# Neg- HWL Safety Aff- TOC – Nirmal

## Strat

#### This just seems to be another Race Aff that is oriented around how a culture of safety is bad,

#### Strat should be: Util, New PIC, DA, Hate Speech Turns on Case

#### Some of the answers against case are repetitive- but it’s all compiled and choose which ones to insert based on the module of the aff they read

## Case

### Framing

#### The role of the ballot is to vote for the debater who best maximizes expected foreseen wellbeing

#### Moral realism is true- pain and pleasure are only intrinsic values

**Gray 09** [Gray, James W. "An Argument for Moral Realism." Ethical Realism. N.p., 07 Oct. 2009. Web. 04 Sept. 2015. <https://ethicalrealism.wordpress.com/2009/10/07/an-argument-for-moral-realism/>. MA in philosophy from San Jose State University (2008)]

**If we have evidence** that **anything** in particular **has intrinsic value**, then we also have evidence that **moral realism is true**. Our experiences of pleasure and pain are probably the most powerful evidence of intrinsic value because such experiences are tied to our belief that they have intrinsic value. My argument that pain has intrinsic disvalue is basically the following: We experience that pain is bad. We experience that pain is important. The disvalue of pain is irreducible. The disvalue of pain is real. If pain is bad in the sense of being important, irreducible, and real, then pain has intrinsic disvalue. Therefore, pain has intrinsic disvalue. I am not certain that the premises are true, but I currently find good reasons for accepting them. Therefore, we have reason for accepting the conclusion. The conclusion could be read saying, “We have reason to believe that pain has intrinsic disvalue.” If we accept that **pain has intrinsic disvalue**, then we will simultaneously accept moral realism.1 In order to examine the plausibility of my argument, I will examine each of the premises: We experience that pain is bad. We know pain is bad **because of our experience** of it. If someone described their pain as extremely wonderful, we would doubt they are feeling pain. Either the person is lying or doesn’t know what the word “pain” means. When a child decides not to touch fire because it causes pain, we understand the justification. **It would be strange to ask** the child, “So what? **What’s wrong with pain**?” We experience that pain is important. If pain is important in the relevant sense, then it can provide us reason to do something without merely helping us fulfill our desires. In other words, we must accept the following: The badness of pain isn’t just an instrumental value. The badness of **pain is a final end**. Pain’s badness isn’t an instrumental value – Pain’s disvalue is not an instrumental disvalue because pain can be quite useful to us. **Pain** can tell us when we are unhealthy or injured. We evolved pain because **i**t’**s** **essential** **to** our **survival**. Pain’s bad for a different kind of reason. Pain’s disvalue is found in our negative experience, and this is why pain is a candidate for having an intrinsic disvalue. Whenever someone claims that something has intrinsic value, we need to make sure that it’s not just good because it’s instrumentally valuable. If it’s merely useful at bringing about something else, then it’s not good in and of itself (as intrinsic values are). Pain is perhaps the perfect example of something that is useful but bad. If usefulness was the only kind of value, then pain would actually be good because it helps us in many ways. Pain’s badness isn’t just our dislike of pain – We dislike **pain** because it **feels bad**.2 If pain didn’t feel bad, then we wouldn’t have such a strong desire to avoid intense pain. Pain means “feels bad” and it **is manifested in various experiences**, such as touching fire. **We have to know the meaning of “bad”** in order to understand pain at all. **We attain an understanding of “bad” just by feeling pain**. If pain was only bad because we dislike it, then we couldn’t say that “pain really matters.” Instead, the badness of pain would just be a matter of taste. However, we don’t just say pain is bad because we dislike it. We also say pain is bad because of how it feels. Avoiding **pain is a final end** – A final end is a goal people recognize as being **worthy of being sought after for its own sake**. Money is not a final end **because** it is only valuable when used to do something else. Pleasure and pain-avoidance are final ends because they are taken t be worthy of being avoided for their own sake. We know that avoiding pain makes sense even when **it doesn’t lead to anything else** of value, so avoiding pain is a final end.3 If I want to take an aspirin, someone could ask, “Why did you do that?” I could answer, “I have a headache.” This should be the end of the story. We understand that avoiding pain makes sense. It would be absurd for someone to continue to question me and say, “What difference does having a headache make? That’s not a good reason to take an aspirin!”4 Both realists and anti-realists can agree that pain is bad, and they can both agree that pain is a final end. Our desire to avoid pain is non-instrumental and such a desire is experienced as justified. (However, the ant-realist might argue that it is only taken to be justified because of human psychology.) If pain is a final end, then we understand (a) that pain is important and (b) it makes sense to say that we ought to avoid pain. **Pain’s disvalue is irreducible**. **If the badness of pain was reducible to nonmoral properties, then we should be able to describe what** “bad” means **through a non-moral description**. **However**, **we** currently **have no** way of understanding pain’s badness as being something else. We can’t describe pain’s badness in non-moral terms. If someone needs to know what ” bad” means, they need to experience something bad. To say that some moral states are irreducible is just like saying that some mental states are irreducible. Pain itself can’t be described through a non-mental description. If we told people the mental states involved with pain, they would still not know what pain is because they need to know what it feels like. Someone could argue that **“bad” means the same thing as** something like **“pain,”** and then we would find out that the badness of pain could be reduced to something else. However, pain and the badness of pain are conceptually separable. For example, I could find out that something else is bad other than pain. They could then reply that “bad” means the same thing as a disjunction of various other bad things, such as “pain or malicious intent.” But people who disagree about what constitutes what is “bad” aren’t just arguing about the meaning of the word “bad.” They are arguing about what has the property “bad.”5 Additionally, the word “bad” would no longer have any importance. If “bad” just means “pain or malicious intent,” then why care about it? Why ought I refrain from causing pain or having a malicious intent? It could be that we can find out that “bad” and “pain” are identical, but then “bad” might not be entirely reducible to “pain” (or a disjunction of bad things). We might still think that there are two legitimate descriptions at work. The “pain” description and the “bad” description. (Some people think water is H2O through an identity relation similar to this.) This sort of irreducible identity relation require us to deny that pain is “important.” (If the identity theory did require us to deny that pain is “important,” then we would have a good reason to reject such an identity theory.) I have given reason to think the word “bad” is irreducible, but I haven’t proven it. If someone could prove that pain isn’t important, and we can reduce pain to something else, then I will be proven wrong. I just don’t see any reason to agree with that position at this time. I discuss the badness of pain as irreducible in more detail in my essays “Objection to Moral Realism Part 1: Is/Ought Gap” and “Objections to Moral Realism Part 3: Argument from Queerness.” The badness of pain is real. **If the badness of pain is real**, **then everyone’s pain is bad**. Pain isn’t bad just for me, but not for you. It states that **we don’t** all merely **share a subjective preference** in avoiding pain, **but** that pain’s badness is something worthy of being avoided and helping others avoid it. Why does it seem reasonable to believe pain’s badness to be real? There are at least four reasons. One, I experience that **my pain hurts and I know that other people do as well**. Two, it’s not just people’s subjective preferences in question. People hate pain because of how it feels. Three, people’s pain exists (and if pain exists, then the badness of the pain exists). Four, I see no reason to deny that the badness of other people’s pain exists. I will discuss this final consideration in more detail when I discuss anti-realist objections. We have no good reason to deny that pain is bad. We experience that pain is bad for ourselves, and other people experience that pain is bad for themselves as well. **Even though pain is subjective,** there is nothing delusional about our belief that pain is bad. **It’s not just a** personal **like or a dislike**. We don’t just agree to treat other people’s pain as important as part of a social contract. The belief that the badness of pain is real and “pain is bad no matter who experiences it” will be rejected by anti-realists. If I gave food to the hungry, it would be absurd to question why I did it. Imagine someone who disagrees with my action and says, “Other people’s pain is irrelevant. You should only try to avoid pain for yourself, so feeding the hungry is stupid.” This person’s position is counterintuitive to the point of absurdity. We have all accepted that other people’s pain matters. It makes sense to feed the hungry, it makes sense to give to charity, and it makes sense to give someone an aspirin who has a headache. We don’t have to benefit from helping other people. To deny that “pain is bad no matter who experiences it” isn’t a position that many people can find acceptable. (I suppose some sociopaths might find it acceptable.) If pain is bad, important, irreducible, and real, then pain has intrinsic disvalue. I want to suggest this premise to be justified in virtue of the very meaning of intrinsic value. If pain is bad, important (worthy of being desired), irreducible, and real; then I think we have already established that pain has intrinsic disvalue by definition. We have established **moral facts** that could **give us what we ought to do**, such as, “We ought to avoid pain.” Such an ought judgment is not merely based on my personal belief or desire; it’s based on the fact that pain is important no matter who experiences it. Conclusion: Pain has intrinsic disvalue If my premises are true, then the conclusion follows. I have given reason for accepting the premises, so we have some reason for accepting the conclusion, and the conclusion entails the truth of moral realism. I will take all of my premises to be sufficiently justified, but I will consider why someone might decide that the badness of pain “isn’t real.” An anti-realist could attempt to deny that “pain is bad no matter who experiences it.” The strongest evidence that badness is real is the fact that denying it seems to require unjustified philosophical commitments. I will attempt to show that the alternatives are less justified in the next section.

#### Moral uncertainty means we prevent extinction

**Bostrom 11** --¶ (2011) Nick Bostrom, Future of Humanity Institute, Oxford Martin School & Faculty of Philosophy

These reflections on moral uncertainty suggest an alternative, complementary way of looking at existential risk. Let me elaborate. Our present understanding of axiology might well be confused. We may not now know—at least not in concrete detail—what outcomes would count as a big win for humanity; we might not [or] even yet be able to imagine the best ends of our journey. If we are indeed profoundly uncertain about our ultimate aims, then we should recognize that there is a great option value in preserving**—**and ideally improving—our ability to recognize value and to steer the future accordingly. Ensuring that there will be a future version of humanity with great powers and a propensity to use them wisely is plausibly the best way available to us to increase the probability that the future will contain a lot of value. To do this, we must prevent any existential catastrophe.

#### Their role of the ballot is merely an impact filter- it says to prioritize anti-blackness because it results in suffering- but extinctiojn causes infinite suffering so that would shift your role as the judge. Also outweighs on reversibility- the impacts of the 1nc can never be reversed but we can solve their intervening impacts.

#### Framing issues through large scale impacts also generate better attention to draw it towards small-scale impacts so the 1nc’s method is the best to generate attention

#### the only way you can ethically explain uncertainty over liberal spaces is through the pain that it has caused- we have an obligation to reverse that

### FS High Now

#### No impact to the aff—most people think we already have free speech, nothing is going to change

**Dwyer 16** (Liz, writes about race, parenting, and social justice for several national publications, “College Students Say Free Speech Has Its Limits,” April 4, 2016, http://www.takepart.com/article/2016/04/04/college-students-free-speech-limits//[LADI](http://www.theladi.org/evidence))

Last fall, the football team at the University of Missouri went on strike to protest slow administrative response to incidents of racial harassment on campus, joining other students in a movement that resulted in the resignation of the school’s president. Although students at the school asserted their right to protest, a viral video of Tim Tai, a student photojournalist, being blocked from documenting what was happening raised concerns over whether free-speech rights on the campus were eroding. “The First Amendment protects your right to be here and mine,” Tai told the protesters gathered around him. “Forget a law. How about humanity and respect?” replied a student. A few minutes later, professor Melissa Click, now fired, could be seen on the video trying to prohibit another student from recording the incident. “Hey, who wants to help me get this reporter out of here?” Click yells to the protesters. According to a Gallup survey of college students, released Monday in collaboration with the Knight Foundation and the Newseum Institute, most undergraduates across the United States believe First Amendment rights are secure. At the same time, nearly half think some restrictions on free speech are justified. “Students do appear to distinguish controversial views from what they see as hate. They believe colleges should be allowed to establish policies restricting language and behavior that are intentionally offensive to certain groups, but not the expression of political views that may upset or offend members of certain groups,” wrote the authors of a report accompanying the survey. The survey polled a nationally representative sample of 3,000 college students ages 18 to 24 about their attitudes toward the First Amendment. While 78 percent said that “colleges should expose students to all types of speech and viewpoints,” the report’s authors note that 69 percent believe policies against slurs and intentionally offensive language are needed.

### Speech Codes Down

#### Speech codes rapidly declining

**FIRE 17** [Foundation for Individual Rights in Education, "Spotlight on Speech Codes 2017," 2017] AZ

FIRE surveyed 449 schools for this report and found that 39.6 percent maintain severely restrictive, “red light” speech codes that clearly and substantially prohibit constitutionally protected speech. This is the ninth year in a row that the percentage of schools maintaining such policies has declined, and this year’s drop was nearly ten percentage points. (Last year, 49.3 percent of schools earned a red light rating.) In addition, an unprecedented number of schools have eliminated all of their speech codes to earn FIRE’s highest, “green light” rating: As of September 2016, 27 schools received a green light rating from FIRE. This number is up from 22 schools as of last year’s report. In another heartening trend, a growing number of schools are adopting statements in support of free speech modeled after the one adopted by the University of Chicago in January 2015. As of this writing, 20 schools or faculty bodies in FIRE’s Spotlight database had endorsed a version of the “Chicago Statement.”

### Protests High

#### Student activism, civic engagement and protests are at an all-time high even with speech codes

**HERI 16** [Higher Education Research Institute. “College students’ commitment to activism, political and civic engagement reach all-time highs”. UCLA Newsroom. February 10, 2016. <http://newsroom.ucla.edu/releases/college-students-commitment-to-activism-political-and-civic-engagement-reach-all-time-highs>. ]

Colleges and universities across the U.S. experienced an increase in student activism over the past year, as students protested rising college costs and hostile racial climates on their campuses. Now, findings from UCLA’s annual CIRP Freshman Survey (PDF) suggest that participation in demonstrations may intensify in the months ahead. The survey of 141,189 full-time, first-year students from around the U.S. found that interest in political and civic engagement has reached the highest levels since the study began 50 years ago. Nearly 1 in 10 incoming first-year students expects to participate in student protests while in college. The survey, part of the Cooperative Institutional Research Program, is administered nationally by the Higher Education Research Institute at the UCLA Graduate School of Education and Information Studies. The 8.5 percent who said they have a “very good chance” of participating in student protests while in college represents the highest mark in the survey’s history and is an increase of 2.9 percentage points over the 2014 survey. Black students were the most likely to expect to protest, with 16 percent reporting that they had a very good chance of demonstrating for a cause while in college — 5.5 percentage points higher than in 2014. The rising interest in activism coincides with some recent successful protests by college students. After months of protesting a perceived lack of responsiveness by university administrators to racial bias and discrimination, University of Missouri students forced the resignation of the system’s president in November 2015. “Student activism seems to be experiencing a revival, and last fall’s incoming freshman class appears more likely than any before it to take advantage of opportunities to participate in this part of the political process,” said Kevin Eagan, director of CIRP. “We observed substantial gains in students’ interest in political and community engagement across nearly every item on the survey related to these issues.”

### 1NC- Hate Speech

#### Harrassment decreasing on campus now- proves codes are effective

Sutton 16 Halley Sutton, Report shows crime on campus down across the country, Campus Security Report 13.4 (2016), 9/9/16,http://onlinelibrary.wiley.com/doi/10.1002/casr.30185/full //

A recent report released by the National Center for Education Statistics found an overall decrease in crimes at educational institutions across the country since 2001. The overall number of crimes reported by postsecondary institutions has dropped by 34 percent, from 41,600 per year in 2001 to 27,600 per year in 2013. The report, titled Indicators of School Crime and Safety: 2015, covers higher education campuses as well as K–12 schools and includes such topics as victimization, teacher injury, bullying and cyberbullying, use of drugs and alcohol, and criminal incidents at postsecondary institutions. The report found significant decreases in instances of bullying, harassment due to sexual orientation, and violent crime at all levels of education. The number of on-campus crimes reported at postsecondary institutions in 2013 was lower than in 2001 for every category except forcible sex offenses and murder.

#### Hate speech is constitutionally protected- the aff restricts it

**Moore 16** [Social Studies Research and Practice www.socstrp.org Volume 11 Number 1 112 Spring 2016 You Cannot Say That in American Schools: Attacks on the First Amendment James R. Moore Cleveland State University]

**The first amendment**, a crucial component of American constitutional law, **is under attack from** various **groups** **advocating for censorship in universities** and public schools. The censors assert that restrictive speech codes preventing anyone from engaging in any expression deemed hateful, offensive, defamatory, insulting, or critical of sacred religious or political beliefs and values are necessary in a multicultural society. These speech codes restrict critical comments about race, religion, gender, sexual orientation, physical characteristics, and other traits in the name of tolerance, sensitivity, and respect. Many **hate speech codes are a violation of the first amendment** **and have been struck down** **by** federal and state **courts**. **They persist** in jurisdictions where they have been ruled unconstitutional; **most** universities and **public schools have speech** **codes**. This assault on the first amendment might be a concern to all citizens, especially university professors and social studies educators responsible for teaching students about the democratic ideals enshrined in our constitution. Teachers should resist unconstitutional speech codes and teach their students that the purpose of the first amendment is to protect radical, offensive, critical, and controversial speech. The first amendment in the Bill of Rights, the foundation of individual freedom in the United States, protecting the freedoms of religion, speech, press, assembly, and petition. These basic freedoms, derived from Enlightenment philosophy and codified in the world’s oldest written constitution, have been an essential characteristic of American democracy and law since 1791. This is continuity considering “between 1971 and 1990, 110 of the world’s 162 national constitutions were either written or extensively rewritten” (Haynes, Chaltain, Ferguson, Hudson, & Thomas, 2003, p. 9). The first amendment has been the conduit employed by U.S. citizens to create an increasingly free and just society based on the constitutional ideals of equality before the law, popular sovereignty, limited government, checks and balances, federalism, and individual liberties (Center for Civic Education, 2009). Advocates for the abolition of slavery and the expansion of civil rights were able, after long struggles, to achieve their goals of expanding freedom and social justice by using their natural rights to free expression and religious liberty (Dye, 2011). Since no constitutional liberty or right is absolute, American institutions continuously debate the definitions, limitations, and exceptions to these fundamental rights based on social, political, and technological changes. This task has been exacerbated by increasing cultural diversity and technological changes (the Internet and social media) that expand communication. In addition, efforts by some people to censor language in the name of tolerance and respect for diversity have increased in recent years (Foundation for Individual Rights in Education, 2013, p.4). The first amendment is the world’s oldest written safeguard for freedom of expression—this includes allowing blasphemy and expression that may be radical, offensive, controversial, ignorant, and militantly bigoted—and is the cornerstone of participatory democracy (Haynes et al., 2003). The first amendment is under constant attack from some religious organizations, political action groups, ethnically-based activist groups, and, most alarmingly, from American public universities that severely restrict freedom of expression and public debate (Foundation for Individual Rights in Education, 2013; Haynes, 2013; Hudson, 2011). The Foundation for Individual Rights in Education (2013) found “**62% of universities** (254 out of 409 universities in the survey) **maintain** severely **restrictive** **red-light speech codes** – **policies that** clearly and **substantially prohibit protected speech**” (p. 4). Many Americans do not understand, or do not accept, that the first amendment protects unpopular, offensive, controversial, and radical speech; this includes making hateful statements about race, gender, religion, and any other topic the speaker wishes to address (Haynes et al., 2003; Marshall & Shea, 2011; Pew Forum on Religion and Public Life, 2010). Many hate **speech codes**, thus, often are defined “as hostile or prejudicial attitudes expressed toward another person’s or group’s characteristics, notably sex, race, ethnicity, religion, or sexual orientation” (Dye 2011, p. 508). The hate speech instituted in American universities and Kindergarten-12 schools **are** often, albeit well-intended, **violations of the First Amendment** (Foundation for Individual Rights in Education; Haynes, 2013; *Saxe V. State College Area School District*, 2001).

#### Speech codes solve – empirics and social studies.

**Gould ’10** (Jon B. Gould is a professor in the Department of Justice, Law and Society and at the Washington College of Law at American University, where he is also director of the Washington Institute for Public and International Affairs Research. 2010-02-15, University of Chicago Press, “Speak No Evil: The Triumph of Hate Speech Regulation” | SP)

Yet the very adoption of hate speech policies has influenced behavior on several campuses. This point was repeated to me by many administrators at the schools I visited, who reported the rise of a “culture of civility” that eschews, if not informally sanctions, hateful speech. “Don’t mistake symbolism for impotence,” they regularly reminded me. Symbols shape and reflect social meaning, providing cues to the community about the range of acceptable behavior. Adopting a hate speech policy, then, could have persuasive power even if it were rarely enforced. Consider the dean of students at a northeastern liberal arts college, who spoke proudly of her school’s hate speech policy. Had the policy been formally invoked, I asked. “Rarely,” she told me, but the measure “sets a standard on campus. It gives us something we can point our finger to in the catalog to remind students of the expectations and rights we all have in the community.” This sentiment was repeated by the president of a well-known institution, who claimed that “we didn’t set out to enforce the policy punitively but to use it as the basis for our educational efforts at respecting individuality.” Still another administrator admitted that, “while we’ve rarely used the policy formally, it does give support to students who believe their rights have been violated. They’ll come in for informal mediation and point to the policy as the reason for why the other person must stop harassing them.” Sociologists would call this process norm production— that symbolic measures can condition and order behavior without the actual implementation of punitive mechanisms. 8 Hate speech policies set an expected standard of behavior on campus; college officials employ orientation sessions, extracurricular programs, and campus dialogue to inculcate and spread the message; and over time an expectation begins to take root that hate speech is unacceptable and should be prohibited. Of course, this mechanism makes regulation a self-policing exercise— colleges need not take formal or punitive action— but the effect is to perpetuate a collective norm that sees hate speech as undesirable and worthy of prohibition. Moreover, considering the isomorphic tendencies of college administrators, the creation of speech policies— or speech norms— at respected and prestigious institutions has a “trickle down” effect throughout academe. Again, sociologists would call this process normative isomorphism, but most people know the phenomenon as “keeping up with the Joneses.” 9 If Harvard, Berkeley, or Brown passes measures against hate speech, then institutions lower in the academic food chain are likely to take note and follow suit. If prestigious institutions advance campus norms that eschew hate speech, then both peer and “wannabe” institutions are likely to consider and replicate such informal rules. Indeed, this is the very fear of FIRE and its compatriots— that if PC policies are not checked now, their message will spread throughout academe infecting other campuses. What FIRE fails to say, but undoubtedly must be thinking, is that informal law and mass constitutionalism are at stake if the spread of speech regulation is not curbed. FIRE can hang its hat on R.A.V., Doe, UWM Post, and the other court cases in which judges have overturned college hate speech policies, but as hate speech regulation continues to flourish on college campuses, informal speech norms are at stake throughout the larger bounds of civil society.Whatever one thinks of FIRE and its agenda, its supporters are like the oldfashioned fire brigade that excitedly shows up at a burning building only to toss paltry pails of water on the inferno. Hate speech regulation has already crossed the firebreak between academe and the rest of civil society and is well on its way toward acceptance in other influential institutions. The initial signs are found in surveys of incoming college freshmen. Shortly after R.A.V., researchers began asking new freshmen whether they believe that “colleges should prohibit racist/sexist speech on campus.” 10 In a 1993 survey, 58 percent of first-year students supported hate speech regulation, a number that has stayed steady and even grown a bit in the years following. By 1994, two thirds of incoming freshmen approved of hate speech prohibitions, with more recent results leveling off around 60 percent. 11 Unfortunately, there are not similar surveys before 1993 to compare these results against, but it is a safe bet that support would have been minimal through the mid-1980s when the issue had not yet achieved salience. More to the point, the surveys show that support for speech regulation is achieved before students ever set foot on campus. If, as the codes’ opponents claim, colleges are indoctrinating students in favor of speech regulation, the influence has reached beyond campus borders. New students are being socialized to this norm in society even before they attend college.

#### Speech codes are good– they diminish right-wing movements and form coalitions of targeted groups.

**Parekh 12** [Parekh, Bhikhu (2012) ‘Is There a Case for Banning Hate Speech?’, in Herz, M. and Molnar, P. (eds.) The Content and Context of Hate Speech: Rethinking Regulation and Responses. Cambridge: Cambridge University Press, pp. 37–56. ]

It is sometimes argued that banning hate speech drives extremist groups under- ground and leaves us no means of knowing who they are and how much support they enjoy. It also alienates them from the wider society, even makes them more detennined. and helps them recruit those attracted by the allure of forbidden fruit. This is an important argument and its force should not be underestimated. How- eyer, it has its limits. A ban on hate speech might drive extremist groups underground, but it also persuades their moderate and law-abiding members to dissociate them- selves from these groups. When extremist groups go underground, they are denied the oxygen of publicity and the aura of public respectability. This makes their operations more difficult and denies them the opportunity to link up with other similar groups and recruit their members. While the ban might alienate extremist groups, it has the compensating advantage of securing the enthusiastic commitment and support of their target groups. Besides, beyond a certain point, alienation need not be a source of worry. Some religious groups are alienated from the secular orientation of the liberal state, inst as the communists and polyamoronsly inclined persons bitterly resent its commitment (respectively) to market economy and rnonogamy. We accept such forms of alien- ation as inherent in collective life and do not seek to redress them by abandoning the liberal state. The ban might harden the determination of some, but it is also likely to weaken that of those who seek respectability and do not want to be associated with ideas and groups considered so disreputable as to be banned, or who are deterred by the cost involved in supporting them. There is the lure of the prohibited, but there is also the attraction of the respectable.

#### Turns the case and outweighs

#### 1. Magnitude- Hate speech normalizes psychological violence which renders educational spaces null and increases likelihood of physical violence

* Makes physical violence more likely—empirically proven
* Causes psychological harms
* Makes educational spaces null and void
* Normalizes oppressive practices
* Easy to reject from a position of privilege

**Heinze 14**: Eric Heinze, professor of law & humanities at Queen Mary university of London. March 31, 2014. Nineteen arguments for hate speech bans—and against them. Free Speech Debate. Free speech scholar Eric Heinze identifies the main arguments for laws restricting hate speech and says none are valid for mature Western democracies. <http://freespeechdebate.com/en/discuss/nineteen-arguments-for-hate-speech-bans-and-against-them/>. RW

On all sides of the debate, we can agree that speech is necessary for democracy. Governments ought not to abridge speech willy-nilly. They must show how the speech in question poses a genuine danger. In the case of hate speech, has any such menace been shown? In my book [Hate Speech and Democratic Citizenship](https://global.oup.com/academic/product/hate-speech-and-democratic-citizenship-9780198759027?cc=gb&lang=en&), I reject the classical liberal defences of free speech, let alone newer libertarian ones. I argue that the strongest case for free speech is grounded on specifically democratic principles, which must not be confused with Millian, liberal ones. I cannot reproduce that thesis here, but will briefly respond to some familiar claims raised by the bans’ advocates. 1. The ‘anti-absolutist’ argument: ‘No rights are absolute. Rights must be limited by respect for others, and by the needs of society as a whole. The British Lord Bhikhu Parekh writes, “Although free speech is an important value, it is not the only one. Human dignity, equality, freedom to live without harassment and intimidation, social harmony, mutual respect, and protection of one’s good name and honour are also central to the good life and deserve to be safeguarded. Because these values conflict, either inherently or in particular contexts, they need to be balanced.” There are, moreover, many regulations of speech to which no one objects, punishing, for example, commercial fraud, graffiti, or courtroom perjury. Hate speech bans are no different.’ The ‘not speech’ argument: ‘The crudest hate speech is not really speech at all. It is merely the kind of “inarticulate grunt” that can legitimately be banned because it forms, in the words of US Supreme Court Justice Anthony Kennedy, “no essential part of any exposition of ideas.”’ The ‘Weimar’ (or ‘snowball’) argument: ‘Democracy under the Weimar Republic or the former Yugoslavia show that too much free speech leads to atrocities. Some offensive remarks may, on the surface, appear harmless. But seemingly innocuous offences snowball into more pernicious forms. Once speech reaches a Nazi-like extreme, it becomes too late to avert the dangerous consequences.’ The ‘direct harm’ argument: ‘Hate speech can cause psychological harm, just as hate-motivated violence causes physical harm. Children who are called “nigger”, “Paki”, or “queer” suffer just as much as when they are physically bullied. For adults, verbal abuse can render workplace, educational or other environments unbearable.’ The ‘indirect harm’ argument: ‘The harms of hate speech do not manifest in a conventionally empirical sense. From some phenomenological and socio-linguistic perspectives, hateful expression is “illocutionary”, i.e. not merely denoting hatred but enacting discrimination, and “perlocutionary”, disseminating adverse psychological effects regardless of any materially evident impact. Anthony Cortese describes a “cultural transmission theory”, whereby cultures “pass hate on to each succeeding generation, making intolerance “normal or conventional.” Hate speech germinates intolerance, not through discrete, causally traceable chains of events, but through cumulative effects.’ The ‘hate crime’ argument: ‘The bans are necessary because hate speech is commonly connected to hate-based acts of murder, battery, rape, assault, and property theft or damage.’ The ‘disproportionate impact’ argument: ‘It’s easy for those in privileged positions to oppose hate speech bans. They do not bear the brunt of hatred. But “individual freedom” looks different from the viewpoint of historically vilified groups.’

#### Turns counterspeech- psychological violence hurts ability to participate in the movement

#### 2. Inclusivity- It causes less discursive participation from minorities which harms ability to reach the truth

**Horne 16**: Solveigh Horne, Minister of children and equality in Norway. “hate speech—a threat to freedom of speech.” March 8, 2016. Huffington Post. <http://www.huffingtonpost.com/solveig-horne/hate-speech--a-threat-to_b_9406596.html>. RW

Hate speech in the public sphere takes place online and offline, and affects young girls and boys, women and men. We also see hate speech attacking vulnerable groups like people with disabilities, LGBT-persons and other minority groups. Social media and the Internet have opened up for many new arenas for exchanging opinions. Freedom of speech is an absolute value in any democracy, both for the public and for the media. At the same time, opinions and debates challenge us as hate speech are spread widely and frequently on new platforms for publishing. Hate speech may cause fear and can be the reason why people withdraw from the public debate. The result being that important voices that should be heard in the public debate are silenced. We all benefit if we foster an environment where everybody is able to express their opinions without experiencing hate speech. In this matter we all have a responsibility. I am especially concerned about women and girls being silenced. Attempts to silence women in the public debate through hate speech, are an attack on women’s human rights. No one should be silenced or subjected to threats when expressing themselves in public. Women are under-represented in the media. In order to get a balanced public debate it is important that many voices are heard. We must encourage women and girls to be equal participants with men. Hate speech prevents women from making their voices heard. I also call upon the media to take responsibility in this matter. In some cases the media may provide a platform for hate speech. At the same time, I would like to stress that a liberal democracy like Norway strongly supports freedom of speech as a fundamental right.

### \*\*Inherency\*\*

### AT: Shulevitz

#### Safe spaces are temporal areas of retreat—it’s empirically made colleges better places

**Savage 15** [Savage, Kirk. The Writer is a Professor of Art History at University of Pittsburgh. New York Times, 3-28-2015, "Opinion," <https://www.nytimes.com/2015/03/29/opinion/sunday/campus-safe-spaces.html>.] NB

Re “[Hiding From Scary Ideas](http://www.nytimes.com/2015/03/22/opinion/sunday/judith-shulevitz-hiding-from-scary-ideas.html)” (Sunday Review, March 22): Judith Shulevitz’s ridicule of “safe spaces” on college campuses is misguided. Students at Brown did not muzzle free speech during a debate about sexual assault; they merely created a place where some could retreat if they needed to. Shouldn’t students have the freedom to speak with their feet and leave? They have been doing that forever, but in Ms. Shulevitz’s view, it’s now a sign of coddled young people increasingly afraid to confront unpopular opinions. In the good old days, when students, according to her, were “hardier souls,” sexual harassment and abuse were rampant on campuses, practiced openly by male professors without fear of consequence. Making college spaces safe from this predatory behavior — as well as from racist and homophobic attacks — is a moral and legal imperative. While it is not easy to balance safety with freedom of speech, mutual respect goes a long way toward solving the problem. I don’t need to pronounce the n-word to have a productive discussion about racism. Obsessing over my right to hurt and offend seems especially myopic at a time when black men face far graver threats to their lives and security.

#### Shulevitz’s free speech isn’t available to everyone- safe spaces are necessary to promote a starting point for thought

**Badri 15** [Shruti Badri, 3-22-2015, "Weary, Not Afraid: A Response to Judith Shulevitz," No Publication, http://amherststudent.amherst.edu/?q=article/2015/03/22/weary-not-afraid-response-judith-shulevitz]

In [her latest op-ed in the New York Times,](http://www.nytimes.com/2015/03/22/opinion/sunday/judith-shulevitz-hiding-from-scary-ideas.html) Judith Shulevitz identifies a recent trend in colleges towards sanitizing intellectual spaces (or as she more bluntly puts it, “hiding from scary ideas”). Shulevitz is one in a rising number of voices fighting back against what they perceive to be the excessive political correctness that has the university and, more broadly, spaces for thought. The pushback can range from articles such as hers to snarky inquiries as to whether one’s actions constituted a “microaggression,” but whatever the form of critique, the message rings clear — all those who talk about things like safe spaces, trigger warnings and microaggressions are clearly much too sensitive for their own good, and perhaps they’re not quite ready for the real world but would they be so kind as to not ruin it for everyone else? To be fair, the criticism is not invalid. If the charge is that the push for policing languages and spaces is reactionary, this cannot be denied. Is it unsustainable? Like most reactionary things, almost certainly. The problem is that pointing this out is missing the point almost entirely. While it must feel quite satisfying to scoff at a bunch of students while proclaiming that the past generations were made of hardier stuff, little else is accomplished with this line of inquiry. Instead the question we must ask is this: what are students reacting to? Why would people who otherwise would balk at the idea of handing over any kind of control to bureaucracy feel compelled to involve them here? Often, a roll call is carried out of elite schools supposedly "indulging" this sort of behavior — Harvard, Princeton, Oxford, etc., implicitly despairing at what has become of these excellent institutions. However, if we are being fair, what those names should really tell us is that these are students who are undoubtedly intelligent enough to recognize the contradictions in their principles and the severe consequences that their demands entail. And yet they persist — unless we are comfortable declaring the generation mad, we should consider more likely explanation — they are choosing this imperfect, reactionary stance because the alternative is worse. This would seem impossible the way Shulevitz and others frame the situation — in the fight between free speech, the necessary condition for the flourishing of thought, and censorship, how can the latter ever be preferable? The problem is, free speech is not quite available to us the way it is made out to be. True free speech would mean that everyone had an equal opportunity to express themselves without fear or push back, no matter who they were. The reality is that this just isn’t what we have. Women are routinely ignored or spoken over in classroom discussions. Rape victims are often bullied by friends of the assaulter if they dare to speak about their experience. I’ve personally been asked not to comment on a debate because "my country hadn’t won any world wars." Any situation where someone is judged based on who they are and not what they have to say is not simply a microaggression — it is an assault on free speech. The truth is, students aren’t scared of the big mean ideas. They’re weary of constantly fighting just to have a level starting point for their own thoughts to be considered from. And while it’s easy to dismiss them as spoiled or attention-seeking and easier to accommodate them with a barely concealed eye-roll, if we really are defenders of free speech, we must carefully consider what it will take to achieve this ideal instead of indulging a misplaced nostalgia for a past that didn’t really have it. Historically, rational discourse was limited to a select few. This doesn’t mean that rational discourse including all is inherently impossible, but rather that if we are to have it, it can’t be by recreating the past. We must go the distance and do whatever it takes to work towards an environment where people aren’t silenced based on who they are. This doesn’t have to mean censorship, but rather a commitment to upholding the basic dignity of those around us.

### \*\*Solvency\*\*

### AT: Leonardo- Rupture Safety Good

#### 1. Their solvency is nonunique- speech codes are not mutually exclusive with open dialogue

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), “The Neoconservative Case against Hate-speech regulation- lively, d’souza, Gates, Carter, and the toughlove Crowd” Vanderbilt Law Review. 1994.] NB

How should we see the bellwether argument? In one respect, the argument does make a valid point. All other things being equal. the racist who is known is less dangerous than the one who is not.“ What tbe argument ignores is that there is a third alternative, namely the racist who is cured, or at least deterred by rules, policies, and official statements so as to no longer exhibit the behavior he or she once did. Since most conservatives believe that rules and penal- ties change conduct (indeed they are among the strongest proponents of heavy penalties for crime). the possibility that campus guidelines against hate speech and assault would decrease those behaviors ought to be conceded.“ Of course, the conservative may argue that regula- tion has costs of its own-something even the two of us would con- cede-but this is a different argument fi'om the bellwether one." A further neoconservative objection is that silencing the racist through legislation might deprive the campus community of the “town hall” opportunity it has to discuss and analyze issues of race when incidents of racism come to light.” But campuses could hold those meetings and discussions anyway. The rules are not likely to suppress hate speech entirely; even with them in place, there will continue to be some number of incidents of racist speech and behavior. The difference is that now there will be the possibility of campus disciplinary hearings, which are even more likely to instigate the “town hall” discussions the argument assumes are desirable. Because the bellwether argument ignores that rules will have at least some edifying effect and that there are other ways of having campuswide discussions short of allowing racial confrontation to flourish, the argument appears to deserve little weight.

#### 2. Counterspeech fails – multiple warrants.

**Maitri and Mcgowan ’12** (Ishani Maitra is Assistant Professor of Philosophy and Women's and Gender Studies at Rutgers University. language, feminist philosophy, and philosophy of law. Mary Kate McGowan is Professor of Philosophy at Wellesley College. She received her PhD from Princeton. She works in metaphysics, philosophy of language, feminism, and philosophy of law. September 2012. “Speech and Harm: Controversies Over Free Speech” <https://books.google.com/books?id=QHjC6lhVROAC&pg=PA144&lpg=PA144&dq=counter+speech+%2B+ineffective&source=bl&ots=HhzA2FzR5I&sig=x_PyzgR-xS8_m6xikBpTkiD-EOg&hl=en&sa=X&ved=0ahUKEwi9wLLb-ofTAhUEsVQKHeoyAGEQ6AEIUTAJ#v=onepage&q=counter%20speech%20%2B%20ineffective&f=false> | SP

Finally, one might be resistant to new legislation exactly because one does not believe that the proper remedy for harmﬁll speech lies with the law. Many, for example, believe that counter-speech is the proper remedy. There are several things to say in response to this. First, it is not at all clear that more speech is the proper remedy for harmful speech. After all, one of the consequences of harmful speech is to disable the speech of the addressee.38 Furthermore, the empirical evidence demonstrates that such counter-speech rarely, in fact, occurs and when it does it is ineffective.39 Second, it seems obviously correct for the law to prohibit ‘Whites Only’ signs and other forms of verbal discrimi- nation. Moreover, it seems plainly inadequate to expect counter-speech to remedy such verbal acts of discrimination. Since we are here targeting that subset of racist hate speech that does the same thing (as a ‘Whites Only’ sign), comparable legal treatment seems appropriate (at least in the absence of a persuasive argument to the contrary). Finally, in expecting counter—speech to remedy the harms of racist speech, it seems naive to think that people can be counted on to do the right thing. After all, all too often we don’t.

#### Outweighs their Leonardo evidence because it’s specific to how there is only engagement from one side but how certain types of discourse actually preclude adequate dialogue from the other

#### Counterspeech doesn’t happen – empirics prove.

**Nielsen ’09** (Nielsen, Laura Beth, Laura Beth Nielsen is professor of sociology at Northwestern University and research professor at the American Bar Foundation. She is the author of License to Harass. “License to Harass,” edited by Laura Beth Nielsen, Princeton University Press, 2009. ProQuest Ebook Central, http://hh7kl7za7m.search.serialssolutions.com/?ctx\_ver=Z39.88-2004&ctx\_enc=info%3Aofi%2Fenc%3AUTF-8&rfr\_id=info%3Asid%2Fsummon.serialssolutions.com&rft\_val\_fmt=info%3Aofi%2Ffmt%3Akev%3Amtx%3Abook&rft.genre=book&rft.title=License+to+Harass+%3A+Law%2C+Hierarchy%2C+and+Offensive+Public+Speech&rft.au=Nielsen%2C+Laura+Beth&rft.date=2009-01-10&rft.pub=Princeton+University+Press&rft.isbn=9780691126104&rft.externalDBID=n%2Fa&rft.externalDocID=445522&paramdict=en-US| SP)

Reactions and responses to racist and sexist street speech are the product of a complicated calculus made by the target of such speech. Some reactions are overt forms of resistance and convey a message to the speaker and everyone else who witnesses such interactions. Far more common, however, is for targets to have a hidden response or to ignore the speech altogether. One interpretation is that targets of racist and sexist speech effectively and consistently respond with authority to those making the comments. Some First Amendment scholars whose model for combating racist and sexist speech with “more speech” may take heart in these results, claiming that they are evidence that simply allowing more speech is effective. Those who really are bothered by such speech will respond. This interpretation, however, ignores the silencing that such speech engenders in many of its targets. All targets, whether they reported responding to such speech or not, said that they weighed their options very carefully when deciding how to respond, and the most important factor that determined their response was their own safety in the situation. Just as some critical race scholars claim, these comments engender fear for physical safety (Delgado 1993). Since women are more likely to fear for their physical safety when they are made targets of sexually suggestive speech than are men when they are targets, “more speech” disproportionately burdens women by requiring that they place their safety in jeopardy more often than men. This is in addition to the burden placed by the “more speech” idea in the first instance. A second interpretation of these data is that there is very little resistance on the part of the targets. With some exceptions, targets mainly allow such comments to stand uncontested and leave the situation without engaging in counterspeech. By failing to contradict such comments, the targets of offensive public speech might be accused of tacitly participating in their own subordination. This interpretation belies the complicated processes that underlie targets’ decisions about protesting such comments. These data show that targets are inclined to respond but often are precluded from doing so because they fear for their safety. Targets’ options are limited. Racist and sexist speech are interesting sites for the study of power relations because they represent apparent and blatant invocation of power by one individual over another. The power of racism and sex-ism, while firmly socially entrenched, is contested in various ways, however. All power relationships involve contests between the suborddinate group and the powerful, but racism and sexism are unique in that there is growing recognition that racism and sexism are illegitimate axes of subordination, even by some members of the privileged group. Racist and sexist speech between strangers in public places violates social norms. This translates into permission to challenge racist and sexist speech in public places, but this can be done only when it is safe to do so. And, it is more common to challenge racist remarks than to challenge sexist remarks. This may be due to women’s physical vulnerability, but it also may be due to the ambivalence about sexually suggestive speech. Some people consider at least mild forms of sexually suggestive speech acceptable. These also are interesting moments in which to examine power relations because the relationships are transitory. But the hierarchies the interactions reinforce are not. Those who engage in active forms of resistance may be doing something serious to combat racism and sexism by managing to “redefine positively their general social position relative to the dominant group” (McCann and March 1996, p. 221). Active resistance occurs by making such interactions known—making people who are members of privileged classes know that they happen and happen with some regularity—by talking back in the moment (loud enough for others to over-hear) or by talking about them publicly as great injustices. But these acts of resistance are rare. Only certain (i.e., more often whites and more often men) members of the dominated group have the luxury of engaging in overt mechanisms of resistance. Even they are more likely to choose not to do so. We are left with a phenomenon that occurs often. In its racist and sexist form, it is a phenomenon that most people regard as a serious social problem. It is a problem most people think the law should not attempt to correct. Many people, including targets, think it should be dealt with through self-help. Yet when we investigate what actually happens in response to offensive public speech, targets tell us they usually do nothing. While begging is controlled through the deployment of official and informal mechanisms, sexist and racist public speech goes largely unchecked by formal or informal means

### AT: Leonardo – Safe Spaces Not Safe

#### 1. Turn- Black counter-spaces function as a response to microaggressions and centers of Black activism – turns case

**Solorzano et al 2K** [Daniel Solorzano, Miguel Ceja, Tara Yosso [Researchers, UC Schools] “Critical Race Theory, Racial Microaggressions, and Campus Racial Climate: The Experiences of African American College Students.” Journal of Negro Education, Volume 69. Spring 2000.]

**In response to the daily barrage of racial microaggressions that they endure both in and outside of their classes, the African American students who participated in our focus groups indicated that they are creating academic and social "counter-spaces" on and off their campuses. These counter-spaces serve as sites where deficit notions of people of color can be challenged and where a positive collegiate racial climate can be established and maintained. Counter-spaces on the three campuses participating in our study were created within African American student organizations, organizations or offices that pro- vide services to African American and other students, Black fraternities and sororities, peer groups, and Black student-organized academic study halls. Some of these counter- spaces were co-created with African American faculty and exist within classrooms. Others existed within more social settings. As Solorzano and Villalpando (1998) have determined, academic counter-spaces allow African American students to foster their own learning and to nurture a supportive environment wherein their experiences are validated and viewed as important knowledge. According to our focus group participants, social counter-spaces were important because they afforded African American students with space, outside of the classroom confines, to vent their frustrations and to get to know others who shared their experiences of microaggressions and/or overt discrimination**. For example, one male student explained that he sought out such a counter-space for support at his university: ... that was one of the reasons why I chose to live on the African American theme floor [among the campus dormitories] ... because if I go home [at the end of the day] and I don't have the support, then that can really be discouraging.... [Y]ou need some type of support to get through this thing ... and if you're a freshman coming in, you don't know African American faces ... you need somewhere to start. Two African American female students shared similar conclusions: ... I just feel more comfortable dealing with African American people in every aspect ... counseling, financial aid. I just look for the first African American face I find because I feel like they're going to be more sympathetic. You know how you have African American crews, African American fraternities, and so forth. And then my sophomore year here, I was thinking about joining an African American sorority, and [a White fellow student] said, "Why do you want to join a African American sorority? Are those other sororities not good enough? You think that we're only White?" I said, "I don't think they're only White. It's just that ... I don't want to say [they're] anti-African American, but I don't feel welcome in your sorority." And she said, "What do you think we are, the Klan?" [and] I was like, "Okay, we're not going to go there." Many social counter-spaces also serve as academic counter spaces and vice-versa. For example, some students indicated that their study groups evolved into friendship groups and community outreach groups that provide them with educational, emotional, and cultural support. As a female African American student related: .. . the benefit that I have gained from [a study group of African American students] is that my involvement in the African American community has grown, and that's where I found a lot of my support. Even in terms of academics, I go study with the "homies" all the time. Go to [a certain student lounge] and you're going to see a million African American faces, and it's going to be cool.... You might not get that much studying done, but it's a cool little network that's created because classes are so uncomfortable.

#### Their evidence is also relevant to only safe spaces- but not codes. Also our evidence outweighs because they make a tangible difference between forms of violence experienced- but safe spaces at least create temporal sites for resistance which is better than the aff

#### 2. Safe spaces create sustainable environments for minorities because dialogue with the opposing side has been rendered impossible—solutions can be created within the chamber

**Pavlovitz 2-16** [John Pavlovitz, February 16, 2017 "In Defense of the Echo Chamber," john pavlovitz, <http://johnpavlovitz.com/2017/02/16/in-defense-of-the-echo-chamber/>] NB

On the surface it sounds like a sensible question. There is of course, wisdom in the idea of not sequestering yourself away from dissent to the point that you’re only preaching to the adoring choir of those who agree with you. And yes, open, reasonable dialogue with those whose opinions differ from your own is healthy and often redemptive. It’s a worthy aspiration. The problem is, it’s becoming less and less possible. The President and his spokespeople are making sure of that, and an all-or-nothing media adverse to nuance combined with intellectually lazy citizens are helping him. These days I’m beginning to believe that maybe the echo chamber is actually not the worst place to be. And in times like this when things have gotten really ugly—it might even save your sanity. We live in an America where FoxNews has brainwashed a portion of the adult population, rendering them fully immune to reason and deathly allergic to factual information. Add to that, a toxic cocktail of Nationalism, contempt for Government, and good old-fashioned bigotry, and some folks are simply impossible to engage in any meaningful and productive way. They are impervious to evidence. They are unreachable in the ways were taught to reach people. Worse than that, many emboldened by the President’s unapologetic cruelty, spend their days trolling strangers online, parroting the racist, anti-Muslim, anti-LGBTQ FoxNews talking points, and reveling in a coarseness that a year ago would have been deemed downright profane. They are making already vulnerable people feel more endangered than ever. It is a form of home-grown, virtual terrorism, and to ask people to expose themselves to that every day in the name of avoiding an echo chamber is manipulation of the worst kind. One of the truest examples of privilege, is when entitled white people chastise members of marginalized communities for their inability to get over things and get on with their lives. That’s the problem and the impasse: their lives are terribly altered. They are facing a daily assault on their identities, their families, their futures, and their sense of safety—and I am not comfortable demanding that these folks step into the line of fire in the name of cooperation with the bullies. It feels irresponsible. For many, the echo chamber can be a much-needed place of protection and safety; a place where their pain is acknowledged, their opinions are valued, their voices are heard, their inherent worth is recognized. It can be a place where they find solidarity and affinity. Why would I or anyone else demand that they step out of this and be exposed to the poisonous venom of extremists and trolls, who in essence sanctioned their present suffering with their vote? That’s a really big ask. Like many people, I’ve disconnected with friends, family members, and co-workers in the aftermath of the election—not because I can’t bear disagreement, but because I will not tolerate unrepentant racism, homophobia, bigotry, or misogyny. The “echo chamber” that may be naturally forming isn’t designed to stop conversation, but to eliminate unnecessary exposure to vile things. (If someone comes and defecates on your front porch, you’re going to clean it up and you’re make sure they don’t “darken” your doorway again. We’d never feel the need to apologize for that.) For example, when someone is programmed by their preacher and FoxNews to make Muslim refugees all into would-be terrorists and their default response in discussing them is ugly slurs and lazy stereotypes, I often need to step away. It’s very difficult to work with blind hatred that refuses to be informed by the truth, as gently and thoughtfully as it might be delivered. And the thing is, in many ways the echo chamber can still be big enough for a majority of us to renovate the country in meaningful ways. With tens of millions of like-hearted people, we can do beautiful, life-saving, planet-altering work together and not have to be exposed to behavior that dehumanizes us or anyone else. We can use our shared influence to push back against all that feels so wrong in the world. We can shape policy and create positive change. So the parameters of the echo chamber can be wide enough for diverse thought, but include nonnegotiables that demand respect for everyone gathered. The invitation to the table is predicated on guests fully acknowledging the value of those seated around it. Reaching to the vast, rational, level-headed middle and crafting compromise in areas of disagreement is always going to be the noble and best path, but at this moment in time staying in a smaller circle may ultimately be a form of self-preservation, shielding you from abuse and violence and indignity, and allowing you to find encouragement. As a Women’s March attendee said to me, “I came here because needed to know that I’m not crazy.”) No, as a rule the echo chamber isn’t a place to spend your life, but as a temporary space to heal and rest and find some hope during really ugly days, as a spot to begin creating something meaningful in response to these disheartening days—it might be just what you need.

### AT: Friedersorf/Nickens/Boler

#### These are all cards about Counterspeech

#### 1. Stop trying to convince racists to not be racist. The Trump era proves – the marketplace of ideas fail – 4 warrants.

**Niehoff ’16** (Len Niehoff is a professor at the University of Michigan Law School. Dec. 1, 2016 “The marketplace of ideas has crashed” <http://www.detroitnews.com/story/opinion/2016/12/01/marketplace-ideas/94692632/> | SP)

In a Supreme Court opinion written almost 100 years ago, Justice Oliver Wendell Holmes explained how freedom of speech contributes to our political process. Holmes argued that our democracy depends upon a “free trade in ideas.” This allows different views to compete and for the better ideas to prevail. As Holmes put it, “the best test of truth is the power of the thought to get itself accepted in the competition of the market.” This “marketplace of ideas” theory has influenced political thought for decades. But it rests upon certain assumptions, all of which turned out to be wrong in 2016. One of those assumptions is that people will receive information in quantities they can manage. But this election cycle we have all been awash in more information and misinformation than a human being can process. Psychologists tell us that under these circumstances we do the easy thing: we focus on “information” that confirms what we already think. The marketplace of ideas theory also assumes that we will be able to sort reliable information from unreliable. But 2016 revealed that this also no longer holds true. Our inability to tell reliable from unreliable information gave both major party candidates license to play with the truth, so they did. Poltifact, which fact-checks statements made by political candidates, assessed 19 percent of President-elect Donald Trump’s evaluated statements as mostly false, 34 percent as false, and 17 percent as what it calls “pants on fire” false. The site evaluated 14 percent of Hillary Clinton’s statements as mostly false, 10 percent as false, and only 7 percent as “pants on fire” false. If this is right, and if the reportedly more truthful of our two major candidates was making false statements to us almost a third of the time, then we have a serious problem. Some commentators have gone so far as to suggest that we have now entered a "post-factual" or "post-truth" political stage in our country’s history. The marketplace of ideas theory also assumes that we care about the truth. But an election may have little to do with what is factually right or wrong. The 2016 election may be a case in point. It has been argued that, on both sides, this election had much more to do with feelings instead of facts. Finally, the marketplace of ideas theory assumes that all ideas will have a chance to compete. But in 2016 the barriers to entry into this market became obvious. We conducted three presidential debates without a moderator asking one question about climate change. Or consider this: an estimated 1.6 million American children are homeless, but we heard almost nothing about this national tragedy. Responsibility for addressing these problems begins with each of us. We need to expect better of ourselves and of everyone around us. We need to stop using easy labels like “politically correct” and “fascist” and the like. A label is not an argument. It is just lazy thinking, if it is thinking at all. Facts need to matter to us. We need to care about the truth and to invest the time and energy it takes to find it. And we need to do all of this with respect, civility, and the humble recognition that we might be wrong. Justice Holmes wrote that this “is an experiment, as all life is an experiment.” And so it is.

#### 2. Classifying hate speech is clear-cut - administrative control is fine.

- not a reason to reject regulation

Rosenfeld 01 [Michel Rosenfeld (Justice Sydney L. Robins Professor of Human Rights, Benjamin N. Cardozo School of Law), "HATE SPEECH IN CONSTITUTIONAL JURISPRUDENCE: A COMPARATIVE ANALYSIS," Jacob Burns Institute for Advanced Legal Studies, 2001]

Unless one adopts a Holmesian view of speech139 , the “slippery slope” argument is largely unpersuasive, and this seems particularly true in the context of hate speech. Indeed, in many cases, such as those involving Holocaust denial, cross burning, displaying swastikas, calling immigrant “animals”, there do not appear to be any line drawing problems. These cases involve clearly recognizable expressions of hate which constitute patent assaults against the most basic dignity of those whom they target, and which fly in the face of even a cursory commitment to pluralism. On the other hand, there are cases of statements, which some groups may find objectionable or offensive, but which raise genuine factual or value based issues, and which ought therefore be granted protection. For example, strong criticism of the Pope for his opposition to contraception and to homosexual relationships as being “indifferent to human suffering caused by overpopulation and an enemy of human dignity for all” may be highly offensive to Catholics, but even in a country in which the latter are a religious minority should clearly not be in any way censored, punished or officially characterized as hate speech. There is of course a grey area in between these two fairly clear cut areas, in which there are difficult line drawing problems, as exemplified by the German controversy over the claim that “soldiers are murderers”140 . Line drawing problems, however, are quite common in law as they tend to arise whenever a scheme of regulation attempts to draw a balance among competing objectives. This problem may well be exacerbated when a fundamental right like free speech is involved, but that justifies at most deregulating the entire gray area, not toleration of all hate speech falling short of incitement to violence.

#### 3. No loss in critical thinking capacities- people still foster capabilities to defend themselves because speech codes don’t resolve every incident obviously but it does protect them from incidents which can be emotionally charging

#### 4. The empiric of Michigan is outdated and doesn’t account for other racist sentiment that existed during that time

#### 5. Analytical reasons individuals can’t respond to hate speech.

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The law’s story as to why legal intervention in such interactions is improper centers on allowing speakers’ freedom; the remedy for the offended target, according to conventional First Amendment theory/ doctrine, is “more speech” in the face of racist or sexist remarks from strangers. In a famous dissenting opinion, Justice Oliver Wendell Holmes first elaborated the “free trade in ideas” (Abrams v. U.S. 1919). Holmes said, “the best test of truth is the power of the thought to get itself accepted in the competition of the market.” Relying on the metaphor of the free marketplace, the jurisprudential answer to offensive speech is more speech. Although there are notable exceptions (Delgado and Stefanic 1994; MacKinnon 1993; Matsuda, Lawrence, Delgado, and Crenshaw 1993; Meiklejohn 1948), many legal scholars advocate unfettered free speech, claiming that individuals who are offended or harmed by speech can (and should) counter these bad effects with various kinds of “more speech” (Abel 1998; Chevigny 1988; Post 1990). But what kind of more speech? What speech effectively counters the “truth” of a racial epithet or sexual slur? And how realistic is it to expect the target to engage the speaker? In some contexts, more speech may be just what is called for. Organized counterspeech is documented and advocated as a remedy in the face of organized racist hate speech, as when the Nazis march through Skokie (Abel 1998; Downs 1985). In this organized, policed environment, counterspeech may be effective and safe. But what of the victim of individual, targeted hate speech in public? The “more speech” solution to problems associated with racist speech has been criticized by a number of scholars on various grounds. First, the original speech is said to be “silencing,” meaning that the target/ potential responder is overwhelmed so that she cannot engage in effective counterspeech (MacKinnon 1993; Matsuda, Lawrence, Delgado, and Crenshaw 1993). The “more speech” solution also is criticized because it places on members of traditionally disadvantaged groups the burden of rectifying a socially undesirable set of thoughts or actions—a burden we carry with us every time we step out of our homes (Lederer and Delgado 1995a). Finally, the “more speech” solution is criticized as impractical; the threat of violence makes it unlikely that anyone—even the bravest—will confront a racist with conviction so deeply held that s/he is willing to violate all social norms and address a stranger in public (Goffman 1971), using a racial epithet. In what follows, I empirically examine the possibility of “more speech” in the context of these interactions—face-to-face encounters in public places involving racist or sexist hate speech. These empirical data are a starting point for understanding whether the theoretical debates in which legal scholars engage accurately reflect what happens in everyday interactions

#### 6. C/A Horne 16- two implications

#### This outweighs:

#### A. Terminal defense against their impact- at worst, it is the same amount of violence whether it be psychological or physical

#### B. Magnitude- empirical studies verify that once you create a category for people that make them think that it is permissible to conduct certain actions, they are more likely to do it again

#### 7. Counter-speech fails – hate speech makes the victim unable to respond and counter-speech can't convince the racist

**Auxier 14** [Adele Auxier (Juris Doctor candidate, Notre Dame Law School, 2007), "Tiptoeing through the Junkyard: Three Approaches to the Moral Dilemma of Racist Hate Speech," Notre Dame Journal of Law, Ethics & Public Policy, February 2014] AZ

Lawrence argued that counter-speech was particularly ineffective in the context of informal "assaultive" speech for two reasons. First, assaultive racist speech frequently produces (and is intended to produce) a visceral emotional response of shock, fear, and rage in the listener, which hinders their ability to respond verbally. Second, speech is perceived as an inadequate response to such a total attack on one's identity. Lawrence saw these verbal assaults as a kind of "preemptive" strike designed to silence and dehumanize the victim. Finally, Lawrence reminded his hearers that the "interest in the free flow of ideas" was not as compelling for all speakers. The First Amendment's speech protections did not originally extend to blacks at all.7 ' The "free marketplace" of ideas in America has contained quite a bit of racist speech, and sometimes defenders of free speech have attacked those who publicly oppose racist incidents for trying to "silence speech." 75 Lawrence says that this criticism misses the point that blacks and other historic victims of discrimination make about racism and racist speech-namely, that one of the main goals and effects of racist ideologies is to silence speech by members of disfavored groups.76

#### 8. they force the burden onto students—that distracts from real educational missions

**Delgado and Yun 96** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993 “THE SPEECH WE HATE”: FIRST AMENDMENT TOTALISM, THE ACLU, AND THE PRINCIPLE OF DIALOGIC POLITICS”. 1996. Arizona State Law Journal. <http://ssrn.com/abstract=2094597>. ] NB

Nothing that we said in either of the two articles causes us to disagree with Professor Calleros. Talking back sometimes works. We would just note two reservations. The first is that the talking back solution puts the onus on young minority undergraduates to redress the harm of hate speech. This is a burden to them, one they must shoulder in addition to getting their own educations. In other words, in addition to educating themselves, they must educate the entire campus community, and do so every time a racial incident takes place. Second, it would be a serious mistake for Professor Calleros' readers to generalize from his sunny and optimistic experience. Not every setting is as progressive, supportive, and loving as A.S.U. and Stanford University. Some campuses do not enjoy a strong norm of civility or respect for people \*1282 of color. And this is certainly true of hundreds of noneducational institutions, such as the military, fraternities, and certain sport teams. And it is even more true of the many ugly street encounters minorities suffer daily. In many of these settings, talking back is not an option. In others, it would be foolhardy, because of the imbalance of power. Ivory tower academics must be careful of generalizing from one or two experiences in which speech-their favorite mechanism-seemingly has worked. The social history of pornography and hate speech in the United States argues for caution, and for a multitude of approaches, not just one. In general, we believe that traditional defenders of free speech must beware of the tendency to light upon a single solution to a complex problem. The purpose of this essay is to explore a type of unitary or essentialist thinking that we find prevalent in First Amendment absolutist circles. Although we welcome Calleros' article, we think that it has overtones of this simplistic one-size-fits-all approach. It is in the hope that the future discussion of hate speech will someday exhibit the kind of nuance that we see in other areas of constitutional law, for example equal protection, that we write this essay.