# 1AC – Kant

## 1AC – Framework

#### same as jan-feb

## 1AC – Advocacy

#### Advocacy Text: The United States ought to guarantee the right to housing. I don’t defend implementation but can grant links if asked in CX. The framework questions whether or not the affirmative’s rights based approach to housing passes the test of non-contradiction, which is prerequisite to policy action.

**King 3** Housing as a Freedom Right” PETER KING Housing Studies, Vol. 18, No. 5, 661–672, September 2003 Centre for Comparative Housing Research, Department of Public Policy, De Montfort University, Leicester

“This paper has suggested **there is great merit in presenting housing as a freedom right instead of a socio-economic claim.** It has been argued that **rights are important entities** and can serve, if presented properly, **to heighten the political and moral significance of housing.** Indeed, **this rights-based argument can** be used to **claim that housing is an elemental right** upon which other basic human functions depend. I believe **this** to be an argument of some significance that **has implications for policy** and for the status of housing more generally.”

## 1AC – Contention

#### First, the right to housing is an intrinsic extension of our right to freedom. It serves as the bedrock that allows us to freely exercise all other rights.

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“Freedom rights can be seen as **negative rights**, in that they **prohibit coercion** and interference in the interests of others (Berlin, 1969). The importance of negative rights for some libertarian thinkers such as Machan (1989) and Ras- mussen & Den Uyl (1991), is that they do not clash. Omissions can have simultaneous multiple effects. Coercion by the state impinges on the rights of all its citizens. But importantly, these thinkers would argue that the enjoyment of life, liberty and property by one does not deny it to others. The amount of liberty in any society is not governed by a zero-sum game, where one person taking a share diminishes the pool left for the rest. However, **socio-economic claims** frequently entail the distribution of scarce resources, and thus any settlement will involve the adjudication between rival claims. Thus, because they involve finite resources, these claims **place individual rights-holders in direct competition** with their fellow citizens. **As a result,** these **libertarian[s]** thinkers **limit** the remit of **rights to indivisible goods such as liberty** and **autonomy, and** to **property rights,** which, they suggest, underpin these other rights. Sen (1985) has argued that **the notion of negative rights**, as propounded in this case by Nozick (1974), **is flawed.** Sen questions whether it is sufficient to allow individuals legitimately to pursue their ends even when this might have disastrous consequences. Sen’s point is that **individuals may be unable to command certain necessary goods because they have no entitlement to possess those goods.** In this case, **they have no property rights over goods** and services. Bengtsson (1995) relates Sen’s argument to housing, and states, “It is not difficult to find examples of how **people have been deprived of shelter, just because they lacked—and others had—control of private property**” (p. 126). This implies that the positive rights of some, to property, clash with the negative rights of others. Again it suggests that one cannot divorce rights-based theories from utilitarian considerations (which is precisely why libertarian theories like those of Machan and Rasmussen & Den Uyl restrict rights to negative entities only). An interesting way around the apparent clash between freedom rights and socio-economic claims has been offered by Waldron (1993b). His discussion is also important for a further reason. It shows that **the right to housing might actually be one of the most significant rights, if not the most significant [right].** This is **because it acts as the bedrock for all others, in that all rights must be situated.**” (665-666)

#### Second, the situated nature of existence requires we own property before we are able to freely will actions. The right to housing ensures that everyone can wills freely regardless of your starting point.

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“**Property rules determine where one has a right to be.** They define rights of use and exclusion. Thus **they grant the owner the power to exclude** those with whom they do not wish to share the property. This situation applies whether the property is owned privately or by some public body. This means that some agents have property rights that they can legitimately exercise over their property. This may involve excluding all others from that property. **However, all actions are situated in that they must be done somewhere. One must sleep somewhere**, wash somewhere, urinate somewhere, and so on. **Thus one is not free to perform an action unless there is somewhere where one is free to perform it.** Waldron limits his discussion of actions to those absolutely necessary for human survival. However, his list is not an exhaustive one. Indeed, all actions, be they urinating, love-making, reading a book or discussing philosophy, are situated. As will be seen when Nussbaum’s fuller list of functionings is discussed, it is **the situated nature of** what might be called **higher order functions** that **lead to a** full **right to housing.**” (667)

#### Third, an absolutist account of property is coercive. It constrains the homeless from literally doing anything by using the logic of violating someone’s property rights.

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“**Homelessness is** defined by Waldron as **the** very **condition where one is “excluded from all the places governed by private property rules”** (1993b, p. 313, author’s emphasis). The homeless are entitled only to be in public places. They have no right to be on private property unless given permission by the owner. **They** must therefore **rely on public places to undertake their situated functions. But** this is possible, however, only so long as the public authorities that own this property tolerate them. **Just as private owners can exercise their right to exclude, so can public bodies.** Waldron rightly points out that there is an increasing regulation and policing of public property that prevents the homeless from exercising their basic functions in public. Waldron gives the example of removing seating from subways in US cities to prevent them from being used by the homeless. This form of ‘zero tolerance’ of vagrancy can also be seen in the attitudes of politicians and public agencies in the UK. **The homeless are seen as having no right to be on the streets**, there being enough hostel spaces for them. In addition, begging is seen as aggressive and intimidatory behaviour. Waldron argues that **“a person not free to be in any place is not free to do anything”** (p. 316). One important consequence of this argument is to show that freedom rights do indeed clash. Property rights, as commonly defined in terms of exclusivity of use and disposal, are clearly freedom rights. **Private individuals** and public corporations **who prevent the homeless from accessing their property are** thus acting entirely **legally** and **within their rights. Yet there are certain rights we must have**, homeless or not, **if we are to carry out our basic functions.** These too are freedom rights, in that **we must be free to be in a place before we can undertake these basic functions.** But **the situated nature of this freedom means** that certain rights can only be fulfilled when the **property rights of some are overruled.** Likewise, side-constraints prohibiting interference to property rights may well mean that the basic rights of others are infringed because they do not have the freedom to be. **The homeless might be so constrained that they are literally unable to do anything without infringing the rights of others.**” (667)

#### Finally, rights based approaches are key. They reaffirm individual freedom and check power relations. Consequential considerations collapse to rights in order to preserve their overall utility.

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“First, though, it is necessary to suggest briefly why rights-based arguments are important. Waldron (1993a) contends that theories of **rights teach us about the importance of individual interests**, and that **they cannot** simply **be overridden for a** **seemingly superior** (s ocial) **good.** He sees that the idea of individual rights is attractive “because **each of us wants a life governed** in part **by their own** thinking, feeling and **decision-making**” (p. 583), **and not have this trumped by** considerations of **utility.** We are all important beings and thus in what sense can it be legitimate to sacrifice one or some of us for the perceived benefit of others? **We might, if we were selfish, see our interests as more important** than those of others, and therefore ours should take precedence. **However**, once we appreciate that this **selfishness is** likely to be **reciprocated, and consequently all** that this **boils down to** is **power relations**, we might wish to return to some recognition that **the interests of others count as much as our own.**” (662)

## 1AC – Underview

#### omitted

# 1AR – Frontlines

#### omitted