerant among them knew little about the cultures of others and would 62 benefit greatly from multicultural education.  The need for multicultural education to combat intercultural ignorance and stereotyping became the theme of a press conference and public rally organized by the student African-American Coalition leader, Rossie Turman, who opted for highly visible counterspeech despite demands from some students and staff to discipline the owner of the offending poster. The result was a series of opinion letters in the campus newspaper discussing the problem of racism, numerous workshops on race relations and free speech, and overwhelming approval in the Faculty Senate of a measure to add a course on American cultural diversity to the undergraduate breadth 63 requirement.  The four women who initially confronted the racist poster were empowered by the meeting at the dormitory residence and later received awards from the local chapter of the NAACP for their activism.64 Rossie Turman was rewarded for his leadership skills two years later by becoming the first African-American elected President of Associated Students of A.S.U.,65 a student body that numbered approximately 40,000 students, only 66 2.3 percent of them African-American. Although Delgado and Yun are quite right that the African-American students should never have been burdened with the need to respond to such hateful speech, Hentoff is correct that the responses just described helped them develop a sense of self-reliance and constructive activism. Moreover, the students' counterspeech inspired a community response that lightened the students' burden and provided them with a sense of community support and empowerment. Indeed, the students received assistance from faculty and administrators, who helped organize meetings, wrote opinion letters, spoke before the Faculty Senate, or joined the students in issuing public statements at the press conference and public rally.67 Perhaps most important, campus administrators wisely refrained from disciplining the owners of the poster, thus directing public attention to the issue of racism and ensuring broad community support in denouncing the racist poster. Many members of the campus and surrounding communities might have leapt to the racist speaker's defense had the state attempted to discipline the speaker and thus had created a First Amendment issue. Instead, they remained united with the offended students because the glare of the public spotlight remained sharply focused on the racist incident without the distraction of cries of state censorship. Although the counterspeech was not aimed primarily at influencing the hearts and minds of the residents of the offending dormitory room, its vigor in fact caught the residents by surprise. 68 It prompted at least three of them to apologize publicly and to display curiosity about a civil rights movement that they were too young to have witnessed first hand. 69 This effective use of education and counterspeech is not an isolated instance at A.S.U., but has been repeated on several occasions, albeit on smaller scales.7° One year after the counterspeech at A.S.U., Stanford University responded similarly to homophobic speech. In that case, a first-year law student sought to attract disciplinary proceedings and thus gain First Amendment martyrdom by shouting hateful homophobic statements about a dormitory staff member. The dean of students stated that the speaker was not subject to discipline under Stanford's code of conduct but called on the university community to speak out on the issue, triggering an avalanche of counterspeech. Students, staff, faculty, and administrators expressed their opinions in letters to the campus newspaper, in comments on a poster board at the law school, in a published petition signed by 400 members of the law school community disassociating the law school from the speaker's epithets, and in a letter written by several law students reporting the incident to a prospective employer of the offending student.71 The purveyor of hate speech indeed had made a point about the power of speech, just not the one he had intended. He had welcomed disciplinary sanctions as a form of empowerment, but the Stanford community was alert enough to catch his verbal hardball and throw it back with ten times the force. Thus, the argument that counterspeech is preferable to state suppression of offensive speech is stronger and more fully supported by experience than is conceded by Delgado and Yun. In both of the cases described above, the targets of hateful speech were supported by a community united against bigotry. The community avoided splitting into factions because the universities eliminated the issue of censorship by quickly announcing that the hateful speakers were protected from disciplinary retaliation. Indeed, the counterspeech against the bigotry was so powerful in each case that it underscored the need for top administrators to develop standards for, and some limitations on, their participation in such partisan speech. 72 Of course, the community action in these cases was effective and empowering precisely because a community against bigotry existed. At A.S.U. and Stanford, as at most universities, the overwhelming majority of students, faculty, and staff are persons of tolerance and good will who deplore at least the clearest forms of bigotry and are ready to speak out Of course, the community action in these cases was effective and empowering precisely because a community against bigotry existed. At A.S.U. and Stanford, as at most universities, the overwhelming majority of students, faculty, and staff are persons of tolerance and good will who deplore at least the clearest forms of bigotry and are ready to speak out against intolerance when it is isolated as an issue rather than diluted in muddied waters along with concerns of censorship. Just as the nonviolent demonstrations of Martin Luther King, Jr., depended partly for their success on the consciences of the national and international audiences monitoring the fire hoses and attack dogs on their television sets and in the print media,73 the empowerment of the targets of hateful speech rests partly in the hands of members of the campus community who sympathize with them. One can hope that the counterspeech and educational measures used with success at A.S.U. and Stanford stand a good chance of preserving an atmosphere of civility in intellectual inquiry at any campus community in which compassionate, open minds predominate. On the other hand, counterspeech by the targets of hate speech could be less empowering on a campus in which the majority of students, faculty, and staff approve of hostile epithets directed toward members of minority groups. One hopes that such campuses are exceedingly rare; although hostile racial stereotyping among college students in the United States increased during the last decade, those students who harbored significant hostilities (as contrasted with more pervasive but less openly hostile, subconscious racism) still represented a modest fraction of all students.74 Moreover, even in a pervasively hostile atmosphere, counterspeech might still be more effective than broad restrictions on speech. First, aside from the constitutional constraints of the First Amendment, such a heartless campus community would be exceedingly unlikely to adopt strong policies prohibiting hateful speech. Instead, the campus likely would maintain minimum policies necessary to avoid legal action enforcing guarantees of equal educational opportunities under the Fourteenth Amendment 75 or federal antidiscrimination statutes such as Title V176 or Title IX. 77 Second, counterspeech even from a minority of members of the campus community might be effective to gradually build support by winning converts from those straddling the fence or from broader regional or national audiences. Such counterspeech might be particularly effective if coupled with threats from diverse faculty, staff, and students to leave the university for more hospitable environments; even a campus with high levels of hostility likely would feel 78 pressures to maintain its status as a minimally integrated institution. The A.S.U. and Stanford examples illustrating the efficacy of counterspeech also lend support to the argument that "[firee speech has been minorities' best friend ...[as] a principal instrument of social reform."79 In both cases, demonstrations, opinion letters, and other forms of counterspeech dramatically defined the predominant atmosphere on each campus as one that demanded respect and freedom from bigotry for all members of the community; it is doubtful that passage of a speech-restrictive policy could have sent a similar message of consensus any more strongly. Moreover, in the A.S.U. case, the reasoned counterspeech, coupled with the decision to refrain from disciplining the hateful speaker, persuaded the Faculty Senate to pass a multicultural education proposal whose chances for passage were seriously in doubt in the previous weeks and months.8 The racist poster at A.S.U. may have been a blessing in disguise, albeit an initially painful one, because it sparked counterspeech and community action that strengthened the campus support for diversity.

#### If we let racists talk now- it strengthens civil liberty protections for marginalized gropus

**Gates 94** [Henry Louis Gates 94, [Professor and Director of the Hutchins Center for African and African American Research at Harvard University], “War of Words: Critical Race Theory and the First Amendment”, in Speaking of Race, Speaking of Sex: Hate Speech, Civil Rights, and Civil Liberties, New York University Press, 1994. RFK]

The critique of neutrality would affect not simply how we draft our ordinances, but also how we conduct our litigation. One quickly moves from asking whether our statutes can or should be neutral to asking whether the adjudication of these statutes can or should be neutral. Indeed, many legal pragmatists, mainstream scholars and critical race theorists converge in their affirmation of the balancing approach toward the First Amendment and their corresponding skepticism toward what could be called the "Skokie school" of jurisprudence. When the American Civil Liberties Union defended the right of neo-Nazis to march in Skokie, a predominantly Jewish suburb of Chicago where a number of Holocaust survivors lived, they wished to protect and to fortify the constitutional right at issue. Indeed, they may have reasoned, if a civil liberty can be tested and upheld in so odious an exercise of it, then the precedent will strengthen it for all the less obnoxious cases where it may be disputed in the future. Hard cases harden laws. The strategy of the Skokie school relies on a number of presuppositions that critical legal theorists and others regard as doubtful. Most importantly, it is premised on the neutral operation of principle in judicial decisionmaking. But what if judges really decided matters in an unprincipled and political way, and invoked principles only by way of window dressing? In cases close-run enough to require the Supreme Court to decide them, precedent and principle are elastic enough, or complex enough, that justices can often decide either way without brazenly contradicting themselves. And even if the justices want to make principled decisions, it may turn out that the facts of the case--in the real-world cases that come before them--are too various and complicated ever to be overdetermined by the rule of precedent, stare decisis. In either event, it could turn out that defending neo-Nazis was just defending neo-Nazis. Moreover, it may be that the sort of formal liberties vouchsafed by this process are not the sort of liberties that we need most. Perhaps we have been overly impressed by the frisson of defending bad people for good causes, when the good consequences are at best conjectural and the bad ones real and immediate. Perhaps, these critics conclude, it is time to give up the pursuit of abstract principles and instead defend victims against victimizers, achieving your results in the here-and-now, not in the sweet hereafter.=7F There is something to this position, but it is, like the position it is meant to rebuff, overstated. Nadine Strossen of the aclu can show, for example, that the organization's winning First Amendment defense of the racist Father Terminiello in 1949 bore Fourteenth Amendment fruit when the aclu was able to use the landmark Terminiello decision to defend the free speech rights of civil rights protesters in the '60s and '70s. Granted, this may not constitute proof, which is an elusive thing in historical argument, but such cases do provide good prima facie reason to think that the Skokie school has pragmatic justification, not just blind faith, on its side. Another problem with the abandonment of principled adjudication is what it leaves in its wake: the case-by-case balancing of interests. My point is not that "normal" First Amendment jurisprudence can completely eschew balancing, but there is a difference between employing it in background or in extremis and employing it as the first and only approach. An unfettered regime of balancing admits too much to judicial inspection. What we miss when we dwell on the rarefied workings of high court decisionmaking is the way in which laws exert their effects lower down the legal food chain. It's been pointed out that when police arrest somebody for loitering or disorderly conduct, the experience of arrest--being hauled off to the station and fingerprinted before being released--often is the punishment. And "fighting words" ordinances have lent themselves to similar abuse. Anthony D'Amato, a law professor at Northwestern, makes a crucial and often overlooked point when he argues: "In some areas of law we do not want judges to decide cases at all--not justly or any other way. In these areas, the mere possibility of judicial decisionmaking exerts a chilling effect that can undermine what we want the law to achieve." But what if that chilling effect is precisely what the law is designed for? After all, one person's chill is another person's civility. It is clear, in any event, that all manner of punitive speech regulations are meant to have effects far beyond the classic triad of deterrence, reform and retribution.

#### Speech codes are more likely to work against minorities- Great Britain and Michigan prove

Strossen 90 [(Nadine, June 1990, president of the American Civil Liberties Union from February 1991 to October 2008, John Marshall Harlan II Professor of Law at New York Law School., “Regulating Racist Speech on Campus: A Modest Proposal?”, Duke Law Journal, Vol. 1990, No. 3, Frontiers of Legal Thought II. The New First Amendment (Jun., 1990), pp. 484-573, Duke University School of Law, http://www.jstor.org/stable/1372555]

First, there is no persuasive psychological evidence that punishment for name- calling changes deeply held attitudes. To the contrary, psycho-logical studies show that censored speech becomes more appealing and persuasive to many listeners merely by virtue of the censorship. Nor is there any empirical evidence, from the countries that do out-law racist speech, that censorship is an effective means to counter racism. For example, Great Britain began to prohibit racist defamation in 1965. 359 A quarter century later, this law has had no discernible adverse impact on the National Front and other neo- Nazi groups active in Brit- ain.360 As discussed above, 361 it is impossible to draw narrow regulations that precisely specify the particular words and contexts that should lead to sanctions. Fact- bound determinations are required. For this reason, authorities have great discretion in determining precisely which speakers and which words to punish. Consequently, even vicious racist epithets have gone unpunished under the British law.362 Moreover, even if actual or threatened enforcement of the law has deterred some overt racist in-sults, that enforcement has had no effect on more subtly, but nevertheless clear, signals of racism.363 Some observers believe that racism is even more pervasive in Britain that in the United States.364¶ C. Banning Racist Speech Could Aggravate Racism. For several reasons banning the symptom of racist speech may compound the underlying problem of racism. Professor Lawrence sets up a false dichotomy when he urges us to balance equality goals against free speech goals. Just as he observes that free speech concerns should be weighed on the pro- regulation, as well as the anti- regulation, side of the balance,365 he should recognize that equality concerns weigh on the anti-regulation, as well as the pro-regulation, side.366¶ The first reason that laws censoring racist speech may undermine the goal of combating racism flows from the discretion such laws inevitably vest in prosecutors, judges, and other individuals who implement them. One ironic, even tragic, result of this discretion is that members of minority groups themselves- the very people whom the law is intended to protect- are likely targets of punishment. For example, among the first individuals prosecuted under the British Race Relations Act of 1965 367 were black power leaders.368 Their overtly racist messages un-doubtedly expressed legitimate anger at real discrimination, yet the stat-ute drew no such fine lines, nor could any similar statute possibly do so. Rather than curbing speech offensive to minorities, this British law in-stead has been regularly used to curb the speech of blacks, trade union-ists, and anti- nuclear activists.369 In perhaps the ultimate irony, this statute, which was intended to restrain the neo-Nazi National Front, instead has barred expression by the Anti- Nazi League.370 ¶ The British experience is not unique. History teaches us that anti- hate speech laws regularly have been used to oppress racial and other minorities. For example, none of the anti- Semites who were responsible for arousing France against Captain Alfred Dreyfus were ever prose-cuted for group libel. But Emile Zola was prosecuted for libeling the French clergy and military in his “J’Accuse,” and he had to flee to Eng-land to escape punishment.371 Additionally, closer to home, the very doctrines that professor Lawrence invokes to justify regulating campus hate speech- for example, the fighting words doctrine, upon which he chiefly relies- are particularly threatening to the speech of racial and political minorities. ¶ The general lesson that rules banning hate speech will be used to punish minority group members has proven true in the specific context of campus hate speech regulations. In 1974, in a move aimed at the Na-tional Front, the British National Union of Students (NUS) adopted a resolution that representatives of “openly racist and fascist organiza-tions” were to be prevented from speaking on college campuses “by whatever means necessary (including disruption of the meeting).”373 A substantial motivation for the rule had been to stem an increase in cam-pus anti-Semitism. Ironically, however, following the United Nations’ cue,374 some British students deemed Zionism a form of racism beyond the bounds of permitted discussion. Accordingly, in 1975 British stu-dents invoked the NUS resolution to disrupt speeches by Israelis and Zionists, including the Israeli ambassador to England. The intended tar-get of the NUS resolution, the National Front, applauded this result. However, the NUS itself became disenchanted by this and other unin-tended consequences of its resolution and repealed it in 1977.375 ¶ The British experience under its campus anti- hate speech rule paral-lels the experience in the United States under the one such rule that has led to a judicial decision. During the approximately one year that the University of Michigan rule was in effect, there were more than twenty cases of whites charging blacks with racist speech. 376 More importantly, the only two instances in which the rule was invoked to sanction racist speech (as opposed to sexist and other forms of hate speech) involved the punishment of speech by or on behalf of black students.377 Additionally, the only student who was subjected to a full- fledged disciplinary hearing under the Michigan rule was a black student accused of homophobic and sexist expression.378 In seeking clemency from the sanctions imposed fol-lowing this hearing, the student asserted he had been singled out because of his race and his political views.379 Others who were punished for hate speech under the Michigan rule included several Jewish students accused of engaging in anti- Semitic expression380 and an Asian- American student accused of making an anti- black comment.381 Likewise, the student who recently brought a lawsuit challenging the University of Connecticut’s hate speech policy, under which she had been penalized for an allegedly homophobic remark, was Asian- American.382 She claimed that, among the other students who had engaged in similar expression, she had been singled out for punishment because of her ethnic background.383 ¶ Professor Lawrence himself recognizes that rules regulating racist speech might backfire and be invoked disproportionately against blacks and other traditionally oppressed groups. Indeed, he charges that other university rules already are used to silence anti- racist, but not racist, speakers.384 Professor Lawrence proposes to avoid this danger by ex-cluding from the rule’s protection “persons who were vilified on the basis of their membership in dominant majority groups.”385 Even putting aside the fatal first amendment flaws in such a radical departure from content- and viewpoint- neutrality principles, 386 the proposed exception would create far more problems of equality and enforceability than it would solve.387 ¶

#### Speech codes chill speech other than hate speech since people don’t want to risk violating the policy- that kills real movements

**Lukianoff 08**

<https://www.nas.org/articles/Campus_Speech_Codes_Absurd_Tenacious_and_Everywhere> Campus Speech Codes: Absurd, Tenacious, and Everywhere May 23, 2008 | Greg Lukianoff

Third, even if the university has not enforced the code, it is still part of its regulations and may, at any time, be pulled out when a student or faculty member might wish to silence, intimidate, or punish a member of the community whose opinions he or she disagrees with. It would most likely be at the very instances when free speech protections are most badly needed that the dormant code would be dusted off and put to work.37 Finally, and most importantly, the speech code itself, whether enforced or not, is the harm.  First Amendment jurisprudence recognizes this concept in the doctrine of “facial” unconstitutionality.  A speech regulation may be declared “facially” unconstitutional if it, by its very terms, sweeps in a large amount of clearly protected speech or if it is so vague that people of reasonable intelligence would have to guess at its meaning.  Either way, speech is “chilled” because the overwhelming majority of people typically would rather keep their mouths shut than risk the consequences of violating such a policy.  Furthermore, if the speech code is promulgated through the student handbook at a public university and the administration tells students that the university reserves the right to punish any speech that it deems “offensive,” it has both chilled speech and gravely misinformed students about their rights as students and citizens, whether the administration intends to enforce the speech code or not.

#### Link Turn- Prohibitions on hate speech fail- enforcement will be blocked, create backlash, used against minorities, and doesn’t work against subtle speech

**Baker 8** C. Edwin Baker. “Hate Speech.” Penn Law, Public Law and Legal Theory Research Paper Series. March 10th, 2008.

Even more problematic, to be an effective place to intervene, adopted prohibitions must be efficacious in reducing the likelihood of serious racist evils. Most obviously, this result probably requires sufficient enforcement of the prohibitions against the relevant targets. Maybe, however, their mere adoption could help create a cultural climate where racist speech, and even more importantly, virulent racist practices, are unacceptable. The question of whether to expect effective enforcement is made more difficult because it is not clear at what stage enforcement would be meaningful in preventing the polity from devolving in an unacceptably racist direction or whether enforcement could be effective at reversing cultural directions. Active enforcement (against appropriate targets) is likely only if racist groups have not become too established. By the time Nazis were gaining power, or during the year immediately preceding the genocide in Rwanda, effective enforcement was unlikely. At the relevant time, enforcement would likely either be blocked, create a backlash against the enforcers and sympathy for the ‘suppressed’ racists, or as will be discussed below, enforced primarily against ‘unpatriotic’ or ‘racist’ speech of those most needing protection – Jews or Tutsis, for example, or against African-Americans in the United States or Algerians in France. Thus, the hope of those favoring hate speech prohibitions must be that enforcement will be meaningful and effective at a quite early stage. Pessimism about this speculative hope seems justified. First are generic doubts about the likelihood of effective legal enforcement. More important, however, is the likelihood that at this most relevant stage the speech that meaningfully contributes to developing or sustaining racism will be subtle, quotidian and, to many people, seemingly inoffensive or at least not ‘seriously’ offensive speech. This speech is likely to fly under the legal radar screen and, in any event, meaningful enforcement of prohibitions against this speech is even less likely. Thus, even given a belief that racist speech contributes significantly to virulent racism and genocidal practice, my hypothesis is that at earlier stages legal prohibitions will not cover or be effectively enforced against the most relevant speech and at later stages enforcement will not occur, will be counter-productive in creating martyrs for a racist cause, or will focus on the wrong targets.

#### Link Turn- Speech codes are arbitrary- they can be used against proper forms of speech and still chill students other speech

**Golding 2K** [Martin P. Golding, [Professor, Duke University School of Law], Free Speech on Campus, Rowman & Littlefield Publishers Inc, 2000, 17. Print.]

Besides fears that certain ideas, true and false, may be expunged from the marketplace, speech codes will also indirectly eliminate acceptable ideas from the marketplace. “The movement to control speech.., has a sinister side .... The chilling effect on those who are concerned about potential pun- ishment... will surely stifle the free and robust exchange of ideas that is so critical to the campus climate.”’ 05 Even if administrators can devise a code that prohibited only the “right amount of speech” and allows all speech nec- essary for academic debate, the mere threat of penalty will have a chilling effect.’0 6 This deterrence effect will be especially strong under codes which use the contextual method or balancing test to determine whether certain speech is sanctionable, because these codes offer only vague definitions of what is permitted and what is prohibited. Thus, under these codes students and faculty will not offer certain ideas that are unpopular or inflammatory but nonetheless permitted and encouraged, because the students and faculty members will be unsure whether they will be free of sanction for presenting those ideas.7

### AT: Dialogue + Codes not ME

#### 1. Universities are terrible at determining what counts as racist speech and behavior- campus speech codes across the country are either so vague that they encompass almost anything or are so narrow that they don’t restrict much. Discussions of problematic views are better left to students

#### 2. Campus speech codes have a chilling effect- they discourage these conversations from occurring in the first place

## Harassments

### 2AC- No Tradeoff

**No link- Supreme Court ruled constitutionally protected to not include the speech that title 9 and harassment requires codes against, so the aff would not violate.**

**Kruth 16**

‘TWISTING TITLE IX’ WEEK: Title IX Enforcement Has Continued Negative Effect on Freedom of Expression By Susan Kruth September 29, 2016 https://www.thefire.org/twisting-title-ix-week-title-ix-enforcement-has-continued-negative-effect-on-freedom-of-expression/

Title IX requires schools to respond to allegations of sexual harassment in order to ensure no students are denied access to an education because of their sex. Accordingly, ensuring that schools understand the boundaries of what constitutes “sexual harassment” falls under OCR’s purview. OCR used to be a positive force when it came to distinguishing sexual harassment from constitutionally protected speech. In a 2003 “Dear Colleague” letter on the First Amendment, for example, **OCR emphasized the importance of maintaining freedom of speech and of properly defining “harassment” so as not to infringe on expressive rights.** The agency wrote: **Some colleges and universities have interpreted** **OCR’s prohibition of “harassment” as encompassing all offensive speech regarding sex, disability, race or other classifications. Harassment, however, to be prohibited by the statutes within OCR’s jurisdiction, must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive.** Under OCR’s standard, **the conduct must also be considered sufficiently serious to deny or limit a student’s ability to participate in or benefit from the educational program.** Thus, OCR’s standards require that the conduct be evaluated from the perspective of a reasonable person in the alleged victim’s position, considering all the circumstances, including the alleged victim’s age. **This is an accurate reflection of the Supreme Court’s holding in Davis v. Monroe County Board of Education**, 526 U.S. 629, 650 (**1999**), that student-on-student harassment is conduct “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school**.” Speech that does not rise to that level remains constitutionally protected**. In stark contrast, OCR’s 2011 “Dear Colleague” letter on sexual violence gives colleges and universities thorough and detailed instructions on how to respond to allegations of sexual harassment and assault, but it fails to remind institutions that in addressing sexual misconduct, it must respect students’ expressive rights, too. The letter states simply: Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Shortly after this letter was published, FIRE expressed the concern “that schools seeking to comply with OCR’s increased emphasis on sexual harassment education and prevention will fail to promulgate and disseminate sexual harassment policies that provide sufficient protection for student speech.” Indeed, policies modeled on the 2011 letter’s harassment provision would prohibit a huge amount of protected expression, as the vast majority of unwelcome verbal conduct of a sexual nature falls short of the Supreme Court’s definition of “harassment.” Moreover, as followers of FIRE’s work know, colleges and universities frequently view censorship and punishment of speech as a reasonable solution to a range of student complaints. They need near-constant reminders that censorship is not an acceptable answer at public institutions or private schools that promise freedom of expression—and even with such reminders, schools often commit egregious violations of constitutional or contractual rights. But in 2013, OCR did much worse than its vague and incomplete statement on harassment from its 2011 letter. At the conclusion of a joint investigation by OCR and the Department of Justice into the University of Montana’s handling of sexual assault allegations, DOJ and the Department of Education (of which OCR is a part) released a findings letter and resolution agreement among the three parties. In the findings letter, the Departments defined “sexual harassment” broadly as “any unwelcome conduct of a sexual nature,” including “verbal … conduct”—that is, speech. It further proclaimed that the agreement would “serve as a blueprint for colleges and universities throughout the country to protect students from sexual harassment and assault.” Thus, through its resolution of this investigation, the federal government sent a clear message to thousands of colleges and universities: They must enact unconstitutionally overbroad speech codes in order to comply with Title IX. In response, just as FIRE worried, colleges and universities across the country have enacted speech codes that mirror or track the “blueprint” and infringe on a wide range of protected expression. Several blueprint-esque policies were named FIRE’s Speech Codes of the Month, but hundreds of similarly unlawful policies remain effectively unchecked at institutions nationwide. Making matters worse, earlier this year, DOJ doubled down on its troubling speech code mandate in its findings letter concluding an investigation of the University of New Mexico. In FIRE’s press release on the event, we reviewed just some of the circumstances in which students and professors have been investigated and punished for supposed harassment, despite having engaged only in clearly protected expression. And FIRE isn’t alone in our concern over OCR’s abandonment of First Amendment principles. The American Association of University Professors (AAUP) released a report this year on “The History, Uses, and Abuses of Title IX,” which is well worth reading in full. The report’s executive summary notes the AAUP’s conclusion “that the current interpretation, implementation, and enforcement of Title IX has compromised the realization of meaningful educational goals that lead to sexually safe campuses.” Among other problems, OCR’s recent actions threaten “academic discussion of sex and sexuality,” faculty members’ “protected speech in teaching, research, and extramural contexts,” and “robust faculty governance.” **Institutions must remember that it is possible to both respect the campus community’s right to freedom of expression and respond appropriately to allegations of sexual harassment**. **By utilizing the Supreme Court’s definition of harassment**, **colleges and universities can achieve these twin goals simultaneously.** And as long as OCR directs institutions to do otherwise, institutions should defy OCR. After all, no document or letter from OCR can trump the First Amendment.

### 2AC- AT: Link

#### Their evidence only says 1st ammendemnt is used as a defense, not that its successful here’s empirics title VII

**David 02** Jr., David. "Sexual Harassment | First Amendment Center – News, Commentary, Analysis On Free Speech, Press, Religion, Assembly, Petition". Firstamendmentcenter.org. N. p., 2002. Web. 7 Jan. 2017.

Despite arguments that punishing professors for in-class speech violates the First Amendment, several university professors have faced discipline for violating sexual harassment regulations based on their in-class speech. Many of these cases began in the early 1990s, although it took several years before a federal court ruled in the matters.

Prefer Schauer- campuses don't make 1st amendment defenses impossible to beat

1. There are other policies that check back against free speech defenses on campus
2. Their ev. is about free speech in the context of computers, that’s irrelevant

### AT: Marcus

#### The Marcus Card describes a tension between harassment law- their evidence describes harassment and hate speech issues, like anti-Semitic harassment which it focuses on

Two impacts:

1. The case turns the entire DA- we literally solve back for hate speech- which is the form of harassment that their evidence describes- physical harassment is not constitutionally protected
2. There’s no internal link to your impact- sexual harassment cases is no where in your card

### AT: Diversity Impact

#### 1. Our link analysis disproves your sexual harassment impact

#### 2. Missing internal link- Hyman and Jacobs assumes diversity in actuall work areas- there’s a missing internal link between how colleges policies affect future work areas

#### 3. Case controls a larger internal link to diversity- that’s the entire race advantage

#### 4. The impact doesn’t account for various stronger alternate causes such as Trump’s plans to withdraw important trade deals, foreign investment, high wage employment, sustainable growth- which their own evidence indicates

#### 5. No impact uniqueness- the rhetoric of Porter/Rivkin initially is that US competitiveness is already in trouble, it’s been four years since your evidence which indicates that your impact is already happening

## International Law

### 2AC- Link Defense- Short

#### 1. Nonunique- US has been violating international law for years

**Patterson 10/24** [Margot Patterson has written for a variety of newspapers and magazines in the United States and abroad. Most recently, she worked for the National Catholic Reporter for seven years as Senior Writer and then Opinion and Arts Editor. She lives in the Kansas City area and is the author of [Islam Considered: A Christian Perspective](http://www.amazon.com/Islam-Considered-A-Christian-View/dp/0814619150/ref=sr_1_1?ie=UTF8&qid=1360006994&sr=8-1&keywords=margot+patterson+islam" \t "_blank) (2008). “Outlaw Nation,” October 24, 2016, <http://www.americamagazine.org/issue/outlaw-nation>, America Press Inc.] OR

The terrorist attacks on Sept. 11, 2001, led the United States to embrace military force in a way it had not done before. Along with that came indefinite detention, torture and the kidnapping of terrorism suspects and their rendition to secret black-box sites. But some of those abuses go back before President George W. Bush, to the Clinton administration in the 1990s. “The Clinton administration had some vaunted notions of what you could do with military force,” O’Connell said. “They thought you could use military force to promote human rights, so they regularly bombed Iraq to help the Kurds in the north and the Shias in the south. In the views of other countries, France and Russia in particular, that constant bombing was unlawful and counterproductive. The British unfortunately, did not [share this view]. Already the mindset was coming into the United Kingdom that you could use military force to help persecuted minority groups. That led to a great deal of unnecessary and counterproductive violence in Yugoslavia. It was the beginning of this mindset that military force could be used with no regard for the U.N. Charter.” U.S. violations of international law continue. You would never know it listening to our president, our politicians or our news media, but the U.S. intervention in Syria is one of them. In 2013, Michael Ratner, president emeritus of the Center for Constitutional Rights, described it as “an illegal use of force” and “a crime of aggression.” “It’s a war crime. It’s the kind of crime that the Germans were tried for at Nuremberg,” he told the Real News Network. President Obama’s actions in Syria have been described as the legal equivalent of Vladimir Putin’s in Ukraine—both arming rebels and conducting air strikes. U.S. drone attacks around the world also constitute an unlawful use of force. We have not been attacked, nor do we have U.N. approval for our targeted killings in Libya, Yemen, Somalia and other countries. Will these acts of war ever cease? Many Americans seem to forget they are even going on. Discussions of their justice, their legality and necessity, even their cost or effectiveness are almost entirely absent from our politics. To the extent they consider them at all, Americans assume might makes right. The evidence points elsewhere: to the millions of refugees fleeing war, instability and the breakdown of law and order in the world.

#### Two implications: A. no impact- multiple violations of international law haven’t triggered their impact, B. uniqueness overwhelms the link- alternate causes are responsible for pushing us over the brink, not free speech violations

#### 2. No link- their evidence just says that international law permits prohibition on hate speech but doesn’t mandate them- the aff is consistent with ilaw

**Cohen 14** [Roni Cohen (J.D. Candidate, 2015, The University of Chicago Law School), "Regulating Hate Speech: Nothing Customary About It," Chicago Journal of International Law, 2014] AZ

The proliferation of laws prohibiting and punishing hate speech since World War II has raised serious questions concerning the limits of free speech. While all liberal democracies guarantee the freedom of expression as a fundamental human right, the vast majority also restrict speech deemed hateful or racially discriminatory. Similarly, many major international human rights agreements acknowledge free speech as an essential human right, but also limit that right when hateful. This Comment analyzes the current legal landscape surrounding hate speech laws and evaluates domestic and international practice to determine whether the regulation of hate speech has assumed customary international law status. Due to a lack of uniformity among and within states and the absence of opinio juris, or a sense of legal obligation, this Comment concludes that the international practice of restricting hate speech has not yet assumed customary international law status.

### 2AC- Link Defense- Long

#### 1. Nonunique- US has been violating international law for years

**Patterson 10/24** [Margot Patterson has written for a variety of newspapers and magazines in the United States and abroad. Most recently, she worked for the National Catholic Reporter for seven years as Senior Writer and then Opinion and Arts Editor. She lives in the Kansas City area and is the author of [Islam Considered: A Christian Perspective](http://www.amazon.com/Islam-Considered-A-Christian-View/dp/0814619150/ref=sr_1_1?ie=UTF8&qid=1360006994&sr=8-1&keywords=margot+patterson+islam" \t "_blank) (2008). “Outlaw Nation,” October 24, 2016, <http://www.americamagazine.org/issue/outlaw-nation>, America Press Inc.] OR

The terrorist attacks on Sept. 11, 2001, led the United States to embrace military force in a way it had not done before. Along with that came indefinite detention, torture and the kidnapping of terrorism suspects and their rendition to secret black-box sites. But some of those abuses go back before President George W. Bush, to the Clinton administration in the 1990s. “The Clinton administration had some vaunted notions of what you could do with military force,” O’Connell said. “They thought you could use military force to promote human rights, so they regularly bombed Iraq to help the Kurds in the north and the Shias in the south. In the views of other countries, France and Russia in particular, that constant bombing was unlawful and counterproductive. The British unfortunately, did not [share this view]. Already the mindset was coming into the United Kingdom that you could use military force to help persecuted minority groups. That led to a great deal of unnecessary and counterproductive violence in Yugoslavia. It was the beginning of this mindset that military force could be used with no regard for the U.N. Charter.” U.S. violations of international law continue. You would never know it listening to our president, our politicians or our news media, but the U.S. intervention in Syria is one of them. In 2013, Michael Ratner, president emeritus of the Center for Constitutional Rights, described it as “an illegal use of force” and “a crime of aggression.” “It’s a war crime. It’s the kind of crime that the Germans were tried for at Nuremberg,” he told the Real News Network. President Obama’s actions in Syria have been described as the legal equivalent of Vladimir Putin’s in Ukraine—both arming rebels and conducting air strikes. U.S. drone attacks around the world also constitute an unlawful use of force. We have not been attacked, nor do we have U.N. approval for our targeted killings in Libya, Yemen, Somalia and other countries. Will these acts of war ever cease? Many Americans seem to forget they are even going on. Discussions of their justice, their legality and necessity, even their cost or effectiveness are almost entirely absent from our politics. To the extent they consider them at all, Americans assume might makes right. The evidence points elsewhere: to the millions of refugees fleeing war, instability and the breakdown of law and order in the world.

#### Two implications: A. no impact- multiple violations of international law haven’t triggered their impact, B. uniqueness overwhelms the link- alternate causes are responsible for pushing us over the brink, not free speech violations

#### 2. No link- their evidence just says that international law permits prohibition on hate speech but doesn’t mandate them- the aff is consistent with ilaw

**Cohen 14** [Roni Cohen (J.D. Candidate, 2015, The University of Chicago Law School), "Regulating Hate Speech: Nothing Customary About It," Chicago Journal of International Law, 2014] AZ

The proliferation of laws prohibiting and punishing hate speech since World War II has raised serious questions concerning the limits of free speech. While all liberal democracies guarantee the freedom of expression as a fundamental human right, the vast majority also restrict speech deemed hateful or racially discriminatory. Similarly, many major international human rights agreements acknowledge free speech as an essential human right, but also limit that right when hateful. This Comment analyzes the current legal landscape surrounding hate speech laws and evaluates domestic and international practice to determine whether the regulation of hate speech has assumed customary international law status. Due to a lack of uniformity among and within states and the absence of opinio juris, or a sense of legal obligation, this Comment concludes that the international practice of restricting hate speech has not yet assumed customary international law status.

#### 3. No internal link- ilaw isn’t binding

**Casey 6** [(Lee A. Casey and David B. Riykin Jr.) “International Law and the Nation-State at the UN: A Guide for U.S. Policymakers.” August 18, 2006] OR

At the same time, it is also fair to say that, beyond a few academics and activists, most Americans do not look to international institutions or the “international community” for validation of their government’s actions or their own. One might well ask, in response to the German Foreign Ministry, what is the “international community”? Does it, for example, include China’s Communist rulers or the Persian Gulf’s divine right monarchs? And what obligations, exactly, might Americans have to them? Law, in the United States, is made by our elected representatives, and the measure of its legitimacy is the United States Constitution. As a result, of course, **international law has never been treated as** **a** rigid and imperative **code of conduct** by U.S. policymakers. This attitude toward international law transcends political ideology and party label. Nowhere was it better displayed than in an exchange between then Secretary of State Madeleine Albright and her British counterpart, Foreign Secretary Robin Cook, during the run-up to NATO’s 1999 intervention in Kosovo. As reported by Mrs. Albright’s spokesman James Rubin, when Cook explained that British lawyers objected to the use of military force against Serbia without U.N. approval, she replied simply “get new lawyers.”[3]Mrs. Albright’s suggestion was perhaps undiplomatic, but it revealed a firm grasp of the essential genius of **international law**: It **is** a body of norms **made by states for states, and its content** and application **are** almost always **open to** honest **dispute.** Moreover, and most important of all, there is no global power or authority with the ultimate right to establish the meaning of international law for all. **Every** independent **state has the** legal **right—and** the **obligation—to** consider and **interpret international law for itself.** In other words, when questions are asked about the meaning and requirements of international law, the answers will probably, and properly, depend on who the lawyers are. This does not mean that international law is illusory or that it can or should be ignored by states in the day-to-day exercise of power. It does mean, however, that international law is best viewed as a collection of behavioral norms—some arising from custom and some from express agreement, some more well-established and some less so—that it is in the interest of states to honor. As Chief Justice John Marshall explained in 1812 in describing one important aspect of international law:[4]The world being composed of distinct sovereignties, possessing equal rights and equal independence, whose mutual benefit is promoted by intercourse with each other, and by an interchange of those good offices which humanity dictates and its wants require, all sovereigns have consented [to certain legal norms].The key, of course, is consent. Ultimately, the binding nature of international law is a matter of the consent of **sovereign states**. They can interpret that law in accordance with their understanding and interests, they can attempt to change it, and they **can** choose to **ignore it**—so long as they are prepared to accept the very real political, economic, and even military consequences that may result. **This is the essence of sovereignty**, which itself is the basis and guarantor of self-government.

#### 4. Alt cause – non-ratification of multiple treaties

Philip C. Aka, Professor of Political Science, Chicago State University; Vice Chair, American Bar Association Committee on International Human Rights, 2006 (“Analyzing U.S. Commitment to Socioeconomic Human Rights” 39 Akron L. Rev. 417)Lexis

Reference to the United States's approach to human rights has an ironic ring given "the pervasive notion" in America "that there was something un-American and communistic about human rights." But the U.S. still has an approach to human rights even where, as this Article argues, that approach is incomprehensive. The traditional view in the U.S. approach to human rights holds that America recognizes and guarantees only political-civil rights to the exclusion and relegation of socioeconomic human rights and the rights of peoples, which the U.S. does not promote. Numerous indicators attend this orientation with consequences for governmental pursuit or promotion of human rights. One was the tendency, known as "exceptionalism," wherein the U.S. preaches support for the rule of law in international affairs that it refuses to adhere to domestically. **102** Related to "exceptionalism" is the propensity of the U.S. government not to ratify international human rights treaties or to reluctantly ratify them many years after they have gone into force or to ratify subject to numerous "reservations, understandings, or declarations" (RUDs). The U.S. ratified the Genocide Convention only in 1987, a dubious-record thirty-six years after the treaty's adoption in 1951; the ICCPR only in 1992, as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment **103** and the ICERD both in 1994. The U.S. has yet to ratify the CEDAW, the CRC, and the ICESCR. America shares the dubious honor with Somalia as the two countries in the world that have yet to ratify the CRC. **104** The U.S. government also does not permit individual complaints under the ICCPR. **105** Appending RUDs to the U.S. Senate's consent to a treaty can greatly limit the impact of the ratified treaties on U.S. law. Unfortunately, that can be their only purpose, as one analyst laments in a special collection focusing on U.S. human rights. **106** These RUDs became so restrictive at one point that the Netherlands lodged a complaint against the U.S. government, justifiably remonstrating that the RUDs are incompatible with the basic purposes of treaties which require nations to align their domestic law with the terms of the affected treaties. **107** Not only did the U.S. government refuse to ratify treaties, in general it displayed a disinclination to support the very international institutions America helped found after World War II and an unwillingness to support new popular initiatives in international law. **108**

### 2AC- Ilaw Fails

#### International law solves nothing – no enforcement or international credibility.

Hathaway 02 [Oona Hathaway, Assc Professor, Boston U. School of Law. Associate Professor Designate, Yale Law School, 2002 (“Do Human Rights Treaties Make a Difference?” 111 Yale L.J. 1935) Lexis

Where there is a disjuncture between expressive benefits and instrumental goals, it is possible that the expressive aspect of treaties will serve to relieve pressure for real change in performance in countries that ratify the treaty. Because such treaties offer rewards "for positions rather than for effects," 230 countries can and will take positions to which they do not subsequently conform and benefit from doing so. This is particularly true of treaties enacted for the direct benefit neither of the joining parties nor of those pushing for enactment, but rather of uninvolved third parties. In this sense, human rights treaties can take on the character of "charitable" enactments that are "designed to benefit people other than the ones whose gratification is the payment for passage," and which, as a result, often suffer from indifferent enforcement and have little impact. **231** There is arguably no area of international law in which the disjuncture between the expressive and instrumental aspects of a treaty is more evident than human rights. Monitoring and enforcement of human rights treaty obligations are often minimal, thereby making it difficult to give the lie to a country's expression of commitment to the goals of a treaty. The strongest means of treaty enforcement - military intervention and economic sanctions - are used relatively infrequently to enforce human rights norms, 232 in no small part because there is little incentive for individual states to take on the burden of engaging in such enforcement activity. **233** Because of the infrequency with which the international community resorts to such means of enforcement, the threat of their use does not contribute meaningfully to day-to-day compliance with the multitude of human rights treaties. 234 Moreover, as Louis Henkin puts it, "the principal element of horizontal deterrence is missing" in the area of human rights: "The threat that "if you violate the human rights of your inhabitants, we will violate the human rights of our inhabitants' hardly serves as a deterrent." 235  [\*2007]  Consequently, most human rights treaties rely not on sanctions to encourage compliance but instead on treaty-based and charter-based organs dedicated to monitoring compliance with particular treaties or particular sets of treaties, often through a system of self-reporting. 236 Were these monitoring systems effective, it is possible that the threat to reputation that they could pose to noncomplying countries would be sufficient to keep noncompliance at low levels. Yet most of these systems have proven woefully inadequate, with countries regularly and repeatedly failing to meet minimal procedural requirements with no repercussions. **237** Indeed, although treaties often require countries that join them to submit to semi-regular scrutiny by a treaty body, there is no real penalty for failure to participate in this process or for obeying the letter but not the spirit of the treaty requirements. **238** As a consequence, the failure of a country to comply with its treaty obligations is, in most cases, unlikely to be revealed and examined except by already overtaxed NGOs. **239**

#### Doesn’t affect state practices - empirics

Posner, 2009 (Eric A., Kirkland and Ellis professor of law at the University of Chicago, “Think Again: International Law,” Foreign Policy, September 17, http://www.foreignpolicy.com/articles/2009/09/17/think\_again\_international\_law)

Wishful thinking. Academic research suggests that international human rights treaties have had little or no impact on the actual practices of states. The Genocide Convention has not prevented genocides; the Torture Convention has not stopped torture. The same can be said for the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and a host of treaties meant to advance the rights of women and children. States that already respect human rights join human rights treaties because doing so is costless for them. States that do not respect human rights simply ignore their treaty obligations.

### 2AC- Ilaw Bad- Unilateralism

#### Unilateralism is the only route for effective and reliable state action. Multilateralism has proven useless multiple times.

**Harvey, 02** – Director of the Center for Foreign Policy Studies at Dalhousie University )Dr. Frank P. “GLOBALISM, TERRORISM and PROLIFERATION: Unilateral vs. Multilateral Approaches to Security After 9/11 and the Implications for Canada”, August 2002)

SECTION 4: The Inevitability of American Unilateralism How does one explain this ever present and powerful fixation with maintaining independent control over ones security, notwithstanding the evidence that successful unilateralism is difficult in a globalizing world?47 Doesn’t this imply that leaders prefer strategies that are not particularly rational, unlikely to enhance security and may actually make things worse? On the contrary -- what appears on the surface to be an irrational response to the contemporary realities of globalization is in fact a perfectly rational strategy derived from an objective assessment of the costs, benefits and risks of available alternatives. Unilateral approaches to security are rarely evaluated (and selected) in isolation – they are always compared to the successes, failures and overall potential of multilateral alternatives. With respect to that comparison, it is becoming increasingly apparent that multilateral approaches to security have not succeeded, and that unilateral strategies offer a better return for ones security investment, with fewer risks. Consider, for example, the competition between multilateral and unilateral approaches to border security and immigration surveillance. Given finite resources, American officials are currently weighing the benefits of, on the one hand, increasing the number of customs inspectors and x-ray machines at the U.S. border and, on the other, working with other states to examine containers at their origins and to coordinate visa strategies. As Brainard (2001) points out, terrorists often calibrate their visa strategies “to take advantage of different levels of scrutiny across countries.”48 Obviously working with other states to develop effective multilateral approaches will help. But when it comes to comparing levels of overall confidence, there is a natural tendency to be much less confident in strategies that depend on the expertise, motivation, good will and priorities of other states, especially if these states are not being targeted by terrorism

#### Mulilateralism enables prolif – hurts enforcement and no empirical solvency

Harvey, 02 – Director of the Center for Foreign Policy Studies at Dalhousie University (Dr. Frank P. “GLOBALISM, TERRORISM and PROLIFERATION: Unilateral vs. Multilateral Approaches to Security After 9/11 and the Implications for Canada”, August 2002)

The main challenge for proponents of the NACD regime is the lack of demonstrable proof that multilateral arms control actually works. As a regime with a very specific and straightforward set of objectives it has never achieved the kind of success that would warrant giving its proponents the moral or intellectual authority to dismiss unilateral alternatives, such as BMD.49 Without this evidence there is no logical, empirical, legal, moral, or policy relevant foundation for embracing multilateral arms control. Several additional points related to measuring the success and failure of the NACD regime should be noted. First, ongoing disagreements over appropriate criteria for measuring success and failure preclude definitive statements about the real (and relevant) contributions of the NACD regime. For instance, should we rejoice in the success of indefinite renewal of the Non-Proliferation Treaty, or remain highly sceptical of the treaty’s capacity to prevent signatories (including, but not limited to, China, Russia, Iran, North Korea, Iraq, Syria and Libya) from acquiring and/or selling prohibited WMD technology? Should we focus on the portion of any draft arms control treaty that achieves consensus, or the portion that remains contested because of a combination of insurmountable political, financial or military hurdles? Consider, for example, how much of the 450 pages of text in the most recent draft of the Biological and Toxin Weapons Convention remain highlighted and bracketed – i.e., contested. Should we focus on the minutia of prenegotiation concessions on the location and timing of the next conference, chairmanship, conference schedules, etc., or should we acknowledge the fact that the combined efforts of those involved in virtually thousands of similar conferences have failed to stop WMD and ballistic missile technologies from proliferating to states who want them? Examples of NACD successes typically highlight less significant accomplishments in the area of ‘process’ rather than ‘outcome’, or minor revisions to the text of draft treaties, because these ‘successes’ are far easier to identify. But this approach simply lowers the bar for measuring progress – indeed, the evaluative criteria for the NACD regime is increasingly removed from straightforward questions about whether WMD technology continues to proliferate and how we can prevent it.50 Second, proponents of multilateralism are quick to offer as clear ‘evidence’ of success a long list of multilateral treaties, protocols, agreements and conventions51; nuclear weapon-free zones52; hundreds of multilateral declarations, verification programs, monitoring agreements, protocols, export control guidelines and clarifications/modifications/ amendments and other MOUs.53 In addition, multilateralists are likely to list as illustrations of progress hundreds of governmental and non-governmental institutions, organizations, conferences, annual meetings, boards and agencies with arms control, verification and monitoring mandates54; hundreds of U.N. resolutions and legal opinions designed to address proliferation55; hundreds of independent departments, intelligence agencies and legislative committees established by western governments (with billions of dollars invested world-wide) to solve one or another part of the proliferation puzzle; and virtually thousands of non-governmental organizations and think-tanks with the same mandate receiving hundreds of millions of dollars in public and private funds. All of this activity is held up as concrete evidence of what four decades of multilateral arms control and disarmament activity has accomplished -- incontrovertible evidence that multilateralism is alive and well.56 But evidence that multilateralism is rampant and spreading does not, in any way, constitute proof of successful multilateralism.57 Notwithstanding all of this activity there is no demonstrable proof that we have dealt effectively with the proliferation problem, or that the planet is any safer today than it was before we engaged in all of this activity. Indeed, nuclear, chemical and biological weapons (and their delivery vehicles) continue to proliferate and pose a more significant global threat today than ever before (please refer to the evidence outlined in Appendix I).

#### Extinction via miscalc.

Utgoff, 02 – Deputy Director of the Strategy, Forces, and Resources Division at the Institute for Defense Analysis (Victor A., “Proliferation, Missile Defence and American Ambitions” Summer Survival)

In sum, widespread proliferation is likely to lead to an occasional shoot-out with nuclear weapons, and that such shoot-outs will have a substantial probability of escalating to the maximum destruction possible with the weapons at hand. Unless nuclear proliferation is stopped, we are headed toward a world that will mirror the American Wild West of the late 1800s. With most, if not all, nations wearing nuclear ‘six-shooters’ on their hips, the world may even be a more polite place than it is today, but every once in a while we will all gather on a hill to bury the bodies of dead cities or even whole nations. This kind of world is in no nation’s interest.

### 2AC- Ilaw Bad- Heg

#### Following international law only limits US heg.

Rivkin 2000 [Partner @ Baker & Hostetler LLP [David, “The Rocky Shoals of International Law”, [http://findarticles.com/p/articles/mi\_m2751/is\_2000\_Winter/ai\_68547471/](http://findarticles.com/p/articles/mi_m2751/is_2000_Winter/ai_68547471/" \t "_blank)]

The impetus for extending the reach of international law stems from both our allies and our adversaries, who have chosen to use it as a means to check, or at least harness, American power. While each group has different strategic goals, from the perspective of both, the great "problem" of international affairs in the post-Cold War world is the unchallenged military, diplomatic, economic and even cultural predominance of the United States. Our global antagonists, particularly China, would like to see the United States disengage from world affairs. For our allies, who continue to depend far too much on U.S. military might to wish for a new American isolationism, the great danger has become American "unilateralism"—an all-purpose term for U.S. action not sanctioned by the "international community." They do not want to prevent U.S. global engagement; they want to influence and control it.¶ Both our allies and our adversaries understand the value of international law in achieving their ends. Law and its rhetoric have always played a far more important role in the United States than in almost any other country. We are a nation bound together not by ties of blood or religion, but by paper and ink. The Declaration of Independence itself was, at its heart, an appeal to law—the laws of nature and of nature’s God—to justify an act of rebellion against the British Crown. As Alexis de Tocqueville wrote in the early days of the American republic: "[t]he influence of legal habits [in the United States] extends beyond the precise limits I have pointed out. Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question. Hence all parties are obliged to borrow, in their daily controversies, the ideas, and even the language, peculiar to judicial proceedings." Tocqueville was clearly prescient. Today almost every key policy issue in the United States is framed as a legal question. Law is our genius and our Achilles’ Heel. If the trends of international law in the 1990s are allowed to mature into binding rules, international law may prove to be one of the most potent weapons ever deployed against the United States.

#### US leadership prevents great power war and existential governance crises

**Brooks, Ikenberry, and Wohlforth ’13** (Stephen, Associate Professor of Government at Dartmouth College, John Ikenberry is the Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, William C. Wohlforth is the Daniel Webster Professor in the Department of Government at Dartmouth College “Don’t Come Home America: The Case Against Retrenchment,” International Security, Vol. 37, No. 3 (Winter 2012/13), pp. 7–51)

A core premise of deep engagement is that it prevents the emergence of a far more dangerous global security environment. For one thing, as noted above, the United States’ overseas presence gives it the leverage to restrain partners from taking provocative action. Perhaps more important, its core alliance commitments also deter states with aspirations to regional hegemony from contemplating expansion and make its partners more secure, reducing their incentive to adopt solutions to their security problems that threaten others and thus stoke security dilemmas. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war. 72 How do retrenchment advocates, the bulk of whom are realists, discount this benefit? Their arguments are complicated, but two capture most of the variation: (1) U.S. security guarantees are not necessary to prevent dangerous rivalries and conflict in Eurasia; or (2) prevention of rivalry and conflict in Eurasia is not a U.S. interest. Each response is connected to a different theory or set of theories, which makes sense given that the whole debate hinges on a complex future counterfactual (what would happen to Eurasia’s security setting if the United States truly disengaged?). Although a certain answer is impossible, each of these responses is nonetheless a weaker argument for retrenchment than advocates acknowledge. The first response flows from defensive realism as well as other international relations theories that discount the conflict-generating potential of anarchy under contemporary conditions. 73 Defensive realists maintain that the high expected costs of territorial conquest, defense dominance, and an array of policies and practices that can be used credibly to signal benign intent, mean that Eurasia’s major states could manage regional multipolarity peacefully without the American pacifier. Retrenchment would be a bet on this scholarship, particularly in regions where the kinds of stabilizers that nonrealist theories point to—such as democratic governance or dense institutional linkages—are either absent or weakly present. There are three other major bodies of scholarship, however, that might give decisionmakers pause before making this bet. First is regional expertise. Needless to say, there is no consensus on the net security effects of U.S. withdrawal. Regarding each region, there are optimists and pessimists. Few experts expect a return of intense great power competition in a post-American Europe, but many doubt European governments will pay the political costs of increased EU defense cooperation and the budgetary costs of increasing military outlays. 74 The result might be a Europe that is incapable of securing itself from various threats that could be destabilizing within the region and beyond (e.g., a regional conflict akin to the 1990s Balkan wars), lacks capacity for global security missions in which U.S. leaders might want European participation, and is vulnerable to the influence of outside rising powers. What about the other parts of Eurasia where the United States has a substantial military presence? Regarding the Middle East, the balance begins to swing toward pessimists concerned that states currently backed by Washington— notably Israel, Egypt, and Saudi Arabia—might take actions upon U.S. retrenchment that would intensify security dilemmas. And concerning East Asia, pessimism regarding the region’s prospects without the American pacifier is pronounced. Arguably the principal concern expressed by area experts is that Japan and South Korea are likely to obtain a nuclear capacity and increase their military commitments, which could stoke a destabilizing reaction from China. It is notable that during the Cold War, both South Korea and Taiwan moved to obtain a nuclear weapons capacity and were only constrained from doing so by a still-engaged United States. 75 The second body of scholarship casting doubt on the bet on defensive realism’s sanguine portrayal is all of the research that undermines its conception of state preferences. Defensive realism’s optimism about what would happen if the United States retrenched is very much dependent on its particular—and highly restrictive—assumption about state preferences; once we relax this assumption, then much of its basis for optimism vanishes. Specifically, the prediction of post-American tranquility throughout Eurasia rests on the assumption that security is the only relevant state preference, with security defined narrowly in terms of protection from violent external attacks on the homeland. Under that assumption, the security problem is largely solved as soon as offense and defense are clearly distinguishable, and offense is extremely expensive relative to defense. Burgeoning research across the social and other sciences, however, undermines that core assumption: states have preferences not only for security but also for prestige, status, and other aims, and they engage in trade-offs among the various objectives. 76 In addition, they define security not just in terms of territorial protection but in view of many and varied milieu goals. It follows that even states that are relatively secure may nevertheless engage in highly competitive behavior. Empirical studies show that this is indeed sometimes the case. 77 In sum, a bet on a benign postretrenchment Eurasia is a bet that leaders of major countries will never allow these nonsecurity preferences to influence their strategic choices. To the degree that these bodies of scholarly knowledge have predictive leverage, U.S. retrenchment would result in a significant deterioration in the security environment in at least some of the world’s key regions. We have already mentioned the third, even more alarming body of scholarship. Offensive realism predicts that the withdrawal of the American pacifier will yield either a competitive regional multipolarity complete with associated insecurity, arms racing, crisis instability, nuclear proliferation, and the like, or bids for regional hegemony, which may be beyond the capacity of local great powers to contain (and which in any case would generate intensely competitive behavior, possibly including regional great power war). Hence it is unsurprising that retrenchment advocates are prone to focus on the second argument noted above: that avoiding wars and security dilemmas in the world’s core regions is not a U.S. national interest. Few doubt that the United States could survive the return of insecurity and conflict among Eurasian powers, but at what cost? Much of the work in this area has focused on the economic externalities of a renewed threat of insecurity and war, which we discuss below. Focusing on the pure security ramifications, there are two main reasons why decisionmakers may be rationally reluctant to run the retrenchment experiment. First, overall higher levels of conflict make the world a more dangerous place. Were Eurasia to return to higher levels of interstate military competition, one would see overall higher levels of military spending and innovation and a higher likelihood of competitive regional proxy wars and arming of client states—all of which would be concerning, in part because it would promote a faster diffusion of military power away from the United States. Greater regional insecurity could well feed proliferation cascades, as states such as Egypt, Japan, South Korea, Taiwan, and Saudi Arabia all might choose to create nuclear forces. 78 It is unlikely that proliferation decisions by any of these actors would be the end of the game: they would likely generate pressure locally for more proliferation. Following Kenneth Waltz, many retrenchment advocates are proliferation optimists, assuming that nuclear deterrence solves the security problem. 79 Usually carried out in dyadic terms, the debate over the stability of proliferationchanges as the numbers go up. Proliferation optimism rests on assumptions of rationality and narrow security preferences. In social science, however, such assumptions are inevitably probabilistic. Optimists assume that most states are led by rational leaders, most will overcome organizational problems and resist the temptation to preempt before feared neighbors nuclearize, and most pursue only security and are risk averse. Confidence in such probabilistic assumptions declines if the world were to move from nine to twenty, thirty, or forty nuclear states. In addition, many of the other dangers noted by analysts who are concerned about the destabilizing effects of nuclear proliferation—including the risk of accidents and the prospects that some new nuclear powers will not have truly survivable forces—seem prone to go up as the number of nuclear powers grows. 80 Moreover, the risk of “unforeseen crisis dynamics” that could spin out of control is also higher as the number of nuclear powers increases. Finally, add to these concerns the enhanced danger of nuclear leakage, and a world with overall higher levels of security competition becomes yet more worrisome. The argument that maintaining Eurasian peace is not a U.S. interest faces a second problem. On widely accepted realist assumptions, acknowledging that U.S. engagement preserves peace dramatically narrows the difference between retrenchment and deep engagement. For many supporters of retrenchment, the optimal strategy for a power such as the United States, which has attained regional hegemony and is separated from other great powers by oceans, is offshore balancing: stay over the horizon and “pass the buck” to local powers to do the dangerous work of counterbalancing any local rising power. The United States should commit to onshore balancing only when local balancing is likely to fail and a great power appears to be a credible contender for regional hegemony, as in the cases of Germany, Japan, and the Soviet Union in the midtwentieth century. The problem is that China’s rise puts the possibility of its attaining regional hegemony on the table, at least in the medium to long term. As Mearsheimer notes, “The United States will have to play a key role in countering China, because its Asian neighbors are not strong enough to do it by themselves.” 81 Therefore, unless China’s rise stalls, “the United States is likely to act toward China similar to the way it behaved toward the Soviet Union during the Cold War.” 82 It follows that the United States should take no action that would compromise its capacity to move to onshore balancing in the future. It will need to maintain key alliance relationships in Asia as well as the formidably expensive military capacity to intervene there. The implication is to get out of Iraq and Afghanistan, reduce the presence in Europe, and pivot to Asia— just what the United States is doing. 83 In sum, the argument that U.S. security commitments are unnecessary **for peace** is countered by a lot of scholarship, including highly influential realist scholarship. In addition, the argument that Eurasian peace is unnecessary for U.S. security is weakened by the potential for a large number of nasty security consequences as well as the need to retain a latent onshore balancing capacity that dramatically reduces the savings retrenchment might bring. Moreover, switching between offshore and onshore balancing could well be difªcult. Bringing together the thrust of many of the arguments discussed so far underlines the degree to which the case for retrenchment misses the underlying logic of the deep engagement strategy. By supplying reassurance, deterrence, and active management, the United States lowers security competition in the world’s key regions, thereby preventing the emergence of a hothouse atmosphere for growing new military capabilities. Alliance ties dissuade partners from ramping up and also provide leverage to prevent military transfers to potential rivals. On top of all this, the United States’ formidable military machine may deter entry by potential rivals. Current great power military expenditures as a percentage of GDP are at historical lows, and thus far other major powers have shied away from seeking to match top-end U.S. military capabilities. In addition, they have so far been careful to avoid attracting the “focused enmity” of the United States. 84 All of the world’s most modern militaries are U.S. allies (America’s alliance system of more than sixty countries now accounts for some 80 percent of global military spending), and the gap between the U.S. military capability and that of potential rivals is by many measures growing rather than shrinking. 85

## SBU

### 2AC- Top Level

#### We’ve recut their link card, it actually flows aff- open university research is best

**Knezo 06** (Genevieve J. Knezo – Specialist in Science and Technology Policy Resources, Science, and Industry Division + this is a CRS Report for Congress, pgs. 36 – 53, “Controls on Unclassified Biological Research Information”, “’Sensitive But Unclassified’ Information and Other Controls: Policy and Options for Scientific and Technical Information”, <https://fas.org/sgp/crs/secrecy/RL33303.pdf>] NB

Some say that placing controls on unclassified information could negatively affect governmental relations with the private sector and procurement for information technology and other contracts. New ideas for information security technologies, including hard technology, software and biotech-related products, often come from overseas, as do bids for contracts to handle sensitive agency information. Reportedly, foreign vendors will have trouble complying with contracts that need to meet information security standards. It has been reported that requests for proposals (RFPs) coming from the Defense Security Services involving data processing for its SBU information say that employees of potential vendors need to be U.S. citizens, with background checks. DHS and DOT procurement rules involving sensitive information specify background checks for prime or subcontractors and that nondisclosure forms have to be signed.226 There is also the view that scientists who voluntarily agree to pre-research and prepublication reviews of research articles could harm a university’s ability to conduct fundamental research involving foreigners as permitted by National Security Decision Directive-189 (NSDD-189) and related regulations. (For additional information, see a previous section of this report entitled “Summary of Federal Policies to Classify or Control Scientific and Technical Information.” According to Robert Hardy of the nonprofit Council on Governmental Relations ... by placing restrictions on publishing ... the [Department of Homeland Security-funded centers of excellence] could risk losing the privileges that universities enjoy because they do fundamental research — defined a work whose results are ‘published and shared broadly within the scientific community.’ One important privilege is being able to involve foreign nationals in any research project without obtaining a government license.227

#### Outweighs- their author concludes aff like the others—that grants our scenario more credibility

#### Link Turn- Scientists need capability to study deadly disesases- that’s crucial to vaccines and readiness against natural pandemics

**Powledge 14** [Tabitha M. Powledge, 10-28-2014, "Risk and science: Should some virus research be forbidden?," Genetic Literacy Project, <https://www.geneticliteracyproject.org/2014/10/28/risk-and-science-should-some-virus-research-be-forbidden/>] NB

It didn’t take scientists long, though, to complain that the moratorium, imposed in the name of public health, [could actually endanger public health](http://www.nature.com/news/viral-research-moratorium-called-too-broad-1.16211" \t "_blank) by preventing researchers from learning more about dangerous viruses . They made their case last Wednesday at a meeting of the National Science Advisory Board for Biosecurity, its first since 2012. The reason for the long delay in meeting has not been explained. Half of the 23-member NSABB were [abruptly fired and replaced](http://news.sciencemag.org/biology/2014/07/updated-u-s-biosafety-panel-come-out-hibernation-new-members" \t "_blank) last summer. The delay and sudden member turnover is a bit mysterious and also worrisome, given that the board is supposed to advise the government on so-called “dual-use” research, research on organisms or other agents that might be exploited by bioterrorists. This work is not just a theoretical possibility. Scientists in Wisconsin and the Netherlands have actually done this sort of gain-of-function experiments with two bird flu viruses, making them easier to transmit in mammalian model organisms. The research caused such a furor that a voluntary moratorium was declared in 2012, but [the research resumed a year later](http://www.technologyreview.com/news/510166/moratorium-over-scientists-will-restart-avian-flu-research/" \t "_blank). “We believe this research is important to pandemic preparedness,” said one of the researchers, Yoshihiro Kawaoka of the University of Wisconsin. “Understanding how the avian virus is adapted to mammals [will lead to better surveillance and vaccines](http://www.technologyreview.com/news/510166/moratorium-over-scientists-will-restart-avian-flu-research/" \t "_blank).” Deliberately making a disease organism more dangerous sounds loony at first glance, and lots of people think it’s loony no matter how many glances you give it. “Many other scientists were and are extremely concerned about these experiments, which [some of us consider dangerous and irresponsible](http://genome.fieldofscience.com/2014/10/should-government-allow-scientists-to.html" \t "_blank),” says Steven Salzberg, of the Johns Hopkins School of Medicine. Salzberg is one of the scientists involved in the Cambridge Working Group, which has been pressuring the administration to restrict the experiments–-pressure that was one factor leading to the new moratorium. There are, arguably, [reasons for doing this sort of gain-of-function research](http://news.sciencemag.org/biology/2014/10/researchers-rail-against-moratorium-risky-virus-experiments" \t "_blank). One example is the need to develop small animal models to better study a disease. One researcher is claiming the moratorium will halt her surveillance of flu viruses circulating in animals, potentially a source of human infection. Another points out that potential flu drugs must be tested on wild strains, which could produce resistant viruses

#### No funding cuts to research if we affirm- your own evidence indiciates that courts have ruled against cutting funding

#### Also weak strength of link- Downs doesn't say that without secrecy research efforts are impossible

### Impact Defense

#### No bioterror – tacit barriers prevent tech proliferation

Jefferson, et al ’14 [Catherine Jefferson, Filippa Lentzos, and Claire Marris; Department of Social Science, Health and Medicine, King’s College London, London, UK. ‘Synthetic biology and biosecurity: challenging the “myths”’. *Frontiers In Public Health*. Aug 2014, Vol 2, Article 115. http://journal.frontiersin.org/article/10.3389/fpubh.2014.00115/abstract]

A dominant narrative has emerged in policy arenas, in which advances in the biosciences are seen to make biology easier and more accessible, and this is presumed to increase the so-called “dual-use” threat, i.e., the potential for the same scientific research to be “used” for peaceful purposes or “misused” for warfare or terrorism. Developments in synthetic biology, a field that emerged at the start of the twenty-first century with the stated aim of “making biology easier to engineer” (1, 2), have further fueled these concerns. Fears have been expressed that synthetic biology will lead to further “de-skilling” and that, combined with open online access to the genomic DNA sequences of pathogenic organisms and the reduction in price for DNA synthesis, this will make biology increasingly accessible to people operating outside well-equipped professional research laboratories, including people with malevolent intentions. The emergence of do-it-yourself (DIY) biology communities and the student iGEM competition has come to epitomize this supposed trend toward greater ease of access and the associated potential threat from rogue actors. In this article, we analyze this dominant narrative and identify five“myths”that permeate discussions about synthetic biology and biosecurity. We describe each of these myths and provide illustrative examples of how they are deployed in policy arenas. We then demonstrate how each of these myths is challenged by more realistic understandings of the scientific research currently being conducted in both professional and DIY laboratories, and by an analysis of historical cases of bioterrorism. In particular, we show that the importance of tacit knowledge is commonly overlooked in the dominant narrative: the focus is on access to biological materials and digital information, rather than on human practices and institutional dimensions. Sonia Ben Ouagrham-Gormley and Kathleen Vogel have argued, on the basis on their in-depth analysis of the US and Soviet biowarfare programs, that there are important intangible barriers to the proliferation of biological weapons (3–5). These authors show how tacit knowledge has been marginalized in assessments of the dual-use threat of biotechnologies in the twenty-first century. Tacit knowledge is crucial to conduct advanced bioscience research, and is by definition difficult to share. This is encapsulated by Polanyi’s remark that “we can know more than we can tell” [(6), p. 4, emphasis in original]. As a result, researchers who work within institutionalized laboratories acquire tacit knowledge through experience, by working in teams and participating in professional scientific networks. But acquiring tacit knowledge is much more difficult for people who operate outside of such institutions, such as DIY biologists and bioterrorists. Broadly, tacit knowledge refers to skills and techniques that cannot be readily codified but, rather, are acquired through a process of “learning by doing” or “learning by example,” and often take considerable time and effort to gain. According to Harry Collins, a distinction can be made between “weak,”“somatic limit,” and “collective” tacit knowledge (7, 8). Revill and Jefferson (9) have drawn on Collins’ classification to explore the importance of tacit knowledge in the practice of synthetic biology and the conduct of bioweapons programs. They explain that “[w]eak tacit knowledge is that which could, under certain circumstances, be rendered explicit but either through inability, unwillingness, or practicality remains unwritten and implicit” [(9), p. 3]. Individual, or somatic, tacit knowledge “refers to things that our bodies can do, which we cannot articulate, transfer and replicate as knowledge without the recipient learning by doing” (ibid., p. 4–5). These are the skills, mechanical techniques, and idiosyncratic know-how obtained by individuals through trial-and-error problem-solving or through a master-apprentice style relationship. Collective, or communal, tacit knowledge “is the combined knowledge that is developed through interaction between experts with different disciplinary backgrounds working together” (ibid., p. 6). This can be conceptualized “as the bringing together of different disciplinary experts that are greater than the sum of their parts” (ibid., p. 6–7), or, following Vogel (10), can be understood as “communally synthesized tacit knowledge” that comes from the ongoing interactions between different types of expertise. Revill and Jefferson (9) provide examples of tacit knowledge from each of these categories from the history of biological weapons programs and the practice of advanced biological sciences, including synthetic biology. Ben Ouagrham-Gormley and Vogel, and Revill and Jefferson, argue that a better understanding of tacit knowledge could improve the assessments of the dual-use threat posed by modern biotechnologies. Yet, tacit knowledge continues to be overlooked in policy arenas. In this paper, we examine the way in which the biosecurity threat posed by synthetic biology has been framed within the dominant narrative that permeates scientific and policy arenas. We identify five recurring “myths” that emerge from this analysis: • Myth 1: synthetic biology is de-skilling biology and making it easier for terrorists to exploit advances in the biosciences; • Myth 2: synthetic biology has led to the growth of a DIY biology community, which could offer dual-use knowledge, tools, and equipment for bioterrorists seeking to do harm; • Myth 3: DNA synthesis has become cheaper and can be outsourced, and this will make it easier for terrorists to create biological threat agents; • Myth 4: synthetic biology could be used to design radically new pathogens; • Myth 5: terrorists want to pursue biological weapons for high consequence, mass casualty attacks.

#### Also empirically disproven- we haven’t had any bioterror attacks result in extinction it’s been a ton of years since their impact evidence

## Title IX

### 2AC- Link Defense

1. **No Link - the Supreme Court ruled constitutionally protected to not include the speech that title 9 requires codes against, so the aff would not violate.**

**Kruth 16**

‘TWISTING TITLE IX’ WEEK: Title IX Enforcement Has Continued Negative Effect on Freedom of Expression By Susan Kruth September 29, 2016 https://www.thefire.org/twisting-title-ix-week-title-ix-enforcement-has-continued-negative-effect-on-freedom-of-expression/

Title IX requires schools to respond to allegations of sexual harassment in order to ensure no students are denied access to an education because of their sex. Accordingly, ensuring that schools understand the boundaries of what constitutes “sexual harassment” falls under OCR’s purview. OCR used to be a positive force when it came to distinguishing sexual harassment from constitutionally protected speech. In a 2003 “Dear Colleague” letter on the First Amendment, for example, **OCR emphasized the importance of maintaining freedom of speech and of properly defining “harassment” so as not to infringe on expressive rights.** The agency wrote: **Some colleges and universities have interpreted** **OCR’s prohibition of “harassment” as encompassing all offensive speech regarding sex, disability, race or other classifications. Harassment, however, to be prohibited by the statutes within OCR’s jurisdiction, must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive.** Under OCR’s standard, **the conduct must also be considered sufficiently serious to deny or limit a student’s ability to participate in or benefit from the educational program.** Thus, OCR’s standards require that the conduct be evaluated from the perspective of a reasonable person in the alleged victim’s position, considering all the circumstances, including the alleged victim’s age. **This is an accurate reflection of the Supreme Court’s holding in Davis v. Monroe County Board of Education**, 526 U.S. 629, 650 (**1999**), that student-on-student harassment is conduct “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school**.” Speech that does not rise to that level remains constitutionally protected**. In stark contrast, OCR’s 2011 “Dear Colleague” letter on sexual violence gives colleges and universities thorough and detailed instructions on how to respond to allegations of sexual harassment and assault, but it fails to remind institutions that in addressing sexual misconduct, it must respect students’ expressive rights, too. The letter states simply: Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Shortly after this letter was published, FIRE expressed the concern “that schools seeking to comply with OCR’s increased emphasis on sexual harassment education and prevention will fail to promulgate and disseminate sexual harassment policies that provide sufficient protection for student speech.” Indeed, policies modeled on the 2011 letter’s harassment provision would prohibit a huge amount of protected expression, as the vast majority of unwelcome verbal conduct of a sexual nature falls short of the Supreme Court’s definition of “harassment.” Moreover, as followers of FIRE’s work know, colleges and universities frequently view censorship and punishment of speech as a reasonable solution to a range of student complaints. They need near-constant reminders that censorship is not an acceptable answer at public institutions or private schools that promise freedom of expression—and even with such reminders, schools often commit egregious violations of constitutional or contractual rights. But in 2013, OCR did much worse than its vague and incomplete statement on harassment from its 2011 letter. At the conclusion of a joint investigation by OCR and the Department of Justice into the University of Montana’s handling of sexual assault allegations, DOJ and the Department of Education (of which OCR is a part) released a findings letter and resolution agreement among the three parties. In the findings letter, the Departments defined “sexual harassment” broadly as “any unwelcome conduct of a sexual nature,” including “verbal … conduct”—that is, speech. It further proclaimed that the agreement would “serve as a blueprint for colleges and universities throughout the country to protect students from sexual harassment and assault.” Thus, through its resolution of this investigation, the federal government sent a clear message to thousands of colleges and universities: They must enact unconstitutionally overbroad speech codes in order to comply with Title IX. In response, just as FIRE worried, colleges and universities across the country have enacted speech codes that mirror or track the “blueprint” and infringe on a wide range of protected expression. Several blueprint-esque policies were named FIRE’s Speech Codes of the Month, but hundreds of similarly unlawful policies remain effectively unchecked at institutions nationwide. Making matters worse, earlier this year, DOJ doubled down on its troubling speech code mandate in its findings letter concluding an investigation of the University of New Mexico. In FIRE’s press release on the event, we reviewed just some of the circumstances in which students and professors have been investigated and punished for supposed harassment, despite having engaged only in clearly protected expression. And FIRE isn’t alone in our concern over OCR’s abandonment of First Amendment principles. The American Association of University Professors (AAUP) released a report this year on “The History, Uses, and Abuses of Title IX,” which is well worth reading in full. The report’s executive summary notes the AAUP’s conclusion “that the current interpretation, implementation, and enforcement of Title IX has compromised the realization of meaningful educational goals that lead to sexually safe campuses.” Among other problems, OCR’s recent actions threaten “academic discussion of sex and sexuality,” faculty members’ “protected speech in teaching, research, and extramural contexts,” and “robust faculty governance.” **Institutions must remember that it is possible to both respect the campus community’s right to freedom of expression and respond appropriately to allegations of sexual harassment**. **By utilizing the Supreme Court’s definition of harassment**, **colleges and universities can achieve these twin goals simultaneously.** And as long as OCR directs institutions to do otherwise, institutions should defy OCR. After all, no document or letter from OCR can trump the First Amendment.

**2. New Trump administration and Republican congress will limit title 9’s power and rollback it’s recent rulings of free speech.**

**Mattiuzzi 10/14 2016.**

[**http://www.huffingtonpost.com/paul-g-mattiuzzi/donald-trump-and-the-futu\_b\_12476304.html**](http://www.huffingtonpost.com/paul-g-mattiuzzi/donald-trump-and-the-futu_b_12476304.html) **Paul G. Mattiuzzi Licensed psychologist, criminal forensic consultant, workplace solutions expert. Donald Trump and the Future of Title IX: The Campus Could Become a More Dangerous Place 10/14/2016 06:27 pm ET**

Eliminating the Office for Civil Rights would not be easy, as it was formed through the Department of Education Organization Act in 1979, the same federal law that created the Education Department. While OCR’s handling of **Title IX has** its share of **critics in the House of Representatives and Senate**, there has been little indication of either chamber broadly supporting the complete abolition of OCR, even **with a Republican majority and president. But if the office remains intact,** **there’s little chance** its level of **funding will remain** or increase. **Many experts on Title IX have predicted that a Trump administration would cut OCR’s budget, effectively limiting the number of investigations it could conduct at a time when the office already struggles to keep pace with the number of cases it has opened**. As of last year, it took OCR, on average, 940 days to complete a sexual assault investigation. Currently, the Office for Civil Rights still has 216 open investigations. Ann Franke, a higher education consultant and former campus Title IX official, said she doubts a Trump Education Department would maintain the public list, started by the Obama administration in 2014, of colleges that are under investigation. **The investigations that remain open when Trump becomes president will also likely be judged by a different set of standards and rules than cases that were settled during the Obama administration, she said.** “I would expect between now and Jan. 20, [the Obama administration's] OCR is going to be working to reach a lot of resolution agreements with a lot of institutions under investigation,” Franke said. “And I suspect institutions will have new leverage in negotiating resolutions over the next couple of months.” In 2011, **the Department of Education’s Office for Civil Rights issued a Dear Colleague letter that urged institutions to better investigate and adjudicate cases of campus sexual assault.** **The letter clarified how the department interprets Title IX**, and for the past five years it has been the guiding document for colleges hoping to avoid a federal civil rights investigation into how they handle complaints of sexual violence. **Republican lawmakers have argued that the guidance goes farther than just clarifying Title IX. They say the department has illegally expanded the gender discrimination law’s scope -- increasing the liability for institutions dealing with bullying, harassment and sexual violence and relaxing the burden of proof institutions are required to use when adjudicating cases of sexual assault -- without going through proper notice-and-comment procedures.** The department maintains the guidance did not create any new laws or policies, however, and serves only to fill in some of the vaguer parts of Title IX in order to help colleges not run afoul of the law. The debate has split college leaders, lawmakers, advocates and legal experts -- and led to three lawsuits against the Education Department. “**With these lawsuits against the Department of Education, all** **the new administration** **has to do is just not defend the case,” said S. Daniel Carter, a campus security consultant and former director of the 32 National Campus Safety Initiative.** “That **would roll back many** of the **provisions** **of the** Dear Colleague **letter**, including the requirements about what burden of proof colleges must use.” While Trump has not said whether he plans on changing any guidance or funding related to Title IX, the Republican Party did include campus sexual assault and Title IX as part of the platform it released at the GOP convention in July. Scott Schneider, a lawyer and adjunct professor of higher education law at Tulane University, wrote on Twitter that the platform points to a "significant regulatory shift" **under a Trump administration**. Calling sexual assault a “terrible crime,” **the Republican platform** stated that reports of sexual assault should be “investigated by civil authorities and prosecuted in a courtroom, not a faculty lounge.” It **criticized** **the** Obama administration’s policies, saying the White House’s “**distortion of Title IX to micromanage** the way **colleges and universities** deal with allegations of abuse contravenes our country’s legal traditions and must be halted.” **Trump could issue new Title IX guidance**, **based on the GOP’s platform**, that would replace the 2011 Dear Colleague letter.

**3. Title 9’s extension is unconstitutional and will be repealed in the Supreme Court, means that there’s no link.**

### 2AC- No Funding Link

#### No loss of funding – too slow and it’s never been done

Tyler Kingkade 16 [(Tyler Kingkade, ) Why It's Unlikely That North Carolina Schools Would Lose Federal Funding, Huffington Post 5-10-2016]

Press reports about the confrontation often note the state could lose $4.7 billion in federal funding for schools for disobeying Title IX. But many experts have doubts it would actually happen, especially in light of the dueling lawsuits between the state and the DOJ. Pulling all federal funding for schools is “such a thermonuclear option,” said Barmak Nassirian, a federal lobbyist for the American Association of State Colleges and Universities. “One would have to assume that things would be resolved way in advance of reaching that point.” The process for revoking federal funds is a long and “cumbersome,” according to Debora Osgood, who spent 25 years with the U.S. Department of Education Office for Civil Rights. And the arm of the Education Department in charge of enforcing civil rights is charged with fixing the policies that violate federal law, not punishing schools for them. What The DOJ Is Doing The DOJ’s lawsuit seeks to have a court issue a permanent injunction on the aspects of H.B. 2 that violate federal law, namely the rules requiring that people only use bathrooms and changing facilities that align with the gender they were assigned at birth. The department’s lawsuit came hours after Gov. Pat McCrory (R) filed a suit on behalf of the state against the federal government, arguing the Obama administration was overreaching. The DOJ is retaining the option of moving to terminate federal funding from the department, Attorney General Loretta Lynch said Monday. That would require a hearing and at least a 30-day notice to Congress, according to Osgood, and would ultimately have to be approved by the attorney general. But there is much more money at stake from the Education Department than from the DOJ. North Carolina received around $38 million over four years from various Justice Department grants, but its K-12 schools took $1.3 billion in just 2015-2016 through federal grants focused on improving education, helping students with disabilities and addressing childhood poverty. Federal funding at the K-12 level covers the salaries of about 7,700 employees, or 7.4 percent of all school personnel in the Tar Heel State. On the higher ed side, research would be decimated without federal grants. The 17-campus UNC system takes around $2.6 billion a year from the federal government, but that’s not counting how much of its $3.1 billion in tuition and fees are covered by government financial aid, like Pell grants and student loans. Cutting off federal funding to UNC schools for violating Title IX would mean no student could get a federal student loan to attend a public college in the state. What The Education Department Could Do If the Education Department’s Office for Civil Rights gets involved, and determines after an investigation that UNC’s policy under H.B. 2 violates federal statutes, the agency will first enter negotiations with the university system, seeking a resolution to bring the schools into compliance. At that point, the university system would have a choice of complying with the voluntary resolution and making policy changes, which would end the federal inquiry but gut a big chunk of H.B. 2. But if UNC decides it will continue following H.B. 2 instead of Title IX, OCR likely will find the schools in noncompliance and move to strip them of federal funds through an administrative hearing process. “Obviously, that takes time and the administrative process is a slow process,” said Rick Rossein, an expert in discrimination law from the City University of New York School of Law. “It’s likely if they went that route, President Obama would not be president by the time it got to that point.” North Carolina Gov. Pat McCrory (R) filed a lawsuit against the Obama administration on Monday. Instead of stripping funds, OCR could also refer the case to the Justice Department, which has prosecutorial power, to take UNC officials to court to comply with federal law — essentially what the DOJ is already doing. “I think that’s why it’s going through DOJ,” Osgood said. “It’s viewed as, probably, a quicker process.” Osgood, Rossein and Nassirian were all unsure of how long it would actually take to pull federal funding for schools in North Carolina. The Education Department has never yanked all funding from a school for violating Title IX, and it hasn’t done it for other civil rights violations in decades. The point the experts all agreed on is that it would be a “huge lift” if the department actually went through with it.

#### Even if the school loses funding, it won’t affect core programs

Martin 12 [Emily J. Martin “Title IX and the New Spending Clause” American Constitution Society, December 2012]

Title IX is fundamentally different in its structure from Medicaid as it existed either before or after the ACA expansion. It is not a single federally-funded program, but rather a condition imposed on multiple, separate federal funding streams, each of which operates independently. The relevance of this difference is made clear by the potential penalty faced by states that fail to comply with Title IX. Through language known as the “pinpoint provision,” Title IX narrows and limits the adverse effects of federal fund termination. This provision states that when a federal agency terminates or refuses to grant funding based on a Title IX violation, “such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.”55 The seminal case interpreting this language is Board of Public Instruction v. Finch, 56 a case that arose under Title VI—the source of Title IX’s identical pinpoint provision. 57 In Finch, a Department of Health, Education, and Welfare (HEW) hearing officer made findings that a school district had not made adequate progress toward racial desegregation, and that the district had instead sought to perpetuate a dual school system through its school construction program. Based on these findings, a final order was entered by the Commissioner of Education terminating “any class o rf Federal financial assistance” to the district “arising under any Act of Congress” administered by HEW, the National Science Foundation, or the Department of the Interior. The Fifth Circuit vacated this termination of funding, holding that it exceeded the Commissioner of Education’s power under Title VI. The Commissioner’s order had terminated federal funding pursuant to three separate statutes—“one concern[ing] federal aid for the education of children of low income families; one involv[ing] grants for supplementary educational centers; [and] the third provid[ing] special grants for the education of adults who have not received a college education.”58 But the Commissioner had made no specific findings as to whether each of these federal grants had been used to support unlawfully segregated education, or if discrimination in one federally funded activity caused discriminatory treatment in the other activities funded by separate federal streams. The court held that in the absence of such findings, the termination of all three federal funding streams to the school district violated the pinpoint provision. The court focused on the provision’s requirement that a termination of funding be “limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found,” and concluded that the term “program” referred not to generic categories of programs operated by a recipient (for example, educational programs) but rather to the program of assistance administered by the federal government pursuant to a particular statute. 59 Thus, an agency’s fund termination order must be based on grant-statute-specific findings of noncompliance.

## Trigger Warnings

### 2AC- Trigger Warnings Bad

#### Link Turn- Trigger warnings sap agency from the oppressed and aren't effective at treating PTSD

**Robbins 16** [Susan Robbins (professor of social work at University of Houston), "From the Editor—Sticks and Stones: Trigger Warnings, Microaggressions, and Political Correctness," Journal of Social Work Education, 1/19/2016] AZ

As a profession that increasingly relies on evidence-based practices, it is also important to examine the extant research on trauma treatment. A comprehensive examination of treatment for PTSD has shown exposure therapy to be the most effective intervention for those who have experienced sexual assault. Yet trigger warnings accomplish exactly the opposite by allowing trauma victims to avoid all mention and images related to the trauma, which may in fact have the opposite effect and be reinforcing. In addition, there is sound evidence that reorganizing one’s identity around a traumatic event can exacerbate PTSD and lead to poorer mental health outcomes (McNally, 2014). If we are to foster resilience in our students, trigger warnings may have the opposite effect and keep them embedded in a culture of victimization. Finally, if this trend continues (and I suspect that it will), given the fact that social work education routinely covers most, if not all, the topics that are thought to be triggers, it may be prudent to let applicants to our programs know in advance that such content is mandated by the very nature of our profession. This will allow them to make fully informed choices about entering the field of social work. Permitting students to opt out of lectures or readings to avoid content that may cause discomfort or canceling entire lectures or classes to assuage student fears of emotional distress does a disservice to our students and to the profession.

#### Prefer this evidence:

#### A. Empirics- card cites studies that evaluated various survivors of war, childhood sexual abuse, and earthquakes

#### B. Causality- marginal exposure to the real world fosters resilience in students

#### 2. Link Turn- Claims to prevent traumatic triggers are fracturing coalitions to prevent oppression and violence in society—their argument rests on oversimplified definitions of trauma. Halberstam ’14 [Jack Halberstam. You Are Triggering me! The Neo-Liberal Rhetoric of Harm, Danger and Trauma. http://bullybloggers.wordpress.com/2014/07/05/you-are-triggering-me-the-neo-liberal-rhetoric-of-harm-danger-and-trauma/]

At this point, we should recall the “four Yorkshire men” skit from Monty Python where the four old friends reminisce about their deprived childhoods – one says “we used to live in a tiny old tumbledown house…” the next counters with “house!? You were lucky to live in a house. We used to live in a room…” And the third jumps in with: “room? You were lucky to have a room, we used to have to live in a corridor.” The fourth now completes the cycle: “A corridor! We dreamed of living in a corridor!” These hardship competitions, but without the humor, are set pieces among the triggered generation and indeed, I rarely go to a conference, festival or gathering anymore without a protest erupting about a mode of representation that triggered someone somewhere. And as people “call each other out” to a chorus of finger snapping, we seem to be rapidly losing all sense of perspective and instead of building alliances, we are dismantling hard fought for coalitions. Much of the recent discourse of offense and harm has focused on language, slang and naming. For example, controversies erupted in the last few months over the name of a longstanding nightclub in San Francisco: “Trannyshack,” and arguments ensued about whether the word “tranny” should ever be used. These debates led some people to distraction, and legendary queer performer, Justin Vivian Bond, posted an open letter on her Facebook page telling readers and fans in no uncertain terms that she is “angered by this trifling bullshit.” Bond reminded readers that many people are “delighted to be trannies” and not delighted to be shamed into silence by the “word police.” Bond and others have also referred to the queer custom of re-appropriating terms of abuse and turning them into affectionate terms of endearment. When we obliterate terms like “tranny” in the quest for respectability and assimilation, we actually feed back into the very ideologies that produce the homo and trans phobia in the first place! In The Life of Brian, Brian finally refuses to participate in the anti-Semitism that causes his mother to call him a “roman.” In a brave “coming out” speech, he says: “I’m not a roman mum, I’m a kike, a yid, a heebie, a hook-nose, I’m kosher mum, I’m a Red Sea pedestrian, and proud of it! And now for something completely different…The controversy about the term “tranny” is not a singular occurrence; such tussles have become a rather predictable and regular part of all kinds of conferences and meetings. Indeed, it is becoming difficult to speak, to perform, to offer up work nowadays without someone, somewhere claiming to feel hurt, or re-traumatized by a cultural event, a painting, a play, a speech, a casual use of slang, a characterization, a caricature and so on whether or not the “damaging” speech/characterization occurs within a complex aesthetic work. At one conference, a play that foregrounded the mutilation of the female body in the 17th century was cast as trans-phobic and became the occasion for multiple public meetings to discuss the damage it wreaked upon trans people present at the performance. Another piece at this performance conference that featured a “fortune teller” character was accused of orientalist stereotyping. At another event I attended that focused on queer masculinities, the organizers were accused of marginalizing queer femininities. And a class I was teaching recently featured a young person who reported feeling worried about potentially “triggering” a transgender student by using incorrect pronouns in relation to a third student who did not seem bothered by it! Another student told me recently that she had been “triggered” in a class on colonialism by the showing of The Battle of Algiers. In many of these cases offended groups demand apologies, and promises are made that future enactments of this or that theater piece will cut out the offensive parts; or, as in the case of “Trannyshack,” the name of the club was changed.As reductive as such responses to aesthetic and academic material have become, so have definitions of trauma been over-simplified within these contexts. There are complex discourses on trauma readily available as a consequence of decades of work on memory, political violence and abuse. This work has offered us multiple theories of the ways in which a charged memory of pain, abuse, torture or imprisonment can be reignited by situations or associations that cause long buried memories to flood back into the body with unpredictable results. But all of this work, by Shoshana Felman Macarena Gomez-Barris, Saidiya Hartman, Cathy Caruth, Ann Cvetkovich, Marianne Hirsch and others, has been pushed aside in the recent wave of the politics of the aggrieved.

#### This outweighs:

1. Coalitions are bigger to target real movements individuals who actualy care are proud to express their self identity rather than be shut down by other leftists
2. magnitude- microagressions are more common rather than real instances of violence- that trivializes the meaning of trauma for true survivors

#### The overemphasis on creating a safe space pits those with unified causes against each other—while ignoring the power structures that cause the traumatic events that they want to avoid talking about. Halberstam ‘14

Jack Halberstam. You Are Triggering me! The Neo-Liberal Rhetoric of Harm, Danger and Trauma. http://bullybloggers.wordpress.com/2014/07/05/you-are-triggering-me-the-neo-liberal-rhetoric-of-harm-danger-and-trauma/

Claims about being triggered work off literalist notions of emotional pain and cast traumatic events as barely buried hurt that can easily resurface in relation to any kind of representation or association that resembles or even merely represents the theme of the original painful experience. And so, while in the past, we turned to Freud’s mystic writing pad to think of memory as a palimpsest, burying material under layers of inscription, now we see a memory as a live wire sitting in the psyche waiting for a spark. Where once we saw traumatic recall as a set of enigmatic symptoms moving through the body, now people reduce the resurfacing of a painful memory to the catch all term of “trigger,” imagining that emotional pain is somehow similar to a pulled muscle –as something that hurts whenever it is deployed, and as an injury that requires protection. Fifteen to twenty years ago, books like Wendy Brown’s States of Injury (1995) and Anna Cheng’s The Melancholy of Race: Psychoanalysis, Assimilation and Hidden Grief (2001) asked readers to think about how grievances become grief, how politics comes to demand injury and how a neoliberal rhetoric of individual pain obscures the violent sources of social inequity. But, newer generations of queers seem only to have heard part of this story and instead of recognizing that neoliberalism precisely goes to work by psychologizing political difference, individualizing structural exclusions and mystifying political change, some recent activists seem to have equated social activism with descriptive statements about individual harm and psychic pain. Let me be clear – saying that you feel harmed by another queer person’s use of a reclaimed word like tranny and organizing against the use of that word is NOT social activism. It is censorship. In a post-affirmative action society, where even recent histories of political violence like slavery and lynching are cast as a distant and irrelevant past, all claims to hardship have been cast as equal; and some students, accustomed to trotting out stories of painful events in their childhoods (dead pets/parrots, a bad injury in sports) in college applications and other such venues, have come to think of themselves as communities of naked, shivering, quaking little selves – too vulnerable to take a joke, too damaged to make one. In queer communities, some people are now committed to an “It Gets Better” version of consciousness-raising within which suicidal, depressed and bullied young gays and lesbians struggle like emperor penguins in a blighted arctic landscape to make it through the winter of childhood. With the help of friendly adults, therapy, queer youth groups and national campaigns, these same youth internalize narratives of damage that they themselves may or may not have actually experienced. Queer youth groups in particular install a narrative of trauma and encourage LGBT youth to see themselves as “endangered” and “precarious” whether or not they actually feel that way, whether or not coming out as LGB or T actually resulted in abuse! And then, once they “age out” of their youth groups, those same LGBT youth become hypersensitive to all signs and evidence of the abuse about which they have learned. What does it mean when younger people who are benefitting from several generations now of queer social activism by people in their 40s and 50s (who in their childhoods had no recourse to anti-bullying campaigns or social services or multiple representations of other queer people building lives) feel abused, traumatized, abandoned, misrecognized, beaten, bashed and damaged? These younger folks, with their gay-straight alliances, their supportive parents and their new right to marry regularly issue calls for “safe space.” However, as Christina978-0-8223-5470-3\_pr Hanhardt’s Lambda Literary award winning book, Safe Space: Neighborhood History and the Politics of Violence, shows, the safe space agenda has worked in tandem with urban initiatives to increase the policing of poor neighborhoods and the gentrification of others. Safe Space: Gay Neighborhood History and the Politics of Violence traces the development of LGBT politics in the US from 1965-2005 and explains how LGBT activism was transformed from a multi-racial coalitional grassroots movement with strong ties to anti-poverty groups and anti-racism organizations to a mainstream, anti-violence movement with aspirations for state recognition. And, as LGBT communities make “safety” into a top priority (and that during an era of militaristic investment in security regimes) and ground their quest for safety in competitive narratives about trauma, the fight against aggressive new forms of exploitation, global capitalism and corrupt political systems falls by the way side. Is this the way the world ends? When groups that share common cause, utopian dreams and a joined mission find fault with each other instead of tearing down the banks and the bankers, the politicians and the parliaments, the university presidents and the CEOs? Instead of realizing, as Moten and Hearny put it in The Undercommons, that “we owe each other everything,” we enact punishments on one another and stalk away from projects that should unite us, and huddle in small groups feeling erotically bonded through our self-righteousness. I want to call for a time of accountability and specificity: not all LGBT youth are suicidal, not all LGBT people are subject to violence and bullying, and indeed class and race remain much more vital factors in accounting for vulnerability to violence, police brutality, social baiting and reduced access to education and career opportunities. Let’s call an end to the finger snapping moralism, let’s question contemporary desires for immediately consumable messages of progress, development and access; let’s all take a hard long look at the privileges that often prop up public performances of grief and outrage; let’s acknowledge that being queer no longer automatically means being brutalized and let’s argue for much more situated claims to marginalization, trauma and violence. Let’s not fiddle while Rome (or Paris) burns, trigger while the water rises, weep while trash piles up; let’s recognize these internal wars for the distraction they have become. Once upon a time, the appellation “queer” named an opposition to identity politics, a commitment to coalition, a vision of alternative worlds. Now it has become a weak umbrella term for a confederation of identitarian concerns. It is time to move on, to confuse the enemy, to become illegible, invisible, anonymous (see Preciado’s Bully Bloggers post on anonymity in relation to the Zapatistas). In the words of José Muñoz, “we have never been queer.” In the words of a great knight from Monty Python and the Holy Grail, “we are now no longer the Knights who say Ni, we are now the Knights who say “Ekki-ekki-ekki-ekki-PTANG. Zoom-Boing, z’nourrwringmm.”

## Zones

### Straight Turn

#### By regulating appropriate "space and time," free speech zones make any student protest meaningless

**Crocker 7** [Thomas Crocker (Assistant Professor, University of South Carolina School of Law. J.D., Yale; Ph.D., Vanderbilt), "Displacing Dissent: The Role of "Place" in First Amendment Jurisprudence," Fordham Law Review, 2007] AZ

Because where we speak is often just as important as what we say, increased efforts by the government to restrict the location of speech threaten to undermine the guarantees of the First Amendment. The Supreme Court's current free speech doctrine permits the imposition of reasonable time, place, and manner restrictions on speech without raising constitutional concerns. 7 Government officials have seized upon this doctrinal permissiveness to develop practices that suppress and control the content of speech by regulating the place of speech. Such suppression and control is most (in)visible in the case of political dissent. Dissent or political protest is expressed most effectively in public, especially at places where government officials-above all the President-appear. To convey a message of dissent is to convey no message at all if it is spoken where no other persons-much less the targeted government officials-can hear or see the message. It is precisely this aim-the elimination of dissenters' ability to appear as dissent to specific audiences-that has been the object of much recent regulation. Regulation of place has stifled political dissent by creating special "protest zones" at presidential appearances, 8 by deploying free speech cages at national party conventions, 9 and by designating large areas of urban centers as "restricted zones."10 More generally, officials control or displace speech by establishing university "free speech zones,"' I limiting mass protests such as those in New York against the Iraq War,12 and restricting use of sidewalks, 1 3 malls, 1 4 and airports. 15 The simple regulation of place has made dissent effectively invisible, practically pointless, and criminally dangerous. For example, when President George W. Bush visited Columbia, South Carolina, in 2002, Brett Bursey sought to welcome him with a sign that read "No War for Oil.' 16 Standing among others who were waiting to greet the President without messages of dissent, Bursey was ordered by officials to remove himself to a designated protest zone three quarters of a mile away and out of sight of the President. 17 When he refused, he was arrested, charged with violating 18 U.S.C. § 1752,18 and later convicted of violating Secret Service restrictions on a person's presence where the President is temporarily visiting. 19 Bursey was not singled out simply because he wished to convey a message of dissent, but because he wished to convey a message of dissent in a particular place and in the presence of other persons standing along a roadway to greet the President as he passed. By the simple regulation of place, government officials succeeded in suppressing dissent.20 Many commentators lament the decline of the public sphere brought about by the increased organization of modem life.21 Quite apart from rising concerns over security, modem life has diminished the role of traditional places where the public might gather and mingle, such as town greens, parks, sidewalks, and pedestrian streets.22 Justice Anthony Kennedy has noted this problem: "Minds are not changed in streets and parks as they once were. To an increasing degree, the more significant interchanges of ideas and shaping of public consciousness occur in mass and electronic media."'23 Although the Internet provides a vibrant new forum for discursive practices, there is a countervailing worry that the ability to select content to an ever more refined degree will lead to greater social fragmentation. 24 Moreover, the Internet does not provide for serendipitous occasions to encounter others face-to-face or to discover the new or the strange in both a social and public setting.25 Trends of modem life and government regulation of public fora have led to the disappearance of meaningful public discourse, dissent, and protest from the public sphere. Thus, the combination of the physical displacement of traditional public spheres with the strategic disruption of political protest provides ample reason to question whether the bland treatment of place in the Court's current First Amendment jurisprudence appropriately protects, let alone enables, the values of free speech.

#### zones criminalize and marginalize political protests into media spectacles incapable of effectuating change

**Elmer 8** (Greg Elmer, associate professor of communication and culture at Ryerson University, PhD in communication from the University of Massachusetts at Amherst, director of the Infoscape Research Lab at Ryerson University, Andy Opel, associate professor of communication at Florida State University, PhD in mass communication from the University of North Carolina, member of the International Communication Association, November 2008, “Preempting Dissent: The Politics of an Inevitable Future,” pages 29-41)

SHORTLY AFTER THE LARGE-SCALE PROTESTS against the World Trade Organization in Seattle in late November 1999, police, law enforcement agencies, the military, and global weapons manufacturers began to rethink their responses to public protests. Since the Seattle protests, similar semi—annual gatherings of government officials and corporate trade lawyers have consistently attracted large public protests, organized by public-interests groups denied participation in the decision-making process of trade agreements such as the Global Agreement on Trade and Tariffs (GATT), the North American Free Trade Agreement (NAFTA), and the Free Trade Area of the Americas (FTAA). Wide—scale protests were seen in Prague, Genoa, Cancun, Quebec City, Miami, and, most recently, Mar Del Plata, Argentina. Moreover, as we will see in this chapter, as the size and sophistication of resistance grew, so too did political and legal responses to that resistance. Responses to such protests have been greatly influenced by military and so—called ‘homeland’ security strategies enacted after the terrorist attacks of 9/11 and the initiation of the controversial second Gulf War. As we see in this chapter, the combination of a changing political climate in response to war and terrorism, particularly the expansion of preemptive forms of social control and political containment, has resulted in a new set of practices that have reconfigured public space and criminalized multiple aspects of free speech and public assembly in the United States. This chapter argues that in the shadow of 9/11, the war in Iraq, and the ongoing “War on Terror,” a disturbing form of geopolitical apartheid has emerged in the United States. At the core of this trend is a set of micro-political strategies and technologies that attempt to contain spaces of dissent and detain protestors (Boghosian, 2004). Some activists and critics have labeled these anti-democratic tendencies the “Miami Model,” after the strategies deployed in November 2003 against Free Trade of the Americas protestors by federal, state, and local law enforcement agencies stationed in Miami. The Miami model of law enforcement was characterized by 1) the deployment of overwhelming numbers of law enforcement officers, 2) preemptive arrests of peaceful and law—abiding protestors, and 3) widespread police surveillance techniques before, during, and after protests (Getzan, 2004). And while these three pillars—overwhelming force, preemptive arrests, and surveillance—-provide a good overview of police and law enforcement strategies, in this chapter we focus on the manner in which spaces of dissent, debate, and democracy are being regulated and policed through the courts, going into more depth in the next chapter, through a study of the introduction of weapons meant to easily contain and detain protestors and, more broadly, immobilize dissent. Of greater concern is the degree to which such strategies systematically marginalize dissent, spatially and politically speaking. From the creation of “free speech zones” and the proposal for protest free “Pedestrian Safety Zones”2° to the political screening of participants in political “town hall meetings,” space has increasingly become a tool to limit open debate, freedom of speech, and political dissent in the US. Part of our interest in exposing the strategies of political segregation, first through the containment of protest spaces, and second, through the deployment of preemptive hand-held weapons, is theoretical. The segregation of deviance has often been influenced by Foucaultian theories of panopticism and social control. An increasing number of scholars, however, are arguing that Foucault’s panoptic prison, even deployed in metaphorical terms, has been overextended, particularly when considering broader geographic perspectives (Haggerty & Ericson, 2000; Elmer, 2004). Many scholars arguing that panopticism must move beyond architectures or institutions of social control, do so in large part to theorize emerging technological, “virtual,” or simulated forms of surveillance and discipline (e.g., Bogard; Gandy). While we find such arguments to be productive, they typically juxtapose their ideas against corporeal surveillance and monitoring of the past. Human surveillance and policing factors, conversely, play a key role in monitoring political organizing activities and training, peaceful protests, and acts of civil disobedience (Boghosian, 2004, p. 29). Moreover, Foucault’s metaphorical use of a penitentiary as the historical trope or dispositif for social discipline, reformation, and self-actualization, while providing a broad conceptual framework for a dispersed theory of self-discipline, control, and conformity, has little to say about that which escapes conformity, namely public protest, civil disobedience, and other forms of social and political dissent. Under the constant gaze of social mores and values, Foucault’s subjects are implored to change and police their own behaviour. The proliferation of surveillance technologies (such as closed-circuit TV, CCTV), preemptive policing, programs that attempt to anticipate future social and geopolitical risks (Elmer Opel, 2006), and the presumption of guilt instead of innocence, are in part a response to past intelligence failures. The inability to gain adequate and up-to-date intelligence on domestic and international risks in the US, UK, Iraq, Pakistan, North Korea, Iran, etc., continues to highlight the limits and shortcomings of surveillance programs and intelligence—gathering techniques. The recognition of decentred and distributed network infrastructures and relationships among protesters, migrants, and terrorists in the US and elsewhere, has similarly stretched conventional thinking about the structure and deployment of surveillance programs and technologies. In short, members of such feared networks are not typically considered panoptic subjects, that is to say, they are not clients, candidates, or inmates in need of reform, or self-discipline. Rather, it is argued that such networked subjects have become increasingly influenced by strategic and indefinite forms of containment and detainment. Didier Bigo’s (2006) extension of Foucault’s theories of social control provides a helpful point of departure. While Bigo shares the goal of extending theories of social and political control outside of the prison and other social institutions, he maintains an interest in the social control of populations, specifically through the mobility, capture, and detainment of specific populations. By introducing the concept of the “ban-opticon,” Bigo succeeds in moving outside the panoptic walls of punishment, to question the optics and governmentality of indefinite detainment, a questionable spatial and legal tactic used in the “War on Terror” and with migrant communities. Such detainees, be they in Guantanamo Bay or in immigrant holding centres in the EU and elsewhere, have no intention of turning their subjects into law-abiding, productive citizens (Miller, 1993), rather their goal is both to remove individuals from war, or to merely return them to their previous location—to ban them. In both cases, individuals are immobilized and excluded from participating in war and/ or entering Western societies. Although political protestors produce a different set of challenges from domestic law enforcement and forces of political control in the US—primarily their visibility in the media as increased evidence of opposition to the political status quo—they are similarly immobilized, contained, and in some cases detained without charge. Such detainments, further, in many instances are not subject to punishment (fines, etc.); rather, they are increasingly used to preemptively, and temporarily remove protestors from public spaces until the conclusion of protests (Boghosian, 2004, p. 29). The operationalization of preemptive tactics in the US further highlights the limitations of Foucault’s decentred model of power, in which sovereignty is manifest through dispersed disciplinary technologies. Strategies of political containment and detainment, spatially and individually speaking, are in large part enabled by what Giorgio Agamben (2005) refers to as the “state of exception,” the “no [one’s]man’s land between public law and political fact” (p. 1). Ironically, while conservatives in the US continue to argue against a “living constitution,” where interpretations over the nation’s law change over time,21 the Bush administration actively sought to reinterpret executive powers during the so-called War on Terror. Following Agamben, Didier Bigo (2006) argues that such interpretations are enacted through explicit declarations by political rulers, a declaration that invokes an exception to the rule of law. Broadly construed, the US administration continues to invoke the War on Terror to blur the line between law and politics. In defence of the secret wiretapping program, the Bush administration has argued that an exception to the rule of law was enacted by the legislation, giving the president preemptive powers to carry out surveillance. Similar arguments have been made in the UK, Canada, and France. The Boston Globe and other media in the US also reported about the growing use of “signing statements” by the US president, as a means to state his exception to the new law. For example, after the signing of US Senator John McCain’s anti—torture bill in the January 2006, the president declared that “The executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President as Commander in Chief.” He also added that this interpretation “will assist in achieving the shared objective of the Congress and the President ... of protecting the American people from further terrorist attacks” (Savage, 2004). Of course, many American laws that govern executive power, public debate, and, as we see next, dissent and protest in public space, are so broadly written that they practically cultivate political exceptionalism. For example, as an adjunct to debates over the US Patriot Act, the “spatial tactics” of law enforcement have recently produced a series of controversial rulings about the accessibility of public spaces for the purposes of political protest. Thus, at a time when public advocates and intellectuals have reinforced the importance of understanding the democratic and political aspects of various geographies——most notably innovative and tolerant ones (Florida, 2003) and environmentally sustainable ones (Gore, 2007)—the American legal system continues to downplay or altogether avoid spatial considerations in First Amendment cases. Timothy Zick (2005), for example, argues that “The reason courts fail to properly scrutinize spatial tactics is that they have accepted the common conception of place as mere res—a neutral thing, an undifferentiated mass, a backdrop for expressive scenes” (p. 3). Results of this legal conception of place as a “neutral thing” include the protest zones (some resembling cages”) established at both the Democratic and Republican national conventions during the summer of 2004 as well as the now routine practice of keeping protestors many blocks and often miles away from free trade, WTO, or GATT meetings. Later in the same year the G8 summit was held on the tiny (private) Sea Island, just off the coast near Savannah, Georgia, a choice that made it nearly impossible——given the security noose around the island——to stage a meaningful and visible protest. In South Carolina, the well-known activist Brett Bursey gained nationwide attention for a series of attempts to protest against President Bush at Republican Party organized rallies, the last of which, in 2004, resulted in his arrest and conviction under a statute that enables the Secret Security to establish a security perimeter or zone around the president. Mirroring Zick’s argument about the court’s treatment of space as an objective or neutral equation in contemporary politics, an aide to the former South Carolina Senator Strom Thurmond, was quoted on National Public Radio as saying that: The statute under which Mr. Bursey’s been charged alleges that he failed to vacate an area that had been cordoned off for a visit by the president of the United States. It is a content—neutral statute, and Mr. Bursey is charged not because of what he was doing but because of where he was doing it. The US statute in question—-USC 18: 1 752(a)(l)(ii), “Temporary residences and offices of the President and others”—while not a new, post-9/11 law, nevertheless raises obvious questions and concerns about its use as a political tool for spatially and politically marginalizing dissent. The law in effect establishes a temporary “residence” for the president as he goes about his business across the country. The law forbids groups or individuals from entering or remaining with an area (defined as “building,” “grounds,” or “any posted, cordoned off. . .” area where the president is visiting).24 Moreover, the law does not apply universally, only to those who intend “to impede or disrupt the orderly conduct of Government business or official functions.” Interestingly, in the course of preparing Bursey’s defence, lawyers were able to gain access to the Secret Service’s policy manual on protests. The South Carolina Progressive Network subsequently used the document to highlight the means by which the Bush administration was interpreting the above mentioned law to segregate protestors away from the president’s supporters and the media. Moreover, The Progressive Network also maintained that while the law did give the Secret Service the power to cordon off access to the president, “There is no limitation to the size of the restricted area.” Furthermore, “In the Bursey case, the restricted area was approximately 70 acres and stretched for a mile.”25 With no spatial limits on the separation of protestors from the US president, political marginalization becomes a distinct possibility. The spatial segregation of speakers according to the content of their messages all too easily bifurcates voices and perspectives into “two sides,” mirroring the dominant red/ blue political culture of the US. Thus in the absence of political leaders, protests, and, perhaps more importantly, acts of civil disobedience, lose their publicity, all too often becoming marginalized spectacles distanced from the machinations of political parties, candidates, and government. Zick put it this way: “In these places, protests and demonstrations become staged events, bland and neutered substitutions for the passionate and, yes, sometimes chaotic face-to—face confrontations that have characterized our country’s past” (Zick, 2005, p. 45). The process of segregating public space according to political message and turning public gatherings into “staged events” is contrasted with the actual political strategy of the staged event or “town hall meeting,” where pre-screened publics appear to ask government officials “authentic” questions, a practice that has many online examples as well.26 This illusion of public participation is another quality of the spatial turn in free speech politics where city streets are cordoned off to become de facto “stages” for media cameras. By literally separating the demonstrators from the object of their demonstration, the protest zone becomes “a way of controlling the content of the debate without really acknowledging that is what is being done” (Mitchell, 2003, p. 39). In addition to creating media frames and stages, protest zoning also facilitates preemptive police tactics, placing all potential protestors in one location in the name of security. Fencing in protestors or zoning them away from a given site implies a threat or danger that requires preemptive zoning, thus “assuming guilt until innocence is proven” (Mitchell, 2003, p. 39). Mitchell refers to this zoning as the “ghettoization” of protest; we prefer the South African analogy of an apartheid as more accurate. Whereas a ghetto is often viewed as the result of low-income people clustered together out of necessity and a lack of resources, apartheid was an explicit legal and spatial strategy that segregated settlements and produced a second-class citizenry. Parallels can be drawn to the state of liberal democracy in the United States, where protestors and political dissidents are legally restrained and contained outside of the so-called mainstream political stage. Yet, as we will see in the next chapter, preemptive arrests, facilitated by segregationist spatial tactics and exceptionalist forms of governmentality, often move beyond the realm of the panoptic to the violent repressive use of weaponry, what are creatively termed “less-lethal technologies.” As we shall see, many new crowd control technologies have incorporated decidedly preemptive logics that explicitly reinforce our belief that the preemptive doctrine is as much about controlling behaviours and seeking broader political compliance as it is a technique for reducing actual risks and dangers.

#### Our impact is the case—they stifle dissent and ruin any political progress

#### They don’t get a violence impact:

#### 1. Alt causes- their evidence cites that other protestors came to campus, speech zones didn’t stop them and weren’t relevant

#### 2. Uniqueness overwhelms the link- these type of protests already turn violent in the status quo which means that the impact doesn’t change much

#### 3. None of their evidence is even relevant to speech zones

# 2AC- PICs- TOC

## <Theory>

### Condo PICs Bad [:35]

#### Interp- The negative may not read conditional plan inclusive counterplans.

#### Violation- they do

#### Standards-

#### 1. Clash- they skirt the core-controversy of the topic and isolate hyperspecific DA and then choose whether to defend it based on the 1AR- they simply go for whichever position we undercovered which kills clash in two routes. Clash k2 education- ensures in depth discussion

#### 2. Strat skew- they moot 6 mins of 1ac offense whereas they have 7 mins to justify their specific pic, even if we’ve done work to beat the pic, they’ll kick it in the 2NR and collapse somewhere else- kills fairness cuz we can’t engage their position

#### Voter-

#### 1. Fairness- debate’s a competitive activity, 2.Education- it’s the point of the activity. 3.Drop the debater because norms- a loss deters future abuse, gateway issue- unfair args skew the round. 4,Use competing interps because reasonability is arbitrary and collapses because we have offense/defense debates behind brightlines. 5.No RVIs- 2NR collapses to the shell simply further abuse and chills theory because they’ll be abusive and prep out the abuse story. Independently if they win substance should be condo- then theory should be condo too.

### PICs Bad- Short [:15]

#### Reject plan inclusive counterplans

#### 1. Predictability – there are a potentially infinite number of offensive words or types of speech that the neg can PIC out of – makes being aff impossible since we have to defend every single type of speech

#### 2. Strat skew – they skirt the core controversy of the topic by mooting the majority of the 1AC – rather than debating the value of free speech on campuses

#### Voter for fairness – it's constitutive of any game

### PICS Bad- Long [:50]

#### Interpretation- The negative may not share a part of the 1AC solvency mechanism that shifts away from the status quo [if we read a whole res aff]

#### Violation-

#### 1. Strat Skew- they coopt 6 mins of 1AC offense which makes it impossible to weigh the aff against any of the 1NC. The 1ac has a very small portion to defend it but the 1N7 can collapse 7 mins to the part they pic out of. That forces a 1AR restart and kills our ability to clash against the 1NC because we lose 6 mins of offense. The K2 Fairness- ensures both debaters can form coherent arguments

#### 2. Predictability- There are an infinite amount of args they can pic out of which makes it harder to beat back their args individually, we cant prep against the various things they can change in squo i.e. funding or agents. K2 Fairness- forms access for preround prep. Also kills clash- w need to be able to engage their positions

#### 3. Topic Ed- They isolate a hyperspecific topic instead of talking about the feasiability of the policy option passed in the 1AC. Topic education o/w others- we only have 2 months. Reading the PIC as a DA solves all of their offense

#### D. Voter

#### 1. Fairness- debate’s a competitive activity, 2. Education- only portable impact. 3. Drop the debater- A. fairness is a gateway issue- unfair args skew the round, B. Norms- a loss deters future abuse. 4. Competing Interps- A. reasonability is arbitrary and invites judge intervention, B. it collapses into competing interps- we have offense defense debates about brightlines. 5.No RVIs- 2NR collapses to the shell simply further abuse and chills theory because they’ll be abusive and prep out the abuse story. Independently if they win substance should be condo- then theory should be condo too.

## Generic

### 2AC- Top Level

#### 1.Perm do both- they’re plan plus since they add words to the plan text. Prefer textual competition since it’s the only stable source of competition. It’s key to deter cheaty CPs like Process CPs and check against arbitrary competition

#### 2. PICs are rolled back- they don’t survive constitutional challenge

Rabe, MA/JD, 03 [(Lee Ann, STICKS AND STONES: THE FIRST AMENDMENT AND CAMPUS SPEECH CODES The John Marshall Law Review Fall, 2003 37 J. Marshall L. Rev. 205)]

These two cases remain the only two challenges to campus speech codes in federal court. In both cases, the district courts [\*216] struck down the codes as unconstitutionally vague and overbroad. This track record does not bode well for public university administrators who seek to protect their campus and students by limiting student speech. The speech that administrators want to prohibit through speech codes is difficult to precisely define. If the code covers too much speech, the courts are likely to find that the code is overbroad. If the code covers too little speech, administrators are unlikely to achieve their goal of a safer campus because much of the speech they seek to prohibit will be allowed. If the speech code seeks to be undefined enough to cover all the speech the administrators find harmful, the courts are likely to find that the code is unconstitutionally vague. If speech codes can be written in a way that satisfies both the Constitution and the goal of a safe and supportive campus, the road to such a code is a narrow one indeed.

## Artificial Intelligence

### 2AC- AI Good- Top Level

#### AI good – solves every other existential risk

Hawking 14 [Hawking et al 14 Stephen, Stuart Russell (computer-science professor at the University of California, Berkeley), Max Tegmark (Physics professor at MI), and Frank Wilczek (physics professor at the MIT and a 2004 Nobel laureate for his work on the strong nuclear force) “Stephen Hawking: 'Transcendence looks at the implications of artificial intelligence - but are we taking AI seriously enough?'” The Independent May 1st 2014 <http://www.independent.co.uk/news/science/stephen-hawking-transcendence-looks-at-the-implications-of-artificial-intelligence~-~-but-are-we-taking-ai-seriously-enough-9313474.html>]

The potential benefits are huge; everything that civilisation has to offer is a product of human intelligence; we cannot predict what we might achieve when this intelligence is magnified by the tools that AI may provide, but the eradication of war, disease, and poverty would be high on anyone's list. Success in creating AI would be the biggest event in human history.

### 2AC- AI Good- Shulman Double Turn

#### The counterplan is a double turn with the impact- they say that artificial intelligence developing in one state would allow it to breakthrough very fast and be able to disable another nations systems. However, the counterplan disables the US capability to develop AI which makes us susceptible to other countries having AI breakthroughs- that supercharges their impact scenario

### 2AC- AI Good- Econ

#### College AI research is key to economic productivity and innovation

Luckin 16: Rose Luckin, August 9th, 2016. Four Ways Artificial Intelligence can Benefit Universities. The World University Rankings. [https://www.timeshighereducation.com/blog/four-ways-artificial-intelligence-can-benefit-universities#](https://www.timeshighereducation.com/blog/four-ways-artificial-intelligence-can-benefit-universities). RW

There is no question that artificial intelligence (AI) and automation are entering the workplace in many graduate level jobs, and this trend is likely to continue and quicken. Times Higher Education recently asked [whether universities needed to rethink what they do and how they do it](https://www.timeshighereducation.com/features/the-robots-are-coming-for-the-professionals), given that artificial intelligence is beginning to take over many post-university careers. The implications and – most importantly – the potential benefits for education are significant, and perhaps not yet appreciated by higher education leaders. With that in mind, here are four examples of how AI can benefit universities. Higher education is ideally placed to prepare students for the AI world First, there is a new role for higher education, which is to equip graduates to work effectively alongside artificially intelligent systems. The onslaught of AI on white-collar jobs is likely to lead to the AI augmentation of human intelligence, rather than the total replacement of human workers with machine workers. We need workers who understand how to make the best use of the power that AI automation can bring to industry and commerce. Workers who know where and how human intelligence can work with AI to achieve this augmented human intelligence – an intelligence that is greater than the sum of its parts – can increase productivity. Higher education could and should lead the way in developing its educators’ knowledge and skills about AI and the ways that people can work effectively with AI systems. University lecturers, therefore, must then ensure that students enter the workplace with an understanding of AI’s competencies and limitations, and the capability to continue learning as AI develops and continues to change workplace roles and expectations. To ignore this opportunity brings with it a real danger that the economic and social benefits of AI will be squandered, because we have invested billions in the cost of automation but nothing to ensure that the workforce – most notably the educators – are equipped and skilled enough to take advantage of [what the fourth industrial revolution can provide](https://www.weforum.org/agenda/2016/01/the-fourth-industrial-revolution-what-it-means-and-how-to-respond/). AI can help solve the big higher education challenges Second, AI can provide some of the solutions to the big challenges faced by higher education. For example, there has been an enormous rise in the amount of educational data about students that are available to universities. Numerous articles (such as [this](https://www.timeshighereducation.com/news/universities-mine-institutional-data-in-search-of-gold/2002053.article) and [this](https://www.theguardian.com/higher-education-network/2016/aug/03/learning-analytics-universities-data-track-students)) have highlighted the data patterns about student activity that are routinely recorded and analysed by universities using “learning analytics”. At the moment, these analytics are mainly used to predict which students might be about to fail or drop out, but the potential for AI-informed learning analytics to analyse the learning processes of an individual student and to provide timely interventions in real time to support that student are enormous. To date, AI technologies for education are underutilised and underfunded and yet they hold a big part of the answer to [how we harness AI](https://www.pearson.com/innovation/smarter-digital-tools/intelligence-unleashed.html) to improve higher education. Researchers can be a key part of the AI revolution Third, higher education researchers and educators are the key people to help the UK to develop the right type of AI systems for use in education, and they need to be doing this right now. We need AI systems that move beyond the machine learning and neural network techniques that dominate the work of the main AI protagonists within and beyond education, such as ["robot tutor" Knewton](https://www.knewton.com/) and Google's [game-playing algorithm, DeepMind](https://deepmind.com/). To tackle the really big challenges within education, we need AI systems that can explain their reasoning, justify their decisions and negotiate with their users. We would not employ a human educator who could not explain what they were doing and why. So why would we be willing to accept anything less from machines? Investment in higher education collaborations with the edtech sector is the essential ingredient in helping UK higher education to drive the development of these systems. Universities are well placed to research AI Fourth, there is a role for higher education to conduct more fundamental research into the AI systems that will improve the future of education for all students. We know that there are essential human abilities and skills that AI is a long way from mastering: social intelligence, empathy, love and creativity, for example. In addition to these essential human abilities there is another that is crucially important to education: the human ability to contextualise our actions. Context is a key variable in the effectiveness of education; some would argue it is the biggest variable in a student’s propensity for success. Context can be defined as the combination of people, environments, knowledge, technology and resources that are part of every student’s interactions with the world and that are the significant variables that impact upon each student’s educational success. AI developers have yet to master the kind of contextual modelling that would enable AI to appreciate how and why what works in a university in Salford may not work at a university in Surrey, Seattle, Sydney or Singapore. While it may be possible to use machine learning and neural network technology to build systems that can adapt to contextual factors, these systems will need modelling solutions to enable them to justify the way they have used these contextual factors to make decisions. These modelling techniques do not yet exist and along with much of what AI will offer, they raise significant and important ethical questions that must be addressed as a matter of urgency to avoid hindering the progress of AI benefits for higher education. Higher education must rise to the challenge of both the contextual modelling research and the essential ethical debate. Put simply, AI has the potential to bring great benefits to higher education; most notably to graduates and postgraduates. However, we will only reap these benefits if we develop and use AI as the innovation that it is and with the vision and energy that students deserve.

#### That solves great power war

Taylor 4 – Professor of Political Science, Massachusetts Institute of Technology (Mark, “The Politics of Technological Change: International Relations versus Domestic Institutions,” Massachusetts Institute of Technology, 4/1/2004, <http://www.scribd.com/doc/46554792/Taylor>) //RGP

I. Introduction Technological innovation is of central importance to the study of international relations (IR), affecting almost every aspect of the sub-field. First and foremost, a nation’s technological capability has a significant effect on its economic growth, industrial might, and military prowess; therefore relative national technological capabilities necessarily influence the balance of power between states, and hence have a role in calculations of war and alliance formation. Second, technology and innovative capacity also determine a nation’s trade profile, affecting which products it will import and export, as well as where multinational corporations will base their production facilities. Third, insofar as innovation-driven economic growth both attracts investment and produces surplus capital, a nation’s technological ability will also affect international financial flows and who has power over them. Thus, in broad theoretical terms, technological change is important to the study of IR because of its overall implications for both the relative and absolute power of states. And if theory alone does not convince, then history also tells us that nations on the technological ascent generally experience a corresponding and dramatic change in their global stature and influence, such as Britain during the first industrial revolution, the United States and Germany during the second industrial revolution, and Japan during the twentieth century. Conversely, great powers which fail to maintain their place at the technological frontier generally drift and fade from influence on international scene. This is not to suggest that technological innovation alone determines international politics, but rather that shifts in both relative and absolute technological capability have a major impact on international relations, and therefore need to be better understood by IR scholars. Indeed, the importance of technological innovation to international relations is seldom disputed by IR theorists. Technology is rarely the sole or overriding causal variable in any given IR theory, but a broad overview of the major theoretical debates reveals the ubiquity of technological causality. For example, from Waltz to Posen, almost all Realists have a place for technology in their explanations of international politics. At the very least, they describe it as an essential part of the distribution of material capabilities across nations, or an indirect source of military doctrine. And for some, like Gilpin quoted above, technology is the very cornerstone of great power domination, and its transfer the main vehicle by which war and change occur in world politics. Jervis tells us that the balance of offensive and defensive military technology affects the incentives for war. Walt agrees, arguing that technological change can alter a state’s aggregate power, and thereby affect both alliance formation and the international balance of threats. Liberals are less directly concerned with technological change, but they must admit that by raising or lowering the costs of using force, technological progress affects the rational attractiveness of international cooperation and regimes. Technology also lowers information & transactions costs and thus increases the applicability of international institutions, a cornerstone of Liberal IR theory. And in fostering flows of trade, finance, and information, technological change can lead to Keohane’s interdependence or Thomas Friedman et al’s globalization. Meanwhile, over at the “third debate”, Constructivists cover the causal spectrum on the issue, from Katzenstein’s “cultural norms” which shape security concerns and thereby affect technological innovation; to Wendt’s “stripped down technological determinism” in which technology inevitably drives nations to form a world state. However most Constructivists seem to favor Wendt, arguing that new technology changes people’s identities within society, and sometimes even creates new cross-national constituencies, thereby affecting international politics. Of course, Marxists tend to see technology as determining all social relations and the entire course of history, though they describe mankind’s major fault lines as running between economic classes rather than nation-states. Finally, Buzan & Little remind us that without advances in the technologies of transportation, communication, production, and war, international systems would not exist in the first place.

### 2AC- AI Good- Env

**AI solves warming, food shortages, superbugs, and the extinction of bees—neg evidence is paranoia**

**Harrison 16**

Jennifer Harrison (science officer). “The danger isn’t artificial intelligence – it’s us.” Gadgette. April 6th, 2016. <http://www.gadgette.com/2016/04/06/the-danger-isnt-artificial-intelligence-its-us/>

Hello, better world The idea of robots going rogue by themselves **is unrealistic**, at least for now. Paranoia about the technology could be getting in the way of some advancements that could make life on Earth better for everyone. Robots will be the least of our worries if the **global temperatures continue to rise** at the rate they are. We won’t be worrying about machine learning when we enter the post-antibiotic world and **lose our last line of defence against superbugs**. The threat of AI won’t seem like a priority if we have **major food shortages** because of overpopulation, or loss of topsoil, or because **bees go extinct**. Amazingly, **AI could help solve all of these problems**. Machine learning should allow us to model biological patterns, diseases, and climate change in ways that we never could before. We’re obsessed with the idea of robots vs humanity but we’re missing the bigger picture; they could make us better. AI is just a tool but it has so much potential for good. Yes the threat will always be there, not because the robots will be carrying machine guns but because people are people. Corporations will use their own AI against us for profit, terrorists will use our own AI against us to incite fear, and once in a while AI will make terrible mistakes because of bad programming.

#### Global warming definitively causes extinction

**Sharp and Kennedy 14** – (Associate Professor Robert (Bob) A. Sharp is the UAE National Defense College Associate Dean for Academic Programs and College Quality Assurance Advisor. He previously served as Assistant Professor of Strategic Security Studies at the College of International Security Affairs (CISA) in the U.S. National Defense University (NDU), Washington D.C. and then as Associate Professor at the Near East South Asia (NESA) Center for Strategic Studies, collocated with NDU. Most recently at NESA, he focused on security sector reform in Yemen and Lebanon, and also supported regional security engagement events into Afghanistan, Turkey, Egypt, Palestine and Qatar; Edward Kennedy is a renewable energy and climate change specialist who has worked for the World Bank and the Spanish Electric Utility ENDESA on carbon policy and markets; 8/22/14, “Climate Change and Implications for National Security,” International Policy Digest, <http://intpolicydigest.org/2014/08/22/climate-change-implications-national-security/>)

Our planet is 4.5 billion years old. If that whole time was to be reflected on a single one-year calendar then the dinosaurs died off sometime late in the afternoon of December 27th and modern humans emerged 200,000 years ago, or at around lunchtime on December 28th. Therefore, human life on earth is very recent. Sometime on December 28th humans made the first fires – wood fires – neutral in the carbon balance. Now reflect on those most recent 200,000 years again on a single one-year calendar and you might be surprised to learn that the industrial revolution began only a few hours ago during the middle of the afternoon on December 31st, 250 years ago, coinciding with the discovery of underground carbon fuels. Over the 250 years carbon fuels have enabled tremendous technological advances including a population growth from about 800 million then to 7.5 billion today and the consequent demand to extract even more carbon. This has occurred during a handful of generations, which is hardly noticeable on our imaginary one-year calendar. The release of this carbon – however – is changing our climate at such a rapid rate that it threatens our survival and presence on earth. It defies imagination that so much damage has been done in such a relatively short time. The implications of climate change is the single most significant threat to life on earth and, put simply, we are not doing enough to rectify the damage. This relatively very recent ability to change our climate is an inconvenient truth; the science is sound. We know of the complex set of interrelated national and global security risks that are a result of global warming and the velocity at which climate change is occurring. We worry it may already be too late. Climate change writ large has informed few, interested some, confused many, and polarized politics. It has already led to an increase in natural disasters including but not limited to droughts, storms, floods, fires etc. The year 2012 was among the 10 warmest years on record according to an American Meteorological Society (AMS) report. Research suggests that climate change is already affecting human displacement; reportedly 36 million people were displaced in 2008 alone because of sudden natural disasters. Figures for 2010 and 2011 paint a grimmer picture of people displaced because of rising sea levels, heat and storms. Climate change affects all natural systems. It impacts temperature and consequently it affects water and weather patterns. It contributes to desertification, deforestation and acidification of the oceans. Changes in weather patterns may mean droughts in one area and floods in another. Counter-intuitively, perhaps, sea levels rise but perennial river water supplies are reduced because glaciers are retreating. As glaciers and polar ice caps melt, there is an albedo effect, which is a double whammy of less temperature regulation because of less surface area of ice present. This means that less absorption occurs and also there is less reflection of the sun’s light. A potentially critical wild card could be runaway climate change due to the release of methane from melting tundra. Worldwide permafrost soils contain about 1,700 Giga Tons of carbon, which is about four times more than all the carbon released through human activity thus far. The planet has already adapted itself to dramatic climate change including a wide range of distinct geologic periods and multiple extinctions, and at a pace that it can be managed. It is human intervention that has accelerated the pace dramatically: An increased surface temperature, coupled with more severe weather and changes in water distribution will create uneven threats to our agricultural systems and will foster and support the spread of insect borne diseases like Malaria, Dengue and the West Nile virus. Rising sea levels will increasingly threaten our coastal population and infrastructure centers and with more than 3.5 billion people – half the planet – depending on the ocean for their primary source of food, ocean acidification may dangerously undercut critical natural food systems which would result in reduced rations. Climate change also carries significant inertia. Even if emissions were completely halted today, temperature increases would continue for some time. Thus the impact is not only to the environment, water, coastal homes, agriculture and fisheries as mentioned, but also would lead to conflict and thus impact national security. Resource wars are inevitable as countries respond, adapt and compete for the shrinking set of those available resources. These wars have arguably already started and will continue in the future because climate change will force countries to act for national survival; the so-called Climate Wars. As early as 2003 Greenpeace alluded to a report which it claimed was commissioned by the Pentagon titled: An Abrupt Climate Change Scenario and Its Implications for U.S. National Security. It painted a picture of a world in turmoil because global warming had accelerated. The scenario outlined was both abrupt and alarming. The report offered recommendations but backed away from declaring climate change an immediate problem, concluding that it would actually be more incremental and measured; as such it would be an irritant, not a shock for national security systems. In 2006 the Center for Naval Analyses (CNA) – Institute of Public Research – convened a board of 11 senior retired generals and admirals to assess National Security and the Threat to Climate Change. Their initial report was published in April 2007 and made no mention of the potential acceleration of climate change. The team found that climate change was a serious threat to national security and that it was: “most likely to happen in regions of the world that are already fertile ground for extremism.” The team made recommendations from their analysis of regional impacts which suggested the following. Europe would experience some fracturing because of border migration. Africa would need more stability and humanitarian operations provided by the United States. The Middle East would experience a “loss of food and water security (which) will increase pressure to emigrate across borders.” Asia would suffer from “threats to water and the spread of infectious disease. ” In 2009 the CIA opened a Center on Climate Change and National Security to coordinate across the intelligence community and to focus policy. In May 2014, CNA again convened a Military Advisory Board but this time to assess National Security and the Accelerating Risk of Climate Change. The report concludes that climate change is no longer a future threat but occurring right now and the authors appeal to the security community, the entire government and the American people to not only build resilience against projected climate change impacts but to form agreements to stabilize climate change and also to integrate climate change across all strategy and planning. The calm of the 2007 report is replaced by a tone of anxiety concerning the future coupled with calls for public discourse and debate because “time and tide wait for no man.” The report notes a key distinction between resilience (mitigating the impact of climate change) and agreements (ways to stabilize climate change) and states that: Actions by the United States and the international community have been insufficient to adapt to the challenges associated with projected climate change. Strengthening resilience to climate impacts already locked into the system is critical, but this will reduce long-term risk only if improvements in resilience are accompanied by actionable agreements on ways to stabilize climate change. The 9/11 Report framed the terrorist attacks as less of a failure of intelligence than a failure of imagination. Greenpeace’s 2003 account of the Pentagon’s alleged report describes a coming climate Armageddon which to readers was unimaginable and hence the report was not really taken seriously. It described: A world thrown into turmoil by drought, floods, typhoons. Whole countries rendered uninhabitable. The capital of the Netherlands submerged. The borders of the U.S. and Australia patrolled by armies firing into waves of starving boat people desperate to find a new home. Fishing boats armed with cannon to drive off competitors. Demands for access to water and farmland backed up with nuclear weapons. The CNA and Greenpeace/Pentagon reports are both mirrored by similar analysis by the World Bank which highlighted not only the physical manifestations of climate change, but also the significant human impacts that threaten to unravel decades of economic development, which will ultimately foster conflict. Climate change is the quintessential “Tragedy of the Commons,” where the cumulative impact of many individual actions (carbon emission in this case) is not seen as linked to the marginal gains available to each individual action and not seen as cause and effect. It is simultaneously huge, yet amorphous and nearly invisible from day to day. It is occurring very fast in geologic time terms, but in human time it is (was) slow and incremental. Among environmental problems, it is uniquely global. With our planet and culture figuratively and literally honeycombed with a reliance on fossil fuels, we face systemic challenges in changing the reliance across multiple layers of consumption, investment patterns, and political decisions; it will be hard to fix!

#### Superbugs cause extinction—outweighs warming

**Goodchild 16**

Sophie Goodchild (Lecturer/chair for the Royal Society of Medicine, The Royal Institution, the EU, the Council of Europe, Action on Addiction and others). “What if… a superbug stopped all open surgery indefinitely?” The Royal College of Surgeons Bulletin, vol. 98, issue 7, July 2016, pp. 282-286. <http://publishing.rcseng.ac.uk/doi/full/10.1308/rcsbull.2016.282>

Superbugs pose a greater threat to human survival than global warming. That’s according to Chief Medical Officer Dame Sally Davies and is a view also shared by many scientists. Although the rates of MRSA and Clostridium difficile are dropping in hospitals, 1 in 16 people treated in the NHS still picks up an infection, and drug-resistant bacteria kill more than 25,000 people each year in Europe alone. The ‘new kids on the block’ are so-called gram-negative bacteria: superbugs armed with an extra cell lining. This double protection allows them to fight off the human immune system more effectively than rivals like MRSA, which possess only one shell. What’s even more worrying is that antibiotics are becoming increasingly less effective against these wily bugs, especially against gram-negative strains. Tiny but smart, these organisms are finding ever-more inventive ways – such as mutating or becoming naturally resistant – in order to survive the drugs designed to kill them. In November 2015, scientists revealed a worrying twist in the war on superbugs. They identified a gene – MCR-1 – that can make E. coli bacteria resistant to the last-resort antibiotic colistin. Since then MCR-1 has been found in humans in the UK and as far afield as Cambodia. If this wasn’t enough of a worry, we’re also running out of new antibiotics to fight back. The pipeline has run dry with no bug-busting alternatives to emerge on the scene since the 1980s. This means we’re edging closer to a nightmare scenario wherein an extra 10 million people per year could die worldwide by 2050 unless new drugs are developed, as predicted in 2015 by economist Jim O’Neill. That’s more than the number killed by cancer. The cost is eye-watering as well: O’Neill predicts failure to tackle drug-resistant infections could cost the global economy £64 trillion by 2050. Such is the concern that pharma companies used the World Economic Forum in Davos in January 2016 to urge governments to invest in new treatments. But the question is what would be the impact on surgery if there was an uber-bug outbreak? How would doctors continue to carry out treatments like transplants, chemotherapy or even Caesarean sections, which all require antibiotics to prevent infection? It’s conceivable that in 20 years these surgical procedures we take for granted will become impossible. Here’s a possible timeline of events if this happened and all open surgery had to stop for the foreseeable future.

**Collapse of bee colonies causes extinction**

**Haltiwanger 14**

John Haltiwanger (Senior Politics Writer at Elite Daily. He was born and raised in DC. John earned an MSc in International Relations from the Univ. Of Glasgow and a BA in History from St. Mary's College of MD). “If All The Bees In The World Die, Humans Will Not Survive.” Elite Daily. September 15th, 2014. http://elitedaily.com/news/world/humans-need-bees-to-survive/755737/

For some people, bees are simply an annoyance. They buzz around, crawl inside soda cans, chase people down the street and sometimes even sting. If you’re unlucky enough to be allergic, bees can literally be a lethal threat. Yet, the simple fact is, **if bees didn’t exist, neither would humans.** Accordingly, it’s extremely disconcerting that honeybees have been dying at an alarming rate over the past decade or so. At present, the honeybee population in the United States is less than half of what it was at the cessation of World War II. This past winter, 23.2 percent of America’s managed honeybee colonies were lost. The figures were worse during the year prior, but bees are still dying at a disturbing rate, and something needs to change. The US government has stated that bees are now dying at an economically unsustainable rate. Indeed, in the United States alone, bees contribute to $15 billion in crop value. Without them, agriculture as we know it would collapse. Bees… Can’t Live With Them, Can’t Live Without Em’. Even if you hate bees, you need them. They are responsible for much of the food on your plate. Bees perform a task that is vital to the survival of agriculture: pollination. In fact, one third of our global food supply is pollinated by bees. Simply put, bees keep plants and crops alive. **Without bees, humans wouldn’t have very much to eat.** To put this into context, these are many of the crops pollinated by bees: Almonds, apples, apricots, avocados, blueberries, cantaloupes, cashews, coffee, cranberries, cucumbers, eggplants, grapes, kiwis, mangoes, okra, peaches, pears, peppers, strawberries, tangerines, walnuts and watermelons. Without bees, these crops would cease to exist. Bees are crucial to our existence as well, thus we must work harder to protect and preserve them. Likewise, as renowned entomologist Marla Spivak puts it: Anyone who cares about the health of the planet, for now and for generations to come, needs to answer this wake-up call. …Fewer bees lead to lower availability and potentially higher prices of fruit and vegetables. Fewer bees mean no almonds, less coffee and less alfalfa hay available to feed dairy cows. …We need good, clean food, and so do our pollinators. If bees do not have enough to eat, we won’t have enough to eat. Dying bees scream a message to us that they cannot survive in our current agricultural and urban environments… Why Are Bees Disappearing? Presently, there is an ongoing debate surrounding the disappearance of bees. It seems pretty clear that pesticides are the main culprit, however. Since the end of World War II, the use of pesticides in agriculture has increased exponentially. Relatedly, it is now suggested that the widespread use of pesticides known as neonicotinoids is having a detrimental impact on the health of bees. Neonicotinoids, which are chemically similar to nicotine, are an extremely popular pesticide. They are also likely poisoning bees and other pollinators. In essence, pesticides are terrible for the environment, and they are killing the organisms that help the world, and humans, survive. A study from the Harvard School of Public Health found that these pesticides directly contribute to a phenomenon known as Colony Collapse Disorder (CCD). CCD is essentially the process by which honeybees spontaneously abandon their hives. When bees are exposed to pesticides like neonicotinoids, they go insane and don’t know how to return home. It’s almost as if they are given a form of Alzheimer’s. It’s important to note, however, that while pesticides are likely a large part of the reason bees are dying, there are other factors in play as well. In essence, this is a complex problem that the world’s top scientists are still investigating. In addition to pesticides, for example, it is believed that bees are also dying from various parasites, like the Varroa mite. Hence, bees are dying from a combination of factors, but primarily due to the impact of human practices and the ongoing problems associated with climate change. Humans are destroying wild habitats in which bees traditionally get their food. When bees pollinate various plants, they are also receiving sustenance in return. As Marla Spivak states: …The ironic thing is that bees are not out there pollinating our food intentionally. They’re out there because they need to eat. Bees get all of the protein they need in their diet from pollen and all of the carbohydrates they need from nectar. They’re flower-feeders, and as they move from flower to flower,basically on a shopping trip at the local floral mart, they end up providing this valuable pollination service. Some beekeepers have attempted to replace natural nectar with a substitute to feed their bees, but ultimately it doesn’t sustain bee health the same way. There is no substitute for the natural way of the world. Moreover, it is believed that climate change has also led to a disruption in the synchronization of flower opening and bee hibernation. This also causes bees to die. Simply put, humans are terrible for bees. Pesticides, environmental degradation and pollution, are all contributing to the alarming rate of bee deaths. The tragic irony of this is, by killing bees, we are hurting ourselves. Our survival depends on the health of the planet and its species, and unless we begin to realize this then we will continue to contribute to its demise — and our own. We Can Save The Bees. Luckily, there are already efforts to save bees and other pollinators. In fact, in June, President Obama established a Pollinator Health Task Force. This is a federal effort to help quell the loss of important pollinators, such as bees. Likewise, the USDA has announced $8 million in incentives for farmers who establish new habitats for honeybee populations. Additionally, simply having a garden can greatly assist the health and livelihood of bee populations. Simply put, plant flowers in your yard and neighborhood, don’t contaminate them with pesticides and you will help save bees. The more flowers there are, the better chance bees have of receiving the nutrition they need to survive. Having more bees means good things for the planet, and for us. It’s also important that we plant a diverse array of flowers in a multiplicity of locations. We need flowers in urban and rural environments. This will help ensure the health of bees and our crops. This is not our world alone, we share it with a massive variety of species. Humans have done the most to damage the planet, thus it is our duty to reverse this trend and fight for its health. We only get one planet Earth, there are no second chances. When a species goes extinct, that’s the end. **We cannot allow bees to go extinct if we have any hope of surviving.**

### 2AC- AT: Rogue

#### Companies can develop complex checks- studies prove

Statt 16 [Nick Statt, 6-3-2016, "Researchers want a 'big red button' for shutting down a rogue artificial intelligence," Verge, <http://www.theverge.com/2016/6/3/11856744/google-deep-mind-big-red-button-interupt-ai>] NB

If artificial intelligence goes off the rails, which many [philosophers and tech entrepreneurs seem to think is likely](http://www.theverge.com/2016/6/2/11837566/elon-musk-one-ai-company-that-worries-me), it could result in rampant activity beyond human control. So some researchers think it's important to develop systems to "interrupt" AI programs, and to ensure the AI can't develop a way to prevent those interruptions. A study, conducted in 2014 by Google-owned AI lab DeepMind and the University of Oxford, sought to create a framework for handing control of AI programs over to human beings. In other words, a "big red button" to keep the software in check. "If such an agent is operating in real-time under human supervision, now and then it may be necessary for a human operator to press the big red button to prevent the agent from continuing a harmful sequence of actions — harmful either for the agent or for the environment — and lead the agent into a safer situation," reads the team's paper, titled "Safely Interruptible Agents" and [published online with the Machine Intelligence Research Institute](http://intelligence.org/files/Interruptibility.pdf). A common case here could be a factory robot that needs to be overridden to prevent human injury or damage to the machine. However, if the learning agent expects to receive rewards from this sequence, it may learn in the long run to avoid such interruptions, for example by disabling the red button — which is an undesirable outcome," the paper adds. The phrase "undesirable outcome" to describe the situation of an AI disabling its own shutdown mechanism is putting it lightly. The paper goes into very complex detail as to how this interruption system might work. The researchers appear to suggest it can be done by manipulating the rewards systems used to develop self-learning intelligences. As more tech companies get involved with artificial intelligence, breakthroughs in AI have begun occurring at a faster clip. DeepMind, whose research scientist Laurent Orseau co-authored the above paper, is [responsible for developing AlphaGo](http://www.theverge.com/2016/3/14/11219258/google-deepmind-alphago-go-challenge-ai-future). That AI system is capable of playing the ancient Chinese board game on a level exceeding that of the game's most skilled human players. Meanwhile, every big tech company with big investments in cloud computing is working to develop AI in various capacities, including Facebook, Amazon, Google, and Microsoft.

#### Zuckberburg thinks they won’t go rogue

Waters 1-4 [Richard Waters, 1-4-2016, "Zuckerberg rejects fears of rogue artificial intelligence," CNBC, http://www.cnbc.com/2016/01/04/mark-zuckerberg-rejects-fears-of-rogue-artificial-intelligence.html]

Tech leaders such as Elon Musk of [Tesla Motors](http://data.cnbc.com/quotes/TSLA" \t "_blank) and venture capitalist Peter Thiel have warned that rogue AI, or artificial intelligence, could one day threaten the human race. But Mark Zuckerberg has set himself the challenge this year of building his own personal AI assistant, rejecting fears of a super-intelligence running amok as "far-fetched". In a post on his company's website late on Sunday, the [Facebook](http://data.cnbc.com/quotes/FB" \t "_blank)founder said he had decided to build a smart machine to control functions in his house and help him work, akin to a disembodied butler. He compared it with Jarvis, an intelligent computer in the movie Iron Man. Mr Zuckerberg regularly sets himself personal challenges at the start of the year, but none so far has involved a software coding test with such a direct bearing on Facebook's own long-term future. Other tasks in recent years have included learning Mandarin — a move that was seen as a hint of his hopes of one day launching a version of Facebook in China — as well as meeting a new person every day and reading two books a month. Taking on a difficult software coding challenge, however, represents a departure, and highlights the AI race that has broken out among the leading internet companies as they try to invent new ways for people to interact with machines. Facebook has set up three artificial intelligence labs, in Silicon Valley, New York and Paris, and its high-profile hires in the field include Yann LeCun, a New York University professor who was one of the pioneers in deep learning — a form of AI that tries to mimic the functioning of layers of neurons in the human brain.

## Animal Cruelty

### 2AC- Perm

#### Perm do both- animal cruelty isn’t constitutionally protected

Shadwick 15 [Shadwick, Lana "Couple Back to Court in Texas for ‘Animal Crush Videos’," Breitbart, March 23, 2015]

The Court of Appeals made note that the First Amendment does allow for some restrictions on free speech. It included obscenity as an example. The Court ruled the law is constitutional in this application because it focuses on the “secondary effects” of the video and not the actual content. “The other element that occurs in animal crush videos and which warrants a higher punishment than simple obscenity is that it involved the intentional torture or pain to a living animal. Congress finds this combination deplorable and worthy of special punishment,” Judge Stephen Higginson wrote for the three-judge panel (ruling attached

#### This outweighs:

#### A. Reclarifies what the first amendment is inclusive of- it doesn’t allow all obscene images whereas their ev. misses the point

#### B. Precedents have already been set by multiple courts and congress which shows that it’s the most accurate predictor of punishment

## Bioterror

### 2AC- Top Level

#### There is no way to decide which synthetic biology experiments are harmful- no evidence in the 1nc can indicate that, which means that it’s simply a question of whether synthetic biology research is good or bad

#### Synthetic biology improves food resources, environment and medicine- and new regulations stop breakout possibility

Keasling 13 [Jay Keasling, 2-28-2013, "Why Synthetic Biology Is the Field of the Future — NOVA Next," NOVA Next, <http://www.pbs.org/wgbh/nova/next/tech/why-synthetic-biology-is-the-field-of-the-future/>] NB

Most Americans may not be familiar with synthetic biology, but they may come to appreciate its advances someday soon. Synthetic biology focuses on creating technologies for designing and building biological organisms. A multidisciplinary effort, it calls biologists, engineers, software developers, and others to collaborate on finding ways to understand how genetic parts work together, and then to combine them to produce useful applications. Synthetic biology is a relatively young field, begun only about ten years ago. But in that time, we have made some astonishing progress. This is due, in part, to the enormous improvements in our ability to synthesize and sequence DNA. But we’ve also gained a much greater understanding of how the various parts of the genome interact. We now can reliably combine various genetic pieces to produce a range of consumer products, from biofuels to cosmetics. In medicine, the synthetic biology community is pushing the boundaries by designing microbes that will seek and destroy tumors in the body before self-destructing. Synthetic biology also provides us a way to clean up our environment. We can build organisms to consume toxic chemicals in water or soil that would not otherwise decompose, for example. It can also help us to better understand flu strains and create vaccines. Synthetic biology will even help us feed the world. At MIT, researchers are working to build a process that will allow plants to fix nitrogen. If successful, farmers will no longer require fertilizer for their crops. That’s not all we’re doing with plants, either. At the Joint BioEnergy Institute in California, scientists have found a way to expand the sugar content of biomass crops to increase their density and decrease the cost of biofuels produced from them. We envision that eventually we will be able to build just about anything from biology. Don’t be surprised if one day your computer has biological parts The recently released [National Bioeconomy Blueprint](http://www.whitehouse.gov/blog/2012/04/26/national-bioeconomy-blueprint-released" \t "_blank) notes that the field is already making an important contribution to the U.S.’s technological innovation and will be a key to our shift to a bioeconomy, or economic activity powered by research and innovation in the biosciences. We still have many challenges to overcome, but we have laid a very strong foundation for the field. We believe that one day we will be able to fully utilize biology’s manufacturing capability. As one of my colleagues, Harvard scientist Pam Silver noted, the field is poised to explode, both in terms of what scientists can accomplish and what the public realizes is possible. A Significant Advancement A landmark of synthetic biology will launch this spring. It is an anti-malarial drug made from synthetic chemicals, artemisinin. It’s an important event for those threatened by the disease; each year, malaria kills more than one million people and infects an additional 300–500 million people. That’s over seven percent of the world’s population. Artimisinin is not a new treatment for malaria, but our ability to produce the substance in a lab is. Traditionally, the drug is isolated from a plant, Artemisia annua. But by moving production into the lab, we’re liberated from the vicissitudes of the plant’s growth cycle as well as the fluctuations in global supplies and prices. Artemisinin is a milestone in science, too. It represents a watershed moment in particular for the emerging field of synthetic biology. Managing the Risks Like many things we do, synthetic biology comes with risks, especially when it comes to safety and security. But consider this: We fly airplanes, we drive cars, we treat cancer with poison— all of these activities could be dangerous, but they also have benefits that far outweigh the risks. We believe this is true of synthetic biology as well. As Laurie Zoloth, a bioethicist at Northwestern University, [once said](http://usatoday30.usatoday.com/tech/science/genetics/2005-08-18-synthetic-biologists_x.htm" \t "_blank), “Synthetic biology is like iron: You can make sewing needles and you can make spears. Of course, there is going to be dual use.” Here, I would say that synthetic biology has learned much from the past—at conferences such as Asilomar, we carefully considered how we can pursue our research responsibly. We work closely with regulatory agencies and adhere to our own institutional requirements. In fact, much of our work is with what are called Biosafety Level 1 organisms—the safest organisms known. We also have developed a robust partnership with the FBI to ensure that we are utilizing the best practices for lab security. In addition to discussing approaches to risk and risk assessment, synthetic biologists are also working hard to minimize potential adverse effects. For example, Silver’s lab is working to create genetic self-destruct traits, termed “auto-delete,” as a way to ensure that genetically modified organisms don’t escape into the environment. Along with the practical matters of safety and security, there are profound moral and ethical issues involved in our research. Many of us, especially our colleagues at the Hastings Center and the Wilson Center, are grappling with building a framework for all of us to use in our work. There are no easy answers, but I can assure you that we all want our work to benefit the public, solving global challenges, and making sure that we are well-equipped to live in the future bioeconomy.

### 2AC- Turn- Deterrence

#### Bioterror agent development and public health improvement is crucial to deter potential bioterror attacks- empirics prove

**Kosal 14** [Kosal Margaret (US National Library of Medicine. National Institutes of Health Published). A New Role for Public Health in Bioterrorism Deterrence. Frontiers in Public Health. 2014;2:278. doi:10.3389/fpubh.2014.00278.] NB

The threat of inflicting punishing retaliation against some aggressor, not the ability to prevent some hostile act from occurring, is the core of traditional deterrence theory. Within new deterrence approaches in political science, however, there are several types of definable strategies that may be applied to bioterrorism by foreign actors ([11](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B11)). Indirect deterrence focuses on third party players and their roles in terrorist attacks. Third parties are most typically state sponsors or supporting financiers. This concept is based on the recognition that while a terrorist may be willing to die for his cause, it is less likely that explicit and tacit supporters are willing to pay a similar retribution. Appealing to or directing bioterrorism deterrence efforts toward tacit supporters is an untapped area. Collective actor deterrence utilizes the power and influence of institutions like the United Nations, NATO, or other broad coalitions to deter terrorist actions, highlighting the legitimacy of the organization and the international community rather than the interests of a single state. For bioterrorism, the WHO and African Union’s disease eradication efforts are examples. Internalized deterrence plays off the psyche of a terrorist, combining abstract concepts of criminology and social constructivism to subconsciously deter a terrorist through social taboos and norms ([12](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B12), [13](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B13)). This might involve leveraging fear of disease spreading to oneself or one’s own community. Tailored deterrence attempts to individualize each situation to reach the best possible solution, leveraging cultural, political, social, and other specific knowledge. These newer deterrence strategies offer opportunities for dealing with bioterrorism threats by foreign actors, which could be combined with public health information and resources. In thinking about public health infrastructure as an active or passive part of new deterrence strategies, it is useful to think about the role of missile defense. As the presence of a ballistic missile defense system is supposed to be an existential deterrent itself, so could be a strong public health system. Missile defense is both a passive deterrent and, if used, an active deterrent, as it stops something from occurring. A strong public health infrastructure is likely to be the key in reducing the vulnerability to bioterrorism attack, as well as having a potential role in deterring a foreign terrorist group from even considering such an attacks. If foreign terrorists are also aware of the weak public health infrastructure with their own borders, and the increased risks to them and their publics in the event of an accident in developing biological weapons and/or spread of an infectious disease that they might launch, this may also deter them from pursuing this work. In addition, even the accidental release of a dangerous pathogen or the spread of an infectious disease via attack will most likely cause disproportional negative effects to nations with limited public health infrastructures and affect tacit and explicit supporters in those states. The role of a robust public healthcare system for its deterrence capacity can be explored through empirically driven case study methods against predominant theories of deterrence in political science ([14](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B14), [15](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B15)) and in comparison to other works considering the possibility of deterring bioterrorism ([16](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B16)–[20](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B20)). For example, the re-emergence of polio offers a potentially useful example to think about the effects of a potential bioterrorist attack on the developed and the developing world. Polio is both a contagious infectious disease and transmissible from human-to-human (like smallpox and plague). The poliovirus is highly transmissible with a basic reproductive rate or secondary transmission rate (R0) exceeding most suspected biological agents, e.g., standard estimates of R0 for polio range from 5 to 7 ([21](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B21), [22](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B22)), whereas R0 for suspected bioterrorist agents like smallpox (1.8–3.2) ([23](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B23)–[25](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B25)); pneumonic plague (0.8–3.0) ([26](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B26), [27](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B27)); and even Ebola (1.34–2.0) ([28](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B28), [29](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B29)) are lower. It is not a likely biological terrorism agent, however, due to the low-mortality associated with infection. It is, however, a useful model for thinking about the spread of infectious disease and the importance of a robust public health infrastructure as a deterrence strategy. At the beginning of 2003, the complete eradication of polio appeared to be within the grasp of the World Health Association and its many partners. In 1998, the World Health Organization estimated there were over 365,000 new cases of polio; by early 2003, the rate of infection had declined to <1,000 new cases worldwide due to a vigilant vaccination effort ([30](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B30)). That trend was interrupted, however, when Nigerian citizens refused to be vaccinated after hearing unfounded allegations of contaminated vaccines that would lead to sterility or cause HIV/AIDs. Before 2003, polio had largely been confined to only a handful of countries; Nigeria, India, Pakistan, and Afghanistan accounted for 93% of the world’s cases ([31](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B31)). What started with the refusal of local clerics to allow vaccination led to the reestablishment or importation of the poliovirus to 14 countries that were previously disease-free. Transport of the contagious virus was not limited to neighboring African states. The poliovirus moved through Sudan to Ethiopia crossing the Red Sea to Lebanon and Yemen. The latter was been particularly severely affected, witnessing more than 500 new cases in the first half of 2005. The poliovirus spread as far as Indonesia, where it afflicted more than 150 people in a single year in 2 provinces, predominantly children ([32](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B32)). Prior to this outbreak, Indonesia had been polio free for nine years. Genetic fingerprinting confirmed that the strain imported to Indonesia came from northern Nigeria through Sudan, most closely resembling an isolate recovered in Saudi Arabia in December 2004. A pilgrim returning from Mecca or a returning foreign worker is suspected to have brought the virus to the island of Java, across an ocean and thousands of miles from its source. The polio virus continues to persist in a limited number of states in the developing world, specifically in Nigeria, Afghanistan, and Pakistan, where a ban on vaccination by Islamist leaders in Waziristan remains in place. Since 2013, polio (linked genetically to the strain in Pakistan) has spread from Syria to Iraq ([33](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B33)). Countries that have witnessed the re-emergence of poliovirus outbreaks have some crucial links: social and political challenges that have impeded the development and implementation of appropriate public health infrastructures and measures. Not unexpectedly, there is an inverse relationship between government health expenditure in health and number of polio cases. Looking at the spread of polio can provide us with a lens to think about the impacts of bioterrorism in states with developed public health infrastructures and those who do not. A bioterrorist attack, especially one with a contagious agent like smallpox or pneumonic plague, will likely impact the developing parts of the world substantially more than the US. One only has to look as far as polio’s re-emergence (or more recently the outbreak of Ebola virus disease in West Africa) to see the very real repercussions of a contagious virus and how the most dire causes and effects of infection and spread stem from poor public health infrastructures ([34](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4261597/#B34)). Creating a new deterrence strategy for bioterrorism is needed. Credibly, communicating the differential capacities to respond and the comparative likely outcomes will require diplomacy, coordination with civil affairs, specialized knowledge of individual states, and regions of the developing world. These are fundamentally interdisciplinary efforts that should leverage small teams from diplomatic, development, public health, and defense communities. One single parochial voice will be inadequate. Further improving the US domestic public health infrastructure would be beneficial and cost effective regardless of whether an outbreak is intentional or natural. The devastating Ebola outbreaks serve as a call for urgent investment in public health infrastructures worldwide, to provide both responsive and proactive actions to deter bioterrorism and to deal with natural disease outbreaks. Public health remains a powerful and often underutilized asset for bioweapons defense through vulnerability reduction; leveraging public health may also enable new approaches to deterring bioterrorism threats. International security scholars would benefit from better understanding of and leveraging the knowledge of the public health community

### 2AC- Turn- Readiness

#### Scientists need capability to study deadly disesases- that’s crucial to vaccines and readiness against natural pandemics

**Powledge 14** [Tabitha M. Powledge, 10-28-2014, "Risk and science: Should some virus research be forbidden?," Genetic Literacy Project, <https://www.geneticliteracyproject.org/2014/10/28/risk-and-science-should-some-virus-research-be-forbidden/>] NB

It didn’t take scientists long, though, to complain that the moratorium, imposed in the name of public health, [could actually endanger public health](http://www.nature.com/news/viral-research-moratorium-called-too-broad-1.16211" \t "_blank) by preventing researchers from learning more about dangerous viruses . They made their case last Wednesday at a meeting of the National Science Advisory Board for Biosecurity, its first since 2012. The reason for the long delay in meeting has not been explained. Half of the 23-member NSABB were [abruptly fired and replaced](http://news.sciencemag.org/biology/2014/07/updated-u-s-biosafety-panel-come-out-hibernation-new-members" \t "_blank) last summer. The delay and sudden member turnover is a bit mysterious and also worrisome, given that the board is supposed to advise the government on so-called “dual-use” research, research on organisms or other agents that might be exploited by bioterrorists. This work is not just a theoretical possibility. Scientists in Wisconsin and the Netherlands have actually done this sort of gain-of-function experiments with two bird flu viruses, making them easier to transmit in mammalian model organisms. The research caused such a furor that a voluntary moratorium was declared in 2012, but [the research resumed a year later](http://www.technologyreview.com/news/510166/moratorium-over-scientists-will-restart-avian-flu-research/" \t "_blank). “We believe this research is important to pandemic preparedness,” said one of the researchers, Yoshihiro Kawaoka of the University of Wisconsin. “Understanding how the avian virus is adapted to mammals [will lead to better surveillance and vaccines](http://www.technologyreview.com/news/510166/moratorium-over-scientists-will-restart-avian-flu-research/" \t "_blank).” Deliberately making a disease organism more dangerous sounds loony at first glance, and lots of people think it’s loony no matter how many glances you give it. “Many other scientists were and are extremely concerned about these experiments, which [some of us consider dangerous and irresponsible](http://genome.fieldofscience.com/2014/10/should-government-allow-scientists-to.html" \t "_blank),” says Steven Salzberg, of the Johns Hopkins School of Medicine. Salzberg is one of the scientists involved in the Cambridge Working Group, which has been pressuring the administration to restrict the experiments–-pressure that was one factor leading to the new moratorium. There are, arguably, [reasons for doing this sort of gain-of-function research](http://news.sciencemag.org/biology/2014/10/researchers-rail-against-moratorium-risky-virus-experiments" \t "_blank). One example is the need to develop small animal models to better study a disease. One researcher is claiming the moratorium will halt her surveillance of flu viruses circulating in animals, potentially a source of human infection. Another points out that potential flu drugs must be tested on wild strains, which could produce resistant viruses

### 2AC- Turn- BioFuels

#### Synthetic biology research produces breakthroughs in biofuel engineering- which leads to infinite renewable resources

**Church 14** [Church, Geroge M. Regis, Ed. (George M. Church is Professor of Genetics at the Harvard Medical School and member of the Wyss Institute of Biologically Inspired Engineering. Ed Regis is author of seven science books, most recently What Is Life? Investigating the Nature of Life in the Age of Synthetic Biology.) “Regenesis- How Synthetic Biology Will Reinvent Nature and Ourselves” Basic Books 2014. ] NB

“When the Continental Airlines Boeing 737–800 made its biofuels demonstration flight in January 2009, a fraction of its fuel component had been made by algae cultivated by Sapphire Energy of San Diego, California. Sapphire, along with Solazyme, was a biofuel success story. Financed by venture capital firms owned by Bill Gates and by the Rockefeller family, the company had produced its jet fuel in a field of open ponds on a 100-acre algae farm near Las Cruces, New Mexico, using nothing but natural (non-genetically modified) algae, CO2, nonpotable water, and sunlight. The process took about two weeks from start of growth to the harvesting of their so-called green crude. This green crude was then processed to yield what biofuel advocates like to call fungible fuels, those that are functionally interchangeable with 91 octane gasoline, 89 cetane diesel, and jet fuel (with a sub-47 degrees C freeze point to permit high-altitude flight).” “For a while, algae appeared to be the microbe of choice for producing crude oil. The term “algae” covers a group of photosynthetic organisms that range in size from microalgae (e.g., single-cell creatures such as diatoms), to macroalgae (including large seaweeds such as kelp). Even smaller than microalgae are cyanobacteria, which are bacteria not algae. Regardless of size, they all have the ability to turn carbon dioxide and water into carbohydrates and other products through the chemical transformations of photosynthesis (albeit across wide variations in efficiencies). Photosynthesis is a sequence of reactions that occur in green plants and photosynthetic bacteria, in which light energy from the sun is used to produce carbohydrates and all the rest of the plant’s materials. Schematically the reaction is: carbon dioxide + water + light energy → carbohydrates + oxygen As a petroleum-producing organism, algae has a number of advantages. First, with the exception of its incarnation as seaweed, algae is not a food crop. Second, algae can be grown virtually anywhere that there’s sunlight, and on land that’s unsuitable for conventional crops—in deserts, for example. Third, it doesn’t need potable water for growth, but can thrive in brackish water, seawater, or even on wastewater[…]”“thetic organism, algae consumes CO2, meaning that it actually removes carbon dioxide, a greenhouse gas, from the atmosphere. And its end products—fatty-acids (lipids) or other oils, and even some types of long-chain hydrocarbons—can be processed into any of the three classic petroleum distillates: diesel oil, gasoline, and jet fuel. Finally, algae can be genetically modified in an effort to maximize its efficiency or yield, or to fine-tune the chemical characteristics of its output. Given all these features, algae would appear to be an excellent biofuels production platform. But it also has its shortcomings. To begin with, algae does not simply secrete its product in such a way that it can be siphoned off or skimmed from the top, like cream. Instead, the stuff must be separated from the organism by brute force—by centrifugation, for example. This builds in an extra layer of inefficiency, like an orange juice manufacturer that extracted the juice by hand, one orange at a time, rather than by mass-production extraction machinery. “Second, once separated, the algae-produced fatty acids must be refined, more or less like ordinary raw crude oil, into the desired fungible end products. That process takes energy, which has to come from somewhere. And if it comes from coal-burning power plants, it puts even more CO2 into the atmosphere. Third, algae growth requires nutrients, such as nitrogen and phosphorus, which often come from petroleum feedstocks. The ” “microbe therefore utilizes in its growth process some of the very substances it was intended to replace. Fourth, algae is an excellent light blocker, which means that the open ponds in which it is grown cannot be very deep. Indeed, the actual light penetration is less than 1 millimeter, which means that vigorous mixing and hundreds of gallons of water are required for every gallon of oil produced. This in turn makes for major space requirements. In fact, one study concluded that growing enough algal fuel to supply the world’s entire jet fleet would require a land area the size of Maryland. Clearly, the algae-to-biofuels road is not a smooth one, and even with the research on algal fuels now being done by Craig Venter’s Synthetic Genomics (with $300 million in funding provided by ExxonMobil), it’s far from certain that algae will turn out to be the preferred biofuels production platform.” “But as we have seen, algae is not the only microbe that can make biofuel; so can the industrial microorganism E. coli. In 2005 Chris Somerville, a professor of plant and microbial biology at the University of California–Berkeley, Jay Keasling, David Berry, and I co-founded a private start-up company whose objective was to use engineered E. coli to produce commercial quantities of ” “renewable diesel fuel (as well as stocks of sustainable, green chemicals). We called the company LS9 because it was the ninth life sciences firm to be funded by the venture capital group Flagship Ventures. One of the primary attractions of using E. coli as our production platform was that unlike algae, E. coli can be engineered to make its fungible petroleum products directly—the microbe does not need to be broken up in order to release its end product. Instead, we would create these fuels according to a streamlined, one-step synthesis protocol known as consolidated bioprocessing. The microbes would consume feedstock molecules and secrete the desired fuels or chemicals, which would float to the top of a fermenter column where they could be skimmed off like cream—no centrifugation, distillation, or other intermediate steps would be required. Using this protocol, making new petroleum would be as simple and straightforward as brewing beer.” “The concept of genetically engineering E. coli to make biofuels directly is not new. In 1987, for example, a group of researchers from the University of Florida and Southern Illinois University managed to get E. coli to produce ethanol. They did this by taking some genes from the bacterium Zymomonas mobilis, which was known to produce ethanol as one of its principal fermentation products, and inserting those genes into E. coli. Using simple sugars as their feedstocks, the researchers found that the re-programmed E. coli turned out ethanol quickly in appreciable amounts. Although ” “sugar, a foodstuff, was consumed in the process, the group pointed out that further engineering of the microbe ought to enable it to produce ethanol using hemicellulose (inedible plant parts) as feedstock materials.” “Of course, ethanol is not petroleum. But in 2010, a group of LS9 researchers published in the journal Science that they had found the holy grail enzymes that make alkanes (real diesel, not “biodiesel” esters) from fats. The trick was to select the appropriate genetic structures from other organisms found in nature, which the researchers did by comparing DNA from ten species of cyanobacteria that made “trace amounts” of alkanes with one species that made “undetectable amounts.” To prove that these genes were correct they inserted them into E. coli which enabled the microbes to directly grow small research quantities of diesel oil. The next step was to scale up the process. By this time, LS9 had a pilot plant going in South San Francisco. The heart of the operation was a 1,000-liter fermenter tank, which was soon producing larger, batch quantities of our Ultraclean Diesel, as we call it. The microbial fermentation took only three days from start to finish, and the end product, a synthetic biodiesel, was so chemically close to conventional diesel oil that it met the American Society for Testing and Materials (ASTM) standards for road use in the United States, and was found, and was found to be chemically equivalent to California clean diesel. “In January 2010, LS9 took a major step toward the mass production of diesel oil by purchasing a bankrupt biofuels production plant for pennies on the dollar in Okeechobee, Florida. The facility included four large, million-liter fermenter tanks, storage tanks, cooling tower, and a water treatment system. We aim to produce UltraClean Diesel at the rate of 50,000 to 100,000 gallons per year initially, and then to ramp up to 10 million gallons. At first the plant will use sugar cane syrup as feedstock, but ultimately we want to use inedible hemicellulose in place of sugar, thereby enabling us to make biofuel without using any food sources. In 2010 Keasling, together with colleagues at Berkeley and LS9, published a piece in the journal Nature laying out the engineered metabolic pathways that would allow E. coli to do this. In recognition of its achievements, the Environmental Protection Agency awarded LS9 the 2010 Presidential Green Chemistry Award.” “The current situation in biofuels is one of finding and then optimizing the major players: optimizing the microbes for high-yield, efficient production through genome engineering, matching the microbe with appropriate feedstock molecules or micronutrients, and then fine-tuning the entire production process for generating ” “clean fuels that are drop-in ready for use in the gas tank at costs that are competitive with those of natural petroleum products. But the E. coli at LS9 is not photosynthetic, and anyway it’s not a good idea to put all of your eggs in one basket. Consequently in 2007 David Berry (who was one of LS9’s cofounders), venture capitalist Noubar Afeyan, and I formed another company, Joule Unlimited, to make fuels using what many regard as the most promising microbe family yet, cyanobacteria. “Cyanobacteria were once known as blue-green algae. They are not really algae, however, but a class of bacteria that derive their energy from photosynthesis, just as if they were plants. These photosynthetic bacteria happen to be one of the game-changing organisms in earth’s history, for they are thought to have been responsible for the “great oxygenation event,” a major environmental transformation that happened about 2.4 billion years ago, during the Archean. The predominant life forms at that time consisted of anaerobic organisms, which thrive in the absence of free oxygen. The metabolism of cyanobacteria, however, released free oxygen into the atmosphere, which had the dual result of wiping out most of the oxygen-intolerant organisms while simultaneously making possible the evolution of aerobic organisms (such as ourselves), which depend on free oxygen. So the fact that we exist at all is in large part attributable to the metabolic activities of cyanobacteria. More than ten thousand varieties of cyanobacteria have been ” “discovered. They are found in frigid Siberia and in fiery deserts; on shower curtains and in toilet tanks; in the world’s oceans, and in niche environments such as hot springs, salt works, and hypersaline bays. Indeed, some biologists regard cyanobacteria as the most successful group of microorganisms on earth. Joule Unlimited expects these organisms to be equally successful at converting sunlight into diesel fuel. During the first two years of its existence, the company operated in relative obscurity (indeed in stealth mode) out of a nondescript building on Rogers Street in Cambridge, not far from MIT. News accounts in the Boston Globe often referred to Joule’s “secret ingredient,” an unknown, heavily engineered microbe. But the company was only protecting its intellectual property until the time the founders could patent their uniquely designed cyanobacteria. This it did in 2010, with a patent titled “Hyperphotosynthetic Organisms.” “These engineered cyanos, it turns out, have the ability to take sunlight, CO2, and brackish water, and then convert these ingredients into alkanes, the molecular constituents of diesel oil. Like LS9’s E. coli bacteria, Joule’s cyanobacteria secrete their end products into the surrounding watery medium. But these microbes have the additional advantage that they require no feedstock molecules as raw materials: no sugar, hemicellulose, salt or pepper, just some micronutrients that act more or less like fertilizer. Otherwise, it’s as if they run on sunlight alone (in a process that the company ” “refers to as helioculture). The result, according to company president Bill Sims, “is the world’s first platform for converting sunlight and waste CO2 directly into diesel, requiring no costly intermediates, no use of agricultural land or fresh water, and no downstream processing.” Centerpiece of the system is Joule’s SolarConverter, which is essentially an inexpensive, flat, transparent solar panel through which circulate thin films of cyanobacteria suspended in a bath of water and micronutrients. CO2 bubbles in at the bottom, and the end product—alkanes—rises to the top. Powered by sunlight, the cyanos release oxygen, sugar, and clean-burning, fossil-free diesel oil. The process has been demonstrated in the lab, as well as in a Joule pilot plant in Leander, Texas. The company calculates that an array of its Solar-Converter panels can crank out more than 13,000 gallons of diesel fuel per acre per year. Based on an industrial-scale plant, the firm expects to be able to deliver diesel at the cost of $50 per barrel (a barrel contains 42 US gallons = 159 liters). And in line with the current fashion in the biofuels business of equating delivered fuels with land use, the company estimates that it could supply all of the transportation fuel requirements of the United States from a land area the size of the Texas panhandle. “If anything’s clear from all this, it’s that we’re now in a transitional period, caught between the age of fossil fuels and the age of biofuels. Fossil fuels are (probably) a product of dead microbes, organisms that took millions of years to be converted from biological entities to the hydrocarbons of crude oil. Today, by contrast, we’re making basically the same thing happen, only faster, and with live microbes. These living biological microorganisms are creating those same hydrocarbons that the old dead ones did, and they’re doing it directly and in a matter of days, not millions of years, and they’re doing it right before our eyes, not deep down inside the ocean bedrock from which they’ve got to be laboriously pumped out. Nobody knows yet which microbe, process, or company will be successful and which will fall by the wayside. The competitors are in a classic Darwinian struggle for existence, and it’s not yet obvious who the winners will be . . . or even whether biofuels are truly the wave of the future. “Still, every gasoline price hike boosts the attractiveness of biofuels. Conversely, every drop in the cost of DNA sequencing and synthesis brings us closer to being able to genomically engineer the miracle microbe that will spout cheap diesel, while at the same time scrubbing CO2 from the atmosphere. So maybe this dream is not in fact too good to be true. Granted, you can’t get something for nothing. But gradually, over time, the biofuels development process will become more efficient and optimized, bringing us gasoline at prices if not too cheap to meter, then at least cheap enough not to fret about every time we face the pump.

## Climate Denial

### 2AC- Top Level

#### Case turns the net benefit--censorship fails because you can’t force climate deniers to change their beliefs—there’s only a risk of widespread backlash

#### Perm, do the counterplan—not a single college censors climate denial—their evidence is fake news about some comments from professors

#### Climate denial isn’t protected by the First Amendment if it’s promoted with deceptive intent

**Mulvey 16**

Kathy Mulvey (climate accountability campaign manager, Union of Concerned Scientists). “The First Amendment Isn’t a Shield for Fraud.” U.S. News and World Report. July 22nd, 2016. <https://www.usnews.com/opinion/articles/2016-07-22/the-first-amendment-isnt-a-shield-for-climate-denial-fraud>

Dear editor, In a July 11 op-ed ["Freezing Free Speech]", Peter Roff claims that efforts by a group of U.S. senators to shine a light on think tanks and front groups that spread misinformation on climate change constitutes "violence" on the Constitution. The argument is not whether these groups have the free speech right to share their views on policy, but whether fossil fuel interests should be able to knowingly deceive the public about the risks of their product. In 1998, the American Petroleum Institute – the nation's largest oil trade association – convened a team that penned an internal memo outlining a strategy to confuse and misinform the public. ExxonMobil was represented on that team, and over the next seven years funneled nearly $16 million to dozens of groups to disseminate misinformation about climate science. In 2015, the company gave nearly $2 million to climate-denying groups including the American Legislative Exchange Council and the U.S. Chamber of Commerce. This is likely the tip of the iceberg, as companies are not required to disclose contributions to these organizations. That's why several state attorneys general are investigating whether ExxonMobil broke any laws by deceiving its shareholders and the public about the threat of climate change. It shouldn't be surprising that as more evidence of misconduct surfaces, fossil fuel interests and their political allies are hitting back. But it's irresponsible to use the First Amendment as a shield for fraud. Civil society groups and elected officials are right to expose this continued deception on climate change, one of the world's most pressing problems.

#### Trump will rollback all efforts to fight climate change—that makes the impact inevitable

**Geiling 3-28**

Natasha Geiling (reporter at ThinkProgress). “Trump just gutted U.S. policies to fight climate change.” ThinkProgress. March 28th, 2017. https://thinkprogress.org/trump-climate-change-clean-power-plan-climate-executive-order-2e162d4e7da1

Three months into President Donald Trump’s first term, one thing has become increasingly clear: Trump has no interest in maintaining the environmental protections ushered in by President Barack Obama. Trump looks to solidify that intention on Tuesday, releasing a sweeping executive order that touches nearly every environmental action taken by the previous administration. “There are a number of policies from the Obama administration that the president believes should be reviewed,” a senior White House official said during a press call on Monday night. “Some of them should be taken off the books immediately, to the extent that we can.” In the order, the president asks for more than just a repeal and rework of the Clean Power Plan, Obama’s signature domestic climate policy and Trump’s preferred scapegoat for the declining coal industry. The order also seeks to repeal rules regarding fracking on public lands, and coal leases on federal lands. It orders agencies to reconsider the Social Cost of Carbon and rescinds an Obama-era order requiring agencies to consider the impact of climate change in their environmental permitting process. And it undoes key executive actions meant to make the federal government — and communities — more prepared to handle the consequences of climate change. Reports have been circulating for months regarding this order and its contents, but the timeline for its release slipped more than once. As the weeks stretched on, the executive order became about more than just the Clean Power Plan — the Trump administration, acting not unlike a five-year-old left unsupervised in the aisles of a candy store, kept piling on rules and regulations it wanted to include. The result is a behemoth order that touches on nearly a dozen different Obama-era rules. And while it will certainly have a measurable impact on domestic energy policy for years to come, the order — like Trump’s proposed “skinny budget” released in mid-March — is also a values statement, one that signals the United States federal government is no longer interested in fighting climate change, or helping communities adapt to its devastating consequences, at home and abroad. This order will make communities more vulnerable to climate change. While the order is being touted as a job creator by the Trump White House, it’s important to note that it sends a clear signal to agencies across the federal government: climate change is no longer something that should be considered a priority when making decisions. That’s evident in the order’s directive to repeal a number of Obama-era executive actions aimed at mitigating impacts on natural resources from development, requiring federal agencies to take steps to prepare for climate impacts, and requiring agencies to take climate change into account when crafting national security plans and policies. The Trump executive order also unilaterally rescinds President Obama’s Climate Action Plan, which served as the blueprint for climate action under the previous administration. “We believe a number of those orders have run their course, we also believe those orders simply don’t reflect the president’s priorities when it comes to dealing with climate change,” a senior White House official said on Monday. Trump does not accept the scientific consensus on climate change, and has claimed it is a hoax created by the Chinese to make the U.S. less competitive in manufacturing. His EPA head, Scott Pruitt, also does not accept the scientific consensus on climate change, falsely claiming carbon dioxide emissions are not a primary contributor to global warming.

### AT: Williamson

#### Williamson is a conservative hack who denies climate science and says asinine bullshit—here’s a re-highlighting of their evidence

**Williamson 16**

Kevin Williamson (contributing writer). “Free Speech and Climate Science—Campus Censorship is Only the Beginning.” National Review. April 2016. http://www.nationalreview.com/article/433582/free-speech-climate-science-campus-censorship-only-beginning

The subsequent developments are relatively well known: Robert F. Kennedy Jr., speaking at a large climate-change march in New York, called for the imprisonment of those holding impermissible views on global warming and those who with their financial resources support and spread such views. New York attorney general Eric T. Schneiderman opened a case against Exxon, and the attorneys general of Massachusetts and the U.S. Virgin Islands announced their intended participation in this inquisition. (Al Gore was present at the announcement.) Schneiderman’s prosecution, in the words of the New York Times, would focus on “the company’s funding, for at least a decade, of outside groups that worked to dispute climate science.” This is straight from Professor Torcello. The goal of course is to bully institutions, corporations, and particularly donors and the nonprofits sustained by them. Torcello: “The charge of criminal and moral negligence ought to extend to all activities of the climate deniers who receive funding as part of a sustained campaign to undermine the public’s understanding of scientific consensus.” Kamala Harris, the California attorney general who is seeking a Senate seat, announced an identical investigation of her own. The Obama administration has referred the federal question to the FBI for possible prosecution; currently, progressive strategists are pushing for prosecution under the RICO law, a racketeering statute used to prosecute sprawling organized-crime syndicates. “The First Amendment,” Schneiderman proclaimed, “does not give you the right to commit fraud.” Which is of course true. It is also true that the invocation of “fraud” in this instance is something very close to fraudulent. But once the censors work up a head of steam, it is difficult to stop them. This week, Senator Elizabeth Warren bemoaned the fact that businessmen have “become accustomed to saying whatever they want about Washington policy debates,” and she is pressuring the Securities and Exchange Commission to file fraud charges against businesses that lobby against regulations that they believe would hurt them. Senator Warren charges that the businesses in question exaggerate the costs of regulations when lobbying against them in public and do not do so when communicating with investors and shareholders — which is to say, she wants to make a felony out of what amounts to at most hyperbole or political spin. These would-be censors are all Democrats, it should be noted, professed liberals at that. The First Amendment was expressly designed to protect political speech, the right to criticize one’s government and its actions. The First Amendment was expressly designed to protect political speech, the right to criticize one’s government and its actions. The Supreme Court blessedly has reminded such aspiring Torquemadas as Senator John McCain and President Barack Obama of this from time to time, the most famous recent example being in the Citizens United decision. Among the fiercest critics of Citizens United is Hillary Rodham Clinton, which is no surprise: At question in the case was whether the federal government, acting under the guise of “campaign finance” regulation, could censor a movie about Mrs. Clinton — a film that cast her in a poor light and hence constituted “electioneering” subject to federal regulation. Mrs. Clinton is unsure of her own mind on many subjects, but she is quite positive in her belief that Mrs. Clinton should have a very strong say in writing the rules under which Mrs. Clinton may be criticized and under which unwanted and untimely criticism may be a federal crime. There has been a great deal of daft argument about this, including the insistence by some on the left that the idea that corporations can enjoy civil rights is a modern right-wing innovation. But if the First Amendment prevents the federal government from censoring the New York Times, then whose rights are being protected if not those of the New York Times, which is a corporation? With the death of Antonin Scalia, whose purported right-wingery made him one of the great free-speech champions of his age, the so-called liberals believe, not without some reason, that they now have an opportunity to enact federal censorship rules to suppress political criticism. RELATED: Inverting the First Amendment: Free Speech Is Under Attack in New Zealand — and in Washington In the wake of Citizens United, Senator Harry Reid led an effort in the Senate — backed by every single Democratic senator — to repeal the First Amendment and thereby enable federal censorship of political criticism. That fact — the fact that one of our two major political parties has made gutting the Bill of Rights and suppressing political speech one of its top priorities — should be the central debate of the 2016 election. But it isn’t, to our national shame. Lodewijk Elzevir risked his life and the possibility of torture to defy the Inquisition and bring out the works of Galileo. We Americans, who have as our cultural capital a city that once pridefully declared itself the New Amsterdam, and who arrogate unto ourselves through our president the grandiose title “Leader of the Free World,” won’t even stand up to a couple of creaky old grandmas, the great minds who brought you the Hulk Hogan sex tapes, and a couple of peon lawyers in Albany and Sacramento. If Areopagitica were a new Greek porn star, we might rouse ourselves to bother for a moment about the prospects of government censorship. But free speech as a principle? Of course, unless we don’t like it. The Founders knew that liberty is never really popular, and that it cannot be entrusted to elected officials who must answer in the end to the demos, which is why they put the first liberties first, right there in the First Amendment. If we are willing to let a low-rent carny like Harry Reid take those liberties away from us, or a sanctimonious old crook like Hillary Rodham Clinton, or Elizabeth Warren, the most wooden Indian of them all, then maybe we didn’t deserve those first liberties in the first place

### No Impact

#### No impact for a century — IPCC agrees.

**Ridley 15** — Matt Ridley, Fellow of the Royal Society of Literature and of the Academy of Medical Sciences, Foreign Honorary Member of the American Academy of Arts and Sciences, Conservative Member of the House of Lords (UK), Author of several popular science books including The Rational Optimist: How Prosperity Evolves and The Evolution of Everything: How Ideas Emerge, former Science Editor at The Economist, former Visiting Professor at Cold Spring Harbor Laboratory in New York, holds a D.Phil. in Zoology from Magdalen College, Oxford, 2015 (“Climate Change Will Not Be Dangerous for a Long Time,” Scientific American, November 27th, Available Online at http://www.scientificamerican.com/article/climate-change-will-not-be-dangerous-for-a-long-time/, Accessed 07-17-2016)

The climate change debate has been polarized into a simple dichotomy. Either global warming is “real, man-made and dangerous,” as Pres. Barack Obama thinks, or it’s a “hoax,” as Oklahoma Sen. James Inhofe thinks. But there is a third possibility: that it is real, man-made and not dangerous, at least not for a long time. This “lukewarm” option has been boosted by recent climate research, and if it is right, current policies may do more harm than good. For example, the Food and Agriculture Organization of the United Nations and other bodies agree that the rush to grow biofuels, justified as a decarbonization measure, has raised food prices and contributed to rainforest destruction. Since 2013 aid agencies such as the U.S. Overseas Private Investment Corporation, the World Bank and the European Investment Bank have restricted funding for building fossil-fuel plants in Asia and Africa; that has slowed progress in bringing electricity to the one billion people who live without it and the four million who die each year from the effects of cooking over wood fires. In 1990 the Intergovernmental Panel on Climate Change (IPCC) was predicting that if emissions rose in a “business as usual” way, which they have done, then global average temperature would rise at the rate of about 0.3 degree Celsius per decade (with an uncertainty range of 0.2 to 0.5 degree C per decade). In the 25 years since, temperature has risen at about 0.1 to 0.2 degree C per decade, depending on whether surface or satellite data is used. The IPCC, in its most recent assessment report, lowered its near-term forecast for the global mean surface temperature over the period 2016 to 2035 to just 0.3 to 0.7 degree C above the 1986–2005 level. That is a warming of 0.1 to 0.2 degree C per decade, in all scenarios, including the high-emissions ones. At the same time, new studies of climate sensitivity—the amount of warming expected for a doubling of carbon dioxide levels from 0.03 to 0.06 percent in the atmosphere—have suggested that most models are too sensitive. The average sensitivity of the 108 model runs considered by the IPCC is 3.2 degrees C. As Pat Michaels, a climatologist and self-described global warming skeptic at the Cato Institute testified to Congress in July, certain studies of sensitivity published since 2011 find an average sensitivity of 2 degrees C. Such lower sensitivity does not contradict greenhouse-effect physics. The theory of dangerous climate change is based not just on carbon dioxide warming but on positive and negative feedback effects from water vapor and phenomena such as clouds and airborne aerosols from coal burning. Doubling carbon dioxide levels, alone, should produce just over 1 degree C of warming. These feedback effects have been poorly estimated, and almost certainly overestimated, in the models. The last IPCC report also included a table debunking many worries about “tipping points” to abrupt climate change. For example, it says a sudden methane release from the ocean, or a slowdown of the Gulf Stream, are “very unlikely” and that a collapse of the West Antarctic or Greenland ice sheets during this century is “exceptionally unlikely.” If sensitivity is low and climate change continues at the same rate as it has over the past 50 years, then dangerous warming—usually defined as starting at 2 degrees C above preindustrial levels—is about a century away. So we do not need to rush into subsidizing inefficient and land-hungry technologies, such as wind and solar or risk depriving poor people access to the beneficial effects of cheap electricity via fossil fuels.

## Confederate Flag

### 2AC- Perm Card

#### Permutation ban confederate flag displays but allow constitutionally protected free speech on college campuses- courts have ruled that displays are intrinsically linked with material disruption

**Volokh** 15 [Eugene Volokh, 9-21-2015, "Opinion," Washington Post, <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/09/21/the-confederate-flag-the-first-amendment-and-public-schools/?utm_term=.cd77f3988023>] NB

A few thoughts on how courts have handled such matters in recent decades: 1. Nearly all cases have upheld such restrictions, under Tinker v. Des Moines Indep. School. Dist. (1969), because they concluded that there was enough evidence — based on the schools’ or neighboring schools’ concrete recent experiences — that the display of the flag was likely to materially disrupt schoolwork, by exacerbating racial hostilities and thus leading to fights and similar disruptions. 2. One case, Castorina ex rel. Rewt v. Madison County School Bd. (6th Cir. 2000), sent the case back down to trial court to determine whether there was real evidence of likely material disruption, and whether the school had selectively targeted Confederate flag shirts but not other racially linked and potentially disruptive shirts (the example there was Malcolm X shirts). 3. A few of the cases have taken the view that Confederate flag shirts can be punished on the grounds that they are “plainly offensive” and thus similar to the vulgar speech that schools can punish under Bethel School Dist. No. 403 v. Fraser (1986). 4. [One case](http://volokh.com/2011/03/14/first-amendment-exception-for-%E2%80%9Cracially-hostile-or-contemptuous-speech%E2%80%9D-including-display-of-the-confederate-flag-in-k-12-public-schools-denial-of-en-banc-rehearing-by-sixth-circu/) takes the view that there is essentially a First Amendment exception — quite apart from the general disruptive-speech rule in Tinker — for “racially hostile or contemptuous speech” in schools.

### 2AC- Straight Turns

#### 1. Counterspeech is especially effective- the flag increases racist sentiment which makes it easier to track

**Calleros 95** [Calleros, Charles R. “Paternalism, Counterspeech, and Campus Hate-Speech Codes: A Reply to Delgado and Yun” (Professor of Law, Arizona State University). HeinOnline. Arizona State Law Journal. 1995] NB

Delgado and Yun summarize the support for the counterspeech argument by paraphrasing Nat Hentoff: "[A]ntiracism rules teach black people to depend on whites for protection, while talking back clears the air, emphasizes self-reliance, and strengthens one's self-image as an active agent inchargeofone'sowndestiny."50 DelgadoandYunalsocitetothosewho believe that counterspeech may help educate the racist speaker by addressing 51 the ignorance and fear that lies behind hostile racial stereotyping. But they reject this speech-protective argument, stating that "it is offered blandly, virtually as an article of faith" by those "in a position of power" who "rarely offer empirical proof of their claims. ,,52 The authors argue that talking back in a close confrontation could be physically dangerous, is unlikely to persuade the racist speaker to reform his views, and is impossible "when racist remarks are delivered in a cowardly fashion, by means of graffiti scrawled on a campus wall late at night or on a poster placed outside of a black student's dormitory door." 53 They also complain that "[e]ven when successful, talking back is a burden" that minority undergraduates 54 should not be forced to assume. In rejecting the counterspeech argument, however, Delgado and Yun cast the argument in its weakest possible form, creating an easy target for relatively summary dismissal. When the strategies and experiential basis for successful counterspeech are fairly stated, its value is more easily recognized. First, no responsible free speech advocate argues that a target of hate speech should directly talk back to a racist speaker in circumstances that quickly could lead to a physical altercation. If one or more hateful speakers closely confronts a member of a minority group with racial epithets or other hostile remarks in circumstances that lead the target of the speech to reasonably fear for her safety, in most circumstances she should seek assistance from campus police or other administrators before "talking back." Even staunch proponents of free speech agree that such threatening speech and conduct is subject to regulation and justifies more than a purely educative response. The same would be true of Delgado's and Yun's other examples of speech conveyed in a manner that defaces another's property or 56 When offensive or hateful speech is not threatening, damaging, or impermissibly invasive and therefore may constitute protected speech, 57 education and counterspeech often will be an appropriate response. However, proponents of free speech do not contemplate that counterspeech always, or even normally, will be in the form of an immediate exchange of views between the hateful speaker and his target. Nor do they contemplate that the target should bear the full burden of the response. Instead, effective counterspeech often takes the form of letters, discussions, or demonstrations joined in by many persons and aimed at the entire campus population or a community within it. Typically, it is designed to expose the moral bankruptcy of the hateful ideas, to demonstrate the strength of opinion and numbers of those who deplore the hateful speech, and to spur members of the campus community to take voluntary, constructive action to combat hate and to remedy its ill effects. 58 Above all, it can serve to define and underscore the community of support enjoyed by the targets of the hateful speech, faith in which may have been shaken by the hateful speech. Moreover, having triggered such a reaction with their own voices, the targets of the hateful speech may well feel a sense of empowerment to compensate for the undeniable pain of the speech. 59 One may be tempted to join Delgado and Yun in characterizing such a scenario as one "offered blandly, virtually as an article of faith" and without experiential support. 6° However, campus communities that have creatively used this approach can attest to the surprising power of counterspeech. Examples of counterspeech to hateful racist and homophobic speech at Arizona State and Stanford Universities are especially illustrative.61 In an incident that attracted national attention, the campus community at Arizona State University ("A.S.U.") constructively and constitutionally responded to a racist poster displayed on the outside of the speaker's dormitory door in February 1991. Entitled "WORK APPLICATION," it contained a number of ostensibly employment-related questions that advanced hostile and demeaning racial stereotypes of African-Americans and Mexican-Americans. Carla Washington, one of a group of African- American women who found the poster, used her own speech to persuade a resident of the offending room voluntarily to take the poster down and allow her to photocopy it. After sending a copy of the poster to the campus newspaper along with an opinion letter deploring its racist stereotypes, she demanded action from the director of her residence hall. The director organized an immediate meeting of the dormitory residents to discuss the issues. In this meeting, I explained why the poster was protected by the First Amendment, and the women who found the poster eloquently described their pain and fears. One of the women, Nichet Smith, voiced her fear that all nonminorities on campus shared the hostile stereotypes expressed in the poster. Dozens of residents expressed their support and gave assurances that they did not share the hostile stereotypes, but they conceded that even the most tolerant among them knew little about the cultures of others and would 62 benefit greatly from multicultural education.  The need for multicultural education to combat intercultural ignorance and stereotyping became the theme of a press conference and public rally organized by the student African-American Coalition leader, Rossie Turman, who opted for highly visible counterspeech despite demands from some students and staff to discipline the owner of the offending poster. The result was a series of opinion letters in the campus newspaper discussing the problem of racism, numerous workshops on race relations and free speech, and overwhelming approval in the Faculty Senate of a measure to add a course on American cultural diversity to the undergraduate breadth 63 requirement.  The four women who initially confronted the racist poster were empowered by the meeting at the dormitory residence and later received awards from the local chapter of the NAACP for their activism.64 Rossie Turman was rewarded for his leadership skills two years later by becoming the first African-American elected President of Associated Students of A.S.U.,65 a student body that numbered approximately 40,000 students, only 66 2.3 percent of them African-American. Although Delgado and Yun are quite right that the African-American students should never have been burdened with the need to respond to such hateful speech, Hentoff is correct that the responses just described helped them develop a sense of self-reliance and constructive activism. Moreover, the students' counterspeech inspired a community response that lightened the students' burden and provided them with a sense of community support and empowerment. Indeed, the students received assistance from faculty and administrators, who helped organize meetings, wrote opinion letters, spoke before the Faculty Senate, or joined the students in issuing public statements at the press conference and public rally.67 Perhaps most important, campus administrators wisely refrained from disciplining the owners of the poster, thus directing public attention to the issue of racism and ensuring broad community support in denouncing the racist poster. Many members of the campus and surrounding communities might have leapt to the racist speaker's defense had the state attempted to discipline the speaker and thus had created a First Amendment issue. Instead, they remained united with the offended students because the glare of the public spotlight remained sharply focused on the racist incident without the distraction of cries of state censorship. Although the counterspeech was not aimed primarily at influencing the hearts and minds of the residents of the offending dormitory room, its vigor in fact caught the residents by surprise. 68 It prompted at least three of them to apologize publicly and to display curiosity about a civil rights movement that they were too young to have witnessed first hand. 69 This effective use of education and counterspeech is not an isolated instance at A.S.U., but has been repeated on several occasions, albeit on smaller scales.7° One year after the counterspeech at A.S.U., Stanford University responded similarly to homophobic speech. In that case, a first-year law student sought to attract disciplinary proceedings and thus gain First Amendment martyrdom by shouting hateful homophobic statements about a dormitory staff member. The dean of students stated that the speaker was not subject to discipline under Stanford's code of conduct but called on the university community to speak out on the issue, triggering an avalanche of counterspeech. Students, staff, faculty, and administrators expressed their opinions in letters to the campus newspaper, in comments on a poster board at the law school, in a published petition signed by 400 members of the law school community disassociating the law school from the speaker's epithets, and in a letter written by several law students reporting the incident to a prospective employer of the offending student.71 The purveyor of hate speech indeed had made a point about the power of speech, just not the one he had intended. He had welcomed disciplinary sanctions as a form of empowerment, but the Stanford community was alert enough to catch his verbal hardball and throw it back with ten times the force. Thus, the argument that counterspeech is preferable to state suppression of offensive speech is stronger and more fully supported by experience than is conceded by Delgado and Yun. In both of the cases described above, the targets of hateful speech were supported by a community united against bigotry. The community avoided splitting into factions because the universities eliminated the issue of censorship by quickly announcing that the hateful speakers were protected from disciplinary retaliation. Indeed, the counterspeech against the bigotry was so powerful in each case that it underscored the need for top administrators to develop standards for, and some limitations on, their participation in such partisan speech. 72 Of course, the community action in these cases was effective and empowering precisely because a community against bigotry existed. At A.S.U. and Stanford, as at most universities, the overwhelming majority of students, faculty, and staff are persons of tolerance and good will who deplore at least the clearest forms of bigotry and are ready to speak out Of course, the community action in these cases was effective and empowering precisely because a community against bigotry existed. At A.S.U. and Stanford, as at most universities, the overwhelming majority of students, faculty, and staff are persons of tolerance and good will who deplore at least the clearest forms of bigotry and are ready to speak out against intolerance when it is isolated as an issue rather than diluted in muddied waters along with concerns of censorship. Just as the nonviolent demonstrations of Martin Luther King, Jr., depended partly for their success on the consciences of the national and international audiences monitoring the fire hoses and attack dogs on their television sets and in the print media,73 the empowerment of the targets of hateful speech rests partly in the hands of members of the campus community who sympathize with them. One can hope that the counterspeech and educational measures used with success at A.S.U. and Stanford stand a good chance of preserving an atmosphere of civility in intellectual inquiry at any campus community in which compassionate, open minds predominate. On the other hand, counterspeech by the targets of hate speech could be less empowering on a campus in which the majority of students, faculty, and staff approve of hostile epithets directed toward members of minority groups. One hopes that such campuses are exceedingly rare; although hostile racial stereotyping among college students in the United States increased during the last decade, those students who harbored significant hostilities (as contrasted with more pervasive but less openly hostile, subconscious racism) still represented a modest fraction of all students.74 Moreover, even in a pervasively hostile atmosphere, counterspeech might still be more effective than broad restrictions on speech. First, aside from the constitutional constraints of the First Amendment, such a heartless campus community would be exceedingly unlikely to adopt strong policies prohibiting hateful speech. Instead, the campus likely would maintain minimum policies necessary to avoid legal action enforcing guarantees of equal educational opportunities under the Fourteenth Amendment 75 or federal antidiscrimination statutes such as Title V176 or Title IX. 77 Second, counterspeech even from a minority of members of the campus community might be effective to gradually build support by winning converts from those straddling the fence or from broader regional or national audiences. Such counterspeech might be particularly effective if coupled with threats from diverse faculty, staff, and students to leave the university for more hospitable environments; even a campus with high levels of hostility likely would feel 78 pressures to maintain its status as a minimally integrated institution. The A.S.U. and Stanford examples illustrating the efficacy of counterspeech also lend support to the argument that "[firee speech has been minorities' best friend ...[as] a principal instrument of social reform."79 In both cases, demonstrations, opinion letters, and other forms of counterspeech dramatically defined the predominant atmosphere on each campus as one that demanded respect and freedom from bigotry for all members of the community; it is doubtful that passage of a speech-restrictive policy could have sent a similar message of consensus any more strongly. Moreover, in the A.S.U. case, the reasoned counterspeech, coupled with the decision to refrain from disciplining the hateful speaker, persuaded the Faculty Senate to pass a multicultural education proposal whose chances for passage were seriously in doubt in the previous weeks and months.8 The racist poster at A.S.U. may have been a blessing in disguise, albeit an initially painful one, because it sparked counterspeech and community action that strengthened the campus support for diversity.

#### 2. No risk of physical violence- that violates actual campus policy so that’s checked against

#### 3. The flag forces us to not forget history and incentivizes robust dialogue

**Gonzales 15** [Alberto R. Gonzales (Former US Attorney General and White House counsel in George W. Bush Administration), 6-30-2015, "The Confederate flag and free speech," TheHill, <http://thehill.com/opinion/op-ed/246590-the-confederate-flag-and-free-speech>] NB

The Confederate battle flag is a reminder of a dark period in our past, and there are painful lessons to learn from those mistakes so that we avoid repeating them. Any symbol that causes so much pain and anger should be relegated to a footnote in history. It deserves no place of prominence in our future. Today we are a stronger country because of our diversity, yet we are still a people divided by race. Who can say whether the prejudices that feed the fear, distrust and hatred of others we perceive to be different can be overcome through understanding and tolerance. Hopefully so, but achieving it will surely not be possible without the robust dialogue in the “marketplace of ideas” envisioned in the protections of the First Amendment.

#### 4. The flag doesn’t incentivize more violence- racists have always been racists and shutting them out doesn’t do anything to change the way they behave

#### 5. Ozier is inapplicable- their evidence is about workplace commitment not educational institutions which are open to ideas

## Guns

### Perm

#### Perm allow people to open carry only unloaded guns, solves escalation

### Concealed Carry Bad

#### Concealed carry escalates situations more – open carry creates psychological deterrence from engaging in conflict in the first place

Grishman 14 Grishman, CJ "A Gun Owner Speaks: My Case For Open Carry". The Daily Beast. N. p., 2014. Web. 18 Apr. 2017. KB

People tell us they prefer the element of surprise that comes with concealed carry. They want to keep the criminals guessing about whether or not they are armed. **Concealed carry is good for responding to a crime in progress;** open carry is a deterrent to it. My goal is to make the case for open carry without resorting to the usual “shall not be infringed” rhetoric. **In a study published in the Journal of Criminal Law and Criminology, researchers Gary Kleck and Marc Gertz found that of the nearly 2.5 million defensive uses of firearms each year, 92 percent of them scare off** their **attackers by merely brandishing their firearm**. Arizona passed “constitutional carry” (open and concealed carry WITHOUT a license) in 2010. Since that time, violent crimes have steadily fallen each year, according the Bureau of Justice Statistics. While it’s probably still too early to determine whether or not allowing citizens to carry without a license is responsible for the decline, it definitely can’t be linked to any increases in criminal activity. Texas ranks 35th in violent crime in the United States. **There is a common belief among concealed handgun advocates (of which I am also one) that if a criminal sees a handgun, the individual carrying it will be the first one targeted. Criminals are cowards. Take for example a story from 2013 in which two armed robbers attempted to rob an Internet café, but were thwarted by an armed senior citizen with a .380 caliber pistol. In Phoenix, a jewelry store attendant scared off TWO robbers when she pulled her own gun. Criminals prefer soft targets, or at least targets they THINK are soft.**

### Officer Violence Straight Turn

#### Campus officers are just as violent and racist as any other police officer in how they police speech

**Anderson 2k15:** Anderson, Melinda, “The Rise of Law Enforcement on College Campuses.” Writer at The Atlantic. SEP 28, 2015 http://www.theatlantic.com/education/archive/2015/09/college-campus-policing/407659/ CHSJL

**Some 50 years later, campus-police units are as ubiquitous on most college and university campuses as residence halls, libraries, and tenured faculty**. Over 4,000 police departments total operate at public and private postsecondary schools, Taylor told BuzzFeed earlier this year, arguing that campus officers are different from municipal police in that they “do a better job of interacting with the public.” Indeed, the University of Pennsylvania criminologist Emily Owens has found that, collectively, college police departments are more focused on student safety than on local law enforcement, typically **adopting a “harm reduction model of crime control**.” Campus-police units are as ubiquitous on most college campuses as residence halls, libraries, and tenured faculty. A number of recent incidents, however, suggest that **policing in higher education hasn’t evolved much from the violent tactics that were used to suppress Vietnam War and civil-rights activists**. In 2011, **a U**niversity of **C**alifornia **Davis police officer was caught** on film **pepper-spraying a row of passive**, seated **students participating in an Occupy Wall Street protest**—an event that The Atlantic’s Jim Fallows wrote “[rivaled] in symbolic power, if not in actual violence, images from the Kent State shootings more than 40 years ago.” And in another case that gained national notoriety, a University of Cincinnati police officer this past summer was indicted for murder for shooting an unarmed man in a traffic stop off campus. (The 43-year-old victim was not a University of Cincinnati student.) These incidents—and others—are increasingly raising questions about the role of campus officers and to whom they should report as they’re tasked with the undeniably fundamental responsibility of keeping students safe.

#### Two implications:

#### Police are racist fascists, so status quo restrictions on campus carry will inevitably be racialized.

*[if time]* Quinlan 16, Casey, “5 Things That Make It Hard to Be a Black Student at a Mostly White College” Education reporter for ThinkProgress. Previously an editor for U.S. News and World Report. JAN 25, 2016. CHSJL

Being targeted by campus police **The number of armed officers at universities has gone up in the past decade**, a U.S. Department of Justice report shows. **During the 2011-2012 school year, 91 percent of public colleges had armed police officers. There has also been**  a recent **uptick in the percentage of private and public colleges that employ officers who carry guns**, from 68 percent in the 2004-2005 school year to 75 percent in 2011-2012. **There is already distrust between safety officers and black college students, who are often profiled** by police officers off campus, and **there has been a record of** safety **officers unnecessarily criminalizing small infractions or stepping outside of their authority when they approach black college students**. For example, **Portland State University students and Black Lives Matter activists protested the introduction of weapons to the campus police force due to concerns about who would be targeted by campus police.** Black college students are often stopped by officers for very minor issues. In September, **a black college student who attended H**inds **C**ommunity **C**ollege **in Mississippi was stopped by a campus police officer who said his pants violated the college dress code. When the student refused to show his ID, he was arrested for a failure to comply**. Yet, after the incident, **the college said he had not violated the dress code**.

#### If police are less likely to help the marginalized, they need self-defense even more since there’s no protection against assault on campus.

#### This outweighs- minority students need increasing protections against the police whereas intervening actors check their violence impacts

### Deterrance

#### [Warning- card says concealed carry good] And if the neg proves that statistical evidence outweighs then affirm because guns deter.

**SCC 15**

Students for Concealed Carry (Students for Concealed Carry on Campus is a national, non-partisan, grassroots organization composed of more than 43,000 college students, professors, college employees, parents of college students, and concerned citizens who believe that holders of state-issued concealed handgun licenses should be allowed the same measure of personal protection on college campuses that current laws afford them virtually everywhere else. SCCC has members in all fifty states and the District of Columbia.)Both the membership and the leadership of SCCC are made up of individuals with very diverse political backgrounds.), Common Arguments Against Campus Carry, 2015. NS

Since the fall semester of 2006, Utah state law has allowed licensed individuals to carry concealed handguns on the campuses of Utah’s nine degree-offering public colleges (20 campuses) and one public technical college (10 campuses). Concealed carry has been allowed on the two campuses of Colorado State University (Fort Collins, CO, and Pueblo, CO) since 2003 and at 14 Colorado community colleges (38 campuses) since the fall semester of 2010. After SCC won a lawsuit against the University of Colorado system, the remaining public colleges (21 campuses) in Colorado—including those in the CU system—changed their policies (as of the fall semester of 2012) to allow campus carry. As of July 1, 2011, state law requires all Mississippi public colleges (42 campuses) to allow campus carry by holders of a Mississippi license with an enhanced training endorsement. As of July 1, 2014, state law requires all Idaho public colleges (30 campuses) to allow campus carry by holders of an ‘enhanced’ Idaho license. Counting Blue Ridge Community College (Weyers Cave, VA), which allowed campus carry from 1995 to 2012, that’s more than 150 U.S. college campuses allowing concealed carry for a combined total of almost 1,500 semesters (spring/fall) over the past twenty years. Not one of these campuses has seen a single resulting act of violence (including threats) or a single resulting suicide attempt. Likewise, no state has seen a resulting increase in gun violence as a result of legalizing concealed carry (all 50 states now allow some form of concealed carry), despite the fact that licensed citizens regularly carry concealed handguns in places like office buildings, movie theaters, grocery stores, shopping malls, restaurants, churches, and banks. Virtually every peer-reviewed study on the subject, including studies by the National Academy of Sciences\* and the Harvard Injury Control Research Center\*\*, has concluded that there is no evidence that licensed concealed carry leads to an increase in either violent crime or gun deaths. According to 2002-2006 statistics\*\*\* from the Texas Department of Public Safety, Texas concealed handgun license holders were five and a half times less likely than members of Texas’s general population to commit manslaughter and four times less likely to commit murder.

### Not Protected

#### Perm – guns deter free speech which makes the counterplan aff ground

McGaughy 17 McGaughy, Lauren. "UT Professors Sue Over Campus Carry, Arguing That Allowing Guns Violates Their Rights | Higher Education | Dallas News". Dallasnews.com. N. p., 2017. Web. 18 Apr. 2017.

**Glass, Carter and Moore say forcing them to allow guns in their classrooms violates their rights to free speech,** due process and equal protection. They also argue that **campus carry violates their** Second Amendment **rights "by compelling them as public employees to passively acquiesce in the presence of loaded weaponry** in their place of public employment without the individual possession and use of such weaponry in public being well-regulated."

#### Perm ban guns on college campuses but also do the aff- gun regulation is constitutionally protected, open carry is not

**Bailey 16** [By Cierra Bailey, "Sorry Gun Nuts, Gun Control Is Not The Same As Censoring Free Speech," Carbonated.TV, <http://www.carbonated.tv/news/sorry-gun-nuts-gun-control-is-not-the-same-as-censoring-free-speech>. 2016] NB

Why do gun advocates always take the second amendment to the U.S. Constitution and compare it to the first amendment as a way to refute [gun control](http://www.carbonated.tv/news/politicians-cant-hide-behind-lame-gun-control-excuses-anymore)? Recently, [presidential candidate Rand Paul](http://www.carbonated.tv/news/rand-paul-mansplains-to-a-reporter-how-to-conduct-an-interview) was featured on an episode of the daytime talk show, The View and he — as many other gun nuts have before — said that regulating the use and sale of firearms is the same as censoring free speech. Recommended: [There Will Be No Free Speech When Ben Carson's In Charge](http://www.carbonated.tv/news/ben-carson-dept-of-education-censor-speech-on-college-campuses) One would have to assume that people use the first amendment in these far-fetched comparisons because it’s a right that the general public is most familiar with and exercise regularly. That reasoning, however, still doesn’t excuse the fact that there is no real comparison between the two, unless you try to argue that [all of the mass shootings that occurred in 2015](http://www.carbonated.tv/news/senator-reviews-2015-by-listing-mass-shootings-one-tweet-at-a-time) were carried out using word of mouth, pens and keyboards. All jokes aside, a key differentiating factor gun advocates tend to ignore is that free speech is actually REGULATED. You can’t legally use free speech to incite panic, you can’t make false statements without consequences, you can’t legally go around slandering and/or threatening people and there are strict prohibitions related to obscenity. Free speech restrictions are fairly strict and clear, but gun laws are not. Due to this leniency, guns are getting into the hands of the wrong people resulting in countless untimely and devastating deaths. For argument's sake, let's take a look at driving laws which are more realistic to compare with gun restrictions. Although driving a car is a privilege and not a right, the law acknowledges that a person could damage personal property, kill or injure someone while behind the wheel of a car. Therefore, you're required to learn the rules of the road, take a test, have valid insurance and keep your vehicle registered in order to legally operate a car. Bearing arms may be a constitutional right, but guns have the same risks associated with them as cars do and yet there are loopholes galore among the current gun laws. Read More: [The NRS Just Tweeted A Threat To These Pro-Gun Control Politicians](http://www.carbonated.tv/news/the-nra-just-tweeted-a-threat-to-these-progun-control-politicians) Also important to note, while driving a car and shooting a gun clearly have similar risks associated with each of them, exercising free speech does not. Speech can cause harm, of course, but not nearly to the same degree as firearms. [President Barack Obama](http://www.carbonated.tv/news/obama-on-gun-control-we-need-more-background-checks) recently had enough of all the back and forth about gun control and took executive action with improved safety laws and comprehensive background checks which has right-wingers up in arms [claiming Obama wants to infringe upon citizens' rights and take their guns away.](http://www.carbonated.tv/news/fearmongering-ted-cruzs-campaign-revolts-obama-wants-your-guns) This pro-gun logic is what Paul was defending on The View when he made the terrible comparison that bamboozles Americans into thinking that guns and free speech are comparable.

#### Campus carry chills free speech- it isn’t constitutional

**Debrabander 16** [Firmin Debrabander, 3-4-2016, "The Steep Cost of Allowing Guns in College Classrooms," Atlantic, <https://www.theatlantic.com/education/archive/2016/03/the-steep-cost-of-allowing-guns-in-the-college-classroom/472296/>] NB

By contrast, campus carry’s potential for harm is quite real. Its principal threat is less than obvious, however; its impact may not be physically manifest at all. I’m counting its cost in terms of what is lost in the classroom—and it is a loss that may be deeply damaging to the country’s democracy. This can be gleaned from the faculty concerns at the University of Houston. In short, they argued that guns in the classroom pose an intolerable threat to free speech. It’s unclear whether campus carry does and will in fact undermine the freedom of expression, but if there’s one place in society where the citizenry must not tolerate such threats, it’s the college classroom. The college classroom is meant to be a special space where all manner of ideas are aired, considered, and debated, and differences negotiated—through speech and argument—with no fear of violent recrimination, no fear of inciting angry students to draw their guns.

#### None of the 1NC evidence indicates an actual ruling or a test case that said guns are free speech, it’s just a symbolic opinion- the burden is on them to prove otherwise

### Extra

#### The 1AC is a huge link turn- the US military possesses more guns than anyone on the planet, which means that student activists need protection/self defense against police brutality- they are deterred from violating rights though because of law

## \*Cyberbullying

## \*Encryption

## \*Outing Immigrants CP

## Student Campaign Expenditures

### 2AC- Perm

#### Permutation do the plan and preserve expenditure limits on student government campaigns- the supreme court and circuit courts have ruled that spending limits are no longer a form of constitutionally protected speech

**Wright and Danetz 8** [Demos attorneys Brenda Wright and Lisa J. Danetz joined David Aronofsky, University of Montana Legal Counsel, in defending the University's campaign spending limits in the Supreme Court. January 7, 2008. SUPREME COURT ALLOWS SPENDING LIMITS FOR STUDENT GOVERNMENT ELECTIONS AT UNIVERSITY OF MONTANA, REJECTING FIRST AMENDMENT CHALLENGE. Demos. <http://www.demos.org/press-release/supreme-court-allows-spending-limits-student-government-elections-university-montana-r>.] NB

The Supreme Court today turned back a constitutional challenge to spending limits for student government campaigns at the University of Montana, denying review of a June 2007 ruling by the Ninth Circuit that upheld the limits. The Supreme Court's action is a victory for the Associated Students of the University of Montana ("ASUM") and the University, which argued that the limits on campaign spending serve to assure all students, regardless of their financial circumstances, an equal opportunity to win election to student government. Brenda Wright, Legal Director of Demos, a non-profit organization that assisted in defending the University's spending limits, called the ruling '"a victory for fair elections and educational opportunity," stating "the First Amendment was never designed to make student government participation a function of a student's wealth." The case was brought in 2004 by former UM student Aaron Flint, who exceeded the $100 spending cap in his effort to win a seat on the ASUM Senate and was disqualified from taking his seat as a result of the violation. A nationally prominent opponent of campaign finance regulation, James Bopp, Jr., represented Flint and argued that the First Amendment guaranteed Flint the right to spend unlimited sums in his quest for a student government seat. The Ninth Circuit, however, found ample justification for ASUM's campaign limits, observing: "Imposing limits on candidate spending requires student candidates to focus on desirable qualities such as the art of persuasion, public speaking, and answering questions face-to-face with one's potential constituents. Students are forced to campaign personally, wearing out their shoe-leather rather than wearing out a parent's--or an activist organization's--pocketbook." The Supreme Court's ruling today means that the Ninth Circuit's decision will stand as the leading appellate precedent on the constitutionality of rules designed to foster fair access to student government

## Heresy

### 2AC- Secular Theory

Interpretation- All debate positions must only contain secular arguments, or arguments that are not warranted by religious beliefs, UNLESS the debater presenting the position receives consent from the audience, judge(s), and opponent before the round. Standards clarify the spirit of the interp – don’t let them make dumb I meets like “Jesus is an idea, not a religious figure” because theory establishes precedent by excluding actual abuse on a case-by-case basis, not by establishing on textual rule for every round.

**Judge Impartiality-** Religious arguments are uniquely abusive since literally every judge will have a bias one way or the other, as they all have some view on religion. Judges are less likely to vote on arguments that conflict with their important personal beliefs, so one side always has a bias.

#### Empirics prove – arguments appealing to religion trade off with rational evaluation of arguments. This effect is so widespread that some courts have even banned religious appeals

#### MILLER 06

[Miller and Bornstein 6 (Monica Miller University of Nevada, Reno; Brian H. Bornstein, University of Nebraska-Lincoln)“The Use of Religion in Death Penalty Sentencing Trials” University of Nebraska - Lincoln DigitalCommons@University of Nebraska - Lincoln Faculty Publications, Department of Psychology 10/21 AT]

Attorneys who use religious appeals and testimony believe they will be influential, and much research has indicated that attorney arguments are typically persuasive (see, e.g., Voss, 2005). One reason that appeals could be effective is because they represent one more argument as compared to the condition lacking appeals. Persuasion research has indicated that the sheer quantity of arguments can affect the persuasiveness of a message (see, e.g., Eagly and Chaik- en, 1993; Petty and Cacioppo, 1984; Stasson and Davis, 1989). Religious arguments may also be influential because they evoke jurors’ emotions. Cognitive-Experiential Self-Theory (CEST) posits that an individual who experiences an emotionally significant event (e.g., a religious ap- peal) is likely to respond experientially (e.g., based on emotions) instead of rationally (Epstein, 1990, 1994). This makes it difficult to make logical judgments such as determining the prop- er sentence for a defendant. Such theories may explain why appeals are effective. In this initial study, the goal is to determine whether a variety of appeals are effective and whether they interfere with mock jurors’ ability to weigh aggravators and mitigators. If these basic results are found, future studies can determine why appeals are effective. While the use of religion in the courts has garnered the attention of the legal community (see, e.g., Miller and Bornstein, 2005; Simons, 2004), the practice has received relatively little empirical attention. In the only study (that we know of) manipulating the use of a religious appeal, Johnson (1985) found that jurors were more likely to convict a defendant when he used evidence of his religiosity as a defense in a child abuse trial. The current study further investigates the effects of religion by determining whether various types of religious appeals and testimony influence juror decision-making in death penalty sentencing trials. Overview of experiment This study was designed to reveal whether religious appeals influence jurors’ sentencing verdicts and prevent proper weighing of aggravating and mitigating factors. Mock jurors read a trial scenario that manipulated the number of aggravators and mitigators, whether or not the prosecutor used a Biblical appeal, and the way the defense used religion (defense attorney uses a Biblical appeal, defendant testifies that he has always been a Christian, defendant tes- tifies that he has converted to Christianity, or no use of religion). These manipulations were chosen because they are the most commonly used in real life trials. Testing all of these ap- peals in one experiment allows us to compare the effectiveness of different kinds of appeals. After reading the trial scenario, participants issued a sentence of life in prison without parole or the death penalty. They also indicated their confidence in this sentencing verdict. It was expected that the use of religion by the defense will lead to fewer death sentences as compared to a control group, with the exception of the “Always Christian” group. According to Johnson (1985), it was predicted that a defendant who testifies that he has always been a Christian will be treated more punitively than the control condition. It was also expected that religious appeals used by the prosecutor would lead to more death sentences. Based on legal concerns that religious appeals interfere with jurors’ “channeled discretion,” it was also pre- dicted that both types of religious appeals would prevent jurors from properly weighing aggravators and mitigators (i.e., we predicted an interaction between the presence of a religious appeal and the strength of the evidence more aggravators vs. more mitigators).  
The abuse is unique to religion since it’s an incredibly contentious issue that we are taught as children and are very important to us – people go to church but no one goes to deontology camp.   
My argument is about creating a rule for debate, so even if in this round you think you can fairly evaluate such a debate, religious frameworks shouldn’t become a norm throughout the activity.   
Judge impartiality is key to fairness since it takes debate out of the debaters’ hands.

The abuse is unique to religion since it’s an incredibly contentious issue that we are taught as children and are very important to us – people go to church but no one goes to deontology camp. My argument is about creating a rule for debate, so even if in this round you think you can fairly evaluate such a debate, religious frameworks shouldn’t become a norm throughout the activity. Judge impartiality is key to fairness since it takes debate out of the debaters’ hands. Outweighs any other impact, and also kills education.

### 2AC- Util Turns

#### War and violence offend God since they destroy his creation – if God is perfect then everything he made must have been made perfectly as well so we shouldn’t destroy his creation

#### We should maximize life to ensure as many people as possible can worship God – this is key to satisfying his desires

#### God must be a consequentialist since

#### other ethical theories are justified by agency which doesn’t apply to God since he is omnipotent and not limited by reason or desires

#### Creating the world was not a logical necessity since nothing existed before, so the motivation must have been to create people who are capable of being happy to maximize utility

#### Jesus supports provocative free speech

Rodger 16 [Daniel Rodger, "3 ways Christians can stand up to free-speech bullies who want to shut us up," Premier Christian, 3/1/2016] AZ

As Christians we must stand up to these bullies who are making a mockery of our right to free speech. Jesus himself was intentionally provocative and used his speech to challenge the status quo of his day. Whether you are a Christian or not, free-speech must be defended. If you keep quiet when those you disagree with are censured or fired it, isn’t free speech you are defending but merely your own opinions. As we take this stand, we should be encouraged that most people actually agree with the right to free-speech even if they may disagree with us on certain issues. We must stand up to the bullies and be willing to support those who are silenced, threatened or fired and demonstrate that we really do love our neighbours. Cultures can change significantly for better or worse in a short period of time and if we don’t speak up we will lose our voice.

#### Bible verses mandate freedom of speech – restrictions on hate speech contradict Christianity

GQ Ministry no date [Got Questions Ministry (volunteer ministry of dedicated and trained servants who have a desire to assist others in their understanding of God, Scripture, salvation, and other spiritual topics. We are Christian, Protestant, conservative, evangelical, fundamental, and non-denominational. We view ourselves as a para-church ministry, coming alongside the church to help people find answers to their spiritually related questions), "Is freedom of speech a biblical concept?"] AZ

But does that spiritual freedom from sin entail political freedom of speech? Perhaps not directly, but speaking the truth in love is a biblical mandate (Ephesians 4:15). Therefore, any government law that guarantees citizens the right to speak the truth aligns with godly principles. By the same token, any law that suppresses a person’s right to speak truth is working against God's command. Freedom of speech does not guarantee that truth is told, of course, but it does permit it to be told. In the final analysis, there is no conflict between biblical principles and the civic principle of freedom of speech. Despite the First Amendment, in the United States today, Christians do not have total freedom of speech. There are things we believe, ideas clearly taught in the Scriptures, that are now considered “hate speech” in our world of political correctness. A society that proudly proclaims freedom of speech and then creates laws against hate speech is talking out of both sides of its mouth. Laws and governments aside, there are still what we might call “social laws” in place, and when Christians are faced with ostracization due to their beliefs, it certainly does not demonstrate freedom of speech. Many believers throughout history have been persecuted by their societies because the expression of their beliefs did not line up with the status quo. A notable example is Shadrach, Meshach, and Abednego, whose refusal to bow down to the king’s idol landed them in the midst of a fiery furnace (Daniel 3:1–26).

### 2AC- Defense- Top Level

#### 1. No internal link between criticism of the Christian religion and the attempted conversion- attempted conversion can still happen with criticism- justifies perm give everyone free speech and allow attempted conversion

#### 2. God doesn't exist- no universal creator issue

#### A. quantum mechanics finds that particles spontaneously exist

**Smith 92 [Smith, Quentin. “A Big Bang Cosmological Argument For God's Nonexistence.” Faith and Philosophy. April 1992. Vol. 9. No. 2. http://www.infidels.org/library/modern/quentin\_smith/bigbang.html AW. Recut by AJ]**

It will be admitted that this objection seems to have a certain force to it, inasmuch as it has seemed compelling to some nontheists (such as C. D. Broad, quoted in the introduction) and has provoked in them various reactions of denial, embarrassment and silence when faced with the implications of big bang cosmology. However, I believe this objection is untenable. For one thing, if the causal principle (P1) is taken as an empirical generalization it is false, since quantum mechanics has shown that many particles(virtual particles) begin to exist without being caused to do so.If (P1) is taken to be synthetic and a priori, the evidence of which is its intuitive obviousness, then quantum mechanics **[**this**]** againunderminesit **[**the cosmological argument] by providing manyintuitivelyclear cases of particles springing into existence uncaused**.** If (P1) were true a priori, then quantum mechanics, the most successful scientific theory yet developed, would have to be consigned to the garbage heap, a prospect that no rational person would countenance.¶ The theist, however, may retreat to one of two more conservative positions, each of which avoids the problems posed by quantum mechanics. One of these positions is to allow that particular things within the universe may spontaneously begin to exist, but that the universe itself cannot spontaneously begin to exist. The causal principle that is synthetically a priori is not (P1) but the weaker one (P2), that it is impossible for being to arise uncaused out of absolutely no thing.¶ The second more conservative position involves retaining the original claim about all beginnings of existence but redefining 'cause' so that it no longer means a sufficient condition but a probabilistic condition of some degree. A probabilistic theory of causality, such as Wesley Salmon's, Patrick Suppes, Richard Otte's or David Papineau's29, may be adopted, with x being a cause of y if and only if x is antecedent to or simultaneous with y and x has a probability, which may be low, of being associated in a certain way with y. (The definitions of Salmon et al. are of course considerably more complicated and precise but it is not necessary to explain the details here.) Consider virtual particles that begin to exist in a vacuum. It could be said that the vacuum has a probability of a very low degree of being associated with the birth of a certain pair of virtual particles and in this sense is a 'cause' of the virtual particles. These reflections suggest a causal principle that is not violated by quantum mechanics but is violated by the atheistically interpreted big bang singularity, namely, (P3), that everything that begins to exist has a probabilistic cause, with the relevant probability being greater than zero and possibly one.¶ My comment about (P3) is that if it is an empirical generalization it is based on observations of the category of events for which it is logically possible that there be natural causes and therefore that there is no justification for supposing (P3) applies to events of a different category, to events for which it is logically impossible that there be natural causes.The initial state of the universe by definition has no natural causeand therefore falls outside of the scope of (P3).

#### B. This assumes that there had to be a creation of the universe- but assuming that infinity can’t be false- 2 warrants

**Ash 2001 [Ash, Thomas [He is a graduate student studying philosophy at Merton College in the University of Oxford. He received his BA in the subject from the University of Cambridge, where he was president of the University Atheist and Agnostic Society]. “The Case Against The Cosmological Argument.” Big Issue Ground. 2001. http://www.bigissueground.com/atheistground/ash-againstcosmological.shtml AW. Recut by AJ.]**

The idea seems to be to show that you cannot 'fit' the concept of indivisible infinity into our universe of finite things, so it is not a valid concept inside our universe. But[First, while**] all the argument shows is that** we have **intuitive** difficulties imagining infinity, which is, after all, to be expected of such an advanced concept.Mathematicians can cope **quite well** with an infinite sequence of integers; appealing to the incomprehensibility of infinity is what Richard Dawkins in The Selfish Gene calls an "argument to personal incredulity."¶ The word 'personal' exposes the key flaw in this line of reasoning – [Second] our **limited human** imaginations are a poor guide **as to what properties the universe can have**. It's just arrogant to say "I have difficulty imagining or explaining this thing, therefore no one ever could." But that is what the Kalam argument effectively does.¶ Besides,the universe **as a whole** is not an ordinary finite 'object'**,** it is what finite objects constitute parts of; **this means** we have no reason to assume that the same principles apply. This can be said of both contingency of everyday material objects and their[like] obeying of the laws of cause and effect. As Kant pointed out, we have only ever witnessed these properties within the universe. It would be going far beyond what we know to conclude that the universe itself has a cause or is contingent.

#### 3. God doesn’t exist- no physical constant issue

#### A. there are trillions of universes which means that a universe with this constant is inevitable

#### 4. No induction problem-

#### A. Deduction proves induction since if there are no relevant differences between two situation there is no reason the outcome would be any different. That makes it possible to make predictions based on the past without relying on induction.

#### B. All that this argument proves is that there is some miniscule probability that inductive reasoning is false since this argument proves induction isn’t necessarily true, not that it is necessarily false. There is obviously a very good chance of induction being true since it always works

### 2AC- Turn- Contradiction

#### Jesus supports provocative free speech

Rodger 16 [Daniel Rodger, "3 ways Christians can stand up to free-speech bullies who want to shut us up," Premier Christian, 3/1/2016] AZ

As Christians we must stand up to these bullies who are making a mockery of our right to free speech. Jesus himself was intentionally provocative and used his speech to challenge the status quo of his day. Whether you are a Christian or not, free-speech must be defended. If you keep quiet when those you disagree with are censured or fired it, isn’t free speech you are defending but merely your own opinions. As we take this stand, we should be encouraged that most people actually agree with the right to free-speech even if they may disagree with us on certain issues. We must stand up to the bullies and be willing to support those who are silenced, threatened or fired and demonstrate that we really do love our neighbours. Cultures can change significantly for better or worse in a short period of time and if we don’t speak up we will lose our voice.

#### Bible verses mandate freedom of speech – restrictions on hate speech contradict Christianity

GQ Ministry no date [Got Questions Ministry (volunteer ministry of dedicated and trained servants who have a desire to assist others in their understanding of God, Scripture, salvation, and other spiritual topics. We are Christian, Protestant, conservative, evangelical, fundamental, and non-denominational. We view ourselves as a para-church ministry, coming alongside the church to help people find answers to their spiritually related questions), "Is freedom of speech a biblical concept?"] AZ

But does that spiritual freedom from sin entail political freedom of speech? Perhaps not directly, but speaking the truth in love is a biblical mandate (Ephesians 4:15). Therefore, any government law that guarantees citizens the right to speak the truth aligns with godly principles. By the same token, any law that suppresses a person’s right to speak truth is working against God's command. Freedom of speech does not guarantee that truth is told, of course, but it does permit it to be told. In the final analysis, there is no conflict between biblical principles and the civic principle of freedom of speech. Despite the First Amendment, in the United States today, Christians do not have total freedom of speech. There are things we believe, ideas clearly taught in the Scriptures, that are now considered “hate speech” in our world of political correctness. A society that proudly proclaims freedom of speech and then creates laws against hate speech is talking out of both sides of its mouth. Laws and governments aside, there are still what we might call “social laws” in place, and when Christians are faced with ostracization due to their beliefs, it certainly does not demonstrate freedom of speech. Many believers throughout history have been persecuted by their societies because the expression of their beliefs did not line up with the status quo. A notable example is Shadrach, Meshach, and Abednego, whose refusal to bow down to the king’s idol landed them in the midst of a fiery furnace (Daniel 3:1–26).

### 2AC- Turn- Christian Heg

#### Proselytizing chirstianity has been used as a mask for oppression- empirics prove- that outweighs since it’s verifiable and current

**Blumenfield 16** [Warren J. Blumenfeld, 3-15-2016, "Christian Proselytizing as a Form of Oppression," Huffington Post, <span class="skimlinks-unlinked">http://www.huffingtonpost.com/warren-j-blumenfeld/christian-proselytizing-a\_b\_9464008.html</span>] NB

Televangelist Pastor Mark Burns, a Donald Trump surrogate who often travels with his candidate around the campaign trail, warmed up the crowd at a rally in Hickory, North Carolina by [calling](http://www.indyweek.com/news/archives/2016/03/14/televangelist-warms-for-trump-in-hickory-says-bernie-needs-to-meet-jesus" \t "_hplink) on Democratic presidential candidate, Bernie Sanders, to have a “come to Jesus” moment. Speaking in front of the audience before New Jersey Governor Chris Christie’s on-stage question-and-answer session with Trump, Burns declared that Sanders needed to be “saved”: “Bernie Sanders who doesn’t believe in God. How in the world are we going to let Bernie? I mean really? Listen, Bernie gotta get saved. He gotta meet Jesus. He gotta have a come to Jesus meeting.” Earlier in the campaign, Sanders [talked](http://time.com/4249209/democratic-debate-bernie-sanders-jewish-faith/" \t "_hplink) about his connection to his Judaism: “I am very proud of being Jewish, and that is an essential part of who I am as a human being.” He related that his father’s family had been brutally murdered by Hitler during the Holocaust for being Jewish. While on stage, Trump did not distance himself from Burns’s inflammatory and offensive remarks, but, instead, [characterized](http://www.charlotteobserver.com/news/politics-government/article65928572.html" \t "_hplink) his rallies as “love fests.” Though I had thought by this time in the campaign season that Trump had come to the end of his list of individuals and entire social identity groups he would offend, but I was, in fact, sadly mistaken. He has now added Jews to his catalog of offended group, which previously included women, Muslims, Chinese, Mexicans, all people from Central and South America, Dreamers, members of the Black Lives Matter Movement, numerous world leaders, his current and past Republican Party rivals, John McCain, the Republican “establishment,” Communists, Socialists, Liberals, Progressives, all Democratic party leaders and supporters, and, ranking toward the top, President Obama. So where is this Republican Party “Big Tent” I keep hearing about? By not standing up to Burns, Trump stands complicit in attacking not only Bernie’s faith, but the faith of the entire world Jewish community. We have, however, seen these anti-Jewish attacks before by leaders on the political and Christian theocratic Right. On the day of his inauguration as Governor of Alabama in January 2011, talking at the Dexter Avenue King Memorial Baptist Church — where the Dr. Rev. Martin Luther King Jr. once preached - Governor Robert Bentley [proclaimed](http://articles.latimes.com/2011/jan/19/nation/la-na-alabama-governor-20110119" \t "_hplink): “[I]f you’re a Christian and you’re saved ... it makes you and me brother and sister....So anybody here today who has not accepted Jesus Christ as their savior, I’m telling you, you’re not my brother and you’re not my sister, and I want to be your brother.” Interviewed by Jewish TV host Donny Deutsch on the CNBC show “The Big Idea” in 2007, columnist and conservative political pundit, Ann Coulter, [said](http://mediamatters.org/research/2007/10/10/on-cnbcs-the-big-idea-coulter-said-that-we-chri/140077" \t "_hplink) that everyone on earth should be Christian and that Jews needed to be “perfected....It is better if we were all Christians.” While many Christians view proselytizing as offering the gift of Jesus to the “unbelievers,” many if not most individuals of other faiths and many non-believers consider this as not merely an imposition or as manipulation, but, in fact, consider this as a form of oppression. Christian proselytizing rests on a foundation of Christian privilege and a deep sense of entitlement in a U. S. context. For the most part, Christian privilege involves the notion that one does not have to educate oneself — to become familiar - with the religious beliefs and customs of other religious communities. On the other hand, members of these other, often invisible, communities need to be familiar with Christian traditions and customs not only because of the massive promotion (hegemony) of Christian religious and cultural practices, but also as a necessary condition for emotional and often physical survival to negotiate between the dominant Christian culture and their own ethnic and religious cultures. This privilege and sense of entitlement figuratively hit me in the face when I was serving as a tenured professor at Iowa State University just a few years ago. In my course, Multicultural Foundations in Schools and Society, a required course for undergraduate pre-service teachers, a number of students, in their writings, seemed to come virtually to the same conclusion. On the final course paper over various semesters, some students from conservative Christian backgrounds wrote that though they enjoyed the course, that their professor had a great sense of humor, and that they gained some valuable information for their eventual classroom teaching careers, nonetheless, they informed me that “Dr. Blumenfeld will be going to Hell for being a practicing homosexual.” These students either stated explicitly or implied that homosexuality and transgender identities are sins in the same category as stealing and murder. Other students went further by insisting that “even if Professor Blumenfeld had been heterosexual,” since I am Jewish and I do not accept Jesus as my “personal savior,” I will go to Hell regardless of my sexual identity and expression. Anyone who doubts this, said one student, “Only death will tell!” This student concluded by asserting that the real Christian privilege is “To suffer and die in the name of Jesus Christ.” Another student writing on the final course paper entirely dismissed the notion of Christian privilege by asserting: “[A]s a Christian I am called to not be tolerant. I am not called to be violent, but am called to make disciples of all nations (Matthew 28). When I look through all of the information I have been given in my life...I come to the conclusion that America was founded as a Christian nation...Separation of church and state was created to keep the state out of changing the church, not to keep the church out of the state.” This student’s misunderstanding of the First Amendment of our Constitution aligns with the majority of U.S.-Americans who believe that the United States was created as a [Christian nation](http://www.firstamendmentcenter.org/34-say-first-amendment-goes-too-far" \t "_hplink) (First Amendment Center, 2010, 2007, 2013). Let’s imagine similar scenarios as those I outlined, while taking out the words “Christian,” “Christianity,” and “Jesus,” and substituting “Islam,” “Muslim,” “Judaism,” “Jewish,” “Allah,” “YHWH,” or “HaShem.” “Bernie gotta meet Allah. He gotta have a come to Allah meeting.” “[I]f you’re a Jew, it makes you and me brother and sister....So anybody here today who has not accepted HaShem, I’m telling you, you’re not my brother and you’re not my sister, and I want to be your brother.” “Everyone on earth should be Muslim, and Christians need to be perfected....It is better if we were all Muslims.” I can only imagine how instantaneously these speakers would find themselves shut down, denounced, and condemned. And I wonder how many Orthodox Jews were prohibited from casting their vote in the numerous states holding presidential caucuses and primaries on a Saturday, the Jewish Sabbath. Just sayin’.

## Frats

### 2AC- Frats- Top Level

#### 1. Permutation ban fraternities but also preserve the rest of free speech on campus- they aren’t mutually exclusive the PIC justifies intrinsic perms because they’re unpredictable.

**2. Turn – Fraternities cause retaliation and prevent prosecution of rape crimes. Zeilinger 15**

**Julie Zeilinger April 20, 2015 Fraternities Frequently Do Horrible Things. We Still Shouldn't Ban Them https://mic.com/articles/115468/fraternities-frequently-do-horrible-things-we-still-shouldn-t-ban-them#.ODVI5NAaC**

**Banning fraternities won't eradicate the issues** themselves. **Individuals outside** of **the Greek system** **also commit violent** or otherwise offensive **acts**. Colleges without official Greek life — like Harvard University, for example — have still been investigated for failing to adequately address sexual assault cases. In fact, **research shows** that **9** out **of 10 assaults are committed by** a small group of **serial rapists**, **not men belonging to any** particular social group or **organization**. Fraternities neither create nor are predominately composed of rapists, but rather allow them a safe haven in which to act largely without consequence. What's more, banning fraternities will not prevent men who maintain these beliefs from coming together, especially as society continues to segregate spaces and activities like bathrooms and sports teams based on gender. The fact that underground fraternities have emerged on campuses like Middlebury College that have chosen to ban frats only underscores this point. "Men will continue to self-select to come together with men in all-men groups," Kalin told Mic. "Getting rid of frats will not change that." **Banning fraternities** may even **prohibit solving these issues**. While he agrees there are serious, systemic problems within Greek organizations, Matt Leibowitz, founder of the organization Consent Is So Frat, argues that **bans don't provide real solutions for broader change**, **and** can in fact **antagonize members**. **Recent legislation** related **to campus sexual assault** put forth by the national organization Fraternity and Sorority Political Action Committee demonstrates this. The legislation, seemingly in response to the way fraternities are tied to assault, aims to make it impossible for colleges to suspend all fraternities on a campus based on actions committed by a single house or to force chapters to admit women, according to Bloomberg. Activists claim this legislation, which also includes a proposal requiring sexual assault survivors to report to the police before reporting to campus authorities, **will make investigating rape allegations more challenging**, **while harming survivors** and failing to address the real issues at hand.

#### 2. And only FREE SPEECH within fraternities will change the culture – counter speech is necessary.

Zeilinger 15 [Zeilinger, Julie (Staff Writer at Mic and the founder and editor of the FBomb, a feminist blog partnered with the womens’ Media Center. "Fraternities Frequently Do Horrible Things. We Still Shouldn't Ban Them," 2015. <https://mic.com/articles/115468/fraternities-frequently-do-horrible-things-we-still-shouldn-t-ban-them#.zUqTUQLy8>] NB

Ultimately, **the revolution must come from within**. Dixon and Leibowitz are pushing back on this specific legislation through a Change.org petition. Yet they note that the true key to **creating positive change won't be found in a cycle of accusations and defense**, **but** **by empowering fraternities** to seek a more constructive solution based in education. Groups of men can't be written off or simply told to change, according to Leibowitz. Instead, **fraternity members must work hard to educate each other and do better**. The solution starts with posing difficult questions, like "'What type of culture do we create?' and 'How do we recognize that we can lead, but only when we listen and respect those who have led before us?'" Leibowitz said. "I think all-men **spaces are extremely powerful in their ability to flip the script on** performing **masculinity**," Kalin said. **When that's allowed to happen, there's no doubt** **systemic change is**, in fact, **possible**.

#### 3. Stats prove frats are comparatively better than normal student culture

**Jacobs 14 [Jacobs, Peter. “I Joined A Fraternity And It Was One Of The Best Decisions I Ever Made”. Business Insider. <http://www.businessinsider.com/dont-ban-fraternities-2014-1>. 1/8/14] LBE**

Fraternity culture is actually less hostile to women. Contrary to the popular view of frat boys as, well, frat boys, a recent study from Loyola University New Orleans found that non-affiliated students actually had more threatening attitudes toward women. "Hypermasculinity — defined as 'an exaggerated adherence to traditional male gender role beliefs' — was generally a predictor of sexual aggression for all men except those in fraternities," Inside Higher Ed reports. According to IHE, this may be due to sexual consent, assault, and alcohol abuse education that many fraternity chapters make mandatory for members. Greeks on average have higher GPAs In the Bloomberg View editorial, the authors write "fraternity members tend to have lower grades ... compared with their nonmember peers." This is wrong. As this helpful guide from Total Frat Move shows, frat boys actually have higher GPAs than non-affiliated students at a majority of schools across the country. And that's not just for the men — here are a few schools where the overall Greek community is getting higher marks. More specifically, a study at the University of Nebraska found that "Greeks were more likely to have High than Low GPA's and Independents were more likely to have Low than High GPA's." Greeks are also considerably more likely to stay enrolled and graduate college Another academic advantage for Greeks is a higher retention rate — students are more likely to stay enrolled at their college. A study from a group of Harvard University and Syracuse University professors found that joining a Greek organization "had a dramatically positive effect on persistence to graduation." The study showed that "90% of fraternity/sorority members compared to 70% of non-affiliated students were enrolled during their senior year." Additionally, Greek students have a much higher graduation rates compared to their peers. According to USA Today, "college graduation rates are 20% higher among Greeks than non-Greeks." Greek life is becoming much more diverse. A common argument against Greek life — one that appeared in the Bloomberg editorial — is that fraternities and sororities are homogeneous, a claim that may have been true in the past but is actively changing now. Probably the best example of this is the Greek community at the University of Alabama, whose racial segregation was uncovered by student newspaper the Crimson White last semester. After a series of revealing reports from the paper and student protests, several black women were offered — and accepted — membership into previously all-white UA sororities. For another perspective, check out this great guest post in BroBible from a self-styled "Gay Bro," who notes, "A lot has changed in the past 10 years." Joining a Greek organization can help fight loneliness and depression For many students, leaving home to go away to college can be difficult because you're separated from your family and close friends for the first time. To combat this, experts suggest socializing as a means to avoid depression. And the Nebraska study cites another paper that found that "students that entered the Greek system had larger support systems and more friends than students that chose not to. This can impact a student by preventing feelings of loneliness."

#### 4. Studies show fraternities are key to challenging sexism and non-frat members are more likely to commit crimes than their counterparts

**Grasgreen 13**

**https://www.insidehighered.com/news/2013/07/08/hypermasculinity-sexual-aggression-link-non-fraternity-members-points-need-broader Greeks as Role Models Study finds link between macho attitudes and sexual aggression by students -- but only for non-fraternity members. By Allie Grasgreen July 8, 2013**

What with widely reported allegations of rape, hazing and alcohol abuse, fraternities are not generally thought of as bastions of humility or respect for women. But a new **study suggests that** a characteristic commonly associated with fraternity members – **hypermasculinity** – **is** actually **more problematic for non-Greeks when it comes to sexually aggressive attitudes**, or beliefs that “sex should be indiscriminate, rough, coercive and non-consensual.” “I do not want to say that sexually aggressive attitudes are not apparent in fraternities – they were,” said study co-author Charles S. Corprew, an assistant psychology professor at Loyola University New Orleans. “But when we add hyper-masculinity and hostile attitudes toward women, the non-fraternity guys seem more threatening.” In other words, hypermasculinity -- defined as “an exaggerated adherence to traditional male gender role beliefs” – was generally a predictor of sexual aggression for all men except those in fraternities. The study will be published in the Journal of College Student Development. So what accounts for the difference? **Fraternities tend to have at least some level of education about the importance of sexual consent**, **assault and alcohol abuse**, the chapters’ executive board members told Corprew, usually at mandatory events such as off-campus retreats. “A lot of these organizations are very cognizant of what’s going on on college campuses and the fraternity and the hook-up culture that goes along with that,” he said. “They know that, the threat of their chapter and charter being revoked if anything nefarious happens.” But on campuses more generally, Corprew said, that’s not always the case. “We often talk about, how do we address the issues with women post-sexual assault,” Corprew said. “There’s not a lot of programming on college campuses that actually addresses what’s going on with men.” What education does exist is mostly done through non-institutional groups like Men Can Stop Rape and A Call to Men, said Michelle Issadore, executive director of the School and College Organization for Prevention Educators. Despite being a positive (and fairly recent) development, she said, the reach of organizations like those is limited. Corprew’s findings could add to the evidence that that **fraternity-style training is effective and should be broadened** to the entire male student population, Issadore said, noting that mandatory education sometimes makes people uncomfortable. (The study notes research showing that consent training in fraternities has decreased the likelihood of sexual assault in those communities.) “If it’s information that we feel our students should have, then I think we’re well within our rights to have some mandates, whether it’s part of new-student orientation or a four-year strategic plan,” Issadore said. “I’d love to see more schools exploring that model of a positive education mandate for prevention efforts.” The study, co-written by George Washington University graduate student Avery Mitchell, notes previous research finding that fraternity members demonstrate higher levels of disinhibition and hypermasculine attitudes, both of which are precursors to sexual assault. So, the authors hypothesized a correlation between all three, which would in turn translate to more hostile attitudes and sexual aggression toward women. That did not hold true. What did stand out was **non-fraternity members who showed a positive correlation between hypermasculine attitudes and hostility toward women.** For fraternity members, there was no relationship. (No notable pattern emerged with regard to disinhibition.)

## Holocaust Denial

### 2AC- Top Level

#### Holocaust denial bans fail everywhere – here are a bunch of examples

**Crunden 15** [Evelyn Anne Crunden - Are Holocaust Denial Bans Effective? August 5th, 2015 Originally from Austin, Texas, Evelyn graduated from Smith College with a B.A. in Government & Anthropology and a focus on international studies. She later undertook an M.A. in nonfiction writing at the Johns Hopkins University.Interests are centered in minority politics, health, immigration, and progressive movements, as well as Judaeo and Islamic cultures. She has spent time in many parts of Europe as well as Morocco, Turkey, and Pakistan, and runs a weekly world news blog and newsletter, *[The Blues & the News](http://www.thebluesandthenews.com/thenews/" \t "_blank" \o "The Blues & the News)*, <http://muftah.org/are-holocaust-denial-bans-effective/#.WGiqarYrLdS>] OR

Taylor’s article notes that the rise of right-wing nationalism in neighboring Hungary has been a cause of concern for many activists who fear anti-Semitism’s return to Europe. They are right to be worried. **Hungary** [**criminalized Holocaust denial in 2010**](http://www.independent.co.uk/news/world/europe/hungary-criminalises-holocaust-denial-1907713.html), mandating up to three years in prison for those who violate the law. But Jobbik, one of **Hungary’s** most powerful parties and a **leading source of anti-Semitic** and anti-Roma rhetoric, [**seems far from concerned with this law** or its neo-Nazi image](http://muftah.org/hungarys-jobbik-party-trying-move-away-nazi-image-without-changing-platform/#.Vbv4JrezdKo). Even more troubling, **the party seems to be** [**gaining popularity**](http://www.euronews.com/2015/04/10/hungary-politics-jobbik-fidesz-far-right/), and the party’s leader, Gábor Vona, has ambitions of becoming prime minister. **Lithuania,** another European country that has a complicated relationship with its Jewish community, **is also witnessing a resurgence in Holocaust denial**. Once home to an enormous and thriving Jewish population, the Holocaust decimated this community. At the start of WWII, Lithuania was under Soviet rule, which was bitterly resented by most of the population, and many Jews had already been sent to gulag camps by Josef Stalin. Following the Nazi-led Operation Barbarossa in 1941 (which was welcome by many Lithuanian Christians and resulted in the country’s occupation by the Nazis), thousands of Jews were sent to their deaths. [**Holocaust denial is illegal in Lithuania**](http://www.eurotopics.net/en/home/presseschau/archiv/magazin/gesellschaft-verteilerseite/holocaust_leugnung_2007_04/debatte_holocaustleugnung/)**,** and has been for years. Recently, however, the Lithuanian government [has been trying to portray pro-Nazi, historical figures as anti-Soviet champions](http://www.slate.com/articles/news_and_politics/history/2015/07/lithuania_and_nazis_the_country_wants_to_forget_its_collaborationist_past.html). By contrast, anti-Nazi fighters, including Jewish partisans, have been cast as betrayers of the nation. This is in keeping with Lithuania’s efforts to distance itself from Russia, as well as ongoing tensions with its Jewish population. **Other countries face similar problems. In Poland**, for example, **Holocaust denial is criminalized. When it occurs, however, the crime** largely [**goes unprosecuted**](http://auschwitz.org/en/history/holocaust-denial/deniers-in-different-countries)**.** Neighboring **Slovakia also has a law in place banning Holocaust denial, but it is unpopular** and free speech proponents [have moved to overturn it.](http://www.haaretz.com/print-edition/news/slovakia-keeps-law-against-holocaust-denial-1.149684)

#### The PIC is a double standard and excludes defense against Muslim oppression

**Bilefsky 7** [Dan Bilefsky - A native of Montreal, Mr. Bilefsky studied history and literature at the University of Pennsylvania and received a master’s degree in European politics and society at Oxford. He started his journalism career at The Financial Times before joining The Wall Street Journal in Brussels, where he covered politics, [terrorism](http://www.wsj.com/articles/SB1004568113968488960) and the European beer industry. He joined The International Herald Tribune (now The International New York Times) in Brussels in 2005. Bilefsky is a correspondent based in London. He was previously a reporter based in Paris, APRIL 19, 2007, “EU adopts measure outlawing Holocaust denial” <http://www.nytimes.com/2007/04/19/world/europe/19iht-eu.4.5359640.html>] OR

Friso Roscam Abbing, spokesman for Frattini, the EU's justice commissioner, said it was inevitable that the bill be diluted, given the need to reconcile so many different political and legal cultures. But he added: "We still think it is useful and sends a strong political signal that there is no safe haven in Europe for racism, anti-Semitism or Islam-phobia." But Muslim **leaders accused the EU of having double standards, arguing that it protects established Christian religions and outlaws anti-Semitism while doing nothing to defend Muslims against defamation.**

Fear of holocaust denial is Zionist propaganda. Hanna 15

William Hanna is a freelance writer with recently published books the Hiramic Brotherhood of the Third Temple and The Tragedy of Palestine and its Children. February 17, 2015 http://www.globalresearch.ca/israels-persecution-of-palestinians-and-the-reality-of-present-day-anti-semitism/5431642

The reality is that by simply asking such a valid question innocent people can become targets for unjustified accusations of anti-Semitism and Holocaust denial which together have become the most powerful weapon — by conflating Zionism with Judaism — for silencing criticism of, or preventing activism against Israeli violations of international law including a barbarous disregard for human rights. Maintaining this effective Zionist policy has required the Anti-Defamation League (ADL) and other Jewish groups to covertly contribute vast sums, to politically coerce, and to calculatingly con the mainstream media into perpetuating the totally false premise that only Jews are semites. This appropriation of the word “semite” and the subsequent evolvement of the term “anti-Semitism” has with irresponsible impunity facilitated the silencing of Israel’s critics even to the extent of wrecking their careers, their social standing, and their lives. Consequently people in politics, the media, and other public service professions cringe at at the thought of being labeled, “anti-semitic” and unfortunately — even against the better judgment of their conscience — succumb to Zionist blackmail, bribery, or bullying and publicly present themselves as being diehard supporters of Israel.¶ “Israelis and American Jews fully agree that the memory of the Holocaust is an indispensable weapon — one that must be used relentlessly against their common enemy . . . Jewish organisations and individuals thus labour cut continuously to remind the world of it. In America, the perpetuation of the Holocaust memory is now a $100-million-a-year enterprise, part of which is government funded.”¶ According to Israeli author Moshe Leshem, the expansion of Israeli power is commensurate with the expansion of ‘Holocaust’ propaganda. Balaam’s Curse: How Israel Lost its Way, and How it Can Find it Again, Simon & Schuster, 1989. So what exactly is a semite? Diligent, impartial research will reveal that the word “semite” has no relation with any particular religious group or ethnicity, but with a group of semitic languages: Amharic (spoken by Ethiopians and Eritreans in lands formerly known as Abyssinia); Arabic (spoken by Arabs and others in Muslim countries because it is the language of the Qur’an); Aramaic (spoken mostly by the Chaldeans of Iraq, some Catholics, and Maronite Christians at least liturgically if not socially); Hebrew (spoken by Israelis, some Jews, and others outside of Israel); and Syriac (spoken by some in various parts of Syria and the Middle East). Linguistic experts also point out that Abraham, the father of the Arabs and Jews, did not speak Hebrew, but Aramaic which was then the language of the land.¶ Anti-Semitism: The word anti-Semitism was an invention; H.H. Beamish, in a New York address, October 30 – November 1, 1937:¶ “In 1848 the word ‘anti-Semitic’ was invented by the Jews to prevent the use of the word ‘Jew.’ The right word for them is ‘Jew’.”¶ Ever since the Jews invented the libel charge of ‘anti-Semitism’ in the 1880s. It was first printed in the Jewish Encyclopaedia (1901 Vol. 1, p. 641), and has been built up with Jewish money, organisations, propaganda and lies (such as the Holocaust — Holohoax), so that now the word is like a snake venom which paralyses one’s nervous system. Even the mention of the word ‘Jew’ is shunned unless used in a most favourable and positive context.¶ Furthermore, actual genetic Jews are from Spain, Portugal, North Africa and the Middle East and are known as “Sephardic,” a word derived from the Hebrew “Sepharad,” which relates to Spain. Sephardic Jews, because of familiarity with their own history and the true meaning of the word “semite,” tend to avoid using the term “anti-Semite” because it is utter nonsense. Alternatively, Ashkenazi Jews who exploit Israel’s Law of Return — Israeli legislation passed on 5 July 1950, giving Jews the right of return, the right to live in Israel, and the right to acquire citizenship — have as recent studies illustrate (http://www.livescience.com/40247-ashkenazi-jews-have-european-genes.html) a maternal lineage derived largely from Europe which contradicts the notion that European Jews are mostly descendants of people who left Israel and the Middle East some 2,000 years ago. In 1970, Israel extended the right of entry and settlement to include people of Jewish ancestry, and their spouses while in the meantime forcibly expelled indigenous Palestinians (http://www.ifamericansknew.org/history/ref-nakba.html) continue to have no such right.¶ “Strictly speaking it is incorrect to call an ancient Israelite a ‘Jew’ or to call a contemporary Jew an Israelite or a Hebrew.”¶ Well organised, incessant, and shrill accusations of rampant “anti-Semitism” by Jewish organisations cannot therefore be simply accepted with silent obedience and without question. To begin with it is only right to acknowledge that anti-Jewish sentiment does exist just as does Islamophobia, inter-religious hatred and racism because fanaticism and ignorance are deleterious maladies that humanity has so far failed to overcome. It is very hypocritical of Jewish organisations to demand acknowledgement and respect for their human rights to be “Jewish” while denying those same rights to the Palestinian people with more than 60 years of persecution whose Nazi-style barbarity deserves to be classified as a “Palestinian Holocaust.” In this respect, the mainstream media has a journalistic obligation to shed its blatant Israeli bias (cowardice) and instead encourage a public debate that clearly distinguishes between anti-Jewish sentiment and justified criticism of consistent Israeli violations of international law including human rights.¶

This censorship kills criticism of violence against Palestinians and perpetuates the Israeli apartheid state – free speech is key. Hanna 15

William Hanna is a freelance writer with recently published books the Hiramic Brotherhood of the Third Temple and The Tragedy of Palestine and its Children. February 17, 2015 http://www.globalresearch.ca/israels-persecution-of-palestinians-and-the-reality-of-present-day-anti-semitism/5431642

Jewish attitudes have also with contemptuous presumption continued to encroach upon and undermine the the rest of humanity’s right to free speech with the latest outrage being a request by Israeli politicians that other nations across the world should enact legislation outlawing any criticism of Jews or Israel. They claim that their request is due to an apparent increase in “anti-semitism” across the world. It is very hard to believe that a people chosen by God Himself are unable to differentiate between abhorrent anti-Jewish sentiment and justified criticism of Israel for its barbaric crimes against humanity.¶ “One has to realise that Israel’s efforts having nothing to do with hate speech, anti-Semitism or holocaust denial, but are rather about stifling critical speech that affects Israel and its lobbyists. For example, we know that Israel and its lobbyists are not offended by holocaust denial because Israel and its lobbyists are the leading proponents of Armenian holocaust denial in the world today. Israel should also not be particularly offended by anti-Semitism, because Israel is actually one of the most racist and anti-Semitic nations on the planet.” “The crime against the Palestinian people is being committed by a Jewish state with Jewish soldiers using weapons displaying Jewish religious symbols, and with the full support and complicity of the overwhelming mass of organised Jews worldwide. But to name Jews as responsible for this crime seems impossible to do.” It may seem impossible to do, but in order to save humanity — responsible people with a conscience and respect for other human beings — must at all costs resist Zionism’s all out onslaught on the right to free speech because without that right and an unfettered mainstream media we become just brainwashed subjects rather than enlightened citizens. The actuality of our becoming brainwashed citizens is unfortunately already with us because in Britain for example any condemnation, protest, or activism against Israel’s irrefutably barbaric treatment of the Palestinian people is immediately met with accusations of anti-Semitism by a government whose leaders threaten tough legislation to further criminalise criticism of Jews or Israel. So rather than upholding their citizens’ noble right to demand universal respect for human rights, Western leaders like Prime Minister David Cameron insist that current legislation prohibiting discrimination or racism is not good enough for Jews whose “specialism” and “separateness” require additional laws to protect them and their rights while encroaching on the rights of others. Cameron recently continued with his Jewish lobby appeasement by announcing Government plans for a new £50million Holocaust memorial in central London. Such benevolence raises the question of whether that money would be better spent on medical aid to the traumatised and physically mutilated victims of Israel’s latest genocidal assault on Gaza.

This promotes anti-blackness – complacency with Israeli censorship kills fights against racism in the US. IJAN No Date

IJAN “The Anti-Defamation League Sticks to What it Knows Best: Racism” http://www.ijan.org/new-opinions/the-anti-defamation-league-sticks-to-what-it-knows-best-racism/

The ADL’s decision to firmly support the police and attempt to silence nation-wide collective action is no surprise given their history of collaboration with and support of police violence and surveillance in the US. The ADL directly trains tens of thousands of police and other “security forces” and leads population control training of US Police by Israeli military and police forces. By facilitating the training of US police in Ferguson and other cities, the ADL acts as a driving force in the cross-pollination of the most repressive practices and the increasing militarization of police forces in the US and Israel.¶ In this context, the ADL attacked Black football player Reggie Bush for courageously affirming the link between Ferguson and Palestine. Consistent with its pattern of suppression, the ADL slammed Reggie Bush for sharing messages of solidarity from Palestinians to the people of Ferguson on social media. The ADL claims that there is no connection between racist violence in Ferguson and across the US, the repression of community resistance to this violence through mass protest, and the racist violence against Palestinians. Yet, the ADL is itself perhaps the most direct link between the racist violence against Black people and Palestinians, having literally trained former St. Louis County Police Chief Timothy Fitch in Israel. Abraham Foxman, Executive Director of the ADL, went so far as to suggest that Reggie Bush does not understand racism in either the United States or Palestine, saying: “He should stick to football.”¶ We are disgusted that the ADL continues to stick to what it knows best: racism.¶ Beyond the ADL, Israel’s connection to Ferguson is not strange or exceptional, but is rather, as is laid out in Israel’s Worldwide Role in Repression, part of its broader role in global repression. Just as the US military trains police around the world based on its long history of repressing of Black people and other oppressed communities, Israel takes the technology, military tactics, and racist brutality it has developed through its colonization of Palestine and exports them to the rest of the world.¶ In the United States alone, over 9,000 US officials have trained with Israeli military and police, including the Atlanta police who killed a 92 year old Black woman, Kathryn Johnson, Oakland police who used tear gas and rubber bullets to repress Occupy Oakland, and the LAPD who are now utilizing the drone technology that Israel pioneered. Thus, when Palestinians declare their solidarity with the people of Ferguson or offer protestors advice on dealing with teargas, or when demonstrators in Missouri carry signs reading “from Ferguson to Palestine occupation is a crime,” it grows out of a deep recognition of the ways in which the struggles against racism and colonialism in the US and the struggle against racist colonization in Palestine are bound together.¶ As Jews committed to full justice for Black, Brown and Indigenous people in the United States, queer and trans communities, immigrants targeted by policing and repression, and for justice in Palestine, we assert that the ADL does not represent our interests and continually aligns itself with racism in the US and Israel and works to defend them against popular challenges. We reject this racism and proudly stand with Reggie Bush. We will work to expose the ADL, stop the role it plays in police collaboration between the US and Israel, and continue to organize against Police and military violence.

## Revenge Porn

### Top Level

#### 1. Perm do the CP – Non Consensual Image Distribution isn’t protected. Issues of private significance aren’t protected.

UofIowa Law Review No date [Constitution?, xx-xx-xxxx, "[Non Consensual Image Distribution]: Protected by the Constitution?," No Publication, <https://jgrj.law.uiowa.edu/article/revenge-porn-protected-constitution>] CS

Legal scholars differ in how to handle [Non Consensual Image Distribution]. Some find that criminalization is not necessary given that victims can already pursue [civil suits](http://jolt.richmond.edu/index.php/its-time-for-revenge-porn-to-get-a-taste-of-its-own-medicine-an-argument-for-the-federal-criminalization-of-revenge-porn/). Others find that criminalization will serve as a better deterrence than civil action. As advocates push for laws prohibiting the distribution of nude photographs, a [legal gray area](http://www.forbes.com/sites/daniellecitron/2014/04/18/debunking-the-first-amendment-myths-surrounding-revenge-porn-laws/) has emerged based on the dueling freedom of expression contained in the first amendment and the substantive right to privacy. Several [states have passed laws](http://www.apa.org/monitor/2014/01/jn.aspx) criminalizing the nonconsensual posting of nude photographs, including New Jersey penalizing the act as a felony and California making it a misdemeanor to distribute images taken with the understanding that they would remain private. Some of these laws have been challenged on the ground that they unconstitutionally restrict freedom of speech. For example, ACLU filed a federal lawsuit against [Arizona’s law](http://cronkitenewsonline.com/2014/09/aclu-files-federal-lawsuit-against-arizonas-revenge-porn-law/), which made it illegal “to intentionally disclose, display, distribute, publish, advertise or offer a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in specific sexual activities if the person knows or should have known that the depicted person has not consented to the disclosure.” Because the anti-revenge-porn criminal statutes at issue are content-based speech restrictions, the State has the burden of showing they meet strict scrutiny. While content-based speech restrictions are presumptively invalid, [legal scholars argue](http://blog.bennettandbennett.com/2013/10/are-statutes-criminalizing-revenge-porn-constitutional.html)that the Supreme Court has held “where matters of purely private significance are at issue, First Amendment protections are less rigorous.” One scholar on the subject posited that such laws are likely to be upheld because the specific nude pictures involved “have nothing to do with public commentary about society.” There is some support for the notion that the laws will be upheld as cyber-stalking laws have not been found to violate the First Amendment.

#### Prefer our ev—

#### A. Multiple states have passed the law but none have been overturned which proves precedent goes aff

#### B. Cyber-stalking isn’t constitutionally protected and is the most similar to this case because it’s also an invasion of privacy disseminated through the media

#### 2. Laws solve the link – state/federal laws against Non Consensual image distribution are increasing in the squo which solves the link to the DA because it means that students aren’t able to do it even if colleges roll back the rule.

#### 3. Solvency deficit – porn is an effective means of activism against sexual violence, but the CP is enforced against *all* porn, not just non-consensual images. Victimizers can be anonymous or pose online as other porn artists so the administration can accuse *activist* porn of being non-consensual and censor it.

Adler 96 [Amy, Assistant Professor of Law, New York University School of Law., “What's Left?: Hate Speech, Pornography, and the Problem for Artistic Expression” CA LAW REVIEW [Vol. 84:1499]] AT

Perhaps one might argue that if enacted, leftist censorship proposals would endanger only postmodern art, a passing trend in outsider speech and therefore a relatively insignificant loss. It is true that since postmodernism has come to the fore in recent years, the subversive, deconstructive mode has become a predominant form of activist and artistic speech.282 The technique of subversion, however, is not new. Indeed, there is a long history of outsider speakers relying on appropriation and subversion in their political speech.2 3 This long history helps in part to explain why postmodernism has been so widely embraced by contemporary outsider political and artistic activists. The subversive mode lies at the heart of the leftist activist tradition for two reasons. First, it represents the mode of discourse most readily available to outsiders. Second, it is often the most effective form of outsider speech. Therefore, the danger to activist speech, and the amount of activist speech that is threatened under leftist censorship theories, is much greater than leftist censors might imagine. Ironically, the same theorists who lead the anti-hate speech movement have, in other contexts, acknowledged the centrality of the subversive mode to outsider politics. These same opponents of hate speech are often leading proponents of the move towards "storytelling," the infusion of the personal into legal doctrine. As Richard Delgado, one of the scholars who wears both hats, has written, "The dominant group creates its own stories.., in which its own superior position is seen as natural. The stories of outgroups aim to subvert that ingroup reality."' Delgado argues that to succeed, these "counterstories" must proceed subtly. They must "challenge the received wisdom while appearing to reinforce it. "Stories and counterstories, to be effective, must be or must appear to be noncoercive.... They are insinuative, not frontal .... 11116 Delgado implicitly recognizes that outsiders rely on such techniques because they do not have the power to speak directly. His analysis reveals that the subtle modes of subversion or deconstruction are particularly well-suited to powerless voices because their insinuative, rather than confrontational, method can be a means of self-protection. Thus, at issue here is a central form of political speech for disempowered groups. Leftist activists have always known this. Charles Chesnut, who in the late 1880s became the first African-American novelist to achieve recognition in this country, wrote: The subtle almost indefinable feeling of repulsion toward the Negro, which is common to most Americans-cannot be stormed and taken by assault; the garrison will not capitulate, so their position must be mined, and we will find ourselves in their midst before they think it. 7 Subversive speech, which attacks stereotypes while appearing to reinforce them, thus protects the outsider speaker from the danger of dissent: insiders may not realize that the speaker is subtly criticizing the very language he quotes. As a critic wrote of outsider artistic expression, "[Rlesistance within a colonial context is rarely direct, overt or literal; rather, it articulates itself through semantic reversals, and through the process of infusing icons, objects, and symbols with different meanings .,"28 Subversive speech suits disempowered speakers for another reason as well. Because outsider speakers tend to have fewer resources than insiders, this mode of appropriating insider speech is both more available to them and more easily accessible to a large audience. As a contemporary outsider artist explained, "In a war in which you have no weapons, you must take those of your enemy and use them for something better-like throwing them back at him."2 "9 A cultural critic explains it this way: "[Tihe only resources from which the subordinate can make their own subcultures are those provided by the system that subordinates them."2 ' 9 There may be no choice for outsider speakers other than to work within the language imposed on them by the very insider culture they seek to resist. Some critics insist that it would be impossible for outsiders to create their own language, and that to believe otherwise would be a naive denial of the way in which language and power intertwine.29 It should come as no surprise, therefore, that others have argued that subversion is at the heart of the African-American literary and vernacular traditions. In his landmark book, The Signifying Monkey, 92 Professor Henry Louis Gates, Jr. offers a richly complex theory of these traditions, using as a metaphor the eponymous story of the signifying monkey, a black oral tale that has its origins in slavery and persists throughout contemporary African-American literature, vernacular, and art.293 Gates' theory offers an astonishing challenge to leftist censors because it asserts that the interpretation-defying techniques that I have examined-subversion and reversal-are the central mode of this outsider group's discourse. For Gates, the African-American literary, vernacular, and artistic traditions operate by "the obscuring of apparent meaning. ' "294 He writes of the "undecidability within the discourse, such that it must be interpreted or decoded by careful attention to its play of differences. Never can this interpretation be definitive, given the ambiguity at work in its rhetorical structures."295 Gates explains that misinterpretation frequently arises because non-blacks do not realize that black speakers reverse the apparent meanings of their words "as a mode of encoding for self-preservation."296 The outsider speaker, by virtue of his very position as outsider, cannot afford to speak literally. Rather, he must proceed subtly, by reversal and subversion; he must speak in code, if his message is to prevail.2 ' This lesson has ramifications for all outsider speakers. It explains why we have seen such a prevalence of this technique in the activist work that I have examined, why the reversals of pornography and hate speech by activist speakers recur with such frequency: outsider groups necessarily depend on subversive language. The theory of the signifying monkey becomes a parable of the grave danger of misreading outsider speech, of the failure to recognize that interpretation of this rhetoric can "[n]ever ... be definitive."298 It is a parable that leftist censors must heed. Any theory that purports to regulate speech must make certain assumptions about how speech works. The theory must grapple with language's complexities. It must recognize that a large and beautiful portrait of a Klansman may fight racism, a violent picture of a rape may oppose sexual violence, and a call to kill "queers" may be a call to save lives. So far though, leftist censors have devised only a rudimentary theory of interpretation. Ignoring the indeterminacy of language, they imagine a world where all victims know a victimizing statement from a non-victimizing statement, where victimizing speech never has its opposite effect, and where words have only one meaning. If they acknowledge at all that speech may have multiple meanings, then leftist censors assume those meanings are easily discerned by investigating the identities or mindsets of speaker and listener. Denying the complexity of language, these theorists go on to draft definitions of speech that ignore the reality of the very speech most precious to their causes. Because of the indeterminate nature of language itself-the way in which, for example, well-intentioned activist speech and oppressive hate speech can have similar effects-there is no possibility of devising a system of leftist political censorship that could protect the subversive, activist use of hate speech and pornography. Intention and effect are ultimately disjointed. "Misinterpretation" is inevitable. Speech functions in multiple and contradictory ways. Leftists must therefore make a choice: they can adopt a system of censorship, or they can offer full protection to activism. They can't do both.

#### 4. Perm do CP – speech that engenders violence is not constitutionally protected

Joseph J. Pangaro 16, J.D. Candidate, Temple University Beasley School of Law, 2016. “Hell Hath No Fury: Why First Amendment Scrutiny Has Led to Ineffective [Non Consensual Image Distribution] Laws, and How to Change the Analytical Argument to Overcome this Issue.” Temple Law Review.

As discussed in Part II.D.3, fighting words are not protected by the First Amendment because "[r]esort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the '280 To constitute fighting words, the speech at issue must not merely be personally abusive, but indeed must be directed at a person. When this occurs, the government can ban threats of violence to protect the individual not just from the harm being threatened, but also from the fear of that harm and from the disruption that fear engenders.” A violent reaction is not a necessary result, nor is it required that the speaker even intend a violent reaction, so long as a violent reaction would be likely to occur. Lower courts interpreting this language have proven sympathetic to victims when the scenario involves issues of sexuality and includes some sort of physical action With this skeletal framework, we can turn to application of the true threats doctrine to [Non Consensual Image Distribution]. Virginia v. Black is an excellent guide for the analysis of the concept of true threats, as well as an indicator of the sort of statutory language that courts may uphold when analyzing the proscribed language. The first step in this analysis is to classify [Non Consensual Image Distribution]. The category of true threats developed as an outgrowth of the proscription of fighting words. Actions intended to intimidate can be a type of true threat. To determine the constitutionality of proscribing the act of cross burning, as an equivalent to intimidating fighting words, the Court looked to the history of the practice. Therefore, so must an analysis of [Non consensual image distribution]. The advent of the Internet, and the even more recent advances in cell phone technology, have both played a role in the growth of [Non Consensual Image Distribution]. Although the history of [Non Consensual Image Distribution] is not as lengthy as the history of cross burning, there is an overwhelming amount of evidence to demonstrate the significant impact it has made on individual victims and society as a whole. The humiliation associated with exposing the intimate details of a person's life results in everything from counseling to suicide. Data gathered on [Non Consensual Image Distribution] reveal that victims often suffer panic attacks, anorexia, and 289 depression. But the most distressing side effect of [Non Consensual Image Distribution] revenge porn is the resulting harassment of victims by complete strangers. When personal information is included within a post of intimate media, victims can receive harassing phone calls and emails at work and at home. In some circumstances, the harassment escalates beyond phone calls to physical confrontations. In at least one case, such a confrontation led to rape with a deadly weapon. Many victims are aware not just of the humiliation that [Non Consensual Image Distribution] causes, but the danger to their personal safety as well. The fear of sexual assault as a result of these posts is profound, and some victims no longer feel safe leaving their homes. In other cases, it is not even the distribution, but the threat of distribution that allows one partner in a relationship to manipulate and dominate the other to the 296 point of domestic abuse. Judges, legislators, and academics may cast aside with ease concerns that a victim might break out in shingles or lose her security clearance with the Department of Fish and Wildlife.297 It is to be expected-and perhaps even hoped-that our lawmakers view those laws that threaten the principles of the Constitution with skepticism and even a willingness to accept some unpleasantness. Humiliation and loss of income likely do not satisfy the requirements of the Black test. But the harm caused by [Non Consensual Image Distribution] includes stalking, rape, and suicide. It leaves victims afraid to leave their homes out of 298 fear of being assaulted. The severity of this direct harm surely meets the 29 9 definition of proscribable intimidation. States have the power to protect people not just from the harm being threatened-in this case, stalking and possible sexual assault-but also from the fear of that harm and "the disruption that fear engenders."

#### 5. College enforcement is useless since they can’t launch police investigations or seize evidence and can’t punish perpetrators enough to deter. They have no evidence actually about colleges!

#### 6. CP doesn’t have a net benefit – Colleges do NOT have restrictions on it now, and the text of their counterplan doesn’t add these restrictions. Saying colleges should except non-consensual images doesn’t mean they should actively ban them – hold them to the text of the CP

#### 7. Word DA - Both words in the term “[Non Consensual Image Distribution]” trivialize the act into one that the victim is partially or entirely responsible for. This is an independent voting issue absent the ROB and is a performative reason why you should lose.

**Harris 14**: Harris, Lyndon. "[Non Consensual Image Distribution]: A Law We Didn't Know We Needed." New Statesman. N.p., 15 Oct. 2014. Web. <http://www.newstatesman.com/politics/2014/10/revenge-porn-law-we-didn-t-know-we-needed>. HSLA//SC

#### Consequently, I support the calls for a specific offence in relation to [Non Consensual Image Distribution], however I feel quite strongly that the term is grossly inappropriate. “Revenge” narrows the offence unnecessarily and suggests a requisite motivation beyond that of pure malice; would we wish to include the recent hacking and dissemination of i8. Colleges can’t enforce the restriction on non-consesual image distribution even if they had them – students would just go off campus and post the videos and they can’t prove it was filmed on campus

ntimate images of celebrities in the ambit of the offence? Secondly, “pornography” connotes consent and though an image may well have been taken and sent consensually, the dissemination of that image has not. The use of the word “porn” or “pornography” in this context somehow seeks to legitimise what is an awful ordeal for someone to go through – and what should be a specific criminal offence.

### AT: Koppelman 16

[In Reed v. Gilbert- Court made the preexisting doctrine more rigid by declaring “regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed”--- this creates a revolution in FS law, ]

#### 1. Their evidence is entirely predictive- prefer more solid evidence about actual court cases that ruled for revenge porn cases rather than theoretical ones

#### 2. The small text of the evidence says that in order for fre speech protections- the court needs to show a precedent of ruling that way in the past- revenge porn has been ruled against

#### 3. He should check his review of these constitutionally protected laws- the court has ruled on them

### AT: Desai 14

#### Perm do CP - Non-consensual image distribution is low-value, high-harm speech which is an exception to the 1st Amendment

Desai 14 – her author, Snehal. "Smile for the Camera: The [Non Consensual Image Distribution] Dilemma, California's Approach, and Its Constitutionality." Hastings Const. LQ 42 (2014): 443.

This increasingly common scenario that destroyed Jane’s reputation has been coined “[Non Consensual Image Distribution],” a type of cyber- harassment prevalent in today’s internet age. Due to the First Amendment’s protection of speech and expression, victims have had little legal recourse against cyber-harassers for [Non Consensual Image Distribution]. The recent passage of statutes prohibiting [Non Consensual Image Distribution] has led to the current debate about whether [Non Consensual Image Distribution] statutes are constitutionally valid. Though lacking definitive precedent regarding their constitutionality, [Non Consensual Image Distribution] falls into the First Amendment exceptions for low value speech. Low value speech remains outside the realm of First Amendment protections due to its negative effects and because any possible benefit that may arise from it “is clearly outweighed by the societal interest in order and morality.”2 Moreover, the government has a compelling interest to prohibit [Non Consensual Image Distribution] because of its interest to protect women, who are disproportionately impacted by [Non Consensual Image Distribution]. This Note first aims to discuss the current problem of [Non Consensual Image Distribution] as a form of cyber-harassment. Second, this Note discusses the constitutional background of traditional free speech doctrines and their application to the [Non Consensual Image Distribution] context. Courts may be able to distinguish [Non Consensual Image Distribution] as an unprotected form of speech under the fighting words doctrine and true threats doctrine, although the perfect application of either doctrine is rather unlikely. Accordingly, courts should carve out a new category of unprotected speech for [Non Consensual Image Distribution], using the analysis in New York v. Ferber3 as a model. Lastly, this Note analyzes California’s approach to [Non Consensual Image Distribution] and provides some suggestions for improvement. Although California remains one of only two states to implement a [Non Consensual Image Distribution] law, the law should be revised to protect more victims and punish more wrongdoers

### 2AC- Not Protected

#### Perm do both

#### 1. Revenge porn isn't constitutional protected speech

**Citron 14** [Danielle Citron (law professor teaching at the University of Maryland Carey School of Law), "Debunking the First Amendment Myths Surrounding Revenge Porn Laws," Forbes Magazine, 4/18/2014]

Disclosing private communications about purely private matters is just the sort of speech referred to in Stevens that has enjoyed less rigorous protection as a historical matter. We do not need a new category of unprotected speech to square anti-revenge porn criminal laws with the First Amendment. Now for the cases establishing that precedent. Smith v. Daily Mail, decided in 1979, addressed the constitutionality of a newspaper’s criminal conviction for publishing the name of a juvenile accused of murder. The Court laid down the now well-established rule that “if a newspaper lawfully obtains truthful information about a matter of public significance then state officials may not constitutionally punish the publication of the information, absent a need to further a state interest of the highest order.” Ever since the Court has refused to adopt a bright-line rule precluding civil or criminal liability for truthful publications “invading ‘an area of privacy’ defined by the State.” Rather the Court has issued narrow decisions that specifically acknowledge that press freedom and privacy rights are both “plainly rooted in the traditions and significant concerns of the society.’”

#### 2. Revenge porn isn't protected

**Harrison 14** [Anne Harrison, "Revenge Porn: Protected by the Constitution?" The Journal of Gender, Race & Justice, Volume 18, 2014] AZ

Because the anti-revenge-porn criminal statutes at issue are content-based speech restrictions, the State has the burden of showing they meet strict scrutiny. While content-based speech restrictions are presumptively invalid, legal scholars argue that the Supreme Court has held “where matters of purely private significance are at issue, First Amendment protections are less rigorous.” One scholar on the subject posited that such laws are likely to be upheld because the specific nude pictures involved “have nothing to do with public commentary about society.” There is some support for the notion that the laws will be upheld as cyber-stalking laws have not been found to violate the First Amendment.

#### 3. Nonconsensual sex videos aren’t free speech- courts agree

**Citron 14** [Danielle Citron (law professor teaching at the University of Maryland Carey School of Law), "Debunking the First Amendment Myths Surrounding Revenge Porn Laws," Forbes Magazine, 4/18/2014]

Along similar lines, lower courts have upheld claims for public disclosure of private fact in cases involving the nonconsensual publication of sex videos. In Michaels v. Internet Entertainment Group, Inc., an adult entertainment company obtained a copy of a sex video made by a celebrity couple, Bret Michaels and Pamela Anderson Lee. The court enjoined the publication of the sex tape because the public had no legitimate interest in graphic depictions of the “most intimate aspects of” a celebrity couple’s relationship. As the court explained, a video recording of two individuals engaged in sexual relations “represents the deepest possible intrusion into private affairs.” These decisions support the constitutionality of efforts to criminalize revenge porn. Nude photos and sex tapes are among the most private and intimate facts; the public has no legitimate interest in seeing someone’s nude images without that person’s consent. A prurient interest in viewing someone’s private sexual activity does not change the nature of the public’s interest. On the other hand, the nonconsensual disclosure of a person’s nude images would assuredly chill private expression. Without any expectation of privacy, victims would not share their naked images. With an expectation of privacy, victims would be more inclined to engage in communications of a sexual nature. Such sharing may enhance intimacy among couples and the willingness to be forthright in other aspects of relationships. The fear of public disclosure of private intimate communications would have a “chilling effect on private speech.”

### 2AC- Regs Fail

#### 1. Turn- criminalization laws are arbitrary and can hurt people who are trying to analyze the case itself- California’s revenge porn bill proves

**Jeong 13** [Sarah Jeong, 10-28-2013, "Revenge Porn Is Bad. Criminalizing It Is Worse," WIRED, <https://www.wired.com/2013/10/why-criminalizing-revenge-porn-is-a-bad-idea/>] NB

A haze of uncertainty surrounds the definition of revenge porn, as Reisenwitz [points out](http://talkingpointsmemo.com/cafe/revenge-porn-is-awful-but-the-law-against-it-is-worse). An overbroad definition of revenge porn could net a reporter publishing screencaps of Anthony Weiner’s more infamous tweets. Although we have in our minds the perfect-paradigm case of a sympathetic victim — a nice girl with a penchant for selfies — and an unsympathetic perpetrator — a spurned, vindictive ex-boyfriend with a blatant streak of misogyny — the web of liability becomes nebulous when we think about cases that fall outside this paradigm. (And things get more problematic when we think about websites and website operators beyond the horrifying IsAnyoneUp.com and the entirely unlikable Hunter Moore.) Dismissing such concerns, Marcotte [argues](http://talkingpointsmemo.com/cafe/angry-abusive-men-still-have-free-speech-without-revenge-porn" \t "_blank) that giving up tabloid reporting for the sake of revenge porn victims is fair: Knowing that [Anthony] Weiner’s dick pics are out there but being unable to view them myself seems like a fair trade for a world where men are more limited in the weapons they can use to stalk, abuse, and control women. …But the sacred constitutional freedom to snark about Anthony Weiner is hardly the point. The point is that a new criminal statute paves another way to put a human life on hold and a human body in prison — and yes, a paparazzo still counts as human. There are unintended consequences to overbroad laws, and failing to take that into consideration when advocating for increased criminal liability is irresponsible. The problem is further exacerbated by how the internet works. Very little on the web exists in isolation from the rest: content is regularly copied, mimicked, modified, and linked to. Is linking to something illegal in itself illegal? (Sometimes it is, [sometimes](http://www.chillingeffects.org/linking/faq.cgi#QID152)it isn’t). An earlier iteration of the California revenge porn bill [would have found](http://adamsteinbaugh.com/2013/05/09/california-senate-to-consider-bill-criminalizing-revenge-porn/) a blogger who analyzes legal developments in revenge porn guilty of a misdemeanor for linking to the very sites he was analyzing. While it seems indisputable that those who blog about Hunter Moore should not be subject to criminal liability, what about someone who submits a link to a link aggregator like Reddit, Hacker News, or Slashdot? And what about the link aggregator itself? This tension is at the heart of internet law. Indeed, section 230 of Communications Decency Act, a cornerstone of internet law, [provides a shield](http://www.law.cornell.edu/uscode/text/47/230)for the speech of online intermediaries — even that which is “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.”

#### 2. No deterrence effect- that’s caused by current laws- the turn is that they create overt focus on the case which amplifies psychological violence

**Jeong 13** [Sarah Jeong, 10-28-2013, "Revenge Porn Is Bad. Criminalizing It Is Worse," WIRED, <https://www.wired.com/2013/10/why-criminalizing-revenge-porn-is-a-bad-idea/>] NB

In light of these various recourses through existing laws, what does the push to criminalize revenge porn actually achieve? There is something to be said for the dubious pleasure of retributive justice. But will that tangibly help the victims? Whatever deterrent effect that criminalization could generate — such as discouraging future postings of revenge porn — is likely to be redundant given the civil litigation already taking place. More’s the pity: this moment of media attention on the stalking, harassment, and employment problems suffered by victims could have been used to legislate against exactly that. As Marcotte herself points out, revenge porn is often just another form of domestic violence or sexual harassment.

## Term Paper

### 2AC- Top Level

#### 1. Perm do both- we can ban term papers that exist outside of colleges and allow free speech on campus- their evidence isolates that term papers are sold by professionals who are outside of the college

#### 2. Solvency Deficit- colleges don’t have regulation authority over external corporations that write term papers

#### 3. Supreme court has ruled in favor of banning advertising for term papers- solves

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

Assuming for the moment that a state may not constitutionally prohibit the sale of term papers, may it nonetheless constitutionally prohibit the advertising of term papers? 9 The answer is by no means clear. The Supreme Court first denied free speech protection to "commercial advertising" in Valentine v. Chrestensen.0 The Court in Valentine distinguished "communicating information" and "disseminating opinion" from "purely commercial advertising." 1 Despite the recognition that states cannot "unduly burden or proscribe" the "privilege" of publicly broadcasting information or opinion, it was "equally clear that the Constitution imposes no such restraint on government as respects purely commercial advertising

#### 4. The unfair trade practices prior restraint overflows free speech rights to term papers

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

The prohibition of term paper company operations as unfair trade practices would seem to be a third type of prior restraint on term paper companies.68 Only one case 9 has thus far been brought against a term paper company on an unfair trade practices theory. In a recent administrative proceeding before the Wisconsin Department of Agriculture, a hearing examiner declared the sale of term papers "an unlawful activity"70 in violation of Wisconsin's "Little FTC Act."7 ' Since the Wisconsin statute was modeled after section 5 of the Federal Trade Commission Act72 and since FTC rulings had been previously relied upon by the Wisconsin Department of Agriculture,78 the hearing examiner proceeded from the FTC's mandate "to create new bod[ies] of law"'7 4 by considering "public values beyond simply those enshrined in the letter or encompassed in the spirit of the antitrust laws."'75 Viewing the questionable activities of the involved company as "one aspect of fraud in its broadest sense,"76 the hearing examiner had little difficulty in denouncing the illegal "unfairness" of term paper operations.77 On the strength of the finding that the term paper company had committed unfair trade practices, an injunction was issued forbidding the respondent from advertising, preparing, or selling term papers-the classic form of prior restraint

#### 5. The contract between institutions and students violation also overflows free speech rights to term papers

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

In several pending term paper cases, 78 a defendant term paper company is alleged to have tortiously interfered with a contract between the student purchaser of a term paper and the academic institution in which the student is enrolled . 7 The plaintiffs in these cases assume that the contract supposedly existing between student and institutionse requires the student to follow rules and regulations validly promulgated by the school.8' Such rules and regulations typically prohibit plagiarism or similar academic misconduct. Accordingly, the student who purchases a term paper and uses it to commit plagiarism has breached his contract with the school, and the term paper company which sold the paper to him has tortiously interfered with the same contract. Use of a contract theory to explain the relationship between a student and the school which he attends has been seriously questioned,"2 and at least one court has expressly repudiated the idea.88 Such a contract may be adhesionary because of the disparity in bargaining position between student and university when the contract is entered into, and because of the power typically reserved by a university to determine both when and whether the contract has been breached. 4 Furthermore, a relationship which is viewed by the same courts as contractual for some purposes might be viewed by the courts as noncontractual for others.8 5 While recognizing a university's contractual authority to discipline a student, a court might at the same time deem the relation ship noncontractual if a party brought suit under the contract for damages or specific performance.

## Tobacco Ads

### 1AR

#### Doesn’t solve- ruling on college campuses doesn’t stop tobacco ads outside of campus that students are exposed to

#### Perm, do both the counterplan- restrictions on tobacco ads are consistent with the First Amendment

**Langvardt 14**

Arlen Langvardt (Professor of Business Law and Graf Family Professor, Kelley School of Business, Indiana University). “Tobacco Advertising and the First Amendment: Striking the Right Balance.” William & Mary Business Law Review, vol. 5, no. 2. 2014. <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1073&context=wmblr>

\*\*Discount Tobacco City & Lottery, Inc. v. United States—Sixth Circuit found that most of the Tobacco Control Act’s restrictions on advertising did not violate the First Amendment

IV. FIRST AMENDMENT LINE-DRAWING AND ITS IMPLICATIONS FOR CURRENT AND FUTURE REGULATORY EFFORTS How did the Discount Tobacco and R.J. Reynolds courts do in regard to soundness of reasoning? Answering that question begins the process of determining what actions Congress and the FDA can and should be able to take in terms of regulating tobacco advertising and promotion without violating the First Amendment. As the following analysis will indicate, “generally quite well” should be the answer regarding the Discount Tobacco court, with the R.J. Reynolds court meriting an “on the whole, poorly” response. A. Assessing Discount Tobacco The range and different natures of the TCA provisions challenged in Discount Tobacco made the Sixth Circuit’s task a difficult one. Add the different lines of potentially applicable reasoning stemming from the Supreme Court’s First Amendment decisions,415 and a court in the Sixth Circuit’s position has an even more difficult assignment. Throw in the not-always-clear suggestions from the Supreme Court that the relevant First Amendment rules and tests may need changing or may already be undergoing subtle shading,416 and a task of the sort faced by the Discount Tobacco court becomes tougher yet. Considering the just-noted factors, the Sixth Circuit produced a solid, well-reasoned, and well-supported decision in Discount Tobacco. In upholding most of the TCA provisions that amounted to restrictions on tobacco advertising and marketing, the court properly rejected the tobacco companies’ arguments that strict scrutiny should be applied to at least some of the restrictions.417 If courts were to give credence to tobacco companies’ argument that restrictions on what they may say in labeling and advertising should be subjected to strict scrutiny because comments on health issues outside the labeling and context would trigger very substantial First Amendment protection, the distinction between commercial speech and noncommercial speech would be all-but obliterated, and the government’s ability to regulate in the interest of promoting public health would be severely impaired. There would also be a paradoxical and indefensible effect: the greater the health risks or dangers associated with a widely used product (and hence the greater the chance that major health concerns would be present), the lesser the ability of government to restrict reasonable amounts of speech in an effort to safeguard public health. Moreover, accepting tobacco companies’ strict scrutiny argument would run contrary to a longstanding line of Supreme Court decisions to which the Court still adheres despite hints about possible changes in the rules.418 A federal court of appeals obviously cannot give Supreme Court hints primacy over actual Supreme Court holdings, especially when the Supreme Court itself has not permitted the hints to translate into new rules despite little check on its doing so except for an easy-to-get-around tradition of adherence to precedent.419 In Discount Tobacco, the Sixth Circuit commendably stuck with the Central Hudson test for commercial speech restrictions and applied it both realistically and with appropriate rigor, not to mention evenhandedly.

#### Bans on tobacco ads fail—best studies prove

**Swayne and Messer 10**

\*\*citing Jon Nelson, professor emeritus of economics at Penn State University

Matt Swayne and Andrea Messer (campus reporters). “Alcohol and tobacco advertising bans don’t work.” Penn State News. August 16th, 2010. http://news.psu.edu/story/165576/2010/08/16/research/alcohol-and-tobacco-advertising-bans-dont-work

University Park, Pa. -- Bans on alcohol and tobacco marketing are among the least effective tactics for combating underage drinking and smoking, according to a Penn State economist, who has studied the effects of advertising since 1985. "My conclusion is that the emphasis on advertising bans and similar regulations in the public health literature is misplaced," said Jon Nelson, professor emeritus of economics. "More effective policies need to be sought to deal with issues of youthful risk-taking associated with alcohol and tobacco." Among the deficiencies, Nelson reported that there were problems with how researchers selected people to participate in their studies and how they drew conclusions from the data they collected. "The studies, in fact, are deficient in so many respects that the big question is whether there's any influence of marketing at all, especially the mass media," Nelson said. Policy makers and advocacy groups use these studies to initiate and justify bans on alcohol and tobacco product advertising in order to lower the social costs associated with using these products and to promote youth health. According to Nelson, the American Medical Association and the World Health Organization are among the organizations that uncritically cite these studies in their advocacy of tobacco and alcohol advertising bans. Nelson recommended several ways to improve studies on youth alcohol and tobacco behaviors. Researchers who explore advertising's influence on youth drinking and smoking should better identify why variables, such as peer and parental influences, are included in the study and choose variables that more effectively measure the exposure of alcohol and tobacco marketing in youth behavior. In a recent review of 20 youth drinking studies and 26 youth smoking studies published in the International Journal of Environmental Research and Public Health, Nelson found that only 33 percent of the results were statistically significant in linking marketing with youth drinking. He considered only 49 percent of the results significant on marketing and youth smoking behavior. "These studies should be done against a well-defined scientific standard for an empirical investigation," said Nelson. "There is really no such thing as a perfect study, but the object should be to get closer to those acceptable standards." Nelson identified longitudinal studies that measured the influence of a range of alcohol and tobacco marketing efforts including mass media, in-store displays, branded merchandise, movie portrayals and brand recognition. The participant in a longitudinal study is interviewed or surveyed over two or more years. Nelson looked at these studies in two categories, youth drinking and youth smoking. Although these studies had common features, they were treated separately because they used slightly different models to explore advertising receptivity and exposure. Nelson then offered critical assessments of the studies in each category, paying particular attention to the consistency of empirical results among the studies. The review reinforced findings in Nelson's previous work. In 2001 and 2010 studies, he showed advertising bans in European countries did not reduce adult alcohol consumption. In 2003 and 2006 studies, he reported a similar finding for tobacco advertising bans.

#### Smoking rates are declining nationwide—advertising bans aren’t necessary

**Botkin-Kowacki 16**

Eva Botkin-Kowacki (staff writer). “Why US smoking rates are dropping faster than they have in decades.” The Christian Science Monitor. May 25th, 2016. <http://www.csmonitor.com/USA/Society/2016/0525/Why-US-smoking-rates-are-dropping-faster-than-they-have-in-decades>

Cigarette habits seem to be going up in smoke across the United States. The smoking rate dropped faster last year than it has in more than two decades, according to a new report from the Centers for Disease Control and Prevention released Tuesday. Of adults surveyed, just 15 percent said they had recently smoked last year. That smoking rate is down from 17 percent in 2014. In recent years, the smoking rate in the US declines by 1 percentage point or less annually. The last big drop was 1.5 percentage points from 1992 to 1993, the CDC's Brian King told the Associated Press. It's been more than half a century since the surgeon general released the first report that declared smoking to be harmful. Then, about 42 percent of American adults smoked. Following that first surgeon general's report on smoking and health, there have been mandatory warning labels on cigarette packs, anti-smoking campaigns across many platforms, additional taxes, and other programs instituted to reduce smoking. Many states have banned smoking in workplaces, bars, and restaurants. And some cities, like New York City and Boston, have even banned smoking in public parks. A 2014 study found that those efforts collectively saved 8 million lives and a total of 157 million years of life. That means 20 more years of life for each person who quit or never smoked because of these programs. Although smoking habits are being stamped out across the US, the problem is still smoldering. Smoking is still the leading cause of preventable illness in the nation, public health experts say. Smoking is a cause of cancer, heart disease and other serious health problems. The CDC estimates that more than 480,000 people die each year from smoking-related causes. And even as the fight against smoking rages on, a new factor has joined the scene. Electronic cigarettes are largely being advertised as a tool for smokers to wean themselves off nicotine, but they might be attracting new smokers to nicotine use as well. These battery-powered devices, called e-cigarettes or e-cigs, turn liquid nicotine into a vapor so that smokers can receive the chemical they may crave without the byproducts of burning tobacco. But this seemingly safer option still contains the addictive nicotine. And a CDC study published in April suggests that teens who wouldn't otherwise be smokers are reaching for e-cigarettes. "E-cigarette ads use many of the same themes used to sell cigarettes and other conventional tobacco products, such as independence, rebellion and sex," lead author Tushar Singh of the CDC's Office on Smoking and Health in Atlanta told Reuters at the time. That, combined with the ease of access via online vendors, makes it easy for teenagers to get their hands on e-cigarettes. E-cigarettes may not be as harmful as traditional tobacco cigarettes, but previous research has suggested that adolescents who try e-cigarettes are more than twice as likely to try the combustible version. Jonathan Whiteson, a smoking cessation specialist at NYU Langone Medical Center in New York, told the Associated Press that as regulators increasingly focus on e-cigarettes, this problem could be headed off. For example, the Food and Drug Administration extended its regulations on traditional cigarettes to apply also to e-cigarettes, hookah tobacco, pipe tobacco, and nicotine gels. This includes age minimums for use. "We'd expect continued declines in smoking, as we've seen in the past 50 years. But it's hard to say what future holds," the CDC's Dr. King said.

### Ideas

#### Doesn’t solve- ruling on college campuses doesn’t stop tobacco ads outside of campus that students are exposed to

#### Bans on advertising don’t reduce smoking—their studies are flawed

**Penn State 10** [No Author,Aug 16, 2010, "Alcohol and tobacco advertising bans don't work," No Publication, <http://news.psu.edu/story/165576/2010/08/16/research/alcohol-and-tobacco-advertising-bans-dont-work>] NB

University Park, Pa. -- Bans on alcohol and tobacco marketing are among the least effective tactics for combating underage drinking and smoking, according to a Penn State economist, who has studied the effects of advertising since 1985. "My conclusion is that the emphasis on advertising bans and similar regulations in the public health literature is misplaced," said Jon Nelson, professor emeritus of economics. "More effective policies need to be sought to deal with issues of youthful risk-taking associated with alcohol and tobacco." Among the deficiencies, Nelson reported that there were problems with how researchers selected people to participate in their studies and how they drew conclusions from the data they collected. "The studies, in fact, are deficient in so many respects that the big question is whether there's any influence of marketing at all, especially the mass media," Nelson said. Policy makers and advocacy groups use these studies to initiate and justify bans on alcohol and tobacco product advertising in order to lower the social costs associated with using these products and to promote youth health. According to Nelson, the American Medical Association and the World Health Organization are among the organizations that uncritically cite these studies in their advocacy of tobacco and alcohol advertising bans. Nelson recommended several ways to improve studies on youth alcohol and tobacco behaviors. Researchers who explore advertising's influence on youth drinking and smoking should better identify why variables, such as peer and parental influences, are included in the study and choose variables that more effectively measure the exposure of alcohol and tobacco marketing in youth behavior. In a recent review of 20 youth drinking studies and 26 youth smoking studies published in the International Journal of Environmental Research and Public Health, Nelson found that only 33 percent of the results were statistically significant in linking marketing with youth drinking. He considered only 49 percent of the results significant on marketing and youth smoking behavior. "These studies should be done against a well-defined scientific standard for an empirical investigation," said Nelson. "There is really no such thing as a perfect study, but the object should be to get closer to those acceptable standards." Nelson identified longitudinal studies that measured the influence of a range of alcohol and tobacco marketing efforts including mass media, in-store displays, branded merchandise, movie portrayals and brand recognition. The participant in a longitudinal study is interviewed or surveyed over two or more years. Nelson looked at these studies in two categories, youth drinking and youth smoking. Although these studies had common features, they were treated separately because they used slightly different models to explore advertising receptivity and exposure. Nelson then offered critical assessments of the studies in each category, paying particular attention to the consistency of empirical results among the studies. The review reinforced findings in Nelson's previous work. In 2001 and 2010 studies, he showed advertising bans in European countries did not reduce adult alcohol consumption. In 2003 and 2006 studies, he reported a similar finding for tobacco advertising bans.

#### Bans on advertising don’t work and are counterproductive

**Hammond 2K** [Hammond, Ross. “Tobacco Advertising & Promotion: The Need for a Coordinated Global Response” The WHO International Conference on Global Tobacco Control Law. 2000] NB

In recent years, tobacco industry representatives have sought to cast doubt on these and other findings. As evidence, they point to the few studies analyzed in the British government report which concluded either that advertising has no effect on consumption or only a small effect. But, as the World Bank pointed out in its recent report on tobacco, these studies may be misleading. First of all, economic theory suggests that as advertising for a product increases, consumers will respond less and less to each additional increment of advertising up until the point when an additional increment of advertising has no impact at all. In the tobacco industry, advertising expenditures are already high compared to most industries -- 6 percent of sales revenue, or around 50 percent higher than in the average industry. Therefore additional consumption from increased advertising would be difficult to detect. This does not mean that consumption would be as high without advertising but rather that the impact of a marginal increase is negligible. Secondly, much of the data that record the relationship between advertising and consumption is usually highly aggregated, not industry or media specific, and often cover large populations. Although studies conducted using less aggregated data have found more evidence of a positive relationship between advertising and consumption, these studies are extremely expensive and time consuming to carry out and thus quite rare. Given these difficulties, some researchers have focused on studying the impact of advertising bans on consumption (see Section 8).17 The tobacco industry also argues that the tobacco market is a “mature” market (where demand is basically stable) and thus that advertising is only intended to convince adult smokers to switch brands. In a recently published article in an East African newspaper, BAT explained this theory. “In a mature market,” it wrote, “cigarettes, petrol or soap powder advertising is not about increasing the number of smokers, drivers or people owning washing machines. Advertising can only shift market shares between brands.”18 Or, as the head of Godfrey Phillips India (partially owned by Philip Morris) said in a recent speech, “cigarette advertising merely effects demand within the product category by strengthening the brand loyalty or creating brand switches but is not aimed to increase total consumption through non-tobacco buyers.”19 However a closer look at the realities of the cigarette market show this to be an unsupportable position. Studies have shown that less than 10 percent of switch brands in any given year and that much of that switching occurs within brand families (e.g. from Marlboros to Marlboro Lights). 20 In the United States, with some 10 percent of 48 million smokers switching brands in 1998, a total investment of $5.66 billion in advertising would represent an expenditure of $1,179 per switcher. If each switcher actually changed companies (unlikely in such a concentrated market, where smokers often trade down within the same brand), this would represent a potential gain of $535 per switcher (this is calculated by multiplying the average number of cigarettes smoked per day by 365 days a year by the average wholesale price per pack after excise taxes are removed).21 After deducting advertising expenses, however, the company would actually lose $644 for every new customer it attracted. For those customers who didn’t change companies, meanwhile, the company would lose the entire $1,179. As Tye et al. have noted, if the companies were being truthful about why they advertised, it would make economic sense for them, both individually and collectively, to cease advertising and promotion altogether. Instead, they have fought advertising restrictions – both in the United States and abroad -- at every step of the way. The exception was the industry’s support for banning cigarette advertising on television during the late 1960s in the United States in recognition of the impact that mandatory anti-smoking messages were having, showing that the industry does not oppose bans on “principle.” Therefore, “the only reasonable interpretation of the industry’s position is that it believes that advertising and promotion do attract new smokers and discourage current smokers from quitting.”22 In its less guarded moments, the tobacco industry itself admits to trying to boost consumption. In the words of a Philip Morris marketing plan for China from the early 1990s, “We will maintain [Marlboro’s] extensive media mix, with particular focus on wide-reach media like television to stimulate consumer demand” (emphasis added). 23 Or, as the head of the Indian Tobacco Company (partially owned by BAT) put it, “Our primary aim is to expand the market for cigarettes. We have the responsibility, being market leader, to do so.”24 Clearly worried about the impact of advertising bans on sales, the tobacco industry is now coming up with new lines of argument. Reacting to the Polish Parliament’s recent decision to ban all tobacco advertisements and promotions by the end of 2001, the industry has stated that the ban would be counter-productive, warning that the companies would divert money from advertising into funding price wars, making cigarettes more accessible to the poor.25

## 3D Printed Guns

### Perm

#### Perm do the counterplan- courts ruled 3D weapons aren’t constitutionally protected speech because codes can cross borders and threat national security

**Atherton 16** [Kelsey D. Atherton, 9-22-2016, "3D-Printed Gun Files Aren't Free Speech, Court Rules," Popular Science, <a class="vglnk" href="http://www.popsci.com/3d-printed-guns-not-free-speech-court-rules" ] NB

The first two protections in the [U.S. Bill of Rights](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html" \t "_blank) guarantee freedom of speech and a right to bear arms, respectively. But what about when those collide? The founders who wrote it likely never imagined a world where that freedom of speech would apply to electronically encoded files on computers, nor could they have pictured a day when those same files could be used to tell a machine to print, on demand, a pistol. (The Founders also, likely, didn’t foresee militia systems falling out of use). Yet we now live in a world where the files to print a gun exist, and [people have indeed printed guns](http://www.popsci.com/tags/3-d-printed-guns). Is this an activity the constitution protects? Decidedly no, according to a ruling handed down earlier this week from the 5th Circuit Court of Appeals. The case, [Defense Distributed v. United States Department of State](https://www.documentcloud.org/documents/3111635-15-50759-Documents.html" \t "_blank), goes back to the [creation of the first 3D printing of a gun](http://www.forbes.com/sites/andygreenberg/2013/05/05/meet-the-liberator-test-firing-the-worlds-first-fully-3d-printed-gun/" \l "62006a91511e" \t "_blank), by the activist group Defense Distributed, in May, 2013. The Liberator pistol is not, by any metric, a good gun. The original design is [single-shot](http://www.popsci.com/technology/article/2013-05/worlds-first-fully-3-d-printed-gun-here), and while almost all of the gun is printed, it still uses a cheap nail as a firing pin. As part of the broader aim of a gun that exists outside government control, Defense Distributed made the plans for the gun available online. That’s when they ran into trouble with the State Department, which told Defense Distributed to [take down the gun plans](http://www.popsci.com/technology/article/2013-05/us-state-department-tells-defense-distributed-take-down-3-d-printed-gun-plans). The State Department was the federal agency that acted in this case, and not the more obvious Bureau of Alcohol, Tobacco, and Firearms (ATF), because by the nature of the internet, the 3D-printed gun files can cross international borders. The State Department seized on this fact to say that transferring technical data like this counted as an export. Shortly afterwards, Defense Distributed took down the files and then reached out to the Electronic Frontier Foundation to see if they could help with this as a [free speech fight](http://www.popsci.com/technology/article/2013-05/defense-distributeds-cody-wilson-takedown-notice-we-win). Last December, the EFF filed a brief in support of Defense Distributed, arguing that the State Department’s enforcement of arms regulations this broadly was in fact [a threat to free speech](http://www.popsci.com/is-printing-gun-free-speech%3F). So is hosting files for printing a gun protected under the 1st Amendment? Not if there’s national security at stake, ruled the 5th Circuit Court of Appeals. From the ruling: Ordinarily, of course, the protection of constitutional rights would be the highest public interest at issue in a case. That is not necessarily true here, however, because the State Department has asserted a very strong public interest in national defense and national security. Indeed, the State Department’s stated interest in preventing foreign nationals—including all manner of enemies of this country—from obtaining technical data on how to produce weapons and weapon parts is not merely tangentially related to national defense and national security; it lies squarely within that interest. That’s weird as heck! The ruling goes on to note that “The fact that national security might be permanently harmed while Plaintiffs-Appellants’ constitutional rights might be temporarily harmed strongly supports our conclusion that the district court did not abuse its discretion in weighing the balance in favor of national defense and national security.” As [Ars Technica notes](http://arstechnica.com/tech-policy/2016/09/court-groups-3d-printer-gun-files-must-stay-offline-for-now/" \t "_blank), the opinion of the dissenting judge finds instead a complete lack of concern for free speech from the State Department, is using such a broad interpretation of the law to stop the sharing of these specific files online. Unless Defense Distributed appeals the ruling, it looks like files for printing guns aren’t protected by both the 1st and 2nd Amendments, but are instead protected by neither.

#### Code isn’t speech.

**Langvardt 16** [Kyle; Associate Professor of Law, Lecturer in Business Law and Ethics at Indiana University, Bloomington, Associate with Locke, Lord, Bissell & Liddell in Chicago; Minnesota Journal of Law, Science & Technology; Volume 17, Issue 2; 2016; “Remarks on 3D Printing, Free Speech, and Lochner”; <http://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1413&context=mjlst>;

**Suppose,** then, that instead of buying a physical hammer on Amazon, **I purchase a**ccess rights to a computer-aided design **(CAD) file representing** th**a**t **hammer.** (There is not yet any such market on Amazon, but the item can be obtained for $2.99 today on threeding.com.18) **I then use the** CAD **file to print a physical hammer** in my home **using some kind of 3D printer.** Am I still in the mall, or am I now in the library? I think it is obvious that I remain in the mall that **my purchase of a hammer does not become an exercise of free speech simply because** Amazon and **I** have **found a** newfangled **way to get around UPS.**

# 2AC- CPs- TOC

## Courts

### 2AC- Top Level

#### 1. Neg may not read agent counterplans- that moots aff offense by stealing the 1AC and making us argue against the plan itself- vote aff to deter abusive practices that change the way we debate substance

#### 2. Permutation do the counterplan- it’s normal means

#### 3. Doesn’t solve the case- Supreme court mandates are sweeping and don’t apply t the specificity of each college, they have different rules that they abide by

#### 4. Permutation do the both- schools have t comply to make speech codes work- that’s the aff, school compliance is the net benefit to the CP

#### 5. CP doesn't solve the aff- the whole point of the speech codes debate is that they’re unconstutitional but colleges woul d have them anwyways so they’d violate the CP

#### 6. Links to net benefit in the DA- they cause protests

#### 7. Trump DA- CP gets rolled back because Trump hates free speech, aff won’t because it’s not a government policy

### 2AC- Solvency Deficit

#### Colleges do not comply with Supreme Court decisions on free speech– empirics

Gould 01 ---- John, (professor in the Department of Justice, Law and Society and at the Washington College of Law at American University), "The Precedent That Wasn't: College Hate Speech Codes and the Two Faces of Legal Compliance," (2001)]

The fact that private schools were no more likely than public schools to adopt speech codes, and conversely that public schools were no more likely than private schools to amend or rescind them, brings us to the actual question of compliance. We know that there is no significant difference between public and private schools, but what were their compliance decisions? If we were to subscribe to a broad model of judicial impact- that judicial decisions command public action and affect public opinion-then R.A. V. and the four lower court cases should have convinced schools with policies prohibiting offensive speech or verbal harassment of minorities to amend or rescind their rules. Here we have a case where not only did the Supreme Court intend to send a message about public behavior but also its meaning was understood as such. Coupled with the decisions in Doe, UWM Post, Dambrot, and Cony, restrictive speech codes should have been a dead letter at public colleges and universities. For that matter, given the courts' influence beyond public bodies, and given the importance that many Americans ascribe to the First Amendment, we might also have expected many private schools to follow suit. However, as data in Tables 5 and 6 indicate, the trend was just the opposite. By 1997 the percentage of schools with speech policies had jumped 11%, and, while policies against verbal har- assment of minorities had dropped 3%, those covering offensive speech codes had tripled. Admittedly, the change may not be so dramatic when taking into account the confidence intervals, but the number of policies clearly rose following the court decisions, with the largest percentage jump coming from the most-restrictive speech poli- cies. Moreover, as the percentages in Table 7 indicate, the vast majority of schools with constitutionally suspect speech policies kept theirs on the books in the face of contrary legal precedent. Table 8, too, provides a closer look at the various strategies that schools followed. There, "offending policies" reflect those speech restrictions considered unconstitutional by the five court cases- verbal harassment of minorities and offensive speech-while "nonoffending policies" cover fighting words and generic verbal harassment, restrictions that were still permitted after the deci- sions. Although a majority of schools maintained speech policies neither before nor after the court cases, almost a quarter of insti- tutions either retained offending policies or adopted new ones following these decisions. That the courts' decisions had neither a powerful impact nor compelled widespread compliance is consistent with prior re- search in the field (Rosenberg 1991; Canon & Johnson 1999). The question is why this happened. Initially, it is important to define what it means for a school to comply or not comply with the courts' decisions. Returning a moment to Table 8, not all of the schools represented there made a compliance decision. To comply with judicial holdings is to bring a school's policies into line with the courts' rules. Noncompliance, by contrast, means permitting speech policies that conflict with the cases. Thus, the data in Table 8 distinguish between "offending policies"-those whose terms conflict with the courts' holdings-and "nonoffend- ing policies," those that were not touched by the cases. Given these terms, a school that complied with the courts' rulings would have removed an offending policy, replacing it ei- ther with a nonoffending policy or none at all. By contrast, non- compliance reflected two possibilities. Certainly, a school failed to comply with the decisions when it adopted an offending policy even after the cases, but schools that kept offending policies on the books were also in noncompliance. Put another way, non- compliance includes acts of both commission and omission.

## Congress

### 2AC- Top Level

#### 1. Rollback- the right to regulate restrictions on free speech is allowed by constitutional precedent by the courts, so legislation would be struck down

#### 2. Perm do both- have congress pass legislation and public colleges which ensures double solvency and it shields the link to the DA since [explain]

#### 3. Legislation protecting free speech by Congress would remain vague – the plan is key to specific implementation by each individual college

Manley 17 [Stanley Kurtz, James Manley, and Jonathan Butcher, (senior attorney at the Goldwater Institute’s Scharf-Norton Center for Constitutional Litigation), "CAMPUS FREE SPEECH: A LEGISLATIVE PROPOSAL," Goldwater Institute, 1/30/2017] AZ

In addition to these provisions, the model bill affirms the principle of institutional neutrality on issues of public controversy. As articulated by the University of Chicago’s Kalven Report of 1967, the institutional neutrality of universities on controversial public issues is the surest guarantee of intellectual freedom for individuals within the university community. When a university, as an institution, takes a strong stand on a major public debate, this inherently pressures faculty and students to toe the official university line, thereby inhibiting their freedom to speak and decide for themselves. We see this issue at work today in the campaigns to press universities to divest their endowments of holdings in oil companies or companies based in the state of Israel. At any university, such divestment would tend to inhibit intellectual freedom. This is particularly true for state universities, which should reflect the diverse views of the entire population of the state that provides the university funding. It’s important to note, however, that the model bill’s provision bearing on institutional neutrality is aspirational in character. Rather than undertaking the difficult task of identifying a clear boundary in law between issues on which there is social consensus and issues of public controversy, the bill simply affirms the basic principle of institutional neutrality and leaves its application in the hands of the university governing board.

#### 4. Reject agent counterplans on this topic specifically – they shift the debate away from the core controversy over the extent of free speech to a minor detail of implementation – also, they skew aff strategy by forcing us to argue against the plan and mooting 6 minutes of aff offense

#### 5. Solvency deficit- the federal government isn’t good at regulating free speech

### Federalism DA

#### A federal actor having a say in speech law undermines the entire federal system because the system is unclear as to how has jurisdiction over colleges.

**Winkler 09**, Adam. UCLA School of Law. 2009. “Free Speech Federalism,” Michigan Law Review Volume 108, Issue 2. http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1303&context=mlr.

Ever since the Supreme Court first held that the First Amendment's guarantee of free speech was incorporated to apply to the states, the Court has maintained that there is no formal distinction between laws burdening speech adopted at the federal, state, or local level. Regardless of their place in the federal system, all levels of government are formally treated to the same standards of review in speech doctrine.1 A content-based speech restriction, such as a campaign-finance law or a measure restricting indecent speech, is adjudicated under strict scrutiny regardless of whether it was enacted at the federal, state, or local level.2 A content-neutral speech restriction, such as a limitation on the time, place, or manner of speech, is adjudicated under a form of intermediate scrutiny no matter the governmental source.3 According to Fred Schauer, First Amendment doctrine is thus marked by "institutional blindness,' 4 with "the government" usually envisioned as a single, monolithic entity.5

#### Extinction – federalism solves war

**Calabresi 94**

Steven, Calabresi, Assistant Prof – Northwestern U., 1994, Michigan Law Review, p. 831-2

First, the rules of constitutional federalism should be enforced because federalism is a good thing, and it is the best and most important structural feature of the U.S. Constitution. Second, the political branches cannot be relied upon to enforce constitutional federalism, notwithstanding the contrary writings of Professor Jesse Choper. Third, the Supreme Court is institutionally competent to enforce constitutional federalism. Fourth, the Court is at least as qualified to act in this area as it is in the Fourteenth Amendment area. And, fifth, the doctrine of stare decisis does not pose a barrier to the creation of any new, prospectively applicable Commerce Clause case law. The conventional wisdom is that Lopez is nothing more than a flash in the pan. Elite opinion holds that the future of American constitutional law will involve the continuing elaboration of the Court's national codes on matters like abortion regulation, pornography, rules on holiday displays, and rules on how the states should conduct their own criminal investigations and trials. Public choice theory suggests many reasons why it is likely that the Court will continue to pick on the states and give Congress a free ride. But, it would be a very good thing for this country if the Court decided to surprise us and continued on its way down the Lopez path. Those of us who comment on the Court's work, whether in the law reviews or in the newspapers, should encourage the Court to follow the path on which it has now embarked. The country and the world would be a better place if it did. We have seen that a desire for both international and devolutionary federalism has swept across the world in recent years. To a significant extent, this is due to global fascination with and emulation of our own American federalism success story. The global trend toward federalism is an enormously positive development that greatly increases the likelihood of future peace, free trade, economic growth, respect for social and cultural diversity, and protection of individual human rights. It depends for its success on the willingness of sovereign nations to strike federalism deals in the belief that those deals will be kept. The U.S. Supreme Court can do its part to encourage the future striking of such deals by enforcing vigorously our own American federalism deal. Lopez could be a first step in that process, if only the Justices and the legal academy would wake up to the importance of what is at stake.

## Patriot Act

### 2AC- Top Level

#### 1. Perm repeal the patriot act but also pass the aff which removes restrictions on free speech. Multiple net benefits:

#### A. Compatible- the policies are not mutually exclusive

#### B. Shields the link to other DAs- the patriot act is strong and is an alternate cause to all the other DAs that they’ve read, the perm is net better because it solves back those issues and has a net benefit of case

#### C. Double solvency- multiple modes of attack are always net better

#### 2. CP doesn't solve- even if they repeal the patriot act through the government- colleges still have a right to censor free speech- every solvency argument on case is a disad to the CP.

## Safe Spaces

### 2AC- TL

#### Perm allow safe spaces on college campuses and the right to free expression outside of those spaces—it’s compatible and the net benefit is the case

**Shafer 16** [Shafer, Leah. “Safe Space vs Free Speech” Harvard Graduate School of Education. <https://www.gse.harvard.edu/news/uk/16/05/safe-space-vs-free-speech>. May 18, 2016.] NB

Amid these challenges, how can schools become environments that are both thought-provoking and respectful, intellectually challenging and safe? Ross and Warikoo offer some suggestions. At all educational levels, teachers and principals should explore the ramifications of First-Amendment rights, explaining to students that everyone has a constitutional right to express their views, even though that speech can sometimes offend or hurt. At the same time, educators can foster productive dialogue and respectful communities by: Leading conversations about words that hurt and terms that might be preferred instead. Talking regularly about concepts like empathy, and finding avenues for students to express their empathy with peers. Moderating discussions between a child and a peer she has offended. Urging students to speak up when a peer uses derogatory speech. Facilitating programs like “circle time” or other age-appropriate avenues to discuss complex topics, air grievances about offensive speech, and discuss alternative ways of interacting. At the higher education level specifically, the free and open exchange of ideas is central to the academic mission, and even private institutions, which can theoretically censor speech, typically enact policies protecting free speech. (Public institutions must abide by the demands of the First Amendment.) Faculty and administrators can promote democratic ideals and respectful dialogue by: Moderating community meetings in the aftermath of difficult or offensive events. Contextualizing quotations read in class that include offensive words. Professors should explain why they are using those quotations for academic purposes and acknowledge that those words can still hurt students, even when placed in their historical context. Offering [intergroup dialogue](http://igr.umich.edu/article/intergroup-dialogues) — a model developed by the [University of Michigan](http://umich.edu/). In these small seminars, with half of the participants from a marginal group and half from the dominant group, students engage in discussions over time about issues of difference, such as race and ethnicity, gender, or sexual orientation. Demonstrating that they take students’ perspectives seriously and are willing to engage in difficult discussions when conflicts arise.

#### Link Turn- Safe spaces are counterproductive- they shield important conversations and continue the victimization stereotype

**Samaniego 16** [Samaniego, Barbara. Sep 1, 2016, "Trigger Warnings And Safe Spaces Are Counterproductive Social Justice," Odyssey, <https://www.theodysseyonline.com/counterproductive-social-justice>] NB

The letter does read as inconsiderate, but it brings to light a crucial problem with a misuse of “trigger warnings” and “safe spaces.” “Trigger warnings” and “safe spaces” may indeed help those suffering from PTSD. Both have a place. Still, the inclusion and overuse of either in a university setting could produce intensely negative consequences that extend far beyond infringing on freedom of speech. The problem doesn’t lie in the warnings or safe spaces themselves, but in student’s attitudes towards them. In an effort to be overly cautious, students and universities very often fail to hold important conversations about issues such as sexual assault and race, thus neglecting and tiptoeing around the same serious issues they work so hard to protect their peers from. [In a coverage of the controversy](http://time.com/4466021/uchicago-trigger-warnings/?xid=time_socialflow_facebook), TIME magazine cited several instances that demonstrate these adverse effects. According to TIME, students at Rutgers requested that the book "Mrs. Dalloway" be taught with a "trigger warning." Students at Brandeis attempted to shut down another student’s art installation that displayed the microaggressions she faced, maintaining that the display itself could potentially be offensive. At Harvard, one criminal law professor lamented the difficulty of teaching rape law with this overemphasis of “trigger warnings.” Again, the problem doesn’t lie in the warnings themselves. The problem arises from an overuse of “safe space” rhetoric, which in turn pushes students away from productive discussions and crucial knowledge. In the case of the Harvard professor, the extreme advocacy of trigger warnings deprives future lawyers of the information they need to protect victims of rape. In the case of the Brandeis installation, the extreme advocacy of trigger warnings silences the artist’s struggle with microaggressions, inadvertently brushing the actual issue aside for it to remain unaddressed. In both cases, the warnings act counterproductively. They may intend to protect students, but they lay the groundwork for more harm to occur and to continue occurring unaddressed in the future. In the case at Rutgers, the argument for the trigger warning is indeed valid; the book depicts a highly realistic picture of post- war trauma and depression, ending with the suicide of one of the main protagonists. Of course, those suffering from PTSD should not be forced to endure harmful trauma. Still, the book is immensely important for others to breach the gap of misunderstanding. The value of the book lies in its description of the post-World War I environment and real depictions of, yes, PTSD. Allowing all students to opt out of reading it dangerously undermines the purpose of the work. Worse, taking the novel out of a curriculum limits students in understanding post-war trauma and silent trauma in general. Thus, they are not able to fully learn why that "warning" exists in the first place. This mentality leads to fearing the content of the novel, instead of fearing war and understanding PTSD itself. When we begin to understand war, to understand the real struggles of PTSD, we begin to discuss and look for solutions to those problems. Moreover, we assign a realistic figure to PTSD, and we stop viewing victims as mere victims, but sympathize and better support them with empathy and understanding instead of a quickly thrown together “warning.” To progress as a society, students need to be exposed to difficult material. There is no problem with an individual choosing not to engage with content because of past trauma, but there is a serious concern when people neglect talking and learning about serious issues. This is exactly what is beginning to happen. Students are avoiding important discussions and exposure to difficult material because of potential triggers to some individuals they don't even talk to because of the potential to offend them. What’s more, “trigger warnings,” “safe spaces,” and the extreme mentality that accompanies them are so overused that they take away the legitimacy and power from victims. Simply put, the overuse and overemphasis of safe space rhetoric feels insanely belittling and dehumanizing to some of those affected. Unnecessary trigger warnings, although well intended, can push the victim narrative so far that victims begin to feel alienated and uneasy. Blanking out a problem because it may be triggering and continuously portraying victims as mere victims is damaging, for it detracts and discourages people from addressing the core issue. We cannot label victims only as victims, without seeking to understand their experiences. Additionally, those affected grow more afraid of stepping up and speaking out because they themselves fear that their own experience is almost taboo to mention. That is paving the way to further censorship, and taking the realness out of experience by silencing conversations in its own right It is difficult to learn about the horrors of sexual assault, of war, of racial prejudice. It is critical that we protect and respect those affected. But we must learn the true extent of the issues that warrant these trigger warnings, and if we truly want to protect those affected, we need to act against the issues with adequate knowledge and understanding. If we do not debate or discuss, we do not learn the severity of the “triggers” and we do not act accordingly. A “trigger warning” may protect a sexual assault survivor from a trauma induced flashback, but the knowledge about the reality of sexual assault will produce an understanding that combats the rape culture that worked to cause the trauma in the first place. Protecting a victim goes far beyond a two-word warning. When we begin to delegitimize victims and cut out conversations that need to be happening, we've failed in our pursuit of social justice. Right now, we’re failing. There are countless “trigger warnings” plastered on articles criticizing social issues, but the issues continue to permeate our culture. We cannot continue avoiding discussion and knowledge because of “triggers.” Rather, we must educate ourselves and act against the reasons these warnings exist.

#### This outweighs:

1. psychological impact might hurt in the status quo- but future change is necessary to stop more violations
2. their psychological impact actually motivates individuals to create change so they join counterspeech movements- that shields their turns case impact

#### Psychological trauma is nonunique- they consistently have to face that but the CP allows racism to continue without seeking to address it

#### Link Turn- Claims to prevent traumatic triggers are fracturing coalitions to prevent oppression and violence in society—their argument rests on oversimplified definitions of trauma. Halberstam ’14 [Jack Halberstam. You Are Triggering me! The Neo-Liberal Rhetoric of Harm, Danger and Trauma. http://bullybloggers.wordpress.com/2014/07/05/you-are-triggering-me-the-neo-liberal-rhetoric-of-harm-danger-and-trauma/]

At this point, we should recall the “four Yorkshire men” skit from Monty Python where the four old friends reminisce about their deprived childhoods – one says “we used to live in a tiny old tumbledown house…” the next counters with “house!? You were lucky to live in a house. We used to live in a room…” And the third jumps in with: “room? You were lucky to have a room, we used to have to live in a corridor.” The fourth now completes the cycle: “A corridor! We dreamed of living in a corridor!” These hardship competitions, but without the humor, are set pieces among the triggered generation and indeed, I rarely go to a conference, festival or gathering anymore without a protest erupting about a mode of representation that triggered someone somewhere. And as people “call each other out” to a chorus of finger snapping, we seem to be rapidly losing all sense of perspective and instead of building alliances, we are dismantling hard fought for coalitions. Much of the recent discourse of offense and harm has focused on language, slang and naming. For example, controversies erupted in the last few months over the name of a longstanding nightclub in San Francisco: “Trannyshack,” and arguments ensued about whether the word “tranny” should ever be used. These debates led some people to distraction, and legendary queer performer, Justin Vivian Bond, posted an open letter on her Facebook page telling readers and fans in no uncertain terms that she is “angered by this trifling bullshit.” Bond reminded readers that many people are “delighted to be trannies” and not delighted to be shamed into silence by the “word police.” Bond and others have also referred to the queer custom of re-appropriating terms of abuse and turning them into affectionate terms of endearment. When we obliterate terms like “tranny” in the quest for respectability and assimilation, we actually feed back into the very ideologies that produce the homo and trans phobia in the first place! In The Life of Brian, Brian finally refuses to participate in the anti-Semitism that causes his mother to call him a “roman.” In a brave “coming out” speech, he says: “I’m not a roman mum, I’m a kike, a yid, a heebie, a hook-nose, I’m kosher mum, I’m a Red Sea pedestrian, and proud of it! And now for something completely different…The controversy about the term “tranny” is not a singular occurrence; such tussles have become a rather predictable and regular part of all kinds of conferences and meetings. Indeed, it is becoming difficult to speak, to perform, to offer up work nowadays without someone, somewhere claiming to feel hurt, or re-traumatized by a cultural event, a painting, a play, a speech, a casual use of slang, a characterization, a caricature and so on whether or not the “damaging” speech/characterization occurs within a complex aesthetic work. At one conference, a play that foregrounded the mutilation of the female body in the 17th century was cast as trans-phobic and became the occasion for multiple public meetings to discuss the damage it wreaked upon trans people present at the performance. Another piece at this performance conference that featured a “fortune teller” character was accused of orientalist stereotyping. At another event I attended that focused on queer masculinities, the organizers were accused of marginalizing queer femininities. And a class I was teaching recently featured a young person who reported feeling worried about potentially “triggering” a transgender student by using incorrect pronouns in relation to a third student who did not seem bothered by it! Another student told me recently that she had been “triggered” in a class on colonialism by the showing of The Battle of Algiers. In many of these cases offended groups demand apologies, and promises are made that future enactments of this or that theater piece will cut out the offensive parts; or, as in the case of “Trannyshack,” the name of the club was changed.As reductive as such responses to aesthetic and academic material have become, so have definitions of trauma been over-simplified within these contexts. There are complex discourses on trauma readily available as a consequence of decades of work on memory, political violence and abuse. This work has offered us multiple theories of the ways in which a charged memory of pain, abuse, torture or imprisonment can be reignited by situations or associations that cause long buried memories to flood back into the body with unpredictable results. But all of this work, by Shoshana Felman Macarena Gomez-Barris, Saidiya Hartman, Cathy Caruth, Ann Cvetkovich, Marianne Hirsch and others, has been pushed aside in the recent wave of the politics of the aggrieved.

#### This outweighs:

1. Coalitions are bigger to target real movements individuals who actualy care are proud to express their self identity rather than be shut down by other leftists
2. magnitude- microagressions are more common rather than real instances of violence- that trivializes the meaning of trauma for true survivors

## Torts

### 2AC- Top Level

#### 1. Perm do both – if a tort case is won that specific case isn’t protected by the first amendment because constitutional harm has been proven

#### 2. Litigation is an ineffective form of hate speech regulation

**Gelber & McNamara 15** [Katharine Gelber (Professor of Politics and Public Policy at the University of Queensland), Luke McNamara, "The Effects of Civil Hate Speech Laws: Lessons from Australia," Law & Society Review, 2015] AZ

We do not suggest that hate speech laws can only be successfully invoked in these circumstances. There is evidence to the contrary.28 However, our interviews with litigants and members of targeted communities supported this view. Community legal centres told us that complainants often have excessively high expectations in the beginning of the process when they tend to seek genuine apologies and little else. Over time, however, they can become frustrated, and eventually they may request additional remedies such as damages. A great deal of time and effort is involved in bringing a complaint to fruition—the first successful HIV/AIDS vilification case in New South Wales29 took three years from the complaint being lodged to a resolution being ordered in a tribunal. The solicitors assisting the complainants told us, “the stress that JM and JN went through you wouldn’t wish on anybody. And they were the victims” (HALC 2012). The complainants had worked in a fast food outlet in a small town, but were forced to relocate due to the dispute. Then, although they were awarded damages, the respondent was in receipt of government benefits and was unable to pay. The victory for the complainants was pyrrhic. Members of targeted groups also told us they found the process difficult, saying, “you might win in the end, but it’s going to take so much out of you,” and “it is [worth having the laws] but applying them is another story.” In addition to the time and effort required to take the complaint through to completion, an unrepentant offender may participate insincerely in drafting an apology which they are ordered to offer, which also frustrates complainants who seek a genuine acknowledgement of wrongdoing (HALC 2012; ICLC 2013). Keysar Trad’s long-running battle with radio personality Alan Jones provides another example of the heavy burden carried by complainants/litigants. In April 2005, Jones made statements during his Sydney radio broadcasts including calling Lebanese Muslims “mongrels” and “vermin,” and saying they “hate our country and our heritage,” “have no connection to us,” “simply rape, pillage and plunder a nation that’s taken them in,” were a “national security problem” who were “getting away with cultural murder,” and making women feel unsafe and threatened. Trad, a well-known member of Sydney’s Lebanese Muslim community, lodged a complaint with the NSW Anti-Discrimination Board and later commenced proceedings in the NSW Administrative Decisions Tribunal. The Tribunal ruled in 2009 that Jones’ statements breached racial vilification law, and ordered an on-air apology, the payment of $10,000 damages, and “a critical review of [Harbour Radio’s] ... policies and practices on racial vilification and the training provided for employees.”30 An appeal by Alan Jones was dismissed in 2011, and in 2012 the Tribunal finalised the terms of an apology. On December 19, 2012, seven and a half years after the offending conduct, Jones read out the apology during his 2GB radio program. Journalist David Marr observed that, “Much of the delay was due to intense - but largely fruitless - legal skirmishing by 2GB” (Marr 2009), a view that was also expressed to us by Trad (2013). But the legal proceedings continued. In 2013, 8 years after the incident, the parties returned to the Tribunal to argue costs. The Tribunal is usually a “no costs” jurisdiction (i.e., each party is responsible for their own legal costs irrespective of whether they win or lose) but an application can be made. The Tribunal ordered the respondents to pay legal costs incurred by Trad after June 2007 (the date on which a reasonable settlement offer made by Trad expired)31 and the Appeal Panel ordered that the respondents pay half of Trad’s appeal costs.32 In November 2013 the NSW Court of Appeal upheld an appeal by Jones and Harbour Radio on the ground that the Tribunal had failed to identify the audience to which the act was directed, and, therefore, the likely effect of the broadcast on an ordinary member of that audience.33 Trad was ordered to repay the damages and the complaint was remitted back to the Tribunal for determination. In December 2014, Trad’s complaint was again upheld.34 These stories confirm that Australia’s primary model of hate speech regulation places a heavy burden on the targets of hate speech. The legislation can only be invoked in relation to a given incident if a member of the vilified group is willing to step up and take on the arduous, stressful, time-consuming, and possibly expensive task of pursuing a remedy on behalf of the wider community. In a sense, the regulatory model assumes the existence of such a person in each of the targeted communities. As a result, and reflecting a widely recognised phenomenon in the literature on organized interests (Gilens and Page 2014; Schlozman, Verba, and Brady 2012), the benefits of the protection of Australian hate speech laws have been unevenly distributed, depending on the ability and willingness of the affected community to pursue hate speech litigation.

## Whistleblowers

### 2ac- whistleblowers pvp

#### 1. Perm do both- not mutually exclusive. Net benefit is double solvency for heg abroad that outweighs a risk of a DA

#### 2. Doesn’t solve- they don’t change military policy empirics prove that there has been no drawdown for example Snowden revealed NSA surveillance but it didn’t spillover

#### 3. CP doesn’t do anything- whistteblowers protected now

Gotshal 17 [Weil Gotshal &amp; Manges Llp, 3-8-2017, "Ninth Circuit Broadly Interprets Anti-Retaliatory Provision of Dodd-Frank's Whistleblower Protections," No Publication, <http://www.lexology.com/library/detail.aspx?g=92c3728d-b0b6-4926-b32e-4e0a0a365555>] NB

On March 8, 2017, the U.S. Court of Appeals for the Ninth Circuit held that the anti-retaliation protections of the Dodd-Frank Act (DFA) extend "to those who report internally as well as to those who report to the SEC."[1] Section 21F of the DFA prohibits retaliatory conduct against "whistleblowers" who provide information to the SEC pursuant to the DFA and also to those who make protected or required disclosures under Sarbanes-Oxley and other federal securities laws and regulations.[2] The SEC has interpreted Section 21F to provide protection from retaliation against those who make internal disclosures to management under Sarbanes-Oxley without reporting to the SEC as well as those who report to the SEC.[3] The Ninth Circuit stated that the SEC's regulation 21F accurately reflects Congress's overall purpose "to protect those who report violations internally," and in so ruling joined the Second Circuit, which reached a similar conclusion.[4] The Fifth Circuit previously reached a different conclusion, finding that section 21F only protects those who reported to the SEC, and adopted a contrary interpretation to the SEC's regulation.[5] We anticipate this issue to remain unsettled pending further judicial or legislative action.

# 2AC- Ks

## Note

#### Some of these are omitted because they can be transferred through topics and weren’t necessarily all of my work

## --- Neolib ---

## Link Level

### 1AR- Cap K- OV

#### --Framing issue: They have to prove why we increase capitalism, they can win if their links are just reasons for why the aff doesn’t solve as well---

#### 1. No link- activism is what they advocate for which is exemplified by students on campus- only giving them free speech gives them the capability to fight them throught hat

#### 2. Case outweighs their links: A. It’s a tangible policy option which benefits the material rights of individuals, B. uniqueness- the entirety of the K is a description of how neolib controls the status quo- the aff shifts away from that, C. It’s a prerequisite to the alternative- people need to speak freely in order to reject different ideas

#### 3. Perm do the aff and all other instances of the alternative- double bind either A. the alt is strong and solves residual links so aff’s link doesn’t have an impact which means the case outweighs B. the alt isn’t strong enough and is insufficient to do anything so perm solves best

#### 4. Perm do the aff and the alternative- the net benefit is the case which resolves material harms for individuals. The K contributes to an ivory tower disadvantage which allows infinite theorizing that never adjusts positions for individuals

#### 5. The case link turns the K- we bolster campus wide movements against the neoliberal agenda of corporations

### 1AR- TL- Link Turns

#### Free speech on campus is key to socialist pedagogy and sparking radical resistance to capitalism – multiple warrants. Worker’s Liberty 15

Worker’s Liberty, Universities, capitalism and free speech, 3/18/15, <http://www.workersliberty.org/node/24864>. NS

For centuries, university campuses have been, relatively speaking, a haven within capitalist society for free debate and criticism. A high point, for much of the 20th century, was the right which universities in Latin America won to keep the police off their campuses and have university officials elected by staff and students. That began with the University Reform Movement in Córdoba, in northern Argentina, which opposed a focus on learning by rote, inadequate libraries, poor instruction, and restrictive admission criteria, and spread across the subcontinent. The student radicalism which spread across much of the world in 1968 started, in 1964-5, with a Free Speech Movement at the University of California, Berkeley. The central avenues through campus had become a lively scene, with street stalls and political gatherings; the university authorities tried to clamp down, and were eventually defeated. Today free debate and criticism on campus is under threat from several angles. The government wants universities to ban speakers from their campuses who would be quite legal elsewhere. University administrations ban meetings, even without government prompting, when they think they might cause trouble or uproar. Campus space is increasingly commercialised and franchised-out, and university bosses try to stop student postering, leafleting, and campaigning affecting the “commercial space”. Student unions are increasingly run by people who think that a spell as student union president will look good on their CV when they apply for a managerial job. University lecturers’ careers depend on how many articles they get published in “leading” (i.e., in almost all fields, orthodox) journals. Over generations of academic turnover, this produces university departments filled with staff who have been selected by capacity to get wordage into those journals, and who in turn will go on to run those journals, oblivious to critiques or alternative approaches. This narrows the range of teaching and debate on courses. Finally, and paradoxically, the shutting-down of debate is sometimes promoted by student activists who consider themselves left-wing. A chief example is the bans on the Socialist Workers Party imposed by Goldsmiths and Edinburgh University student unions, and attempted elsewhere.

#### Free campus speech is key to defy neoclassical assumptions and introduce alternate economic perspectives to liberate marginalized groups. Worker’s Liberty 15

Worker’s Liberty, Universities, capitalism and free speech, 3/18/15, <http://www.workersliberty.org/node/24864>. NS

The process of narrowing This excerpt is taken from a report published in 2014 by critical economics students at Manchester University, and sums up how thought has been narrowed within the lecture halls and seminar rooms. "As little as 15 years ago the Economics Department at Manchester had a considerably wider range of professors who self-identified with different economic paradigms and had very different research agendas. This led to a far more eclectic undergraduate syllabus with modules such as comparative economic theory, comparative economic systems and alternative perspectives on developing economies being available for students to study. The Economics Department has radically changed in composition in the last 15 years and it is these changes that are the root cause of many of the problems we outlined. The Research Excellence Framework (REF) and academic journals have the power to define what is and isn’t economics and within that, what is good economics and bad economics. REF determines how much research funding each university gets and is a label of research prowess. Every four years a panel of leading academic economists grade departments on the basis of individual publications whose academic quality is inferred from the status and ranking of economics journals. The problem is that there are no recognisably heterodox economists on this panel and that the grading is done behind closed doors with only departmental ratings published. The outcome of the REF rating process is to elevate the neoclassical framework to the standard by which all economics research is judged. Departments and individual lecturers are forced to respond to the definitions of economics set by these bodies... Academic economists must work with neoclassical assumptions and methodology if they wish to secure academic tenure and advance within the leading economics departments... As nonmainstream Manchester professors have retired from expanding departments they have been replaced by young recruits [who] represent a narrow range of mainstream economists who had been published, or were more likely to be published, in the mainstream American journals (Big 5: AER, Chicago etc). This homogeneity puts the Department in the position of not having the capability to teach other schools of thought or history of economic thought. This narrowing process reinforces itself; now many young lecturers and teaching assistants aren’t able to facilitate critical discussions including alternative economic perspectives in tutorials because their economics education has lacked those elements. This monoculture also makes it easier for professors to believe that their way is the only way to do economics or at least that it is the only valid way, which in turn justifies its status as the only kind of economics taught at our university... Non-mainstream economists at Manchester have been stripped of their titles as economists and pushed out to peripheral positions in development studies and suchlike while various kinds of heterodox political economy have taken root in the business school, politics, geography and history departments." UCL votes for free speech By Omar Raii In mid-March University College London students’ union students voted (by a close margin) to support freedom of speech and organisation on campus. The arguments against came not from the right, but from self-defined leftists who argued that it may be necessary from time to time to stop speakers with objectionable views (for example misogynists, supporters of UKIP etc.) from coming on to campus, in order to protect oppressed groups. We replied that freedom of speech is especially important for oppressed groups, who are the most vulnerable when it comes to government censorship. Already the state and university managements are determined to clamp down on any debate that may lead to rowdiness or controversy. Student unions should not add to the censorious atmosphere by banning speakers or societies. The motion noted that “there has been a rise in instances of meetings, debates and publications being suppressed on university campuses, whether by campus authorities, the Home Office/police or sometimes by student unions themselves.... “That for freedom of expression to be genuinely established on campus, it must extend to those whose views may be regarded as objectionable.... “That student unions should generally champion free speech and organisation, and advocate their curtailment only in extreme circumstances, such as when speakers incite violence. “That fascist organising and presence on campus must be opposed and stopped, not because it leads to offensive speech, but because it contributes to violent, organised attacks on students, especially oppressed groups...”

### AT: Link- Chaterjee/Maira

#### This is nonunique- just a description of the academy now- not that we cause it .

### AT: Link- Brown

[Government restrictions damage freedom of speech just as they damage all freedoms. On the other hand, the unfettered accumulation and circulation of speech is cast as an unqualified good] [Speech appreciates through calculated investment, and it advances the position of its bearer or owner] [First, speech is like capital in its tendency to proliferate and push past barriers, circumvent laws, to spite efforts at intervention] [Persons are not merely producers, but consumers of speech, and government interference is a menace at both ends] [We are politically free when it circulates freely, and it circulates freely when corporttions don’t restrict what speech they may fund [The marketplace sets the power of speech and the government in a zero-sum game opposition]

#### 1. Speech and money are not a 1-1 analogy

#### A. There is a limited amount of capital in the world but speech cannot be quantified in the same way that money can- proves it’s not a method of commodification

#### B. Speech is equally accessible to everyone whereas money is not

#### C. the card says speech appreciates through calculated investment- BUT speech can also hurt the position of it’s owner, it doesn't have value in of itself like money

#### D. They say speech breaks barriers and law- status quo laws are neoliberal, we should have the capability to critize them

#### E. the card says people are consumers of speech- BUT there’s no internal link in this instance of consuming speech to exploitation in their evidence

#### 2. They just describe how the status quo functions neoliberally, the 1AC shifts away from that because we can criticize those institutions

#### 3. Nonunique with the alternative- speech still exists in both worlds, it’s just a question of it’s benefits

### AT: Not All Speak Free

#### 1. Link Turn- the aff gives them the right to speak freely- a right is better than restrictions

#### 2. Nonunique- this is the status quo and how corporations control output, the aff is the only method of shifting away

### AT: Corporations Benefit

#### 1. Nonunique- Corporations already are the only ones benefiting from free speech restrictions on individuals, they pay off the government

#### 2. Link Turn- the case gives rights to individuals instead of corporations to use speech correctly

### AT: Commodification of Speech

#### 1. No link- this is just a symbolic use of speech and regulation- they are used in two distinct cases, speech has intrinsic and instrumental value that can help protests and change government policy whereas money doesn’t have the capability to convey

#### 2. Nonunique- status quo has already used restrictions to determine value to specific types of speech- the ones they ban are invaluable- the aff shifts away from that so it’s a link turn

## State Links

### AT: Farbod 15

#### Compare whether state inclusive or state exclusive methods are net better

#### 1. Trying to change neolib from outside of the state actually makes it stronger- people have been trying for 100s of years without any success

#### 2. They have to prove why our specific policy of neoliberalism will either get coopted or not change anything

#### 3. Ivory tower- the author is literally a lawyer who works and makes money off neolib- it’s pretty easy for them to make claims about it

### 2AC- Statism Alt Turn

#### Refusing the state is a concession to neoliberal rationalities that seek to drain the state of its vitalism and relevance.

**Villadsen and Dean 12** (Kaspar and Mitchell, Associate Professor of Sociology at Copenhagen Business School and Research Professo or Sociology at Newcastle University, “State-Phobia, Civil Society, and a Certain Vitalism”, Constellations 19.3)

Governmentality, in short, is an analysis of the state and not something that lies beyond it. It shows the conditions of experience of the “state” as that which confronts an external domain – civil society – to which it must grant a measure of free action in order for government to function. It grows out of a diagnosis of the present as one in which the state has come to be regarded as essentially despotic, the source of evil in the world, and as a repressive force that deforms our subjectivity, from the inside as much as the outside, limiting our potentiality in the world. For Foucault, this is a view shared not only by the ultra-left that seeks a violent overthrow of the state, but also by variants of neoliberalism in the twentieth century. This view is rooted in the anti-state eschatology of the nineteenth century, which has the notion of civil society at its core.¶ In Foucault’s context, to reject a theory of the state was to reject a Marxist theory of the state and to take note of anti-institutional movements in both liberal democracies and those opposed to state socialism. Today, any rejection of analyses conducted in statist terms takes place in a changed context: in the context of the repeated mantra of “governance” theorists who speak of a shift from government to governance and of a “hollowing out the state”; against the backdrop of conceptions of globalization that claim that global flows of trade, finance, information, and culture have undone the “container” of the national state39; and in the presence of political analyses that claim that struggles directed toward the state have been displaced by grassroots movements conducting sub-, micro-, and transversal politics underneath, across, and above the territorial state. In short, to reject a theory of the state in favor of an analysis of local struggles in the 1970s marked a break with a prevailing left intellectual problematic and an attempt to open up the discussion of government and state. In our own time, to dissolve the concept of the state has the opposite effect: it merely reinforces what has become a kind of anti-political orthodoxy that has rendered the left a meaningless term. This dissolution easily makes an accession to political agendas fatally shaped by the militant intellectual and political “thought collective” of which Foucault was an early analyst – to neoliberalism.40

## Impact Level

### No Impact

#### No impact—neoliberalism checks itself through democratic institutions.

Johnston and Glasmeier 7 [Johnston, Ron, Professor of Geography, University of Bristol and Amy Glasmeier, professor of Economic Geography and Regional Planning, MIT. "Neo-Liberalism, Democracy and the State: Temporal and Spatial Constraints to Globalisation." Space and Polity 11.1 (2007): 1-33.] SW 7/13/2016

Globalisation, according to its proponents, does not have the negative impacts claimed by those who argue against the neo-liberal agenda. It does not accentuate poverty; it does not worsen the plight of women in developing countries or sustain the use of child labour there; it does not erode local cultures, lead to environmental degradation, or undermine democracy (Sheppard and Nagar, 2004). Instead, as Bhagwati (2004) claims, its agenda, if and when fully implemented, will achieve the exact opposite. All will benefit, and none will be able to resist: it is, according to a former head of the WTO, “a force that is anyway beyond their direct control” (Moore, 2003, p. 16). That neo-liberal agenda is promoted as key to universal prosperity and governments are pressed—by advisors and others—to introduce policies that will advance it. Some governments have been convinced and have implemented such policies. Many more do so because they are, in effect, bribed to by economic neo-imperialists working through international financial institutions. However, in the small minority of countries which have the greatest power to resist the pressure, the agenda is sometimes more respected in the rhetoric than the practice when its own interests suggest alternative policy directions. In such countries— basically those in the ‘developed world’ core spanning the North Atlantic—neoliberal goals may be subordinated to others which are, in effect, more selfseeking for the governments concerned, although they are usually defended as being in the (short-term at least) interests of the country as a whole. In such circumstances, globalisation is delayed and short-term, spatially focused, protectionist policies prevail as illustrated here with respect to labour movement, production subsidies and the ‘offshoring’ of jobs.

The rationale for this short-termism is often electoral. The prime purpose of any democratic government is to ensure its own re-election, a goal which introduces significant temporal and spatial constraints to many of its political actions. Policies that might have short-term deleterious impacts on the well-being of substantial groups of voters may be avoided, especially if those impacts could be felt in the period preceding an election, and particularly so if they will affect people concentrated in key spatially defined constituencies. Such failures, according to Moore have been caused by bad governance, lack of transparency and the shortsightedness and greed of business and political leaders. Progress can be stalled, we will experience new shocks in old clothing, but the historical trend line must make us optimistic (Moore, 2003, p. 41).

For Moore, these aberrations will fall to “the self-correcting advantages of democracy”. However, many government actions are taken to promote re-election chances, which are geographically structured within their national territories and are not globally ‘self-correcting’. Furthermore, that geographical structuring of their internal representative democracy is linked to many of their international actions: protecting their electoral heartlands at home strongly influences how they play away.

As Massey (2005) has argued, illustrated in the quotation at the start of this essay, the concept of globalisation is associated with calls for freedom which imply that space should be unbounded. Yet states that promote globalisation often bound rather than unbound their territories: they promote “the imagination of defensible places, of the rights of ‘local people’ to their own ‘local places’, of a world divided by difference and the smack of firm boundaries, a geographical imagination of nationalisms” (Massey, 2005, p. 86). This deployment of territorialisation strategies reflects certain constraints on state action—which are themselves spatially bounded. Short-term considerations associated with electoral concerns (which are spatially as well as temporally structured) are drawn upon to justify policies that impede the long-term goals of freedom of movement for all factors of production and trade. Those controlling the state apparatus put the local before the global and thereby the short term before the long term.

#### The term “neoliberalism” is thrown around, used in contradictory ways—it’s pretty much meaningless.

Brenner et al 10 [Brenner, Neil, Department of Sociology / Department of Sociology and Metropolitan Studies Program, New York University, Jamie Peck, Department of Geography, University of British Columbia, and Nik Theodore, Department of Urban Planning and Policy. "Variegated neoliberalization: geographies, modalities, pathways." Global networks 10.2 (2010): 182-222.] SW 7/13/2016

During the last three decades, the concept of neoliberalism has come to figure crucially in debates among heterodox political economists around what might be termed the ‘restructuring present’ – the ongoing transformation of inherited regulatory formations at all spatial scales. In the 1980s, the concept of neoliberalism gained prominence as a critical signifier for the ‘free-market’ ideological doctrine associated with the programmatic writings of Friedrich Hayek and Milton Friedman, and operationalized by the audacious restructuring strategies of vanguardist politicians like Pinochet, Reagan and Thatcher. Subsequently, as the project of imposing market disciplinary regulatory forms has been further entrenched across the world economy, the notion of neoliberalism has acquired a much broader range of analytical and empirical functions. No longer referring solely to the ideological ‘creed’ embraced by the evangelists of free markets, the concept of neoliberalism is now deployed as a basis for analysing, or at least characterizing, a bewildering array of forms and pathways of market-led regulatory restructuring across places, territories and scales (see Saad-Filho and Johnston 2005).

In this context, neoliberalism is understood variously as a bundle of (favoured) policies, as a tendential process of institutional transformation, as an emergent form of subjectivity, as a reflection of realigned hegemonic interests, or as some combination of the latter. Some scholars see these trends as signalling an incipient form of regulatory convergence or hegemony; others continue to call attention to significant flux and diversity, even if they cannot yet determine a singular countercurrent. The boldest formulations position neoliberalism as a ‘master concept’, or as a byword for an ideologically drenched form of globalization. Those more sceptical of such totalizing visions prefer to portray neoliberalism as a hybrid form of governmentality, or as a context-dependent regulatory practice. Perhaps not surprisingly, faced with these conflicting thematic evocations and methodological tendencies, others have concluded that ‘neoliberalism’ has become a chaotic conception rather than a rationally defined abstraction, and have thus opted to avoid using it altogether. The current global economic crisis has added still greater urgency to debates around the nature of neoliberalism, its internal contradictions and its putative collapse. Divergent interpretations of neoliberalism – its histories, its geographies, its crisis tendencies and its trajectories – are generating radically divergent diagnoses of the present geoeconomic conjuncture and the possibilities for alternatives to a market-based global order (Brand and Sekler 2009; Peck et al. 2009).

In truth, since the 1980s, a perplexing mix of overreach and underspecification has accompanied the troubled ascendancy of the concept of neoliberalism in heterodox political economy. The concept has become, simultaneously, a terminological focal point for debates on the trajectory of post-1980s regulatory transformations and an expression of the deep disagreements and confusions that characterize those debates. Consequently, ‘neoliberalism’ has become something of a rascal concept – promiscuously pervasive, yet inconsistently defined, empirically imprecise and frequently contested.

### No link

#### Their analysis consists of advancing a simplistic theory that survives empirical scrutiny only through its high level of abstraction. A relational, non-reductionist approach would endorse the perm.

Barnett 10 [Barnett, Clive, Professor of Political Economy and Development. Department of International Development, London School of Economics "Publics and markets: What’s wrong with neoliberalism." SJ Smith, R. Pain, SA Marston and JP Jones III (eds.) The SAGE Handbook of Social Geographies (2010): 269-97.] 7/16/2015

In theories of neoliberalism and neoliberalization, the theoretical preference for very high levels of abstraction is associated with a tendency to make a geographical virtue out of the consistent failure to theorize the state as anything other than a functional attribute of the reproductive requirements of capital. Particular state-formations and patterns of political contention are acknowledged only as local, territorialized, contextual factors that help to explain how the universalizing trajectory of neoliberalism, orchestrated from the centre and organised through global networks, nonetheless always generate ‘hybrid’ assemblages of neoliberalism.

This style of theorizing makes it almost impossible to gainsay the highly generalised claims about neoliberalism as an ideology and neoliberalization as a state-led project by referring to empirical evidence that might seem to contradict these grand concepts. For example, it is almost taken-for-granted that the hegemony of neoliberalism is manifest in the reduction of state expenditures on welfare in face of external pressures of neoliberal globalization. Empirical evidence for welfare state decline is, in fact, far from conclusive. Welfare regimes have actually proved highly resilient in terms of both funding and provisioning (see Taylor-Gooby 2001). At the same time, the extent to which open market economies foster rather than menace high-levels of national welfare provision is also hotly debated (Taylor-Gooby 2003). In both cases, the idea of any straightforward shift from state to market seems a little simplistic (Clarke 2003). But from the perspective of geography’s meta-theories of neoliberalization, all of this is so much grist to the contextualizing mill. Contrary evidence can be easily incorporated into these theories precisely because they layer levels of conceptual abstraction onto scales of contextual articulation.

Presenting differential state-formation as a contextual variable is related to a much broader displacement of political action in general to a lower level of conceptual abstraction in theories of neoliberalism. One aspect of this is the persistent treatment of a broad range of social movement activity as primarily a secondary response to processes of neoliberalization. But more fundamentally, Marxist political-economies of neoliberalism pay almost no attention, at a conceptual level, to the causal significance of the institutional and organisational forms that shape political action (Hay 2004). This is indicative of a broader failure to think through how distinctive forms of contemporary democratic politics shape pathways of economic development and capital accumulation. Theories of neoliberalism take for granted the capacity of states to implement particular policies in order to put in place the regulatory conditions for particular accumulation strategies. This overlooks the degree to which the time-space constitution of democratic politics in liberal democracies serve as “substantial impediments to the achievement of neo-liberal goals” (Johnston and Glasmeier 2007, 15). Given the territorialization of party support and the territorialized organization of electoral politics, liberal democracy generates strong pressures that militate against wholly flexible and open labour markets, sustain subsidies and protectionist measures, and support the promotion of investment in particular locations. In theories of neoliberalism, processes of free market reform in the USA and UK since the 1980s are considered models of more general tendential logics. But these examples might be quite specific outcomes of the balance of political forces in those polities when compared to the patterns of welfare reform and tax policy in European countries (Prasad 2005; see also Glyn 2007).

Taking into account the ways in which state action is constrained by the time-space constitution of electoral, representative democracy is particularly relevant for understanding why relatively wealthy, advanced industrial economies do not conform to the tendential logic predicted by political-economy theories of neoliberalization. These same constraints might be operative elsewhere too. It is routine to suggest that neoliberalism is ‘imposed’ on developing economies externally, through the Washington Consensus promulgated by the IMF, World Bank, and WTO. However, Stokes (2002) argues that patterns of neoliberalization in Latin America in the 1980s and 1990s can be explained in large part by analysis of the dynamics between electoral campaigning, party mobilisation, mandate and accountability as they played themselves out in periods of democratic transition and consolidation. In her account of ‘neoliberalism by surprise’, democratic governance, party competition, electoral accountability, and responsiveness to constituents’ interests all play crucial roles in explaining whether, how, and why neoliberal policies are adopted.

Strictly speaking, these sorts of considerations do not need to disturb the secure conceptual vantage-point offered by political-economy theorizations of neoliberalism. This paradigm is, as already suggested, internally attuned to recognize the variety and hybridity of neoliberalisms, and is able to ascribe this to the necessary articulation of generic neoliberal ideology, circulated globally, with territorialized logics operative at ‘lower’ geographical scales. Whether or not one finds this convincing comes down to a decision between different styles of theory. Political-economy approaches seek after high-level abstractions in order to identify fundamental features of phenomena (the logic of capital accumulation in Harvey, the capitalist state in Jessop, neoliberal ideology in Peck and Tickell). These abstract imperatives are then mapped empirically through a kind of deductive cascade, where they bump into other phenomena, like states, or racial formations, or gender relations. Because of their distinctive ontological features (e.g. their institutional qualities, their territorial qualities, their discursive qualities, and their identity-based qualities), these phenomena have never been amenable to the same sort of explanatory rationalism that allows the dynamics of capital accumulation to be defined so purely.

The effect of these theorizations is to de-politicize politics. If the dominant logic of state action can always be discerned from understanding the logic of capital accumulation and the balance of class forces, then that is really all one ever needs to really know (Clarke 2004a). This de-politicization of politics ‘out there’ is an effect of the inflation of the political force ascribed to the academic work of critique: analysis of politics is reduced to a matter of understanding how a logic already known in advance is differentially enacted, so that the critical task of such analysis can be presented as a political act of exposing naturalized forms as social constructs.

Despite the polite nods to ideas of ‘relative autonomy’, political-economy theories of neoliberalism only retain coherence by appealing in the last instance to a reductionist theory of the state. Gramscian state theory, with its ‘strategic relational’ view of the state, is a pretty sophisticated version of reductionism, able to acknowledge all sorts of autonomous action by state agencies, beset by all sorts of contradictions with underlying logics of capital accumulation. Nevertheless, narratives of neoliberalization hold fast to two basic assumptions about ‘the state’. Firstly, the state is understood as a territorialised power-container exercising sovereignty through its monopoly of violence and definitions of legality (Harvey 2005, 159). Secondly, the state is understood as an arena in and through which conflicts defined by reference to class interests are fought out. For example, in Harvey’s characterization, during Keynesian ‘embedded liberalism’ the state became “a force field that internalized class relations” (ibid, 11), and in turn neoliberalization reflects the conquest of this constituted state power in order to enact accumulation by dispossession.

Combining these two assumptions leads to an analysis in which the variable scope, extent and reach of sovereign state action is explained with reference to changing balance of social forces. The state is understood as an object and instrument of class struggle, but not as ‘an organisation-for-itself’ (Skocpol 1985; Mann 1988). In theories of neoliberalization, this concept of the state as a constituted sovereign actor that is also an arena for social conflict underwrites the claim that the state can and does now express the class interests of capital univocally. This sort of analysis continues to take for granted the sovereign capacities of ‘the state’ as an instrument for the forcing through of various political programmes translating ideational projects.

Neoliberalism and neoliberalization would appear somewhat differently from the ‘polymorphous view of the state’, premised on what Mann (1993, 52) calls “organizational materialism”. This view focuses on the distinctive characteristics of political institutions and their relationships with other actors. Such a non-reductionist approach suggests a different view of the restructuring of state actions upon which so much analysis of neoliberalism and neoliberalization focuses. An organisational materialist view of state-formation opens the way for an alternative style of analysis of the simultaneous retreat of the state from certain areas of activity and proliferation into other areas that so exercises political-economy accounts of neoliberalization. It suggests an analysis of the extent to which state actions are determined by the interactions between the dynamics of historically sedimented state imperatives and institutional frameworks and their responses to the changing dynamics of mobilisation and organisation of collective actors in civil society, broadly defined (see Offe 1996).

Taking the relational constitution of state-society interactions (see Corbridge 2007, Migdal 2001) seriously would allow analyses of contemporary transformations to bring into view the pro-active role of a series of actors, projects, and processes that get little if any attention in political-economy accounts of neoliberalization. This would include consideration of the secular dynamics of individualization and risk (Beck and Beck 2001, Taylor-Gooby et al 1999), and how these are transforming the dynamics of collective-will formation which relationally constitute the scope and content of state action. It would include greater consideration of the complex dynamics of bureaucratic and administrative transformation (Du Gay 2000). It would include the geographical dynamics of social reproduction which are not simply adjustments to neoliberalization (Yeates 2002). Moreover, it would open space for appreciation of the pro-active role of social movement mobilisations in emergent forms of ‘non-governmental politics’ (Feher 2007). It is also a view consistent with recent work which theorizes the ways in which state activities continue to reach into the ordinary spaces of everyday life (see Corbridge et al 2006, Painter 2005).

As already suggested, theories of neoliberalism are remarkably flexible in the face of empirical evidence that seems to run counter to the pattern of state roll-back and market expansion predicted by the neoliberalization hypothesis. Political-economy approach breaking point when they have to account for the observable empirical fact that, contrary to the objective they project onto the ‘neoliberal project’, it is found that states have not straightforwardly withdrawn from welfare provision or other forms of social regulation at all. Faced with this inconvenience, Peck and Tickell (2002) conjure up a neat conceptual distinction between what they call the ‘roll-back’ phase of neoliberalism and the ‘roll-out’ phase. The roll-out phase is triggered by the ongoing need of state actors to manage the crises generated by the roll-back phase. This is a selective deployment of the Polanyian theme of embedding and disembedding. It is used to suggest that contemporary processes of active statebuilding around issues of welfare, crime, family policy, urban order, participation, and cultural inclusion are still best understood as the natural extensions of an ideology that is supposed to be based on a straightforward opposition between state and market.

### Poverty

#### “Globalization screws the poor” is academic garbage – objective data, and a diversity of studies prove trade and global expansion reduce structural violence and improve living conditions on a massive scale

Iacono, Foundation of Economic Education, ’15 (Corey; 7/2/15; Writer for the Foundation of Economic Education, studies pharmaceutical science and economics; Foundation of Economic Education, “In Praise of Capitalist Globalization," <http://fee.org/anythingpeaceful/in-praise-of-capitalist-globalization/)>

Beginning in the early 1990s, global capitalism has lapsed into “its most savage form,” according to progressive populist (and new papal advisor) Naomi Klein. Indeed, the expansion of capitalism and freer international trade has coincided with an era of slow economic growth, high unemployment, increased child labor, skyrocketing inequality, and grinding poverty. Just kidding, that’s not what happened at all. In fact, as the world has become more capitalist and more globalized, the quality of life for the average person, and especially for the average poor person, has increased substantially. New research from the Peterson Institute for International Economics finds that global median income doubled between 2003 and 2013. Over the same period, global income inequality declined. Renowned economist Xavier Sala-i-Martin finds that absolute poverty rates have fallen around 80% and “measures of global welfare [have] increased by somewhere between 128% and 145%” since 1970. The source of this progress isn’t a massive wealth redistribution program; it’s massive wealth creation — that is, economic growth. Economists David Dollar and Aart Kraay found that, in a global sample of over 100 countries, changes in the income growth of the bottom 40% of the world’s income earners are highly correlated with economic growth rates. On the other hand, changes in inequality have contributed relatively little to changes in social welfare of the poor. Seminal research produced by Roman Wacziarg and Karen Horn Welch suggests that freer trade is an important determinant of economic prosperity, which is an important determinant of poverty reduction. Using quantitative analysis and a thorough review of country-specific case studies of free trade reforms, Wacziarg and Welch found that after countries reformed their trade policies in favor of freer trade, average investment and economic growth surged quite dramatically. Indeed, “countries that liberalized their trade regimes experienced average annual growth rates that were about 1.5 percentage points higher than before liberalization.” While protectionists argue that policies restricting trade are necessary to reduce poverty by protecting domestic industries, empirical evidence favoring this assertion is scarce. A 2004 review of the evidence on trade liberalization (reform towards freer trade) by Alan Winters found that: In the long run and on average, trade liberalization is likely to be strongly poverty alleviating, and there is no convincing evidence that it will generally increase overall poverty or vulnerability. In 2014, a decade later, Winters published another review to see if new evidence had changed that conclusion. The finding? “The conclusion that liberalization generally boosts income and thus reduces poverty has not changed.” Consider a study on trade liberalization in Indonesia, which found that liberalization in the form of reductions of import tariffs led to an increase in disposable income among poor households, which allowed them to pull their children out of the labor force, ultimately leading to “a strong decline” in the incidence of child labor. But free trade is only one aspect of economic freedom. Research using measures of how free an economy is in general has similarly shown that countries with more economic freedom enjoy lower poverty rates and that increases in economic freedom are associated with decreases in poverty rates (and vice versa). Foreign investment is also more desirable than opponents of markets and globalization give it credit for. The conventional wisdom in wealthy countries is that multinational corporations exploit poor workers in developing countries for cheap labor, profiting off people working in sweatshop conditions. However, a review of the evidence published by the National Bureau of Economic Research disputes this idea. According to authors Brown, Deardorff, and Stern: There is virtually no careful and systematic evidence demonstrating that, as a generality, multinational firms adversely affect their workers, provide incentives to worsen working conditions, pay lower wages than in alternative employment, or repress worker rights. In fact, there is a very large body of empirical evidence indicating that the opposite is the case. Foreign ownership raises wages both by raising labor productivity and by expanding the scale of production and, in the process, improves the conditions of work. Opponents of globalization, like Klein, often try to shame consumers for purchasing apparel that was made in third world countries. Buying these clothes will just further perpetuate the exploitation of the poor in these countries, we are told. However, in poor countries like Bangladesh, China, and Vietnam, the apparel industry consistently pays more than most other industries. According to research by economist Ben Powell, in poor countries “most sweatshop jobs provide an above average standard of living for their workers.” In light of this, it would hardly seem wise (or compassionate) to protest these jobs or boycott their products. It’s also worth noting that foreign competition is another way that people in developing countries can be made better off, by, for instance, inducing lower prices in important consumer goods and expanding consumer’s choices. A recent paper by a team of economists from several universities found that in Mexico “foreign retail entry [into domestic markets] cause large and significant welfare gains for the average household.” Anti-capitalists must also ask themselves: If these nightmarish depictions of free markets and globalization were true, why is capitalism so popular? A recent Pew Research poll of 44 countries revealed that a global median of 66% of respondents say most people are better off under capitalism, even if some people are rich and some are poor. Studies also show that there is an empirical regularity that democracies are more likely to engage in free market reforms than non-democracies. In recent work, Harvard and MIT economists found that one of the ways democracy indirectly stimulates economic growth is by increasing the likelihood of pro-market economic reforms. Moreover, another Pew Research poll found that in 41 of the 46 countries surveyed, majorities or pluralities said they believed foreign companies are having a positive effect on their country. In fact, people in poorer nations are more likely to say that foreign investment is good than people in richer nations. While wealthy progressives depict free markets, trade, and foreign investment as inherently exploitative, the world’s poorest people see them as opportunities for a better future. In this era of “savage capitalism,” the world has seen unprecedented declines in poverty and increases in global welfare, especially in the countries that have embraced free markets and free trade.

### Environment

#### Neolib allows us to innovate and solve environmental crises

Shireman, Eco Activist & Author, ’15 (Bill; 2/19/15; Eco Activist, author, and CEO at Future 500; The Guardian, “Envisioning a future with less doom and gloom: opportunities for the next generation of optimists,” http://www.theguardian.com/sustainable-business/2015/feb/19/realistic-optimists-post-carbon-economy-nature-environment-business)

When it comes to stories about the fate of the earth, headlines are usually dominated by tales of gloom and doom. And there’s certainly a great deal to be depressed about: global temperatures hit their highest levels ever last year, oceans are growing so warm and acidic that fisheries could be lost, and food and water systems are in decline. A big reason for focusing on the negative is that bad news tends to drive action. According to research by my organization, sustainable business nonprofit Future 500, negative messages typically yield two and a half times as much fundraising and five times as much media attention as positive ones. But as effective as the doom-and-gloom storyline is, there’s another important environmental narrative that’s waiting to be told. Following the work of environmental pioneers like William McDonough, Paul Hawken, Amory Lovins and other eco-designers, it’s clear that there’s an audience – and a desperate need – for a new generation of realistic optimists to help us envision a genuinely prosperous post-carbon economy. There is much to be optimistic about. In its 2013 report The 3% Solution, wildlife nonprofit World Wildlife Fund says that the key challenge facing developed countries is the need to reduce carbon emissions by roughly 3% a year. The McKinsey Global Institute says that’s not only doable, but it’s exactly what the economy needs to grow sustainably and overcome its economic deficits. Specifically, it says, the US needs to squeeze a third more value out of the energy it uses in the next decade, and improve that efficiency by 3% a year or more thereafter, to avoid painful economic and environmental consequences. The quest for that 3% solution may prove challenging, but it will also open up a wide range of business opportunities. Here are some of the biggest potential opportunities and the companies trying to tap them: Creating living farms, oceans and forests The industrial agriculture system treats land like a machine. It’s based on the assumption that, if farmers feed the earth the right fuel and keep out contaminants, the engine will run smoothly and generate massive agricultural output. That can be true, but nature offers a much more productive and sustainable model: life. Farms, forests and oceans have the capacity to create more value than they consume, something that machines can’t do. What’s more, they’re inherently sustainable. One step that large-scale agriculture could take towards adopting the nature-based model would be to shift to carbon-reducing agriculture. Fertile soil is a complex system with millions of carbon-sequestering microorganisms per square inch. Tilling, a common agricultural practice, burns fuel, releases poisonous exhaust gasses and strips the soil. The standard solution – pumping in pesticides, herbicides and nitrogen – only adds to the problem by contaminating groundwater and polluting oceans with runoff. Studies have shown that more natural soil amendments, like compost, manure and charcoal products, like those produced by the Biochar Company, can reduce atmospheric carbon and keep soils highly productive. In terms of water usage, treatment alternatives developed by companies like Algae Systems purify water at low cost, while generating carbon-negative fuels and fertilizers that are chemically identical to petroleum-based products. On the retail end, Whole Foods is driving mainstream consumer demand for approaches like these. At the same time, organic, slow and local food movements are also continuing to gain momentum. For further-reaching substantive change, however, major food companies and manufacturers will need to get involved in order to make any broader systemic changes mainstream. The sustainable seafood movement could offer a useful model for businesses and activists looking to change the agriculture system. Increasingly, careful fisheries management and the support of retailers like Walmart and Safeway are making sustainable seafood more commonplace. At the same time, groups like Environmental Defense Fund are continuing to push the needle forward. Admittedly, the aquaculture battle is still raging and oceans are still in crisis. Carbon emissions are making them warmer, more acidic and less productive, and resource competition is driving fishing well beyond sustainable yields. So how can a living agriculture approach further benefit the seas? One way is to end the race for fish through “catch shares,” a market based system that sets aside a secure share of fish for individual fishermen, communities or fishing associations. Forestry is another industry that could potentially offer a useful agricultural model. On the market end, brands like Nestle and Staples are helping to shift the market towards more sustainable forest practices. In this case, too, the problem is far from over, and activist groups are continuing to ramp up pressure on customers of companies like April and a host of other palm oil and paper producers. The “zero deforestation” effort, championed by Greenpeace and others, has driven attention and engagement to a critical international issue. Prosperity, not consumption, by design Another business opportunity lies in the shift from excessive consumption to impressive design. Traditional business models are moored in consumption. The industrial economy, for example, propelled consumption by accelerating the speed of extraction. Natural systems, on the other hand, develop value through efficient, smart design. AT&T, Advanced Micro Devices and Cisco are already putting this lesson to work, bringing productivity leaps to the non-digital economy. The internet of things is connecting computing devices and the Internet in factories, farms, buildings and homes. To put this in context, while industrial companies find it difficult to achieve 25% productivity gains, AMD expects a 2,500% gain in energy productivity for its computer processors by 2020. New technologies are also following nature’s lead when it comes to design. Rather than following the traditional model of extracting complex raw materials from the earth, AMD is producing microchips and solar cells that take plentiful raw materials like silica and inscribe on them a value-creating design, building value up. That’s why – as Future 500 has documented – innovations in microchips, telecommunications, and the Internet often yield productivity gains of 1000% or more. If producers and consumers can use these innovations wisely – admittedly, a big “if” – it will be possible for the economy to harness nature’s value-creating strategy. The sharing economy is another step forward. When digital technologies come into contact with consumptive industrial-era practices, the result can be positively disruptive. How many fewer hotels, rental cars, and taxis do we need, now that AirBNB, Zipcar and Uber enable consumers to share what they already have? Putting a price on carbon The third strategy also applies a core principle of nature: feedback and adaptation. While Congress delays on overarching federal climate policy, hundreds of companies are acting on their own, supporting an internal carbon price that drives down energy costs and carbon emissions simultaneously. Carbon taxes in British Columbia and Sweden, for example, outperform regulations and emission trading systems combined. Critics argue that a carbon tax can’t happen broadly, but environmental groups have more carbon-pricing allies than they think. Even oil company ExxonMobil, a major carbon producer, is a genuine supporter – a fact that many simply can’t comprehend. But Exxon Mobil’s data tells it that, in the long term, it’s smart policy to insure that carbon pays its way. Adopting a carbon tax shift is one systemic way to put a price on an atmospherically dangerous byproduct. And while the quest for that 3% solution will be difficult, it will open up a wide range of opportunities as well. So let’s begin to think outside the standard gloom-and-doom mentality to make systemic, positive environmental changes that benefit multiple interests. When we do, we might very well discover that the technological, corporate, and political support needed to save the planet is well within our reach.

#### Markets solves the environment – developing countries are the most polluting by self-checks and technology will be able to solve the impact

**Bailey, award-winning science correspondent, 10-31** (Ronald, “Is Capitalism Environmentally Unsustainable?”, Reason, Oct 31, 2014, http://reason.com/archives/2014/10/31/is-capitalism-unsustainable?n\_play=54547667e4b0dcc26e7944fe)

Human activity is remaking the face of the Earth: transforming and polluting the landscape, warming the atmosphere and oceans, and causing species to go extinct. The orthodox view among ecologists is that human liberty—more specifically economic activity and free markets—is to blame. For example, the prominent biologist-activists Paul and Anne Ehrlich of Stanford University recently argued in a British science journal that the environmental problems we face are driven by "overpopulation, overconsumption of natural resources and the use of unnecessarily environmentally damaging technologies and socio-economic-political arrangements to service Homo sapiens' aggregate consumption." The Ehrlichs urge the "reduction of the worship of 'free' markets that infests the discipline" of economics. But the notion that economic activity and free markets are antithetical to the flourishing of the natural world is complicated by the fact that the countries with the biggest environmental problems today, and the least means and apparent interest in addressing them, are not the liberalized ones with advanced capitalist economies but the ones with weak or nonexistent democracies and still-developing economies. So is it really the case that liberty and the environment are simply opposed? Does the good of one come only at the expense of the other? Or can liberty and a flourishing natural environment reinforce one another, the good of one encouraging the good of the other? Can economic activity under a system of liberty be environmentally sustainable in the long run? ... Many of these academics—though not all—acknowledge that market economies on the whole have greatly improved the lot of humanity over the past few centuries, leading to better standards of living, higher levels of education, and more civil and political rights. But they argue that the system of liberty produces accumulating externalities that will eventually drive civilization to self-destruction. Either human beings start restructuring civilization soon, the Ehrlichs warn, or "nature will restructure civilization for us." The Lockean response to these academics' worries is that free-market capitalism is as much about growing inward as outward—about learning to derive progressively more value from a finite supply of natural resources, so that we need not consume ever more of those resources. On this understanding, there need be no contradiction between meeting human material needs and preserving a large portion of the natural environment. So we have two broad views of the sustainability of the system of liberty, and they could hardly be more opposed: one of steady growth and self-reinforcing gains in the efficient use of natural resources, and one in which this growth may be maintained for a deceptively bountiful period of human history before it collapses in on itself. ... We can now begin to see the shape of an answer to our initial question of whether liberty and the natural environment must necessarily be opposed. In early stages of modern economic development, as liberty is unleashed in open-access orders, people convert relatively plentiful but unproductive nature into more productive but relatively scarcer human labor—that is, higher population—and manufactured capital. In those early stages, liberty and the environment function as what economists call "substitute goods," with more liberty resulting in less demand for the environment in its natural state. In such societies, fertility rates remain high and environmental amenities and quality continue to deteriorate. But at later stages of economic development, human and manufactured capital become so effective, thanks especially to technological progress, that the environment can be returned to a more natural state. And since such societies are more prosperous, they can better afford the costs of environmental regulations, even inefficient ones. ... Free markets are the most robust mechanism ever devised by humanity for delivering rapid feedback on how decisions turn out. Profits and losses discipline people to learn quickly from and fix their mistakes. By contrast, top-down bureaucratization tends to stall innovation and to make it more difficult for people and societies to adapt rapidly to changing conditions, economic and ecological. Centrally planned economies fail; centrally planning the world's ecology will fail as well. Our aim must be to find ways for liberty and the environment to flourish together, not to sacrifice one in the vain hope of protecting the other.

### Neolib best

#### The “economy” isn’t a monolith but rather an interlocking web of markets—deregulation is the best way to promote growth and social mobility.

Wilkinson 16 [Will Wilkinson is the vice president for policy at the Niskanen Center, Bernie Sanders is right the economy is rigged. He’s dead wrong about why., Vox, 7-15-2016, Accessible Online at <http://www.vox.com/policy-and-politics/2016/7/15/12200990/bernie-sanders-economy-rigged>] 7-17-2016

The first step on the path to wisdom is to give up on the idea that there’s any such thing as the economy, exactly. What we have instead is a dizzying array of interlocking markets that function (or don’t) to meet consumer demand for specific goods and services, and a vast body of law that defines these markets and regulates their operation.

The economy is the sum of this incomprehensibly complex ecosystem of human exchange, and is far too variegated and decentralized to "rig" all at once. So it gets rigged little by little, one market and one jurisdiction at a time.

The story of how the economy gets rigged is therefore a bunch of homely little stories of people with nice watches screwing over people with less-nice watches. But it’s not class war. It’s not the mega rich against the rest of us. It’s insiders seeking and then protecting special privileges that give them a leg up.

Dentists rig the system against dental hygienists by working to make it illegal for hygienists to clean teeth without totally unnecessary supervision by dentists. Taxi medallion oligopolists rig the system against regular folks with cars who would like turn a buck giving people rides. Beauty school cosmetologists rig the system against hair braiders and sidewalk hair-clipper artistes. "Massage therapists" rig the system against anybody with strong hands who might want to give back rubs for cash.

About 30 percent of all jobs in the United States today require some sort of occupational license, up from 5 percent in the early 1950s. This rather dramatic shift is evidence that the economy has indeed become increasingly rigged — which is really just another word for "regulated."

But the rigging of the economy is not just the story of occupational licensing. It’s also the story of big-city gentrifiers who block construction projects that would reduce the cost of housing by expanding its supply, which has the effect of rigging the economy against workers who can no longer afford to live where the best jobs are.

It’s the story of petty restrictions on the freedom to buy and sell — to commit "capitalist acts between consenting adults," as the philosopher Robert Nozick once put it — which deny dignity and safety to those who work on the margins of the economy. Think of Eric Garner selling untaxed cigarettes on a street corner.

Small regulations create an entangling web

Many of these economic regulations seem trivial in isolation. So what if you can't just decide to give back rubs for money? But when you add up all the things you can't do for money without meeting costly, unjustifiable requirements, you get a dense web of restriction that acts as a suffocating structural barrier to economic opportunity, mobility, and equality.

#### Developing countries that embrace protectionism condemn themselves to permanent poverty. A functioning global economy requires that China participate and be bound by global rules.

Wolf 7 [Martin Wolf, Financial Times chief economist Wolf: In Defense of Neoliberalism, 7-24-2007, Accessible Online at http://ipezone.blogspot.com/2007/07/fts-wolf-in-defense-of-neoliberalism.html] 7-17-2016

What neo-liberals - if I may use that ugly term - did believe is that new opportunities were at last opening up for developing countries to export manufactures and a range of relatively sophisticated services competitively. Indeed, about 80 per cent of exports from developing countries are now manufactures.

Admittedly, this success has recently been dominated by China. But China is as populous as sub-Saharan Africa and Latin America combined. The exports of manufactures would, it was hoped, build up the virtuous circle of growth and industrialisation in which Reinert believes, operating on a world scale from the start. That is, of course, what China is now achieving.

This brings me to my most fundamental disagreement: the lessons of history. Reinert argues: “US industrial policy from 1820 to 1900 is probably the best example for Third World countries to follow today until these countries are ready to benefit from international trade.” From the emphasis Chang puts on 19th-century examples, he agrees.

Yet this example makes no sense for most, if not all, contemporary developing countries. The technological gap between the UK and the US in the 19th century was trivial by comparison with that between, say, the US and Ethiopia today. Even so it took more than half a century for the US to close it.

The US was also a vast continental country, capable of attracting a huge immigrant workforce, much of it educated, and so generate a domestic market large enough to exhaust the economies of scale offered by the technology of the time, while still permitting strong domestic competition. That proved not to be the case even for India, a giant among developing countries. This is, to put it mildly, hardly a model for Ethiopia, let alone Chad.

Few (I would argue, no) contemporary developing countries are big or technologically sophisticated enough to make a decent job of the 19th-century protectionist model. The big successes of recent decades - from Hong Kong to China, South Korea to Ireland, Singapore to Taiwan, Japan to Finland - were not all free traders (though some were). Some also relied heavily on foreign direct investment (China, Ireland and Singapore), while others resisted it (Japan and South Korea).

Yet all used the world economy - and therefore trade - as a central part of their development success. These were, then, cases of outward-looking, infant-industry promotion far more than protection. Indeed, this was precisely what most observant economists learnt from the contrast between the performance of South Korea and India. Apparently similar tools can be used in various ways, with very different results. Both the overall aim and the details of policy make a huge difference.

Moreover, both these books lack a serious discussion of what very late catch-up countries ought to do. Reinert recommends free trade inside Africa or Latin America, with high barriers to trade against outsiders. But this sort of preferential trading agreement among developing countries is a way to transfer income from the most backward to the least backward economies in the region.

Worse, the higher the protection the larger (and so more politically objectionable) is the transfer of income. This is why only those preferential agreements with low external barriers tend to survive. But these do not deliver the greater protection Reinert wants. Higher barriers, even if desirable, would be politically possible only if members also moved towards a single labour market, which is impossible.

What then is left is protection by individual countries. But, to use just one example, Ghana’s national income is about the same as that of a London borough. A policy of import substitution there would be as rational as for Southwark.

Across-the-board import substitution in a country such as Ghana is a recipe for creating a host of small-scale, uncompetitive, rent-extracting monopolies. Obviously, an industrial policy with any hope of success must be both selective and build towards world markets, to obtain scale. What, then, are the chances that often malignantly corrupt, incompetent and ill-informed governments will make sensible choices? Little, I would argue.

South Korea and Taiwan were exceptional cases. The argument that success will follow the overthrow of the neo-liberal consensus and the return of protection is nonsense. But the authors are right that those who argued that free trade alone is the answer were wrong. There are no magic potions for development. Developmental states can work. Many fail. But some may succeed.

Above all, developing countries should be allowed to try, and so learn from their own mistakes. Countries should be warned of the difficulties of following South Korea’s example, but allowed to do so if they wish.

Big and relatively successful developing countries, such as China and India, must participate in and be bound by global rules. They cannot be free riders. But the bulk of developing countries should be allowed to choose their own policies. Almost all will need to attract inward foreign direct investment. A few might still manage without it.

#### Economic integration key to women’s rights.

Gray et al 6 [Gray MM, Senior Lecturer in Physical Organic Chemistry, University of Sunderland, Kittilson MC and Sandholtz W, John A. McCone Chair in International Relations, University of Southern California (2006) Women and globalization: A study of 180 countries, 1975–2000. International Organization 60(2): 293–333] 7/17/2016

The evidence presented in our analysis shows that global norms and institutions make a difference for the quality of life and status of women. We have found that more often than not, when domestic cultures are more open to international influences, outcomes for women improve, as measured by health, literacy, and participation in the economy and government. Membership in the UN and World Bank, along with international trade and investment activity, are frequently associated with improved outcomes for women. But the most consistently important factor across models is ratification of CEDAW. Participation in this agreement has played a role in increasing female levels of literacy, participation in the economy, and representation in parliament. Further, our analysis confirms that the effects of CEDAW are independent; ratification of CEDAW and positive changes for women on the dependent variables cannot be attributed to underlying domestic factors. Finally, with respect to life expectancy and illiteracy, our models show that at least some forms of international integration not only produce absolute gains for women but also contribute to greater equality vis-a-vis men.

In examining the "rising tide" of changes in women's roles around the world, Inglehart and Norris argue that cultural change is necessary for institutional change, which ultimately brings improvements in women's lives.121 We concur: changes in attitudes and values are key to women achieving greater equality. Yet our analysis suggests that this process is not unidirectional. In a mutually reinforcing manner, changes in institutions can alter culture. Participation in international organizations and treaties designed to promote women's equality can shape national attitudes. In this way, institutions such as CEDAW may act as mechanisms for change.

Finally, though our findings do support the conclusion that, on balance, expanding international ties open the way to improvements in the quality of life and status of women, they in no way imply that globalization is good for all women everywhere. Where international trade and investment erode traditional local economies or degrade the environment, women as well as men suffer. When transnational enterprises create new jobs in one country, they may well eliminate them in another, diminishing economic opportunity and standards of living. But our initial proposition seems to hold up: increasing international exchange and communication create new opportunities for income-generating work and expose countries to norms that, in recent decades, have promoted equality for women. International norms and institutions can, at a minimum, give women one more source of leverage in pressing for domestic reforms. Advocates of equality for women at the national level can insist that their governments measure up to international standards and commitments. Because our findings have these practical implications for political bargaining over women's issues, future research may shed light on the national processes behind these large-scale shifts. By moving between the aggregate level and in-depth studies of particular cases, it may be possible to more fully draw out some of the mechanisms behind these relationships, including the role of women's groups in leveraging policy changes from international agreements such as CEDAW.

### Cap good

#### The environment is getting better because of innovation.

**Matthews** and Boltz, Center for Conservation and Government, Conservation Internationanl, June **’12** (John and Frederick, “The Shifting Boundaries of Sustainability Science: Are We Doomed Yet?,” PLOS Biology, <http://www.plosbiology.org/article/info:doi/10.1371/journal.pbio.1001344>)

Humans have long caused irreparable harm to ecosystems, driven species to extinction, and have in turn endured major shifts in biogeochemical cycling. We agree that such incidents are avoidable and unacceptable and that the magnitude of current trends must not be dismissed. Humans have also developed ingenious and novel ways of making resource use far more efficient or exploiting new types of resources. Obvious developments here include the invention of agriculture and the domestication of wild plant and animal species, of course, but humans have also been innovative in energy development (wood, wind, coal, petroleum, hydropower, biofuels, geothermal, biogen, nuclear, solar, and wave power), the development of synthetic chemical fertilizers in the 19th century, and the discovery of modern antibiotics in the 20th century. Other innovations have been organizational, such as the development of cities in the Levant and east and south Asia, the birth of modern experimental science, and the transition from family-tribal-moeity structures to multiple scales of governance (including corporate, national, international, and global government structures and institutions). Some responses to economic and environmental change defy the longstanding predictions of overpopulation concerns, such as the widespread trend towards declining birthrates as living standards increase [32], though the relationship between per capita energy consumption and population growth is complex [33]. While Burger and colleagues point to increasing energy consumption over the past few centuries, they disregard important shifts in the sources of energy in progressive economies [1]; the expansion of low-carbon energy sources in China, Brazil, the European Union, and other regions in recent decades marks a critical transition, and a shift from coal-fired sources of power to hydropower or wind mark very significant transformations, with important implications for ecological footprints. For example, over 98% of Norway's electricity is derived from hydropower [34], about 20% of Brazil's transport fuels consumption is derived from renewable biofuels [35], while China has installed to date about 61 GW of windpower, or roughly three times the generation potential of the Three Gorges Dam [36]. The development of a global environmental movement is also notable in this context, as signified by both the 1992 Rio Earth Summit (attended by over 100 heads of state and 172 governments) as well as its planned 2012 successor conference, the Rio+20 Summit, in addition to important milestones achieved under the UN biodiversity and climate conventions (i.e., the United Nations Convention on Biological Diversity [UNCBD] and the United Nations Framework Convention on Climate Change [UNFCCC]). While these and other innovations in organization, efficiency, and technology have had unintended side effects, they also resulted in major transitions in human survivorship, resource extraction efficiency, and social and cultural organization. They were also largely unanticipated or very difficult to predict for most observers prior to their invention. Taken together, humans have demonstrated great creativity in how we use technological, social, and cultural “tools” to solve resource limitations. Not Doomed (Yet) Top Our “adjustments” to the view of sustainability science presented by Brown and colleagues [1] are not meant to obscure or downplay absolute declines in resources such as economically valuable metals and agriculturally productive land, our heedless approach to anticipated tipping points in greenhouse gas accumulation, and ecosystem transformation and species extinction. The availability of natural resources is less of a problem than absolute limits in the Earth's ability to absorb the different outputs of economic activities, while maintaining conditions necessary for human productivity, much less the survival of humans and other species. Anthropogenic climate change is perhaps the most prominent example of these new scarcities and emerging “limits to growth.” Indeed, we attribute great merit to these cautionary appeals and to the evidence of Earth system thresholds. We argue for positive responses in behavior, technological progress, and economic realignments commensurate with the challenge of fulfilling human needs while maintaining an Earth system suitable for the long-term survival of humans and other species. The authors ask, Can the Earth support even current levels of human resource use and waste production, let alone provide for projected population growth and economic development? They answer their question with little doubt: “There is increasing evidence that modern humans have already exceeded global limits on population and socioeconomic development, because essential resources are being consumed at unsustainable rates” [1]. We agree that our present consumptive trajectory risks surpassing perceived planetary boundaries in the safe operating space for humanity (c.f. [11]). We argue that these risks merit a paradigm shift, a global transformation—and that this paradigm shift is underway. We believe that the transition from relatively static approaches to sustainability to flexible green economies embedded in dynamic, variable ecosystems will prove to be a critical intellectual shift for humans this century.

#### Markets key to peace.

**Gartzke ‘9** (The Capitalist Peace Erik Gartzke Columbia University 2009 Erik Gartzke is an associate professor in the Department of Political Science and the Saltzman Institute of War and Peace Studies at Columbia University

The discovery that democracies seldom fight each other has led, quite reasonably, to the conclusion that democracy causes peace, at leastwithin the community of liberal polities. Explanations abound, but a consensus account of the dyadic democratic peace has been surprisingly slow to materialize. I offer a theory of liberal peace based on capitalism and common interstate interests. Economic development, **capital market integration**, and the compatibility of foreignpolicy preferences **supplant the effect of democracy in standard statistical tests of the democratic peace**. In fact, after controlling for regional heterogeneity, any one of these three variables is sufficient to account for effects previously attributed to regime type in standard samples of wars, militarized interstate disputes (MIDs), and fatal disputes.1 If war is a product of incompatible interests and failed or abortive bargaining, peace ensues when states lack differences worthy of costly conflict, or when circumstances favor successful diplomacy. Realists and others argue that state interests are inherently incompatible, but this need be so only if state interests are narrowly defined or when conquest promises tangible benefits. Peace can result from at least three attributes of mature capitalist economies. First, the historic **impetus to territorial expansion is tempered by the rising importance of intellectual and financial capital**, factors that are more expediently enticed than conquered. Land does little to increase the worth of the advanced economies while resource competition is more cheaply pursued through markets than by means of military occupation. At the same time, development actually increases the ability of states to project power when incompatible policy objectives exist. Development affects who states fight (and what they fight over) more than the overall frequency of warfare. Second, substantial overlap in the foreign policy goals of **developed nations** in the post–WorldWar II period further **limits** **the scope and scale** of conflict**.** Lacking territorial tensions, consensus about how to order the international system has allowed liberal states to cooperate and to accommodate minor differences. Whether this affinity among liberal states will persist in the next century is a question open to debate. Finally, the rise of global **capital markets creates a new mechanism for competition and communication for states that might otherwise be forced to fight.** Separately, these processes influence patterns of warfare in the modern world. **Together, they explain the absence of war among states in the developed world** and account for the dyadic observation of the democratic peace. The notion of a capitalist peace is hardly new. Montesquieu, Paine, Bastiat, Mill, Cobden, Angell, and others saw in market forces the power to end war. Unfortunately, war continued, leading many to view as overly optimistic classical conceptions of liberal peace. This study can be seen as part of an effort to reexamine capitalist peace theory, revising arguments in line with contemporary insights much as Kantian claims were reworked in response to evolving evidence of a democratic peace. Existing empirical research on the democratic peace, while addressing many possible alternatives, provides an incomplete and uneven treatment of liberal economic processes.Mostdemocraticpeace researchexamines trade in goods and services but ignores capital markets and offers only a cursory assessment of economic development (Maoz and Russett 1992). Several studies explore the impact of interests, though these have largely been dismissed by democratic peace advocates (Oneal and Russett 1999a; Russett and Oneal 2001). These omissions or oversights help to determine the democratic peace result and thus shape subsequent research, thinking, and policy on the subject of liberal peace. This study offers evidence that liberal economic processes do in fact lead to peace, even accounting for the well-documented role of liberal politics.

#### Economically developed countries have better human rights records.

Koo and Ramirez 9 [Koo JW, Assistant Professor, Department of Sociology, Sungkyunkwan University, Seoul, Korea. and Ramirez FO, Professor of Education and Sociology, School of Education, Stanford University (2009) National incorporation of global human rights: Worldwide expansion of national human rights institutions, 1966–2004. Social Forces 87(3): 1321–1353] 7/17/2016

A political framework that is more amenable to satisfying human rights demands can be discussed in general terms using the literature on democracy and democratization. More sensitive to citizenship rights, the more democratic regimes or newly democratic countries should have an easier time in transitioning to dealing with human rights claims. But a more concrete discussion can focus on the human rights records of varying regimes (Poe et al. 1999). In either case the straightforward implication is that the costs of alignment with an international human rights regime will be lower in a more democratic or newly democratic regime as well as in a regime with a more favorable human rights record (Hathaway 2003).

The neo-realist perspective predicts that the national incorporation of global human rights is more likely to occur in the more developed economies. Wealthier countries tend also to have more democratic regimes (Kurzman et al. 2002). Furthermore, net of political and cultural factors that favor the national institutions, wealthier countries are more likely to be able to afford the establishment and maintenance of NHRIs, and to shoulder the costs of compensating victims. Reparations paid to Americans of Japanese descent interned during World War II illustrate this point. Pressures on Japan to more explicitly acknowledge its wartime victimization of civilians (the comfort women issue, for example) are at least in part driven by the sense that Japan can afford to compensate its victims.

To summarize, from a neo-realist perspective, country profiles are crucial predictors of their adherence to or compliance with international human rights standards. Because the latter is more likely to reflect the preferences of the more powerful countries, it is less costly for these countries to act in ways consistent with these international rules of the game. This perspective motivates the following hypotheses:

Hypothesis 1: Economically advanced countries are more likely than non-economically advanced countries to adopt NHRIs. Hypothesis 2: Democratic countries are more likely than non-democratic countries to adopt NHRIs. Hypothesis 3: Countries changing in the direction of a more democratic regime are more likely to adopt NHRIs than countries that do not change or change in the direction of a less democratic regime. Hypothesis 4: Countries with better human rights records are more likely than countries with poor human rights records to adopt NHRIs. Hypothesis 5: Western countries are more likely than non-Western countries to adopt NHRIs.

### A2 Struct. Violence/V2L

#### The status quo is structurally improving.

Indur **Goklany 10**, policy analyst for the Department of the Interior – phd from MSU, “Population, Consumption, Carbon Emissions, and Human Well-Being in the Age of Industrialization (Part III — Have Higher US Population, Consumption, and Newer Technologies Reduced Well-Being?)”, April 24, <http://www.masterresource.org/2010/04/population-consumption-carbon-emissions-and-human-well-being-in-the-age-of-industrialization-part-iii-have-higher-us-population-consumption-and-newer-technologies-reduced-well-being/#more-9194>

In my previous post I showed that, notwithstanding the Neo-Malthusian worldview, human well-being has advanced globally since the start of industrialization more than two centuries ago, despite massive increases in population, consumption, affluence, and carbon dioxide emissions. In this post, I will focus on long-term trends in the U.S. for these and other indicators. Figure 1 shows that despite several-fold increases in the use of metals and synthetic organic chemicals, and emissions of CO2 stoked by increasing populations and affluence, life expectancy, the single best measure of human well-being, increased from 1900 to 2006 for the US. Figure 1 reiterates this point with respect to materials use. These figures indicate that since 1900, U.S. population has quadrupled, affluence has septupled, their product (GDP) has increased 30-fold, synthetic organic chemical use has increased 85-fold, metals use 14-fold, material use 25-fold, and CO2 emissions 8-fold. Yet life expectancy advanced from 47 to 78 years. Figure 2 shows that during the same period, 1900–2006, emissions of air pollution, represented by sulfur dioxide, waxed and waned. Food and water got safer, as indicated by the virtual elimination of deaths from gastrointestinal (GI) diseases between 1900 and 1970. Cropland, a measure of habitat converted to human uses — the single most important pressure on species, ecosystems, and biodiversity — was more or less unchanged from 1910 onward despite the increase in food demand. For the most part, life expectancy grew more or less steadily for the U.S., except for a brief plunge at the end of the First World War accentuated by the 1918-20 Spanish flu epidemic. As in the rest of the world, today’s U.S. population not only lives longer, it is also healthier. The disability rate for seniors declined 28 percent between 1982 and 2004/2005 and, despite quantum improvements in diagnostic tools, major diseases (e.g., cancer, and heart and respiratory diseases) now occur 8–11 years later than a century ago. Consistent with this, data for New York City indicate that — despite a population increase from 80,000 in 1800 to 3.4 million in 1900 and 8.0 million in 2000 and any associated increases in economic product, and chemical, fossil fuel and material use that, no doubt, occurred —crude mortality rates have declined more or less steadily since the 1860s (again except for the flu epidemic). Figures 3 and 4 show, once again, that whatever health-related problems accompanied economic development, technological change, material, chemical and fossil fuel consumption, and population growth, they were overwhelmed by the health-related benefits associated with industrialization and modern economic growth. This does not mean that fossil fuel, chemical and material consumption have zero impact, but it means that overall benefits have markedly outweighed costs. The reductions in rates of deaths and diseases since at least 1900 in the US, despite increased population, energy, and material and chemical use, belie the Neo-Malthusian worldview. The improvements in the human condition can be ascribed to broad dissemination (through education, public health systems, trade and commerce) of numerous new and improved technologies in agriculture, health and medicine supplemented through various ingenious advances in communications, information technology and other energy powered technologies (see here for additional details). The continual increase in life expectancy accompanied by the decline in disease during this period (as shown by Figure 2) indicates that the new technologies reduced risks by a greater amount than any risks that they may have created or exacerbated due to pollutants associated with greater consumption of materials, chemicals and energy, And this is one reason why the Neo-Malthusian vision comes up short. It dwells on the increases in risk that new technologies may create or aggravate but overlooks the larger — and usually more certain — risks that they would also eliminate or reduce. In other words, it focuses on the pixels, but misses the larger picture, despite pretensions to a holistic worldview.

## Alt Fails

### \*\*\*2AC – Alt Fails

#### Reject their lens of neoliberalism. Starting with “neoliberalism” encourages fake radicalism, oversimplification, and greater levels of cooptation than positive and pragmatic politics.

\*uses the example of sustainability movements and says you can’t reduce all problems to an ideology –

\*if explained as social relations – how does their alt change that – no way an alternative can change an ideology that isn’t like term “multi-generational”

\*if explained as a set of policies – the perm – the aff is not upholding neolib

\*no alt solvency argument

-Ad hoc policies of neoliberalism also originate from Leftist movements for greater autonomy

-Sustainability politics also emerged during this time, but the neolib K ignores those and lumps them all together

-Ignores positive action that doesn’t conform to a romantic view of rebellion (i.e. the plan)

Clive BARNETT Faculty of the Social Sciences @ Open University (UK) ‘5 [“The Consolations of ‘Neoliberalism’” *Geoforum* 36 (1) p. Science Direct]

3. There is no such thing as neoliberalism! The blind-spot in theories of neoliberalism—whether neo-Marxist and Foucauldian—comes with trying to account for how top-down initiatives ‘take’ in everyday situations. So perhaps the best thing to do is to stop thinking of “neoliberalism” as a coherent “hegemonic” project altogether. For all its apparent critical force, the vocabulary of “neoliberalism” and “neoliberalization” in fact provides a double consolation for leftist academics: it supplies us with plentiful opportunities for unveiling the real workings of hegemonic ideologies in a characteristic gesture of revelation; and in so doing, it invites us to align our own professional roles with the activities of various actors “out there”, who are always framed as engaging in resistance or contestation. The conceptualization of “neoliberalism” as a “hegemonic” project does not need refining by adding a splash of Foucault. Perhaps we should try to do without the concept of “neoliberalism” altogether, because it might actually compound rather than aid in the task of figuring out how the world works and how it changes. One reason for this is that, between an overly economistic derivation of political economy and an overly statist rendition of governmentality, stories about “neoliberalism” manage to reduce the understanding of social relations to a residual effect of hegemonic projects and/or governmental programmes of rule (see Clarke, 2004a). Stories about “neoliberalism” pay little attention to the pro-active role of socio-cultural processes in provoking changes in modes of governance, policy, and regulation. Consider the example of the restructuring of public services such as health care, education, and criminal justice in the UK over the last two or three decades. This can easily be thought of in terms of a “hegemonic” project of “neoliberalization”, and certainly one dimension of this process has been a form of anti-statism that has rhetorically contrasted market provision against the rigidities of the state. But in fact these ongoing changes in the terms of public-policy debate involve a combination of different factors that add up to a much more dispersed populist reorientation in policy, politics, and culture. These factors include changing consumer expectations, involving shifts in expectations towards public entitlements which follow from the generalization of consumerism; the decline of deference, involving shifts in conventions and hierarchies of taste, trust, access, and expertise; and the refusals of the subordinated, referring to the emergence of anti-paternalist attitudes found in, for example, women’s health movements or anti-psychiatry movements. They include also the development of the politics of difference, involving the emergence of discourses of institutional discrimination based on gender, sexuality, race, and disability. This has disrupted the ways in which welfare agencies think about inequality, helping to generate the emergence of contested inequalities, in which policies aimed at addressing inequalities of class and income develop an ever more expansive dynamic of expectation that public services should address other kinds of inequality as well (see Clarke, 2004b J. Clark, Dissolving the public realm? The logics and limits of neo-liberalism, Journal of Social Policy 33 (2004), pp. 27–48.Clarke, 2004b). None of these populist tendencies is simply an expression of a singular “hegemonic” project of “neoliberalization”. They are effects of much longer rhythms of socio-cultural change that emanate from the bottom-up. It seems just as plausible to suppose that what we have come to recognise as “hegemonic neoliberalism” is a muddled set of ad hoc, opportunistic accommodations to these unstable dynamics of social change as it is to think of it as the outcome of highly coherent political-ideological projects. Processes of privatization, market liberalization, and de-regulation have often followed an ironic pattern in so far as they have been triggered by citizens’ movements arguing from the left of the political spectrum against the rigidities of statist forms of social policy and welfare provision in the name of greater autonomy, equality, and participation (e.g. Horwitz, 1989). The political re-alignments of the last three or four decades cannot therefore be adequately understood in terms of a straightforward shift from the left to the right, from values of collectivism to values of individualism, or as a re-imposition of class power. The emergence and generalization of this populist ethos has much longer, deeper, and wider roots than those ascribed to “hegemonic neoliberalism”. And it also points towards the extent to which easily the most widely resonant political rationality in the world today is not right-wing market liberalism at all, but is, rather, the polyvalent discourse of “democracy” (see Barnett and Low, 2004). Recent theories of “neoliberalism” have retreated from the appreciation of the long-term rhythms of socio-cultural change, which Stuart Hall once developed in his influential account of Thatcherism as a variant of authoritarian populism. Instead, they favour elite-focused analyses of state bureaucracies, policy networks, and the like. One consequence of the residualization of the social is that theories of “neoliberalism” have great difficulty accounting for, or indeed even in recognizing, new forms of “individualized collective-action” (Marchetti, 2003) that have emerged in tandem with the apparent ascendancy of “neoliberal hegemony”: environmental politics and the politics of sustainability; new forms of consumer activism oriented by an ethics of assistance and global solidarity; the identity politics of sexuality related to demands for changes in modes of health care provision, and so on (see Norris, 2002). All of these might be thought of as variants of what we might want to call bottom-up governmentality. This refers to the notion that non-state and non-corporate actors are also engaged in trying to govern various fields of activity, both by acting on the conduct and contexts of ordinary everyday life, but also by acting on the conduct of state and corporate actors as well. Rose (1999, pp. 281–284) hints at the outlines of such an analysis, at the very end of his paradigmatic account of governmentality, but investigation of this phenomenon is poorly developed at present. Instead, the trouble-free amalgamation of Foucault’s ideas into the Marxist narrative of “neoliberalism” sets up a simplistic image of the world divided between the forces of hegemony and the spirits of subversion (see Sedgwick, 2003, pp. 11–12). And clinging to this image only makes it all the more difficult to acknowledge the possibility of positive political action that does not conform to a romanticized picture of rebellion, contestation, or protest against domination (see Touraine, 2001). Theories of “neoliberalism” are unable to recognize the emergence of new and innovative forms of individualized collective action because their critical imagination turns on a simple evaluative opposition between individualism and collectivism, the private and the public. The radical academic discourse of “neoliberalism” frames the relationship between collective action and individualism simplistically as an opposition between the good and the bad. In confirming a narrow account of liberalism, understood primarily as an economic doctrine of free markets and individual choice, there is a peculiar convergence between the radical academic left and the right-wing interpretation of liberal thought exemplified by Hayekian conservatism. By obliterating the political origins of modern liberalism—understood as answering the problem of how to live freely in societies divided by interminable conflicts of value, interest, and faith—the discourse of “neoliberalism” reiterates a longer problem for radical academic theory of being unable to account for its own normative priorities in a compelling way. And by denigrating the value of individualism as just an ideological ploy by the right, the pejorative vocabulary of “neoliberalism” invites us to take solace in an image of collective decision-making as a practically and normatively unproblematic procedure. The recurrent problem for theories of “neoliberalism” and “neoliberalization” is their two-dimensional view of both political power and of geographical space. They can only account for the relationship between top-down initiatives and bottom-up developments by recourse to the language of centres, peripheries, diffusion, and contingent realizations; and by displacing the conceptualization of social relations with a flurry of implied subject-effects. The turn to an overly systematized theory of governmentality, derived from Foucault, only compounds the theoretical limitations of economistic conceptualizations of “neoliberalism”. The task for social theory today remains a quite classical one, namely to try to specify “the recurrent causal processes that govern the intersections between abstract, centrally promoted plans and social life on the small scale” (Tilly, 2003, p. 345). Neither neoliberalism-as-hegemony nor neoliberalism-as-governmentality is really able to help in this task, not least because both invest in a deeply embedded picture of subject-formation as a process of “getting-at” ordinary people in order to make them believe in things against their best interests. With respect to the problem of accounting for how “hegemonic” projects of “neoliberalism” win wider consensual legitimacy, Foucault’s ideas on governmentality seem to promise an account of how people come to acquire what Ivison (1997) calls the “freedom to be formed and normed”. Over time, Foucault’s own work moved steadily away from an emphasis on the forming-and-norming end of this formulation towards an emphasis on the freedom end. This shift was itself a reflection of the realization that the circularities of poststructuralist theories of subjectivity can only be broken by developing an account of the active receptivity of people to being directed. But, in the last instance, neither the story of neoliberalism-as-hegemony or of neoliberalism-as-governmentality can account for the forms of receptivity, pro-activity, and generativity that might help to explain how the rhythms of the everyday are able to produce effects on macro-scale processes, and vice versa. So, rather than finding convenient synergies between what are already closely related theoretical traditions, perhaps it is better to keep open those tiresome debates about the degree of coherence between them, at the same time as trying to broaden the horizons of our theoretical curiosity a little more widely.

### Alt fails

#### Critical theories of neoliberalism reduce nuances to binaries and use the same moralistic register they critique. Despite this, they lack serious insight into structural and policy prescriptions.

Barnett 10 [Barnett, Clive, Professor of Political Economy and Development. Department of International Development, London School of Economics "Publics and markets: What’s wrong with neoliberalism." SJ Smith, R. Pain, SA Marston and JP Jones III (eds.) The SAGE Handbook of Social Geographies (2010): 269-97.] 7/16/2015

Critical theories of neoliberalism and neoliberalization provide a compelling moral narrative in which recent history is understood in terms of a motivated shift away from public and collective values towards private and individualistic values. Critical narratives of neoliberalism reinforce the image of there being a clear-cut divide between two sets of values – those of private, individualistic self-interest on the one hand, and those of public, collective interests on the other. There is a preconstructed normative framing of these theories around a set of conceptual and moral binaries: market versus state; public versus private; consumer versus citizen; liberty versus equality; individual utility versus collective solidarity; self-interested egoism versus other-regarding altruism.

Theories of neoliberalism go hand in hand with a standard form of criticism that bemoans the decline of public life, active citizenly virtue, and values of egalitarianism and solidarity. These theories project ahead of themselves criteria of evaluation (cf. Castree 2008): neoliberalism reduces democracy, creates poverty and inequality, and is imposed either from the outside or by unaccountable elites. The conceptual analysis of neoliberalism is therefore always already critical, but at a cost. They are condemned to invoke their favoured positive values (e.g. the public realm, collective solidarity, equality, democracy, care, social justice) in a moralistic register without addressing normative problems of how practically to negotiate equally compelling values. And in so far as theories of neoliberalism dismiss considerations of rational action, motivation, and decentralised coordination as so much ‘ideology’, they remain chronically constricted in their capacity to reflect seriously on questions of institutional design, political organisation and economic coordination which, one might suppose, remain an important task for any critical theory.

## --- Team Specific ---

## Lake Highland

### 2AC- Fiat Bad K- Top Level

#### 1. T/ fiat is good we imagine new futures to escape a deterministic analysis of the present which destroys fluidity necessary for personal agency – roleplaying lets us imagine new future

#### 2. T/ the aff deliberates about whether the simulation would be good before mandating it – resolves the sequencing question

#### 3. T/ cede the political – allows the system to accelerate which is worse than being desensitized to violence because we still solve it, they are just a form of glorified ignoreance to real problems

#### 4. Empirics – reformism doesn’t lead to charity cannibalism – altruism is possible, denying it results in a solipsisting world view that makes it impossible to have obligations to others which outweighs desenstization

#### 5. Perm do both solves – ideal theory alone is irresolvable because of the various subjective ideals we have, lack of a meta standard means that we should default to being responsible for injustice in the squo instead of endlessly debating about ideals which decimates alt solvency

## Stuy- Habeus Viscus

### 2AC- Zanotti

#### The aff uses the government as heuristic for learning about critical issues – demanding a policy action obviously does not legitimize the entirety of the institution – we do not defend the history of the USFG

#### This is best –

#### Essentialism DA – over-simplistic alts that avoid the pragmatic nature of politics and the inevitable contingencies of oppression categorize suffering into pre-written narratives that prevent productive social change

#### Utopianism – the alt avoids discussion of the concrete, material realities of people – the state has limited resources but can create constructive change – playing the cards we're dealt alters the status quo – there is no utopia before the state –– instead we should focus on policy discussion

#### Particularity – small t truths of the plan don’t deny big t truths of the K – disproves spillover and their vague solves case arguments

### 1AR- Top Level

#### 1. Perm pass the aff to create the right to form asssemblanges and alternative linguistics and to publish revolutionary thought- net benefit is that the aff enables the alt to work without governmental backlash

#### 2. Turn- learning about heursitics educates us on the historical intensities that produce state responses to our activism and the way we are implicated within violence

#### 3. Particularism should filter your links- affirming free speech doesn't require us to affirm western notions of man or even protest, absent specific reasons a right to talk is bad, also means no link to the K.

### Progress Cards

#### <Preferably read these in the aff>

#### Racial progress is possible –empirics prove, ceding the political fuels ressentiment

-- desegregation and enfranchisement with property rights establish traditional agency claims to give people a footing in socitety

-- desegregation of the armed forces, the Voting Rights Act, the Immigration and Naturalization Act, repeal of anti-miscegenation laws

-- spills over to legal access for feminism, gay liberation, and the environmentalist and anti-war movements

-- antiblackness is political, not ontological; incarceration is used as a tool to suppress voting rights, women of color are policed via reproductive rights laws

**Omi And Winant 13** Michael Omi (Sociologist at UC Berkeley, focusing on antiracism scholarship and Asian American studies) and Howard Winant (Professor of Sociology affiliated with the Black Studies and Chicana/o Studies departments of UC Santa Barbara), Resistance is futile?: a response to Feagin and Elias, Ethnic and Racial Studies Volume 36, Issue 6, p. 961-973, Special Issue: Symposium - Rethinking Racial Formation Theory. 2013.

In Feagin and Elias's account, white racist rule in the USA appears unalterable and permanent. There is little sense that the ‘white racial frame’ evoked by systemic racism theory changes in significant ways over historical time. They dismiss important rearrangements and reforms as merely ‘a distraction from more ingrained structural oppressions and deep lying inequalities that continue to define US society’ (Feagin and Elias 2012, p. 21). Feagin and Elias use a concept they call ‘surface flexibility’ to argue that white elites frame racial realities in ways that suggest change, but are merely engineered to reinforce the underlying structure of racial oppression. Feagin and Elias say the phrase ‘racial democracy’ is an oxymoron – a word defined in the dictionary as a figure of speech that combines contradictory terms. If they mean the USA is a contradictory and incomplete democracy in respect to race and racism issues, we agree. If they mean that people of colour have no democratic rights or political power in the USA, we disagree. The USA is a racially despotic country in many ways, but in our view it is also in many respects a racial democracy, capable of being influenced towards more or less inclusive and redistributive economic policies, social policies, or for that matter, imperial policies. What is distinctive about our own epoch in the USA (post-Second World War to the present) with respect to race and racism? Over the past decades there has been a steady drumbeat of efforts to contain and neutralize civil rights, to restrict racial democracy, and to maintain or even increase racial inequality. Racial disparities in different institutional sites – employment, health, education – persist and in many cases have increased. Indeed, the post-2008 period has seen a dramatic increase in racial inequality. The subprime home mortgage crisis, for example, was a major racial event. Black and brown people were disproportionately affected by predatory lending practices; many lost their homes as a result; race-based wealth disparities widened tremendously. It would be easy to conclude, as Feagin and Elias do, that white racial dominance has been continuous and unchanging throughout US history. But such a perspective misses the dramatic twists and turns in racial politics that have occurred since the Second World War and the civil rights era. Feagin and Elias claim that we overly inflate the significance of the changes wrought by the civil rights movement, and that we ‘overlook the serious reversals of racial justice and persistence of huge racial inequalities’ (Feagin and Elias 2012, p. 21) that followed in its wake. We do not. In Racial Formation we wrote about ‘racial reaction’ in a chapter of that name, and elsewhere in the book as well. Feagin and Elias devote little attention to our arguments there; perhaps because they are in substantial agreement with us. While we argue that the right wing was able to ‘rearticulate’ race and racism issues to roll back some of the gains of the civil rights movement, we also believe that there are limits to what the right could achieve in the post-civil rights political landscape. So we agree that the present prospects for racial justice are demoralizing at best. But we do not think that is the whole story. US racial conditions have changed over the post-Second World War period, in ways that Feagin and Elias tend to downplay or neglect. Some of the major reforms of the 1960s have proved irreversible; they have set powerful democratic forces in motion. These racial (trans)formations were the results of unprecedented political mobilizations, led by the black movement, but not confined to blacks alone. Consider the desegregation of the armed forces, as well as key civil rights movement victories of the 1960s: the Voting Rights Act, the Immigration and Naturalization Act (Hart- Celler), as well as important court decisions like Loving v. Virginia that declared anti-miscegenation laws unconstitutional. While we have the greatest respect for the late Derrick Bell, we do not believe that his ‘interest convergence hypothesis’ effectively explains all these developments. How does Lyndon Johnson's famous (and possibly apocryphal) lament upon signing the Civil Rights Act on 2 July 1964 – ‘We have lost the South for a generation’ – count as ‘convergence’? The US racial regime has been transformed in significant ways. As Antonio Gramsci argues, hegemony proceeds through the incorporation of opposition (Gramsci 1971, p. 182). The civil rights reforms can be seen as a classic example of this process; here the US racial regime – under movement pressure – was exercising its hegemony. But Gramsci insists that such reforms – which he calls ‘passive revolutions’ – cannot be merely symbolic if they are to be effective: oppositions must win real gains in the process. Once again, we are in the realm of politics, not absolute rule. So yes, we think there were important if partial victories that shifted the racial state and transformed the significance of race in everyday life. And yes, we think that further victories can take place both on the broad terrain of the state and on the more immediate level of social interaction: in daily interaction, in the human psyche and across civil society. Indeed we have argued that in many ways the most important accomplishment of the anti-racist movement of the 1960s in the USA was the politicization of the social. In the USA and indeed around the globe, race-based movements demanded not only the inclusion of racially defined ‘others’ and the democratization of structurally racist societies, but also the recognition and validation by both the state and civil society

#### Major progress *has* occurred despite continuing structural racism. “No progress” is a misinterpretation of history.

**Winant 15** — Howard Winant, Professor of Sociology at the University of California-Santa Barbara, Director of the University of California Center for New Racial Studies, holds a Ph.D. in Sociology from the University of California-Santa Cruz, 2015 (“The Dark Matter: Race and Racism in the 21st Century,” Critical Sociology, Volume 41, Issue 2, Available Online to Subscribing Institutions via Sage Publications Online, p. 319-320)

The World-Historical Shitpile of Race Structural racism – an odious stinkpile of shit left over from the past and still being augmented in the present – has been accumulated by ‘slavery unwilling to die’,4 by empire, and indeed by the entire racialized modern world system. The immense waste (Feagin et al., 2001, drawing on Bataille) of human life and labor by these historically entrenched social structures and practices still confronts us today, in the aftermath of the post-Second World War racial ‘break’. Our antiracist accomplishments have reduced the size of the pile; we have lessened the stink. But a massive amount of waste still remains. So much racial waste is left over from the practice of racial domination in the early days of empire and conquest, to the present combination of police state and liberalism! Indeed it often seems that this enormous and odious waste pinions the social system under an immovable burden. How often have despair and hopelessness overcome those who bore this sorrow? How often have slave and native, peon and maquiladora, servant and ghetto-dweller, felt just plain ‘sick and tired’ (Nappy Roots, 2003), encumbered by this deadening inertia composed of a racial injustice that could seemingly never be budged? How often, too, have whites felt weighed down by the waste, the guilt and self-destruction built into racism and the ‘psychological wage’? Yet racial politics is always unstable and contradictory. Racial despotism can never be fully stabilized or consolidated. Thus at key historical moments, perhaps rare but also inevitable, the sheer weight of racial oppression – qua social structure – becomes insupportable. The built-up rage and inequity, the irrationality and inutility, and the explosive force of dreams denied, are mobilized politically in ways that would have seemed almost unimaginable earlier. Racism remains formidable, entrenched as a structuring feature of both US and global society and politics. Indeed it often seems impossible to overcome. Yet That’s Not the Whole Story We are so used to losing! We can’t see that the racial system is in crisis both in the US and globally. Large-scale demographic and political shifts have overtaken the modern world (racial) system, undermining and rearticulating it. During and after the Second World War a tremendous racial ‘break’ occurred, a seismic shift that swept much of the world (Winant, 2001). The US was but one national ‘case’ of this rupture, which was experienced very profoundly: racial transformations occurred that were unparalleled since at least the changes brought about by the US Civil War. Omi and I (1994) – and many, many others – have proposed that the terrain of racial politics was tremendously broadened and deepened after the War. The increased importance of race in larger political life not only grounded the modern civil rights movement but shaped a whole range of ‘new social movements’ that we take for granted today as central axes of political conflict. In earlier stages of US history it had not been so evident that ‘the personal is political’ – at least not since the end of Reconstruction. From the explicit racial despotism of the Jim Crow era to the ‘racial democracy’ (of course still very partial and truncated) of the present period…: that is a big leap, people. In the modern world there were always black movements, always movements for racial justice and racial freedom. The experience of injustice, concrete grievances, lived oppression, and resistance, both large and small, always exists. It can be articulated or not, politicized or not. These movements, these demands, were largely excluded from mainstream politics before the rise of the civil rights movement after the War. Indeed, after the Second World War, in a huge ‘break’ that was [end page 319] racially framed in crucial ways, this ‘politicization of the social’ swept over the world. It ignited (or reignited) major democratic upsurges. This included the explicitly anti-racist movements: the modern civil rights movement, the anti-apartheid movement, and the anti-colonial movement (India, Algeria, Vietnam, etc.). It also included parallel, and more-or-less allied, movements like ‘secondwave’ feminism, LGBTQ (née gay liberation) movements, and others. In short, the world-historical upheaval of the Second World War and its aftermath were racial upheavals in significant ways: the periphery against the center, the colored ‘others’ against ‘The Lords of Human Kind’ (Kiernan, 1995). These movements produced: \* Demographic, economic, political, and cultural shifts across the planet \* The destruction of the old European empires \* The coming and going of the Cold War \* The rise of the ‘new social movements’, led by the black movement in the US And this is only the start of what could be a much bigger list.

### AT: Legal Incorporation Link

#### 1. no link: the law is not a monolith, it's constantly changing based on the people around it and how it's enforced, just because it's been used badly in the passed doesn't mean that badness is intrinsic to law– that’s Ferguson from the Aff

#### 3. No link- the reason that certain movements have been singular is because they had other motive- that doesn’t make every movement or strive for progress bad like multiple other multicultural movements now

#### 4. Double Bind- either A. Protests are singular and strive to shut down minorities because people can’t change the way they think which takes out your alternative because you can’t just abstract from preconceived thoughts or B. Protests can be multicultural because people are fluid which means that the aff is effective

### AT: Linguistics Link

#### 1. Link Turn- other types of speech that break away from your normal convention of linguistics assumes that people have the capability to speak which only the aff entails

#### 2. Link Turn- even if the state doesn’t interpret what you say as normal- they will still backlash against new interpretations of free speech if they can’t understand it’s meaning

#### 3. Link Turn- meaning is good because it’s the only way people can generate coalitions and understand each other to strive for a better future

### AT: Blackness In/Out

#### 1. No Root cause- the binary between human and the subhuman doesn’t generate violence in every instance- that’s an overarching claim

#### 2. The question should be what is the most productive way to lift blackness from it’s current state rather than imagining impossible futures

### AT: Alt

#### 1. Solvency Deficit- the alt is too vague and can never be implemented, it doesn’t have a specific mechanism or endpoint which means that we don’t know how to enforce it and you can’t just abstract from the current psyche

#### 2. Perm do the aff and alt in all other instancs- doublebind: either a. the alt is strong enough to solve and the 1ac’s link doesn't matter and the case outweighs or b. the alt is not strong enough which means residual links doom the alt and the perm solves best.

#### 3. Presumes that every instance of policymaking is meant to replicate structures that target the worst off

#### 4. Turn- Cedes the political- they ensure backlash from the law is comparatively worse and becomes easier for them to create more subhuman categories

#### 5. Perm do both- Free speech is the most important part of post-humanist alternatives

**Ranisch 14**: Ranisch, Robert (2014): Morality. In: Ranisch, Robert & Sorgner, Stefan Lorenz (eds.): Post- and Transhumanism: An Introduction. Frankfurt am Main et al.: Peter Lang, pp. 149-172.

For transhumanists (and bioliberals), individual freedom is considered as being one of the most important, if not the most important, value. Freedom or liberty is frequently sketched negatively, that is, as the absence of constraint or compulsion. This involves a strong case against paternalism when it comes to questions of choosing a certain plan of life. Individuals should be free to decide for themselves how to live and institutions should be designed in a way to guarantee neutrality between different forms of life. Sometimes individual freedom is perceived in a more demanding sense, embracing conditions that enable individuals to realize their ideal of a good life. Closely related to transhumanists’[post-humanists’] defense of individual freedom is their call for morphological freedom. It has been argued that liberal rights, such as freedom of speech, should be extended by “the right to modify oneself according to one’s desire” (Sandberg 2013, 56). Thus, people should be free to use enhancement technologies to alter their biological traits and eventually transform themselves into transhumans. The strong emphasis on (morphological) freedom, which is frequently brought forward to argue for the permissibility of enhancement technologies, has neglected implications. For instance, if people have the right to modify themselves by means of biotechnologies, they also have the right to refrain from the transhumanist project. Hence, “it is crucial that no single solution be imposed on everyone”, but rather that “individuals get to consult their own consciences as to what is right for themselves” (Bostrom 2005a, 206). Consequently, morphological freedom should embrace protection of those who do not wish to use enhancement technologies, too. This may also include measures to compensate for possible competitive disadvantages people may have compared to their biotechnologically augmented fellow citizens.

#### 6. Perm do both- the net benefit is the case

#### 7. Perm do both- free speech is necessary to create new interpretations of being which means that it’s a prerequisite to posthuman thought

**Roberts 8:** [Roberts, John Michael. “Expressive Free Speech, the State and the Public Sphere: A Bakhtin- Deleuzian Analysis of ‘Public Address’ at Hyde Park. Brunel University. Social Movement Studies, volume 7, 2008]. RW

But while Habermas’s early work has proved immensely attractive for many as a way of thinking about the modern public sphere, culture and expression, others have remained critical of it. Negt and Kluge (1993), for example, claim that Habermas only ever highlights the expressive cultural sensibilities of the bourgeoisie in Structural Transformation. Negt and Kluge seek to go beyond Habermas in this respect through their term ‘block of real life’ (Negt and Kluge 1993: 22ff.). Designating the space where production and cultural experience meet the ‘block of real life’ is a site of struggle between different groups over the control and regulation of communication, fantasy, intense images, and possibilities. Accordingly, from this perspective, conflicts in the public sphere are frequently struggles around iconoclasm, or the struggle to control images about what can be discussed in civil society (Finnegan and Kang 2004). For example, Asen (2002) notes that countless social situations and contexts are mediated through ‘collective imagining’ that often operate as taken-for-granted ‘shared assumptions, values, perceptions, and beliefs for matters identified explicitly as topics of discussion’ (Asen 2002: 351). Many of these assumptions are popular images related to everyday beliefs such as ‘family values’ which can in turn be related to contested social policies like policy provision for teenage pregnancy. Active engagement occurs in collective imaginings when ‘participants in public discussions explicitly reflect on the rights, responsibilities, and obligations granted, entitled and owed to one another’ (Asen 2002: 351). As part of the process of active engagement participants draw upon past images and past narratives of rights and entitlements and the association of these rights with specific issues and groups in order to question and reinterpret those images and narratives in the present and perhaps project future images of how rights should operate and affect others (see also Minow 1987). Rights, on this understanding, are not merely associated with how we ‘see’ injustice. Rather, rights are part of a wider progression of visuality, of images and imaginings in everyday life, which can act as the social precondition for activating new right-claims (see Woodiwiss 2001).

## State

### 2AC- Zanotti

#### The aff uses the government as heuristic for learning about critical issues – demanding a policy action obviously does not legitimize the entirety of the institution – we do not defend the history of the USFG

#### This is best –

#### Essentialism DA – over-simplistic alts that avoid the pragmatic nature of politics and the inevitable contingencies of oppression categorize suffering into pre-written narratives that prevent productive social change

#### Utopianism – the alt avoids discussion of the concrete, material realities of people – the state has limited resources but can create constructive change – playing the cards we're dealt alters the status quo – there is no utopia before the state –– instead we should focus on policy discussion

#### Particularity – small t truths of the plan don’t deny big t truths of the K – disproves spillover and their vague solves case arguments