# 1AC

## 1ac – Richard

### Framework

#### I value morality since the resolution is normative. Every agent has a practical identity that is the source of value.

Christine M. Korsgaard 92, professor of Philosophy at Harvard University. “The Sources of Normativity”, The Tanner Lectures on Human Values

Those who think that the human mind is internally luminous and transparent to itself think that the term **“**self-consciousness” is appropriate because what we get in human consciousness is a direct encounter with the self. Those who think that the human mind has a reflective structure use the term too, but for a different rea- son. **The reflective structure of the mind** is a source of “self- consciousness” because it **forces us to have a *conception* of our- selves.** As Kant argues, this is a fact about what it is *like* to be reflectively conscious and it does not prove the existence of a meta- physical self. From a third person point of view, outside of the deliberative standpoint, it may look as if what happens when someone makes a choice is that the strongest of his conflicting desires wins. But that isn’t the way it is *for you* when you deliber- ate. **When you deliberate, it is as if there were something** over and **above all** of **your desires, something** that is *you,* and **that *chooses* which desire to act on.** This means that **the principle** or law **by which you determine your actions is one that you regard as** being expressive of *yourself.* To identify with such a principle or law is to be, in St. Paul’s famous phrase, **a law to yourself.** An agent might think of herself as a Citizen in the Kingdom of Ends. Or she might think of herself as a member of a family or an ethnic group or a nation. She might think of herself as the steward of her own interests, and then she will be an egoist. Or she might think of herself as the slave of her passions, and then she will be a wanton. And how she thinks of herself will deter- mine whether it is the law of the Kingdom of Ends, or the law of some smaller group, or the law of the egoist, or the law of the wanton that is the law that she is to herself. The conception of one’s identity in question here is not a theo- retical one, a view about what as a matter of inescapable scientific fact you are. It is better understood as a description under which you value yourself, a description under which you find your life to be worth living and your actions to be worth undertaking. So I will call **this a conception of your practical identity.** Practical identity is a complex matter and for the average person there will be a jumble of such conceptions. You are a human being, a woman or a man, an adherent of a certain religion, a member of an ethnic group, someone’s friend, and so on. And all of these **identities give rise to reasons and obligations. Your reasons express your identity**, your nature**; your obligations spring from what that identity forbids.**

#### And, reason is inescapable—even asking for reason uses reason. Any attempt to make a coherent argument is still evaluated from reason which means agency is confined by reason.

#### And, truth exist independent of human experience since certain things are self-proving, i.e. a triangle has three sides. It doesn’t matter whether we call it something since the truth of the statement is contained within itself. In contrast, things that are true by observation are just true by matter of chance. For example, we conceive of a world in which I have blue hair since it is only by chance that I have brown hair. Reject a posteriori truth since they are just arbitrary states, not constitutive of our ethical theories.

#### The content of normative claims has to be contained within themselves—the nature of obligation is what gives us the ability to deduct what obligations we have.

David Velleman 05 (Professor of Philosophy at New York University). “A Brief Introduction to Kantian Ethics”. 2005.

Kant reasoned that if moral requirements don't derive their force from any external authority, then they must carry their authority with them, simply by virtue of what they require. That's why Kant thought that he could derive the content of our obligations from the very concept of an obligation. **The concept of an obligation**, he argued, **is the concept of an intrinsically authoritative requirement—a requirement that**, simply by virtue of what it requires, **forestalls any question as to its authority.** So if we want to know what we're morally required to do, **we must find something such that a requirement to do it would not be open to question. We must find something such that a requirement would carry authority simply by virtue of requiring that thing.**

#### That means only my framework can be binding—agents can try reject other normative metrics if unless the value of the obligation is contained within itself.

#### Second, morality is a guide action since is prescribes right and wrong acts, making it a function of truth. Anyone can deduct that two plus two equals four. It wouldn’t make sense for something to be true for me and not for you, i.e. two plus two doesn’t equal five for you, but is instead the same for everyone. That means you prefer my framework since is most universally accessible since anyone anywhere can deduct moral truths independent of circumstance. Moreover, morality has to be universal to guide actions since otherwise everyone would have different ethical rules and follow different codes, which means that morality has failed to meet its must basic function to guide action. That commits us to deeming ethics as universally true—there is never a world in which x and not-x are both true since the validity of one denies the other.

#### Thus, the standard is consistency in the rational will.

#### Prefer it independently:

#### 1. Absent a rational will, actions become unintelligible since the intent determines the action.

Christine Korsgaard 14 (Professor at Harvard University) “How to be an Aristotelian Kantian Constitutivist.” 2014

“First of all, no one thinks a *wholly* “external performance,” if that just means a bodily movement, has any moral value. **Suppose** that **you are starving, and I am about to eat a sandwich** when I learn about this. And **suppose that just then I am attacked by a series of** involuntary muscle **spasms that cause me to make** exactly **the same physical movements I would make if I were giving you my sandwich. No one would claim that this** “external performance” **has any moral value. An act must be done with** a certain proximate or immediate **intention** in order **to count as an act at all**. And that proximate or immediate intention is already part of an action’s motive. So **in order to even count as “*giving* you my sandwich” I have to at least intend to transmit the sandwich from my possession to yours.”**

#### 2. The ability to rationally will an end is prerequisite to any moral theory because it allows to choose moral actions in the first place and adhere to ethical codes. This coopts ethical theories like util because the ability to pursue pleasure is a prerequisite to achieving pleasure.

#### 3. Anything being good commits us to valuing it unconditionally.

Christine M. Korsgaard 06 ( Professor at Harvard) “Morality and the Logic of Caring: A Comment on Harry Frankfurt”. Pg. 7 RC

“If practical reasons are public, however, it must be possible for us to share them: that is, to share in their normative force. **Any reasons that I assign to you must also be ones that I can share with you and can take to have normative force for me**. In that case **I cannot will to steal an object from you unless I could possibly will that you *should*** in similar circumstances **steal the object from me**. Assuming that I cannot do that, consistent with my end of possessing the object, I find that **I cannot will this maxim as a universal law**. And therefore I conclude that **my wanting something cannot provide** a sufficient **reason for stealing it**. So if the **universal law universalizes over all rational beings and yields public reasons**, then it turns out to be something like Kant’s moral law.”

#### Also means that only my framework gives reason for action and thus guide agents to act in certain ways.

### Contention

#### I advocate that public colleges and universities in the United States ought not restrict any constitutionally protected speech. I’ll defend consequentialist impacts, but they’re not relevant under my framework since I just need to need to show that the maxim of the aff is consistent with the rational will. And, the aff is omission since public colleges and universities are not taking an action, whereas the neg has to defend the proactive measure of restricting free speech.

#### First, the willing to restrict free speech is a contradiction. Willing that someone is unable to have free speech denies their ability to make truth claims while also making a truth claim which necessarily means that it is a contradiction in the will.

#### Second, there is a distinction between right and virtue. Right refers to external freedom, i.e. your ability to not be coerced, whereas virtue refers to a more internal freedom, i.e. you being internally motivated to make an ethical choice. Restricting free speech prevents being from being able to truly act on ethical choices.

Helga Varden 10 (University of Illinois at Urbana-Champaign). “A Kantian Conception of Free Speech”. Springer, 22 May 2010. http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1\_4 RC

The first upshot of this conception of right is that anything that concerns morality as such is beyond its proper grasp. **Right concerns** only **external freedom,** which is limited to what can be hindered in space and time (coerced), **whereas morality** also **requires internal freedom.** That is to say, **morality encompasses** both **right and virtue**, and **virtue requires** what Kant calls **freedom with regard to “internal use of choice”.** **Internal freedom requires a person** both **to act on universalizable maxims and to do so from the motivation of duty** (6: 220f) – and **neither can be coercively enforced.** This is why Kant argues that **only freedom with regard to interacting persons’ external use of choice (right) can be coercively enforced;** freedom with regard to both internal (virtue) and external use of choice – morality – cannot be coercively enforced (ibid.). **Because morality requires freedom with regard to both internal and external use of choice, it cannot be enforced.**

#### That’s creates inconsistency in the rational will—people will ethical actions from unethical motivations which leads to contradiction.

#### Third, it’s impossible for words to violate someone’s external freedom since it is up to the listener to believe them or not.

Helga Varden 2 (University of Illinois at Urbana-Champaign). “A Kantian Conception of Free Speech”. Springer, 22 May 2010. http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1\_4 RC

This distinction between internal and external use of choice and freedom explains why Kant maintains that **most ways in which a person uses words** in his interactions with others **cannot be seen as** involving **wrongdoing** **from the** point of **view of right:** “such things as **merely communicating his thoughts** to them, telling **or promising** them **something**, whether what he says is true and sincere or untrue and insincere” **do not constitute wrongdoing because “it is** entirely **up to them [the listeners] whether they want to believe [her]** him or **not”** (6: 238). **The utterance of words in space and time does not have the power to hinder anyone else’s external freedom**, including depriving him of his means. Since **words** as such **cannot exert physical power** over people, **it is impossible to use them as a means of coercion** against another. **For example, if you block my way, you coerce me by hindering my movements:** you hinder my external freedom. **If, however, you** simply **tell me not to move, you have done nothing coercive**, nothing to hinder my external freedom, **as I can simply walk passed you**. So, even though by means of your words, you attempt to influence my internal use of choice by providing me with possible reasons for acting, you accomplish nothing coercive. That is, you may wish that I take on your proposal for action, but you do nothing to force me to do so. **Whether or not I choose to act on your suggestion is still entirely up to me.** Therefore, you cannot choose for me. My choice to act on your words is beyond the reach of your words, as is any other means I might have. Indeed, even if what you suggest is the virtuous thing to do, your words are powerless with regard to making me act virtuously. Virtuous action requires not only that I act on the right maxims, but that I also do so because it is the right thing to do, or from duty. Because the choice of maxims (internal use of choice) and duty (internal freedom) are beyond the grasp of coer- cion, Kant holds that most uses of words, including immoral ones such as lying, cannot be seen as involving wrongdoing from the point of view of right.

#### And, yes, while in some instances words can be used coerce others, i.e. fighting words, that simply justifies limiting free speech in that particular instance, not as general principle.

#### Moreover, simply saying something immoral or reprehensible is different from coercion via threats.

Helga Varden 3 (University of Illinois at Urbana-Champaign). “A Kantian Conception of Free Speech”. Springer, 22 May 2010. http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1\_4 RC

Second, **it is important to distinguish threats of coercion from merely immoral speech. When you threaten me, you** tell me that you **do not intend to interact rightfully with me** in the future. Simply saying so does not deprive me of anything that is mine, of course, but if you are serious and have the ability to make a strike against me, that is, **if you** really are **threaten**ing **me, then you intend to back up your words with physical force.** When you really threaten me, neither are you uttering ‘empty words’ nor are you taking yourself to be doing so. For example, assume that instead of yielding to your threat, I begin to walk away. You then move forward to block my retreat. This signals your intention to follow through with the threat. In fact, you might engage in other acts to signal that the threat is not empty. Perhaps you crush my hat under your foot or take a baseball bat to my car. In cases like these **the words con- tained in the threat no longer function merely as speech but take on the role of communicating an intended future wrongdoing against me. Hence, threats are not considered mere speech on this view.**

## 1ac – matt

### Framework

#### A priori knowledge exists independent of human experience and necessarily constrains morality.

**Kant 87** “Critique of Pure Reason” by Immanuel Kant 1787 Translated and Edited by Paul Guyer and Allen W. Wood “The Cambridge Edition of the Works of Immanuel Kant” re published 1998

Now it is easy to show that in human cognition **there** actually **are** such **necessary** and in the strictest sense **universal**, thus pure **a priori judgments.** If one wants an example from the sciences, one need only look at all the propositions of mathematics; if one would have one from the commonest use of the understanding, the proposition that every alteration must have a cause will do; indeed in the latter **the very concept of a cause so obviously contains the concept of a necessity of connection with an effect and a strict universality of rule that it would be entirely lost if one sought**, as Hume did, **to derive it from a frequent association of that which happens with that which precedes** and a habit (thus a merely subjective necessity) of **connecting representations arising from that association.**13 Even without requiring such examples for the proof of the reality of pure a priori principles in our cognition, one could establish their indispensability for the possibility of experience itself, thus establish it II priori. For where would experience itself get its certainty if all rules in accordance with which it proceeds were themselves in turn always empirical, thus contingent hence one could hardly allow these to count as first principles. Yet here we can content ourselves with having displayed the pure use of our cognitive faculty as a fact together with its indication. Not merely in judgments, however, but even in concepts is an origin of some of them revealed a priori. Gradually remove from your experiential concept of a body everything that is empirical in it - the color, the hardness or softness, the weight, even the impenetrability - there still remains the space that was occupied by the body (which has now entirely disappeared), and you cannot leave that out. Likewise, **if you remove from your empirical concept of every object**,' whether corporeal or incorporeal, **all those properties of which experience teaches you, you could still not take from it that by means of which you think of it as a substance or as dependent on a substance** (even though this concept contains more determination than that of an object! in general). **Thus, convinced by the necessity with which this concept presses itself on you, you must concede that it has its seat in your faculty of cognition a priori.**

#### That justifies universalizability- A) absent universal ethics, morality becomes arbitrary and fails to guide action, which means that ethics is rendered useless. Therefore err aff on risk of offense since anything else means ethics cannot serve it’s purpose. B) priori principles definitionally apply to everyone since they are definitionally independent of human experience therefore ethics is universal.

#### And, prefer universalizability independently- any other norm justifies someone’s ability to impede on your ends, which also means universalizability acts as a side constraint on ends-based frameworks.

**Siyar 99** Jamsheed Aiam Siyar: Kant’s Conception of Practical Reason. Tufts University, 1999**:**

. Now, **when I represent my end as to be done, I represent it as binding me to certain courses of action**, precluding other actions, etc. **Thus, my ends function as constraints for me in that they determine what I can** or must **do** (at least if I am to be consistent). I may of course give up an end such as that of eating ice cream at a future point; yet while I have the end, I must see myself as bound to do what is necessary to realize it.35 Thus, I must represent my ends as constraints that I have adopted, constraints that structure the possible space of choice and action for me. Further, given that my end is rationally determined, I take it to be generally recognizable that my end functions as a rationally determined constraint. That is, I take it that other subjects can also recognize my end as an objective constraint, for I take it that they as well as myself can cognize its determining grounds—the source of its objective worth—through the exercise of reason. Indeed, **in representing an end, I** in effect **demand recognition for it from other subjects: since the end functions as an objective though self-imposed constraint for me**, I must demand that this constraint be recognized as such. The thought here is simply that **if I am committed to some end,** e.g. my ice cream eating policy, I must act in certain ways to realize it. In this context, **I cannot be indifferent to the** attitudes and **actions of others, for these may either help or hinder my pursuit of my end. Hence, if I am** in fact **committed to realizing my end,** i.e. if I represent an end at all, **I must demand that the worth of my end**, its status as to be done, **be recognized by others.**

#### A violation of freedom is a contradiction and can never be universalized.

Stephen Engstrom 08 (PhD, Professor of Ethics at University of Pittsburg). “Universal Legislation As the Form of Practical Knowledge”. Pg. 19-20

“Given the preceding considerations, it’s a straightforward matter to see how **a maxim** of action **that assaults** the **freedom** of others with a view **to further**ing one’s own **ends results in a contradiction** when we attempt to will it as a universal law in accordance with the foregoing account of the formula of universal law. Such a maxim would lie in a practical judgment that deems it good on the whole to act to limit others’ outer freedom, and hence their self-sufficiency, their capacity to realize their ends, where doing so augments, or extends, one’s own outer freedom and so also one’s own self-sufficiency. 19In this passage, Kant mentions assaults on property as well as on freedom. But since property is a specific, socially instituted form of freedom, I have omitted mention of it to focus on the primitive case. Now on the interpretation we’ve been entertaining, applying the formula of **universal law involves considering whether** it’s possible for **every person**—every subject capable of practical judgment—to **share[s] the** practical **judgment asserting the goodness of** every person’s acting according to **the maxim** in question. Thus in the present case the application of the formula involves considering whether it’s possible for every person to deem good every person’s acting to limit others’ freedom, where practicable, with a view to augmenting their own freedom. **Since** here **all persons** are on the one hand **deem**ing **good** both the **limitation of** others’ **freedom and** the **extension of their own** freedom, while on the other hand, insofar as they agree with the similar judgments of others, also deeming good the limitation of their own freedom and the extension of others’ freedom, **they** are all **deem**ing **good both the extension and the limitation of both their own and others’ freedom.”**

#### Thus, the standard is consistency with a system of equal outer freedoms. Prefer additionally-

#### Argumentation presupposes some basic freedom principle, otherwise it cannot occur.

**Hoppe 98**Hans Hermann (professor of business, UNLV) Liberty magazine, September 1998 21Second, it must be noted that argumentation does not consist of free-floating propositions but is a form of ac-tion require[es] ing the employment of scarce means; and furthermore that the means, which a person demonstrates by preferring to engage[s] in propositional exchange are those of private property**. No one could** possibly **propose anything**, and no one could become con- vinced of any proposition by argumentative means, **if one's right to make exclusive use of one's physical body were not already presupposed.** It is one's recognition of another's mutual- ly exclusive control over his own body which explains the distinctive character- istic of propositional exchanges: while one may disagree about what has been said, it is still possible to agree at least on the fact that there is disagreement. And it is obvious, too, that such a property right in one's own body must be said to be justified a priori. **Anyone who would try to justify any norm**of whatever content**must**already**presuppose an exclusive right of control over his [or her] body simply in order to say "I propose such and such**." **And anyone disputing such a right, then, would become caught up in a practical contradiction,** since in arguing so one would already implicitly have accepted the very norm that one was disputing.

#### Also this implies if the framework debate is messy default to kant as it would not enforce an ethical standard on others we were unsure about but rather let them discover the true ethical theory.

#### Moreover, agents cannot reject their ability to be free—ethics is only coherent when humanity is respected.

**Gregor and Sullivan 96** “The Metaphysics of Morals” Cambridge Texts in the History of Philosophy, 2nd Edition Mary J. Gregor, Roger J. Sullivan, Cambridge University Press 1996

**A human being cannot renounce** his **personality** as long as he is a subject of duty, hence as long as he lives; and **it is a contradiction that [t]he[y] should be authorized to withdraw from all obligation**, that is, freely to act as if no authorization were needed for this action. To **annihilate the subject of morality in one’s own person is to root out the existence of morality itself from the world,** as far as one can, even though morality is an end in itself. Consequently, **disposing of oneself as a mere means to some discretionary end is debasing humanity** in one’s person (homo noumenon), to which man (homo phaenomenon) was nevertheless entrusted for preservation. To deprive oneself of an integral part or organ (to maim oneself) – for example, to give away or sell a tooth to be transplanted into another’s mouth, or to have oneself castrated in order to get an easier livelihood as a singer, and so forth – are ways of partially murdering oneself. But to have a dead or diseased organ amputated when it endangers one’s life, or to have something cut off that is a part but not an organ of the body, for example, one’s hair, cannot be counted as a crime against one’s own person – although cutting one’s hair in order to sell it is not altogether free from blame.

#### Kant isn’t pure abstraction; the categorical imperative is the best middle ground which is key to mutual recognition between people

**Farr 2** Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.

Kant is often accused of making the moral agent an abstract, empty, noumenal subject. **Nothing could be further from the truth**. The Kantian subject is an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. The very fact that I cannot simply satisfy my desires without considering the rightness or wrongness of my actions suggests that my empirical character must be held in check by something, or else I behave like a Freudian id. My empiri- cal character must be held in check by my intelligible character, which is the legislative activity of practical reason. It is through our intelligible character that we formulate principles that keep our empirical impulses in check. The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally signiﬁcant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. The Formula of Universal Law enjoins no more than that we act only on maxims that are open to others also.16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individ- ual think beyond his or her own particular desires. The individual is not allowed to exclude others as rational moral agents who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. Hence, the **universalizability** criterion **is a principle of consistency and** a principle of **inclusion.** That is, in choosing my maxims I attempt to include the perspective of other moral agents.

#### Abstraction is necessary and inevitable in ethics- the alternative is unchecked egoism.

**Farr 2** Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.

To avoid ethical egoism one must abstract from (think beyond) one’s own personal interest and subjective maxims. That is, the categorical imperative requires that I recognize that I am a member of the realm of rational beings. Hence, I organize my maxims in consideration of other rational beings. Under such a principle other people cannot be treated merely as a means for my end but must be treated as ends in themselves. **The merit of the categorical imperative for a philosophy of race is that it contravenes racist ideology** to the extent that racist ideology is based on the use of persons of a different race **as a means to an end** rather than as ends in themselves. Embedded in the formulation of an end in itself and the formula of the kingdom of ends is the recognition of the common hope for humanity. That is, maxims ought to be chosen on the basis of an ideal, a hope for the amelioration of humanity. This ideal or ethical commonwealth (as Kant calls it in the Religion) is the kingdom of ends.34 Although the merits of Kant’s moral theory may be recognizable at this point, we are still in a bit of a bind. It still seems problematic that the moral theory of a racist is essentially an antiracist theory. Further, what shall we do with Henry Louis Gates’s suggestion that we use the Observations on the Feeling of the Beautiful and Sublime to deconstruct the Grounding? What I have tried to suggest is that instead of abandoning the categorical imperative we should attempt to deepen our understanding of it and its place in Kant’s critical philosophy. A deeper reading of the Grounding and Kant’s philosophy in general may produce the deconstruction35 suggested by Gates. However, a text is not necessarily deconstructed by reading it against another. Texts often deconstruct themselves if read properly. To be sure, the best way to understand a text is to read it in context. Hence, if the Grounding is read within the context of the critical philosophy, the tools for a deconstruction of the text are provided by its context and the tensions within the text. Gates is right to suggest that the Grounding must be deconstructed. However, this deconstruction requires much more than reading the Observations on the Feeling of the Beautiful and Sublime against the Grounding. It requires a complete engagement with the critical philosophy. Such an engagement discloses some of Kant’s very signiﬁcant claims about humanity and the practical role of reason. With this disclosure, deconstruction of the Grounding can begin. What deconstruction will reveal is not necessarily the inconsistency of Kant’s moral philosophy or the racist or sexist nature of the categorical imperative, but rather, it will disclose the disunity between Kant’s theory and his own feelings about blacks and women. Although the theory is consistent and emancipatory and should apply to all persons, Kant the man has his own personal and moral problems. Although Kant’s attitude toward people of African descent was deplorable, **it would be equally deplorable to reject the categorical imperative without ﬁrst exploring its emancipatory potential.**

#### Fixed principles are key to solving for and measuring our response to oppression- things like anti-ethics leave us unable to measure and react to oppression accordingly.

**Chesterton** Gilbert Chesterton [Christian apologist and writer]. “Orthodoxy.” 1908. [modified for gendered language].

Silly examples are always simpler; let us **suppose a person wanted a** particular kind of world; say, a **blue world**. He would have no cause to complain of the slightness or swiftness of his task; he might toil for a long time at the transformation; he could work away (in every sense) until all was blue. He could have heroic adventures; the putting of the last touches to a blue tiger. He could have fairy dreams; the dawn of a blue moon. But **if they worked hard, that** high-minded **reformer would certainly** (from his own point of view) **leave the world better and bluer** than he found it. If he altered a blade of grass to his favorite color every day, he would get on slowly. But **if they altered [their]** his **favorite color every day, they would not get on at all. If, after reading a fresh philosopher, they started to paint everything red or yellow, their work would be thrown away**: there would be nothing to show except a few blue tigers walking about, specimens of their early bad manner. This is exactly the position of the average modern thinker. It will be said that this is avowedly a preposterous example. But it is literally the fact of recent history. The great and grave changes in our political civilization all belonged to the early nineteenth century, not to the later.

### Offense

#### I advocate that public colleges and universities in the United States ought not restrict any constitutionally protected speech. What that means is up for debate- the neg can read any DA as long as they read evidence that it’s constitutionally protected speech in their link, however I have the right to contest said links. And the aff is omission since public colleges and universities are not taking an action, whereas the neg has to defend the proactive measure of restricting free speech.

#### Respecting free speech is a necessary part of treating people as ends—it’s the foundation for an autonomous will

**Eberle 94** Eberle, Law @ Roger Williams, 94 (Wake Forest LR, Winter)

The Court's decision in R.A.V. reaffirms the preeminence of free speech in our constitutional value structure. n62 Theoretically, **free speech is intrinsically valuable as a chief means by which we develop our faculties and control our destinies.** n63 Free speech is also of instrumental value in facilitating other worthy ends such as democratic or personal self-government, n64 public and private decisionmaking, n65 and the advancement of knowledge and truth. n66 Ultimately, **the value of free speech rests upon a complex set of justifications, as compared to reliance on any single foundation**. n67 The majority of the Court in R.A.V. preferred a nonconsequentialist view, finding that **speech is valuable as an end itself, independent of any consequences that it might produce. In this view, free speech is an essential part of a just and free society that treats all people as responsible moral agents.** Accordingly, people are entrusted with the responsibility of making judgments about the use or abuse of speech. n68 From this vantage point, the majority saw a certain moral equivalency in all speech. Even hate speech merits protection under the First Amendment, because all speech has intrinsic value. This is so because all **speech, even hate speech, is a communication to the world, and therefore implicates the speaker's autonomy or self-realization**

#### Speech restrictions prevent people from exercising freedom.

Lambert 16 (Saber, writer @ being libertarian, “The Degradation of Free Speech and Personal Liberty,” April 9, 2016, https://beinglibertarian.com/the-degradation-of-free-speech-and-personal-liberty

Many individuals in society claim that they live in a free nation full of individual liberties. North American constitutions such as the ones implemented in the United States and Canada allow for freedom of speech. However, it is evident that the government has implemented and enforced policies to the contrary. There are a plethora of entertainment programs that have strict censorship policies that go against freedom of speech as it disallows, for example, television producers and musicians to use words or phrases that may be offensive directly or indirectly to a person or group. Regardless, if it is possibly offensive to one or many, the U.S. and Canadian constitutions allow for individuals to say very controversial things. However, restricting one’s freedom of speech in the form of censorship greatly impacts the exchange of ideas that are said to contribute to the (possibly) improvement of society. It is not up to the government to decide what individuals choose to say, read, or hear, and it should not be up to the government to decide what is acceptable within society. The Federal Communications Commission (FCC) in the United States controls all forms of television broadcasting and claims “it is a violation of federal law to air obscene programming at any time. It is also a violation of federal law to air indecent programming or profane language during certain hours.” It is quite clear that censorship by institutional power is a way to control a society in the sense that it determines what individuals in society can legally say, hear, or read. It is against the majoritarian virtues and values that are constitutionally instilled within a society, and is often paralleled to a form of dictatorship – no matter how miniscule.

#### Regardless of the content, outlawing types of free speech is a contradiction.

Varden 10 Helga Varden (Associate Professor of Philosophy atthe University of Illinois) “A Kantian Conception of Free Speech” May 22nd 2010 Freedom of Expression in a Diverse World Volume 3 of the series AMINTAPHIL: The Philosophical Foundations of Law and Justice pp 39-55 <http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1_4>

There is clear textual support that Kant provides the kind of twofold defense of free speech argued here, namely that communication of thought does not typically involve private wrongdoing and that the state must protect free speech in order to function as a representative authority. **To outlaw free speech, Kant argues in the essay “What is Enlightenment?”, is to “renounce enlightenment... [and] to violate the sacred right of humanity and trample it underfoot” (8: 39). Outlawing free speech is not only stupid, since it makes enlightenment or governance through reason impossible, but it involves denying people their right of humanity**. Their right of humanity is denied by outlawing free speech, because such legislation involves using coercion against the citizens even when their speech does not deprive anyone of what is theirs. Moreover, outlawing free speech evidences a government “which misunderstands itself” (8: 41). Similarly, Kant argues both in this text and in “Theory and Practice” that such legislation expresses sheer irrational behavior on the part of a government. “*[F]reedom of the pen*”, Kant writes in the latter essay, is the sole palladium of the people’s rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter – whose will gives order to the subjects as citizens only by representing the general will of the people – all knowledge of matters that he himself would change if he knew about them and to put him in contradiction with himself.... (8: 304, cf. 8: 39f) **Free speech is seen as the ultimate safeguard or protection of the people’s rights. Therefore, a public authority – an authority representing the will of the citizens and yet the will of no one in particular – cannot outlaw free speech, since citizens qua citizens cannot be seen as consenting to it. Such a decree would bring the sovereign ‘in contradiction with himself’ since it would involve denying the sovereign the vital information it needs in order to act as the representative of the people**. In “What is Enlightenment?” Kant expands this point: “[t]he *public* use of one’s reason must always be free... by the public use of one’s own reason I understand that use which someone makes of it *as a scholar* before the entire public of the *world of readers*” (8: 37). Every citizen must have the right to engage truthfully, yet critically in public affairs – to be a scholar – and so to raise her voice and explain why she judges the current public system of laws to be unjust or unfair. If such voices are not raised, the public authority cannot possibly be able to govern wisely; without a public expres- sion of the consequences for right of particular laws, the public authority does not have the information required to secure right for all and so to represent its citizen

#### Even immoral speech cannot be legally restricted because it doesn’t coerce other individuals inherently- you can just choose not to listen.

Varden 10 Helga Varden (Associate Professor of Philosophy atthe University of Illinois) “A Kantian Conception of Free Speech” May 22nd 2010 Freedom of Expression in a Diverse World Volume 3 of the series AMINTAPHIL: The Philosophical Foundations of Law and Justice pp 39-55 <http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1_4>

2 Virtuous Versus Rightful Private Speech In order to understand Kant’s conception of free speech we need a good grasp of his conception of rightful relations in general. With this conception in hand, we can see how Kant conceives of rightful private speech. Then we can see how rightful private speech is distinguished from rightful public speech, namely that which is protected or outlawed by various public law measures, including free speech legislation. Right, for Kant, is solely concerned with people’s actions in space and time, or what he calls our “external use of choice” (6: 213f, 224ff). When we deem each other and ourselves capable of deeds, meaning that we see each other and ourselves as the authors of our actions, we “impute” these actions to each other and to ourselves. Such imputation, Kant argues, shows that we judge ourselves and each other as capable of freedom under laws with regard to external use of choice – or ‘external freedom’ (6: 227). Moreover, when we interact, we need to enable reciprocal external freedom, meaning that we must find a way of interacting that is consistent with everybody’s external freedom. And this is where justice, or what Kant calls ‘right’ comes in. Right is the relation between interacting persons’ external freedom such that reciprocal external freedom is realized (6: 230). This is what Kant means when he says that rightful interactions are interactions reconcilable with each person’s innate right to freedom, namely the right to “independence from being constrained by another’s choices... insofar as it can coexist with the freedom of every other in accordance with a universal law” (6: 237). For Kant, right requires that universal laws of freedom, rather than anyone’s arbitrary choices, reciprocally regulate interacting individuals’ external freedom. The first upshot of this conception of right is that anything that concerns morality as such is beyond its proper grasp. Right concerns only external freedom, which is limited to what can be hindered in space and time (coerced), whereas morality also requires internal freedom. That is to say, morality encompasses both right and virtue, and virtue requires what Kant calls freedom with regard to “internal use of choice”. Internal freedom requires a person both to act on universalizable maxims and to do so from the motivation of duty (6: 220f) – and neither can be coercively enforced. This is why Kant argues that only freedom with regard to interacting persons’ external use of choice (right) can be coercively enforced; freedom with regard to both internal (virtue) and external use of choice – morality – cannot be coercively enforced (ibid.). Because morality requires freedom with regard to both internal and external use of choice, it cannot be enforced. This distinction between internal and external use of choice and freedom explains why Kant maintains that most ways in which a person uses words in his interactions with others cannot be seen as involving wrongdoing from the point of view of right: “such things as merely communicating his thoughts to them, telling or promising them something, whether what he says is true and sincere or untrue and insincere” do not constitute wrongdoing because “it is entirely up to them [the listeners] whether they want to believe him or not” (6: 238). The utterance of words in space and time does not have the power to hinder anyone else’s external freedom, including depriving him of his means. Since words as such cannot exert physical power over people, it is impossible to use them as a means of coercion against another. For example, if you block my way, you coerce me by hindering my movements: you hinder my external freedom. If, however, you simply tell me not to move, you have done nothing coercive, nothing to hinder my external freedom, as I can simply walk passed you. So, even though by means of your words, you attempt to influence my internal use of choice by providing me with possible reasons for acting, you accomplish nothing coercive. That is, you may wish that I take on your proposal for action, but you do nothing to force me to do so. Whether or not I choose to act on your suggestion is still entirely up to me. Therefore, you cannot choose for me. My choice to act on your words is beyond the reach of your words, as is any other means I might have. Indeed, even if what you suggest is the virtuous thing to do, your words are powerless with regard to making me act virtuously. Virtuous action requires not only that I act on the right maxims, but that I also do so because it is the right thing to do, or from duty. Because the choice of maxims (internal use of choice) and duty (internal freedom) are beyond the grasp of coercion, Kant holds that most uses of words, including immoral ones such as lying, cannot be seen as involving wrongdoing from the point of view of right.

#### Restricting freedom of speech puts the sovereign in contradiction with its supreme authority, undermining a system of equal freedoms.

Suprenant 15 Chris W. “Kant on the Virtues of a Free Society” April 7th 2015 <https://www.libertarianism.org/columns/kant-virtues-free-society>

The second point is a bit less straightforward. His claim is that **a sovereign that outlaws free speech creates a condition where [their] his actions “put [them] him in contradiction with himself.”** This language is remarkably similar to what he uses in his moral theory to describe principles that violate the categorical imperative, Kant’s supreme principle of morality. In the Groundwork, Kant claims that when a principle of action fails when tested against the categorical imperative, it fails because something about that principle is contradictory. It may be the case that it is not possible to conceive of the action that comes about as a result of universalizing the underlying principle connected to the action (i.e., a contradiction in conception), or the result of universalizing the principle is self-defeating in some way (i.e., a contradiction in the will). In the case of the sovereign restricting freedom of the press, the contradiction appears to be more practical. Elsewhere Kant argues **what justifies sovereign authority is that his actions are supposed to represent the united will of the people (MM 6:313). But a sovereign that denies free speech and otherwise undermines the conditions necessary to maintain a free society has made it impossible to gather the information needed to represent the will of the people appropriately. In this way, Kant sees any attempt by the sovereign to limit or otherwise suppress the free exchange of ideas, and, in particular, the exchange of ideas among the educated members of society (e.g., academics), as undermining his own authority.**

Outweighs- a) even if some speech is bad that doesn’t provide a reason that public colleges and universities have the right to restrict speech. The action is wrong but it can be taken care of in other ways b) This would only warrant that we should advice against such speech but we can never restrict under the framework because that would assign your will above the sovereign’s.

#### Empirics flow aff- speech codes on college campuses were policy failures.

Friedersdorf 15, 12-10-2015, "The Lessons of Bygone Free-Speech Fights," Atlantic, http://www.theatlantic.com/politics/archive/2015/12/what-student-activists-can-learn-from-bygone-free-speech-fights/419178/

He was writing after the University of Michigan, the University of Wisconsin, and Stanford implemented speech codes targeted at racist and sexist speech. These were efforts to respond to increasing diversity on campuses, where a number of students spewed racist and sexist speech that most everyone in this room would condemn. But those speech codes were policy failures. There is no evidence that hate speech or bigotry decreased on any campus that adopted them. At Michigan, the speech code was analyzed by Marcia Pally, a professor of multicultural studies, who found that “black students were accused of racist speech in almost 20 cases. Students were punished only twice under the code’s anti-racist provisions, both times for speech by or on behalf of blacks.”

#### Counterspeech works- empirics prove it promotes inclusion needed for movements- this also responds to silencing turns since even if those targeted cannot speak up, the community can.

**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]

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 poste**r**, 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 defensehad 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.

# Frontlines

## 1AR – A2 Util

### AT Parfit

#### omitted

### AT Bostrom

#### omitted

### AT Naturalism

#### omitted

### AT Goodin/Woller

#### omitted

### AT Sunstein

#### omitted

### AT Epistemology

#### omitted

### AT NEC

#### omitted

### AT RE

#### omitted

## 1AR – A2 SV Framing

### Freedom First OV

#### omitted

### AT Curry

#### omitted

### AT Winter/Leighton

#### omitted

### AT Mills

#### omotted

### AT Teehan

#### Omitted

### AT Giroux/Trifonas

#### Omitted

### AT Judges are educators

#### omitted

## 1AR – Turns Frontlines

### A2 Revenge Porn Turn

#### No, NCID is not protected by the constitution—Court precedent proves.

Danielle Citron 14 (contributor about privacy, civil rights, and automated systems). “Debunking the First Amendment Myths Surrounding Revenge Porn Laws”. Forbes, Apr. 18, 2014. http://www.forbes.com/sites/daniellecitron/2014/04/18/debunking-the-first-amendment-myths-surrounding-revenge-porn-laws/#26f3547d4b89

Consider Bartnicki v. Vopper. There, **an unidentified person intercepted and recorded a cell phone call between the president of a** local teacher’s **union and the** union’s **chief negotiator.** During the call, one of the parties talked about “go[ing] to the homes” of school board members to “blow off their front porches.” **A radio commentator,** who received a copy of the intercepted call in his mailbox, **broadcast the tape.** **The radio personality incurred civil penalties for publishing the** cell phone **conversation** in violation of the Wiretap Act. **The Court characterized** the **wiretapping** penalty **as presenting a “conflict between interests** of the highest order—on the one hand, **the interest in the full and free dissemination of information concerning public issues, and**, on the other hand, **the interest in individual privacy** and, more specifically, in fostering private speech.” For the Court, free speech interests appeared on both sides of the calculus. The Court recognized that “the disclosure of the contents of a private conversation can be an even greater intrusion on privacy than the interception itself**.” The penalties were struck down because** the private cell phone **conversation** about the union negotiations **“unquestionably” involved a “matter of public concern.”** **Because the** private **call did not involve “trade secrets or domestic gossip** or other information of purely private concern,” **the privacy concerns vindicated by the Wiretap Act had to “give way” to “the interest in publishing matters of public importance.”** The **state interest in protecting** the **privacy** of communications **is strong enough to justify regulation if the communications involve “purely private” matters, like nude images.** Neil Richards has persuasively argued, and lower courts have ruled, a lower level of First Amendment scrutiny applies to the nonconsensual publication of “domestic gossip or other information of purely private concern.” **Appellate courts have affirmed the constitutionality of civil penalties under the wiretapping statute for the unwanted disclosures of private communications involving “purely private matters.”** 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 [NCID] 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. he fear of public disclosure of private intimate communications would have a “chilling effect on private speech.” When would victims’ privacy concerns have to cede to society’s interest in learning about matters of public importance? Recall that women revealed to the press that former Congressman Anthony Weiner had sent them sexually explicit photographs of himself via Twitter messages. His decision to send such messages sheds light on the soundness of his judgment. Unlike the typical revenge porn scenario involving private individuals whose affairs are not of broad public interest, the photos of Weiner are a matter of public import, and so their publication would be constitutionally protected. Another way to understand the constitutionality of revenge porn statutes is through the lens of confidentiality law. Woodrow Hartzog persuasively contends that **revenge porn is a “legally actionable breach of confidence.”** As Neil Richards and Daniel Solove have argued, confidentiality regulations are less troubling from a First Amendment perspective because they penalize the breach of an assumed or implied duty rather than the injury caused by the publication of words. **Instead of prohibiting a certain kind of speech, confidentiality law enforces express or implied promises and shared expectations.**

#### Empirically denied—NCID is already criminalized in many states, and even more are getting ready to criminalize it.

Danielle Citron 2 (contributor about privacy, civil rights, and automated systems). “Debunking the First Amendment Myths Surrounding Revenge Porn Laws”. Forbes, Apr. 18, 2014. http://www.forbes.com/sites/daniellecitron/2014/04/18/debunking-the-first-amendment-myths-surrounding-revenge-porn-laws/#26f3547d4b89

**Disclosing someone’s nude image** in violation of trust and confidence (often known as nonconsensual pornography or revenge porn) **is a destructive invasion of privacy that can cause irreversible harm** to a person’s physical and emotional well-being, professional reputation, and financial security. Lawmakers are rightfully paying attention. **Seven states have criminalized the practice; 18 states have pending bills; Representative Jackie Speier has expressed interest in making it a federal crime.**

#### No solvency- people can just get offline or go off campus so the counterplan literally cannot do anything.

#### No solvency- revenge porn is posted anonymously online; colleges have no way to track who posted it. It would be the job of the websites to remove the revenge porn.

#### Freedom of speech refers specifically to literal speech—NCID is published online, that means it’s freedom of the press

**Volokh 12** summarizes [Eugene Volokh (Gary T. Schwartz Professor of Law, UCLA School of Law), FREEDOM FOR THE PRESS AS AN INDUSTRY, OR FOR THE PRESS AS A TECHNOLOGY? FROM THE FRAMING TO TODAY, University of Pennsylvania Law Review, 2012]

The **freedom of the press**-as-technology, of course, **was not seen as redundant of** the **freedom of speech**.56 St. George Tucker, for instance, discussed the **freedom of speech** asfocusing on the spoken word andthe **freedom of the press** as focusing **on the printed**: The best speech cannot be heard, by any great number of persons. The best speech may be misunderstood, misrepresented, and imperfectly remembered by those who are present. To all the rest of mankind, it is, as if it had never been. The best speech must also be short for the inves- tigation of any subject of an intricate nature, or even a plain one, if it be of more than ordinary length. The best speech then must be altogether inadequate to the due exercise of the censorial power, by the people. The only adequate supplementary aid for these defects, is the absolute freedom of the press. **57 [at the Debates of the Constitutional Convention].** Likewise, **George Hay**, who later became a U.S. Attorney and a federal judge, **wrote in 1799 that** “**freedom of speech** **means**, in the construc- tion of the Constitution, the privilege of **speaking** any thing without control” **and** “the words freedom of the **press**, which form a part of the same sentence, **mean** the privilege of **printing** any thing without control.”58 Massachusetts Attorney General James Sullivan (1801) sim- ilarly treated “the freedom of speech” as referring to “utter[ing], in words spoken,” and “the freedom of the press” as referring to “print[ing] and publish[ing].”59 And **these sources captured an understanding** that was **broadly expressed during** the **surrounding decades**. Bishop Thomas Hayter, writing in 1754, described the “Liberty of the Press” as applying the traditionally recognized “Use and Liberty of Speech” to “Printing,” an activity that Hayter described as “only a more extensive and improved Kind of Speech.”60 Hayter’s work was known and quoted in Revolu- tionary-era America.61

Outweighs on specificity—all of their evidence says the First Amendment protects revenge porn but the First Amendment protects five freedoms, including speech and the press—just because it’s constitutionally protected doesn’t make it speech.

#### Court precedent suggests NCID is an obscenity that will not be permitted.

**Volokh 13** [Eugene Volokh (Gary T. Schwartz Professor of Law, UCLA School of Law), “Florida “Revenge Porn” Bill,”, The Volokh Conspiracy, April 2013]

A [Florida bill](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h0787c1.docx&DocumentType=Bill&BillNumber=0787&Session=2013) would ban “knowingly transmit[ting] or post[ing]” to any web site, a “photograph or video that depicts nudity of another person” coupled with “personal identification information” of that other person, “for the purpose of harassing the depicted person or causing others to harass the depicted person.” “Harass” is defined as “to engage in conduct directed at a specific person that is intended to cause substantial emotional distress to such person and serves no legitimate purpose.” Readers of this blog know that I’m not a fan of laws imposing liability for [disclosure of private facts about a person](http://www.law.ucla.edu/volokh/privacy.pdf) and laws that criminalize [saying offensive things about a person](http://www.law.ucla.edu/volokh/crimharass.pdf). In particular, I think (for reasons discussed in [this article](http://www.law.ucla.edu/volokh/crimharass.pdf)) that speech restrictions that exempt speech with a “legitimate purpose” are likely unconstitutionally vague. But I do think that **a** suitably **clear and narrow statute banning nonconsensual posting of nude pictures** of another, in a context where there’s good reason to think that the subject did not consent to publication of such pictures, **would** likely **be upheld by the courts**. While I don’t think judges and juries should be able to decide, on a case-by-case basis, which statements about a person aren’t of “legitimate public concern” and can therefore be banned, I think courts can rightly conclude that **as a categorical matter such** nude **pictures** indeed **lack First Amendment value**. Of course, I can imagine a few situations in which such depictions might contribute to public debates. But those situations are likely to be so rare that the law’s coverage of them wouldn’t make it “substantially” overbroad (even if the “no legitimate purpose” proviso is seen as too vague to exclude those valuable nonconsensual depictions of nudity). Any challenges to the law based on such unusual cases would therefore have to be to the law as applied in a particular case. A facial challenge asking that the law be invalidated in its entirety, based on just these few unconstitutional applications, would not succeed. I recognize that United States v. Stevens (2010) held that “The First Amendment’s guarantee of free speech does not extend only to categories of speech that survive an ad hoc balancing of relative social costs and benefits,” and that First Amendment exceptions be limited to “historic and traditional categories long familiar to the bar,” such as obscenity, defamation, fraud, incitement, and the like, which are “well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem.” Chaplinsky v. New Hampshire (1942). But even under this sort of historical approach, I think nonconsensual depictions of nudity could be prohibited. **Historically** and traditionally, **such depictions would** likely **have been seen as unprotected obscenity** (likely alongside many consensual depictions of nudity). **And** while the Court has narrowed the obscenity exception — in cases that have not had occasion to deal with nonconsensual depictions — in a way that generally excludes mere nudity (as opposed to sexual conduct or “lewd exhibition of the genitals”), the fact remains that historically such depictions would **not** have been seen as **constitutionally protected**.

### A2 Hate Speech

#### Hate speech is not constitutionally protected.

**ILTW** Information Technology Law Wiki, "Constitutionally protected speech", [itlaw.wikia.com/wiki/Constitutionally\_protected\_speech](http://itlaw.wikia.com/wiki/Constitutionally_protected_speech)  
All speech is considered constitutionally protected unless it falls within several limited exceptions. **The right of protected speech is derived from the first amendment** of the U.S. Constitution that reads, "Congress shall make no law . . . abridging the freedom of speech."Under common law **the U.S. Supreme Court has limited this right by deeming certain types of speech to be outside this protection. They are for the most part: incitement, obscenity, fighting words and offensive speech, and threats.** Further, the Court has upheld laws that reasonably restrict speech on the basis of its time, place and manner. There is for the most part, no black letter law as to exactly what speech is protected and what speech crosses the line. The determination is always a matter of context and the specific facts of the situation.

### A2 Seditious Speech

#### No link- seditious speech isn’t conpro.

KidsLaws

<http://kids.laws.com/gitlow-v-new-york> GITLOW V. NEW YORK

**In Gitlow v. New York, Benjamin Gitlow was convicted of violating legislation that outlawed anti-government speech that is spread to the general public** in newspaper, magazine or other print. In response to these charges, Benjamin Gitlow appealed claiming the State of New York violated his constitutional rights. The case of Gitlow v. New York was heard in the United States Supreme Court. Gitlow v. New York was officially decided on June 8th of 1925.

Gitlow v. New York: The Verdict

**The United States Supreme Court found that Benjamin Gitlow was guilty of his crimes;** however, the court also found that the individual state governments were not allowed to deny their residents the civil and human rights expressed within the United States Constitution. The ruling of Gitlow v. New York basically said that the New York state government abused their powers, but Benjamin Gitlow was in fact guilty of his accused crimes.

#### (A2 Bradenburg v Ohio) This is talking about hate speech, not seditious speech.

KidsLaws

<http://kids.laws.com/gitlow-v-new-york> GITLOW V. NEW YORK

**The United States Supreme Court ruled in favor of Clarence Brandenburg stating Ohio laws that prohibited the delivery of expression and speech directly violated the 1st Amendment to the United States Constitution. Within this ruling, the United States Supreme Court was sure to distinguish between violent acts and hateful speech that implied violence**. Although the Ku Klux Klan’s rally was hateful, the sentiments expressed were not deemed by the United States Supreme Court to be of an immediate danger to those around the rally.

### A2 Blackmail Turn

#### Blackmail is illegal in the United States, so it sure as hell isn’t protected.

Wiki n.d. https://en.wikipedia.org/wiki/Blackmail

**Blackmail is** an act, often a crime, involving unjustified threats to make a gain (commonly money or property) or cause loss to another unless a demand is met.[[1]](https://en.wikipedia.org/wiki/Blackmail#cite_note-merriam-webster-1)[[2]](https://en.wikipedia.org/wiki/Blackmail#cite_note-American_Heritage-2)Essentially, it is[coercion](https://en.wikipedia.org/wiki/Coercion)involving threats to reveal[substantially true](https://en.wikipedia.org/wiki/Substantial_truth)or false information about a person to the public, a family member, or associates, or threats of physical harm or criminal prosecution.[[1]](https://en.wikipedia.org/wiki/Blackmail#cite_note-merriam-webster-1)[[3]](https://en.wikipedia.org/wiki/Blackmail#cite_note-merriam-webster.com-3)[[4]](https://en.wikipedia.org/wiki/Blackmail#cite_note-Burton-4)[[5]](https://en.wikipedia.org/wiki/Blackmail#cite_note-Newton-5)It is the name of **a**[**statutory**](https://en.wikipedia.org/wiki/Statutory)**offence in the United States**, United Kingdom, and Australia,[[6]](https://en.wikipedia.org/wiki/Blackmail#cite_note-6)and has been used as a convenient way of referring to other offences, but was not a term of art in[English law](https://en.wikipedia.org/wiki/Law_of_England_and_Wales)before 1968.[[7]](https://en.wikipedia.org/wiki/Blackmail#cite_note-Griew.2C_Edward_page_183-7)It originally meant payments rendered by settlers in the counties of England bordering[Scotland](https://en.wikipedia.org/wiki/Scotland)to chieftains and the like in the[Scottish Lowlands](https://en.wikipedia.org/wiki/Scottish_Lowlands), in exchange for protection from Scottish thieves and marauders into England.[[3]](https://en.wikipedia.org/wiki/Blackmail#cite_note-merriam-webster.com-3)[[8]](https://en.wikipedia.org/wiki/Blackmail#cite_note-West-8)

#### There is straight up a statute in the law against blackmail.

Cernovich 08 [Blackmail, Extortion, and the First Amendment](http://www.crimeandfederalism.com/2008/05/blackmail-extor.html)

[May 14, 2008](http://www.crimeandfederalism.com/2008/05/blackmail-extor.html) <http://www.crimeandfederalism.com/2008/05/blackmail-extor.html>

**Whoever, under a threat of informing**, or as a consideration for not informing, against any violation of any law of the United States, **demands or receives any money or other valuable thing, shall be fined under this title or imprisoned** not more than one year, or both.