## 1AC – Kant

### Advocacy

#### I will defend the entire resolution but if you want me to specify further, ask in cross-ex.

### Framework

#### Argumentation requires communicative reason giving with universal conclusions—this is essential to meaning and action.

Bohman and Rehg 7 James Bohman and William Rehg (professors of philosophy at St. Louis University) “Jurgen Habermas” May 17th 2007, substantially revised August 4th 2014 Stanford Encyclopedia of Philosophy http://plato.stanford.edu/entries/habermas/#HabDisThe JW

What is the “performative attitude” that is to be reconstructed in such a theory? From a social-scientific point of view, language is a medium for coordinating action, although not the only such medium. The fundamental form of coordination through language, according to Habermas, requires speakers to adopt a practical stance oriented toward “reaching understanding,” which he regards as the “inherent telos” of speech. When actors address one another with this sort of practical attitude, they engage in what Habermas calls “communicative action,” which he distinguishes from strategic forms of social action. Because this distinction plays a fundamental role in TCA, it deserves some attention. In strategic action, actors are not so much interested in mutual understanding as in achieving the individual goals they each bring to the situation. Actor A, for example, will thus appeal to B's desires and fears so as to motivate the behavior on B's part that is required for A's success. As reasons motivating B's cooperation, B's desires and fears are only contingently related to A's goals. B cooperates with A, in other words, not because B finds A's project inherently interesting or worthy, but because of what B gets out of the bargain: avoiding some threat that A can make or obtaining something A has promised (which may be of inherent interest to B but for A is only a means of motivating B). In communicative action, or what Habermas later came to call “strong communicative action” in “Some Further Clarifications of the Concept of Communicative Rationality” (1998b, chap. 7; German ed., 1999b), speakers coordinate their action and pursuit of individual (or joint) goals on the basis of a shared understanding that the goals are inherently reasonable or merit-worthy. Whereas strategic action succeeds insofar as the actors achieve their individual goals, communicative action succeeds insofar as the actors freely agree that their goal (or goals) is reasonable, that it merits cooperative behavior. Communicative action is thus an inherently consensual form of social coordination in which actors “mobilize the potential for rationality” given with ordinary language and its telos of rationally motivated agreement. To support his conception of communication action, Habermas must specify the mechanism that makes rationally motivated agreement possible. Toward that end, he argues for a particular account of utterance meaning as based on “acceptability conditions,” by analogy to the truth-conditional account of the meaning of sentences. But rather than linking meaning with representational semantics, Habermas takes a pragmatic approach, analyzing the conditions for the illocutionary success of the speech act. According to the core principle of his pragmatic theory of meaning, “we understand a speech act when we know the kinds of reasons that a speaker could provide in order to convince a hearer that he is entitled in the given circumstances to claim validity for his utterance—in short, when we know what makes it acceptable” (1998b, 232). With this principle, Habermas ties the meaning of speech acts to the practice of reason giving: speech acts inherently involve claims that are in need of reasons—claims that are open to both criticism and justification. In our everyday speech (and in much of our action), speakers tacitly commit themselves to explaining and justifying themselves, if necessary. To understand what one is doing in making a speech act, therefore, one must have some sense of the appropriate response that would justify one's speech act, were one challenged to do so. A speech act succeeds in reaching understanding when the hearer takes up “an affirmative position” toward the claim made by the speaker (TCA 1: 95–97; 282; 297). In doing so, the hearer presumes that the claims in the speech act could be supported by good reasons (even if she has not asked for them). When the offer made by the speaker fails to receive uptake, speaker and hearer may shift reflexive levels, from ordinary speech to “discourse”—processes of argumentation and dialogue in which the claims implicit in the speech act are tested for their rational justifiability as true, correct or authentic. Thus the rationality of communicative action is tied to the rationality of discourse, more on which in section 3.2. What are these claims that are open to criticism and justification? In opposition to the positivist fixation on fact-stating modes of discourse, Habermas does not limit intersubjectively valid, or justifiable, claims to the category of empirical truth, but instead recognizes a spectrum of “validity claims” that also includes, at the least, claims to moral rightness, ethical goodness or authenticity, personal sincerity, and aesthetic value (TCA 1: 8–23; 1993, chap. 1). Although Habermas does not consider such claims to represent a mind-independent world in the manner of empirical truth claims, they can be both publicly criticized as unjustifiable and defended by publicly convincing arguments. To this extent, validity involves a notion of correctness analogous to the idea of truth. In this context, the phrase “validity claim,” as a translation of the German term Geltungsanspruch, does not have the narrow logical sense (truth-preserving argument forms), but rather connotes a richer social idea—that a claim (statement) merits the addressee's acceptance because it is justified or true in some sense, which can vary according to the sphere of validity and dialogical context. By linking meaning with the acceptability of speech acts, Habermas moves the analysis beyond a narrow focus on the truth-conditional semantics of representation to the social intelligibility of interaction. The complexity of social interaction then allows him to find three basic validity claims potentially at stake in any speech act used for cooperative purposes (i.e., in strong communicative action). His argument relies on three “world relations” that are potentially involved in strongly communicative acts in which a speaker intends to say something to someone about something (TCA 1: 275ff). For example, a constative (fact-stating) speech act (a) expresses an inner world (an intention to communicate a belief); (b) establishes a communicative relation with a hearer (and thus relates to a social world, specifically one in which both persons share a piece of information, and know they do); and (c) attempts to represent the external world. This triadic structure suggests that many speech acts, including non-constatives, involve a set of tacit validity claims: the claim that the speech act is sincere (non-deceptive), is socially appropriate or right, and is factually true (or more broadly: representationally adequate). Conversely, speech acts can be criticized for failing on one or more of these scores. Thus fully successful speech acts, insofar as they involve these three world relations, must satisfy the demands connected with these three basic validity claims (sincerity, rightness, and truth) in order to be acceptable. We can think of strong communicative action in the above sense as defining the end of a spectrum of communicative possibilities. At that end, social cooperation is both deeply consensual and reasonable: actors sincerely agree that their modes of cooperation can be justified as good, right, and free of empirical error. Given the difficulties of maintaining such deep consensus, however, it makes sense, particularly in complex, pluralistic societies, to relax these communicative demands for specified types of situations, allowing for weaker forms of communicative action (in which not all three types of validity claims are at stake) or strategic action (in which actors understand that everyone is oriented toward individual success). Habermas distinguishes the “system” as those predefined situations, or modes of coordination, in which the demands of communicative action are relaxed in this way, within legally specified limits. The prime examples of systemic coordination are markets and bureaucracies. In these systemically structured contexts, nonlinguistic media take up the slack in coordinating actions, which proceeds on the basis of money and institutional power—these media do the talking, as it were, thus relieving actors of the demands of strongly communicative action. The term “lifeworld,” by contrast, refers to domains of action in which consensual modes of action coordination predominate. In fact, the distinction between lifeworld and system is better understood as an analytic one that identifies different aspects of social interaction and cooperation (1991b). “Lifeworld” then refers to the background resources, contexts, and dimensions of social action that enable actors to cooperate on the basis of mutual understanding: shared cultural systems of meaning, institutional orders that stabilize patterns of action, and personality structures acquired in family, church, neighborhood, and school (TCA 1: chap. 6; 1998b, chap. 4). Habermas's system-lifeworld distinction has been criticized from a number of perspectives. Some have argued that the distinction oversimplifies the interpenetrating dynamics of social institutions (e.g., McCarthy 1991, 152–80). Others attacked the distinction as covertly ideological, concealing forms of patriarchal and economic domination (e.g., Fraser 1985). Habermas's attempt to clarify the analytic character of the distinction only goes partway toward answering these criticisms (1991b). TCA has also encountered rather heavy weather as a theory of meaning. In the analytic philosophy of language, one of the standard requirements is to account for the compositionality of language, the fact that a finite set of words can be used to form an indefinite number of sentences. From that perspective, Habermas's theory falls short (Heath 2001, chap. 3). But perhaps we would do better to assess Habermas's theory of meaning from a different perspective. The compositionality requirement is important if one wants to explain grammatical competence. But early on Habermas (1976b) expressed a greater interest in explaining communicative, rather than grammatical, competence: the ability of speakers to use grammatically well-formed sentences in social contexts. Although Habermas often presents his pragmatics as a further development in analytic theories of meaning, his analysis focuses primarily on the context-sensitive acceptability of speech acts: acceptability conditions as a function of formal features that distinguish different speech situations. This suggests his theory of meaning involves a quite different sort of project: to articulate the “validity basis” of social order. The significance of this conception of reaching understanding and of rationally motivated agreement can also be seen by contrasting this account with other conceptions of understanding and interpretation, such as Gadamer's hermeneutics. Given Habermas's conception of speech acts and their relation to validity claims, it is not surprising that he argues that “communicative actions always require interpretations that are rational in approach” (TCA 1: 106), that is, ones that are made in the performative attitude by an interpreter. In general, Habermas agrees with hermeneutics that the whole domain of the social sciences is accessible only through interpretation, precisely because processes of reaching understanding already at work in the social sciences have antecedently constituted them (ibid., 107). But he draws a distinctive conclusion. Although social scientists are not actors, they must employ their own pretheoretical knowledge to gain interpretive access through communicative experience. As a “virtual participant,” the social scientist must take a position on the claims made by those he observes: he has access through communicative experience only “under the presupposition that he judges the agreement and disagreement, the validity claims and potential reasons with which he is confronted” (ibid., 116). There is then no disjunction between the attitude of the critic and the interpreter as reflective participants. Social scientists may withhold judgments, but only at the cost of impoverishing their interpretation and putting out of play their pretheoretical, practical knowledge that they have in common with others who are able to reach understanding. Thus, various forms of rationality become essential to the social sciences, because of the nature of the social domain. Objecting to Habermas's line of argument, McCarthy and others have argued that it is not a necessary condition that interpreters take a position in order to understand reasons, even if we have to rely on our own competence to judge the validity and soundness of reasons and to identify them as reasons at all. Nonetheless, Habermas uses this conception in his social theory of modernity to show the ways in which modern culture has unleashed communicative rationality from its previous cultural and ideological constraints. In modern societies, social norms are no longer presumed to be valid but rather are subjected to critical reflection, as for example when the ethical life of a specific culture is criticized from the standpoint of justice. In a sense consistent with the Enlightenment imperative to use one's own reason, the everyday “lifeworld” of social experience has been rationalized, especially in the form of discourses that institutionalize reflective communicative action, as in scientific and democratic institutions. The rationalization of the lifeworld in Western modernity went hand-in-hand with the growth of systemic mechanisms of coordination already mentioned above, in which the demands on fully communicative consensus are relaxed. If large and complex modern societies can no longer be integrated solely on the basis of shared cultural values and norms, new nonintentional mechanisms of coordination must emerge, which take the form of nonlinguistic media of money and power. For example, markets coordinate the collective production and distribution of goods nonintentionally, even if they are grounded in cultural and political institutions such as firms and states. Modernization can become pathological, as when money and power “colonize the lifeworld” and displace communicative forms of solidarity and inhibit the reproduction of the lifeworld (e.g., when universities become governed by market strategies). “Juridification” is another such pathological form, when law comes to invade more and more areas of social life, turning citizens into clients of bureaucracies with what Foucault might call “normalizing” effects. This aspect of TCA has less of an impact on Habermas's current work, which returns to the theme of improving democratic practice as a means of counteracting juridification and colonization. Democratic institutions, if properly designed and robustly executed, are supposed to ensure that the law does not take this pathological form but is subject to the deliberation of citizens, who thus author the laws to which they are subject (see sec. 3.4). After TCA, then, Habermas begins to see law not as part of the problem, but as part of the solution, once he offers a more complete discourse-theoretical account of law and democracy. Nonetheless the theory of modernity still remains in his continued use of systems theory and its understanding of nonintentional integration. By insisting upon popular sovereignty as the outcome of the generation of “communicative power” in the public sphere, Habermas tries to save the substance of radical democracy. The unresolved difficulty is that in a complex society, as Habermas asserts, “public opinion does not rule” but rather points administrative power in particular directions; or, as he puts it, it does not “steer” but “countersteers” institutional complexity (1996b, chapter 8). That is, citizens do not control social processes; they exercise influence through particular institutionalized mechanisms and channels of communication. However successful democracy is in creating legitimacy, it cannot gain full control over large-scale complex societies, nor even of the necessary conditions for its own realization. In this sense, Habermas's emphasis on the limiting effect of complexity on democracy and his rejection of a fully democratic form of sociation continue the basic argument of the necessity of systems integration, even with its costs. Radical democracy may no longer be the only means to social transformation, though it is clear that it remains “the unfinished project of modernity”: realizing and transforming democracy is still a genuine goal even for complex and globalizing societies. 3.2 Habermas's Discourse Theory Habermas's theory of communicative action rests on the idea that social order ultimately depends on the capacity of actors to recognize the intersubjective validity of the different claims on which social cooperation depends. In conceiving cooperation in relation to validity claims, Habermas highlights its rational and cognitive character: to recognize the validity of such claims is to presume that good reasons could be given to justify them in the face of criticism. TCA thus points to and depends on an account of such justification—that is, on a theory of argumentation or discourse, which Habermas calls the “reflective form” of communicative action. As mentioned above, Habermas proposes a multi-dimensional conception of reason that expresses itself in different forms of cognitive validity: not only in truth claims about the empirical world, but also in rightness claims about the kind of treatment we owe each other as persons, authenticity claims about the good life, technical-pragmatic claims about the means suitable to different goals, and so on. As he acknowledges, the surface grammar of speech acts does not suffice to establish this range of validity types. Rather, to ground the multi-dimensional system of validity claims, one must supplement semantic analysis with a pragmatic analysis of the different sorts of argumentative discourse—the different “logics of argumentation”—through which each type can be intersubjectively justified (TCA 1: 8–42). Thus, a type of validity claim counts as distinct from other types only if one can establish that its discursive justification involves features that distinguish it from other types of justification. Whether or not his pragmatic theory of meaning succeeds, the discursive analysis of validity illuminates important differences in the argumentative demands that come with different types of justifiable claims. To see how Habermas identifies these different features, it is first necessary to understand the general structures of argumentation. The pragmatic analysis of argumentation in general. Habermas's discourse theory assumes that the specific type of validity claim one aims to justify—the cognitive goal or topic of argumentation—determines the specific argumentative practices appropriate for such justification. Discourse theory thus calls for a pragmatic analysis of argumentation as a social practice. Such analysis aims to reconstruct the normative presuppositions that structure the discourse of competent arguers. To get at these presuppositions, one cannot simply describe argumentation as it empirically occurs; as we already saw in TCA, one must adopt the performative attitude of a participant and articulate the shared, though often tacit, ideals and rules that provide the basis for regarding some arguments as better than others. Following contemporary argumentation theorists, Habermas assumes one cannot fully articulate these normative presuppositions solely in terms of the logical properties of arguments. Rather, he distinguishes three aspects of argument-making practices: argument as product, as procedure, and as process, which he loosely aligns with the traditional perspectives on argument evaluation of logic, dialectic, and rhetoric. Pragmatically, each of these perspectives functions as a “level of presupposition” involved in the assessment of the cogency—the goodness or strength—of arguments. Habermas seems to regard these perspectives, taken together, as constituting the pragmatic idea of cogency: “at no single one of these analytic levels can the very idea intrinsic to argumentative speech be adequately developed” (TCA 1: 26). At the logical level, participants are concerned with arguments as products, that is, sets of reasons that support conclusions. From this perspective, arguers aim to construct “cogent arguments that are convincing in virtue of their intrinsic properties and with which validity claims can be redeemed or rejected” (ibid., 25). Following work by Stephen Toulmin and other informal logicians, Habermas regards most if not all argumentation as ultimately resting on ampliative arguments whose conclusions do not follow with deductive certainty but only as more or less plausible or probable. The logical strength of such arguments depends on how well one has taken into account all the relevant information and possible objections. Thus the term “logical” has a broad sense that includes not only formal but also informal logics, in which strength depends on the interrelated meanings of terms and background information that resists complete formalization: induction, analogy, narrative, and so on. Given the ampliative character of most arguments, logical assessment presupposes the dialectical adequacy of argumentative procedures. That is, we may regard the products of our argument-making practices as logically strong only if we presume, at the dialectical level, that we have submitted arguments and counterarguments to sufficiently severe procedures of critical discussion—as Habermas (TCA 1: 26) puts it, a “ritualized competition for the better arguments.” Dialectical treatments of argumentation typically spell out the “dialectical obligations” of discussants: that one should address the issue at hand, should respond to relevant challenges, meet the specified burden of proof, and so on. However, robust critical testing of competing arguments depends in turn on the rhetorical quality of the persuasive process. Habermas conceives the rhetorical level in terms of highly idealized properties of communication, which he initially presented as the conditions of an “ideal speech situation” (1973a; also 1971/2001). That way of speaking now strikes him as overly reified, suggesting an ideal condition that real discourses must measure up to, or at least approximately satisfy—motifs that Habermas himself employed until rather recently (cf. 1993, 54–55; 1996b, 322–23). He now understands the idea of rhetorically adequate process as a set of unavoidable yet counterfactual “pragmatic presuppositions” that participants must make if they are to regard the actual execution of dialectical procedures as a sufficiently severe critical test. Habermas (2005b, 89) identifies four such presuppositions as the most important: (i) no one capable of making a relevant contribution has been excluded, (ii) participants have equal voice, (iii) they are internally free to speak their honest opinion without deception or self-deception, and (iv) there are no sources of coercion built into the process and procedures of discourse. Such conditions, in effect, articulate what it would mean to assess all the relevant information and arguments (for a given level of knowledge and inquiry) as reasonably as possible, weighing arguments purely on the merits in a disinterested pursuit of truth. These conditions are counterfactual in the sense that actual discourses can rarely realize—and can never empirically certify—full inclusion, non-coercion, and equality. At the same time, these idealizing presuppositions have an operative effect on actual discourse: we may regard outcomes (both consensual and non-consensual) as reasonable only if our scrutiny of the process does not uncover obvious exclusions, suppression of arguments, manipulation, self-deception, and the like (2003a, 108). In this sense, these pragmatic idealizations function as “standards for a self-correcting learning process” (2005b, 91). As an understanding of the rhetorical perspective, Habermas's highly idealized and formal model hardly does justice to the substantive richness of the rhetorical tradition. One can, however, supplement his model with a more substantive rhetoric that draws on Aristotle's account of ethos and pathos (Rehg 1997). In that case, the rhetorical perspective is concerned with designing arguments for their ability to place the particular audience in the proper social-psychological space for making a responsible collective judgment. Yet the “space of responsible judgment” still remains an idealization that may not be reduced to any observable actual behavior, but can at most be defeasibly presumed. The same probably holds for dialectical procedures. Although the dialectical perspective draws on the tradition of public debate, dialectical norms, when understood as pragmatic presuppositions, are not identical with institutionalized rules of debate (1990a, 91). A neutral observer can judge whether interlocutors have externally complied with institutional procedures, whereas engaged participants must judge how well they have satisfied the dialectical presupposition of severe critical testing. The differentiation of argumentative discourses. If the different validity claims require different types of argumentation, then the relevant differences must emerge through a closer analysis of the ways the above aspects of argumentative practice adjust to different sorts of content, that is, the different validity claims at issue (cf. 2008, chap. 3). To be sure, Habermas does not regard every validity claim as open to discourse proper. Sincerity claims (or “truthfulness claims,” as it is sometimes translated) are the prime example. These are claims an actor makes about his or her interior subjectivity: feelings, moods, desires, beliefs, and the like. Such claims are open to rational assessment, not in discourse but by comparison with the actor's behavior: for example, if a son claims to care deeply about his parents but never pays them any attention, we would have grounds for doubting the sincerity of his claim. Note that such insincerity might involve self-deception rather than deliberate lying. Truth and rightness claims, by contrast, are susceptible to argumentative justification in the proper sense, through what Habermas calls “strict discourses.” As he first analyzed the discourses connected with these two types of validity (1973a), they had much in common. Although the types of reasons differed—moral discourse rested primarily on need interpretations, empirical-theoretical discourse on empirical inductions—in both cases, the relevant reasons should, in principle, be acceptable to any reasonable agent. In the case of empirical truth claims, this process-level presupposition of consensus rests on the idea that the objective world is the same for all; in the case of moral rightness, it rests on the idea that valid moral rules and principles hold for all persons. In both cases, the appropriate audience for the testing of claims is universal, and in making a truth or rightness claim one counterfactually presupposes that a universal consensus would result, were the participants able to pursue a sufficiently inclusive and reasonable discourse for a sufficient length of time. Although his early statements are somewhat unclear, on one reading Habermas defined not only moral rightness but also empirical truth in terms of such ideal consensus (similar to C. S. Peirce). He now further distinguishes truth from moral rightness by defining the latter, but not the former, in terms of idealized consensus. More on that below.

#### This requires respect for freedom. 1. There are no a priori grounds that distinguish between individual reasoners so the norms that govern them must be universally valid in the same way the logic behind math is universal. Violating freedom is contradictory because you universally will a violation of your own freedom, which prevents your ability to act. 2. Actions causally contain the freedom to pursue a given end.

Engstrom Stephen (Professor of Ethics at UPitt) “Universal Legislation As the Form of Practical Knowledge” <http://www.philosophie.uni-hd.de/md/philsem/engstrom_vortrag.pdf> JW

Kant holds that to set something as one’s end is to represent it in practical judgment as one’s effect, or, in other words, to represent oneself as its cause: “an end”, he says, “is the object of a concept, so far as the latter is regarded as the cause of the former (the real ground of its possibility)” (KU 220; cf. MS 384). Thus the act of practical representation that constitutes the setting of an object as an end essentially includes an understanding of itself as the cause whereby that object is to be brought about. It’s therefore essential to an end that to will something as one’s end is to regard oneself, in one’s representation of that end, as the cause that, through that same representation, is to realize it. Hence every representation of an end—and so every maxim15—contains two components: (i) the representation of the object, and (ii) the representation of the relation of causal dependency in which that object stands to the subject, as the latter’s effect, or (what comes to the same thing) the representation of the subject’s causal sufficiency in respect of the object, that is, the sufficiency of the subject’s action to produce it. And since what is represented in cognition must correspond to the cognition of it, to these two components in the representation of an end there must correspond two components in the end itself.

#### 3. If we’re not free, then we can’t be culpable for moral standards because it wasn’t our choice. If I steal someone’s apple because I’m being threatened with death, I’m not in the wrong. This outweighs other frameworks because they assume we can be held culpable for the actions they say are wrong.

#### And, freedom is not aggregative because it’s not an empirical additive substance that exists independently of our minds; rather it’s a property of agency. Two circles are not more circular than one circle, just like two humans are not freer than one human.

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

Kant Immanuel “The Metaphysics of Morals” Cambridge Texts in the History of Philosophy, 2nd Edition Mary J. Gregor, Roger J. Sullivan, Cambridge University Press 1996, 1797 NP 8/2/16

A human being cannot renounce [their] 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.

#### Rights are only provisional in the state of nature. Respect for freedom requires we enter into a political system that can distribute property.

Korsgaard 8 Christine “Taking the Law into Our Own Hands: Kant on the Right to Revolution” The Constitution of Agency: Essays on Practical Reason and Moral Psychology Oxford University Press <http://www.klindeman.com/uploads/3/8/2/2/38221431/korsgaard_-_taking_the_law_into_our_own_hands.pdf> JW

Kant also believes that there is a sense in which we have rights in the state of nature. We have a natural right to our freedom (MPJ 6:237), and, Kant thinks, the Universal Principle of Justice allows us to claim rights in land and, more generally, in external objects, in property. Kant argues that it would be inconsistent with freedom to deny the possibility of property rights, on the grounds that unless we can claim rights to objects, those objects cannot be used (MPJ 6:246).7 This would be a restriction on freedom not based in freedom itself, which we should therefore reject, and this leads us to postulate that objects may be owned. But unlike Locke, Kant argues that in the state of nature these rights are only “provisional” (MPJ 6:256). In this, Kant is partly following Rousseau. In contrast to Locke, Rousseau argues that rights are created by the social contract, and, in a sense, relative to it. My possessions become my property, so far as you and I are concerned, when you and I have given each other certain reciprocal guarantees: I will keep my hands off your possessions if you will keep your hands off mine.8 Rights are not acquired by the metaphysical act of mixing one's labor with the land, but instead are constructed from the human relations among people who have made such agreements.9 Kant adopts this idea, at least as far as the executive authority (p.239) associated with a property right is concerned. I may indeed coercively enforce my rights. But if my doing so is to be consistent with the Universal Principle of Justice, it cannot be an act of unilateral coercion. To claim a right to a piece of property is to make a kind of law; for it is to lay it down that all others must refrain from using the object or land in question without my permission. But to view my claim as a law I must view it as the object of a contract between us, a contract in which we reciprocally commit ourselves to guaranteeing each other's rights. It is this fact that leads us to enter—or, more precisely, to view ourselves as already having entered—political society. In making this argument, Kant evokes Rousseau's concept of the general will. He argues that a general will to the coercive enforcement of the rights of all concerned is implicitly involved in every property claim. Now, with respect to an external and contingent possession, a unilateral Will cannot serve as a coercive law for everyone, since that would be a violation of freedom in accordance with universal laws. Therefore, only a Will binding everyone else—that is, a collective, universal (common), and powerful Will—is the kind of Will that can provide the guarantee required. The condition of being subject to general external (that is, public) legislation that is backed by power is the civil society. Accordingly, a thing can be externally yours or mine [that is, can be property] only in a civil society. (MPJ 6:256)

#### Thus, the standard is consistency with the mandates of the omnilateral will. Impact calc: consequentialism is incoherent. 1. Every consequence causes another consequence in a chain of infinite events. That means either every action would have infinite value or there’s no way to weigh. 2. Consequentialism requires a heuristic to determine the probability of consequences occurring, but that means we must also calculate the probability of this heuristic to determine probability, and so on to infinity.

#### The constitutive nature of agency makes critiquing my framework impossible.

Ng 15 Karen Ng (Assistant Professor of Philosophy at Vanderbilt University) “From the Critique of Reason to the Critique of Ideology: On the Relation between Life and Consciousness from Hegel to Critical Theory” 2015 JW

In order to determine exactly how the relation between life and consciousness can be methodologically instructive for a critique of ideology, I want to begin by clarifying the paradox inherited from the critique of reason that is constitutive of the critique of ideology. In its most general statement, and following Raymond Geuss’ characterization, ideology critique is inherently reflexive or self-referential: a critique of a form of life as ideological necessarily belongs to the very “object-domain” that it both describes and criticizes.4 Just as the critique of reason operates within the bounds of reason, ideology critique belongs to and is conditioned by the very social formation that it seeks to understand, critique, and transform. This self-referentiality, necessitated by the project of self-critique, is perhaps the formal characteristic that distinguishes traditional from critical theories. In traditional theory, critique and the object of critique (or more broadly, subject and object) are kept strictly apart and express no necessary or internal relationship. (Horkheimer associates this with the Cartesian point of view, whose contemporary incarnates include scientism and/or positivism).5 Critical theories, however, find themselves on both sides of the subject/object divide, and must be able to account for themselves as parts of their objects of investigation. Initially, we might picture here a snake biting its own tail, insofar as the critique of ideology is an activity that arises out of the very form of life it criticizes. Far from a mere idiosyncrasy, the selfreferentiality of critique tracks two essential and essentially connected modern developments. The first is the modern conception of the self, most commonly conceived under the heading of “self-consciousness.” In its most minimal determination, selfconsciousness denotes a certain reflectiveness and self-awareness of one’s own constitutive conditions from within those conditions themselves.6 For Kant, this meant coming to an understanding of the transcendental conditions of possibility for knowledge within the limits of possible experience; for Hegel, it meant attempting to establish the totality of conditions necessary for spirit’s development and self-understanding, a totality that he called, “actuality” (Wirklichkeit);7 for Marx, it meant determining the conditions of the production of material life, a production that always takes place as a social and historical act.8 What we see in this progressive self-critical examination of one’s own conditions from Kant to Marx is not only increasing concreteness (from transcendental conditions of possibility to conditions of actuality to material (economic) conditions), but an increasing awareness of history and historical conditions as self-determined, and hence, as a potential site of freedom and transformation. Thus, the self-referentiality of critique, what Habermas called modernity’s consciousness of time,9 at the same time tracks a second modern injunction, namely, the normative demand to live a free life.10 In seeking to understand and criticize our own constitutive conditions, ideology critique exposes the ambivalence of those conditions from within, exemplifying a distinctively modern form of reflective, historical self-consciousness. Another common way of characterizing this reflexivity is to identify ideology critique as a mode of immanent critique.11 Very roughly defined, immanent critique is a form of self-critique that arises out of the contradictions, inconsistencies, paradoxes, inversions, crises, protests, failures, exclusions, and even tragedies of social formations. The locus classicus for the project of immanent critique is Hegel’s Phenomenology of Spirit, where the formation and experience of modern self-conscious life is traced according to the failures of spirit to live up to its own self-given criteria for truth, goodness, and most importantly, freedom.12 More specifically, and in a way analogous to the distinguishing feature of critical theories, Hegel unfolds the experience, development, and transformation of consciousness by demonstrating the entwinement of subject and object at every stage. Critique is immanent not only because consciousness continually finds itself in its object (an object of thought, another person, social reality), but further, because the incongruencies and conflicts that arise immanently in the course of experience are transformative of both subject and object, producing new forms of consciousness, new norms, and new social realities.13 From this very general description of the reflexivity of ideology critique, we can immediately identify two well-known problems with this approach, problems that have led many theorists—both within and outside the confines of critical theory—to abandon the project of ideology critique altogether.14 The first can be called the problem of totalization: in being unable to step outside of a form of life in order to criticize it, in living in, by, and through the very conditions that one seeks to understand, critique appears to be so fully integrated into that which it criticizes that it becomes very difficult to distinguish between ideology and non-ideology.15 Thus, Adorno writes of the “complicity of cultural criticism with culture,”16 suggest[s]ing that practices of critique might come to merge so seamlessly with their object so as to render their critical edge entirely obsolete. It appears here that the closure of ideology is so complete, its reach so all-encompassing, that there is simply no place for the critic to stand.

#### But, attempts to transcend the human condition make critique useless.

Ng 15 Karen Ng (Assistant Professor of Philosophy at Vanderbilt University) “From the Critique of Reason to the Critique of Ideology: On the Relation between Life and Consciousness from Hegel to Critical Theory” 2015 JW

Now if one wants to reject this characterization, we are led into a second problem: to avoid the notion of a fully ideologically saturated form of life, the critic can assume a position that is outside of, or transcends, her object of critique. In transcending the object of critique, the critic can easily identify its object as ideological from a neutral standpoint outside the reach of ideology. Of course, this conception is equally fraught with problems. In assuming a position of transcendence, the critic finds herself open to a whole host of objections, including paternalism, arbitrariness, foundationalism, a naïve conception of the relation between reality and appearances, and a conception of truth that exists outside the bounds of the conditions of truth. Most importantly, by ejecting itself from its object of critique, the position of transcendence reverts back to the traditional theory that ideology critique was meant to overcome in the first place.17

#### Commitment to universal reason is the only way to create social change.

Drescher 6 Gary L. Drescher (Visiting Fellow at the Center for Cognitive Studies at Tufts University, PhD in Computer Science from MIT). “Good and Real: Demystifying Paradoxes from Physics to Ethics.” Bradford Books. 5 May 2006.

Still, to the extent that evolution has rigged us with a disposition toward empathy and other cooperation-promoting emotions (as in Frank’s account), we might simply behave cooperatively without needing a rationale for doing so (just as you do not need a rationale to keep your heart beating—it’s simply built that way). But empathy is notoriously limited. We do not, for instance, grieve deeply each time we read of a stranger being murdered. And empirically, from the extent of violent, selfish, or predatory behavior in the world, we can see that whatever altruistic disposition our genes or upbringing may impose, it can in fact be overridden by other considerations, for better (violence used in self defense, perhaps, in small-scale or even large-scale conflicts) or for worse (harming people to rob them, or persecute them, or just for fun). Moreover, there are many inclinations that, even if they result from specific genetic predispositions, we want to override. For instance, suppose there is a genetic predisposition to alcoholism. If you learned that you had inherited the alcoholism genes, you would not necessarily resign yourself to becoming an addict, nor should you. A more sensible response would be to take special care to avoid the expression of that disposition. Or, a sense of empathy (whether hardwired or not) may disincline you to violate the bodily integrity of another. But if you are a surgeon, you must learn to suppress that aversion in order to make an incision through flesh. Dennett (1995), Gould (1981), and other critics of (some construals of) sociobiology point out that many putative genetically predisposed behavioral tendencies—for example, toward sexism or aggression in some situations— do not thereby constitute imperatives, either behavioral or ethical, even if the supposed genetic influences are real. But the same holds true for any genetic influences that tend to promote altruism or cooperation. The ethical imperative, if any, must still come from somewhere else. In short, whatever emotional impulse we may have toward altruism and empathy, and to whatever extent it may be genetically hardwired, it does not obviate the need for explicit judgments about right and wrong. If it did not seem correct to act with kindness and fairness, even at a net personal cost—if there were no sensible reason for so acting, beyond a raw impulse to do so—then we would have reason to regard the raw impulse as pointlessly self-destructive—like a disposition to alcoholism or a purely visceral (so to speak) aversion to surgery—and we would have reason to attempt to overcome it. And it is plausible that that attempt would have at least partial success, since empirically an impulse to altruism or empathy can be and often is overridden, for reasons good and bad. Thus, although a dog or cat is not in danger of having its friendly behavior diminished by a belief that the behavior lacks a rational foundation (because it presumably forms no opinion about rational foundations), humans may be subject to that risk. And conversely, a belief that our kindly inclinations are correct is likely to help cultivate and amplify those inclinations. An explicit **belief in the obligation to treat others fairly enables us to go beyond** what is compelled by **the limited emotional experience of caring.** Furthermore, we all experience temptations to do what is wrong if it profits us greatly. If there is an explicit belief that an obligation to be altruistic and principled is real, that it has a rational basis, then this belief presumably has some effect, at least in borderline cases. The belief is likely to push in one direction, whereas a belief that an altruistic inclination has no rational privilege over any other sort of inclination we might experience would likely push the other way. It is not surprising that our built-in inclinations do not suffice to explain ethics. The biological evolution of altruistic behavior, construed as a learning process, can be viewed as an early step in reasoning about ethics—a step taken by evolution itself, rather than by an individual intelligence. But as with other learning carried out by evolution, we may expect this early step to be rudimentary compared to what we can reason about explicitly. By analogy, evolution has also implicitly learned about some basic properties of physical objects; this knowledge is embodied in whatever hardwired competence we have for perceiving, manipulating, and navigating among the objects in our ordinary environments. But however helpful a point of departure this hardwired knowledge may be, it is naive by comparison with the knowledge developed by physicists. It would be a terrible mistake to settle for our crude, hardwired version of either physics or ethics. Similar considerations apply to socially inculcated tendencies toward cooperation. Many aspects of what we now recognize to be moral conduct began as revolutionary, unprecedented defiance of prevailing mores. For such progress to occur, social values themselves cannot be the ultimate origin of ethics. Consider the range of ethical beliefs and corresponding behaviors actually exhibited by large groups of people: from Nazism to humanism, from slavery and manifest destiny to freedom rides and Gandhian resistance. All these and more are demonstrably within the scope of human genetic, social, and psychological constraints. If a theory of ethics is to have finer resolution than this entire observed range, it must therefore appeal to more than social and biological constraints. It must invoke a sense of right and wrong that goes beyond a mere description of how our neural circuitry or social acclimation incline us to behave. And we often do feel that our actions are grounded in part in an appeal to an **abstract** knowledge of right and wrong. Although you may dislike violence, you may nonetheless support, say, law enforcement, or a war or a revolution, due to being convinced of the justness of the cause. Or you may refrain from doing something that would benefit you—lying or stealing, for example—because you consider it wrong. Even if sufficiently strong self-interest overrides moral qualms—you may feel, roughly, that you were unable to resist the temptation to do it anyway—the moral qualms may still be felt to exert an influence, albeit not a decisive one. Explicit **appeal to principle** is perhaps felt most strongly in the case of socially controversial matters—as democracy, slavery, executions, women’s suffrage, and gay rights have been at various times, for example—when we are called upon to choose and defend a position among conflicting popular alternatives. Of course, our introspection in such situations could be deceptive. It may be that our actions are caused by factors entirely other than beliefs about right and wrong, and that such beliefs merely occur to us as rationalizations of those actions. Quite plausibly this is often the case, just as more generally the reasons that we think are responsible for our doing or believing anything may just be retroactive rationalizations that substitute for the true cause. In many cases, though, when we see our beliefs or choices change under the weight of new evidence or arguments, we reasonably conclude that that evidence or argument likely caused the difference. Plausibly, then, explicit deliberations about right and wrong are at least sometimes influential in determining our actions. Thus, at a minimum, explicit beliefs about right and wrong may exert influence when the balance among other factors is roughly even, or when one must take sides in a social conflict. More importantly, though, even if explicit ethical theorizing does not proximally influence our actions much in routine situations, the other factors that do operate in such situations may themselves be shaped in the long run by explicit ethical reasoning (among other factors). This consideration applies especially to social influences, punishments and rewards, and feelings of pride or shame. Even when we conform to social pressures without knowing their origin, we are acting under the extended influence of whatever reasoning (and whatever other factors) helped sculpt those pressures over the years and millennia. By analogy, our biological form is determined by the accumulation of our ancestral mutations, even though mutation rarely affects an individual reproductive step. Similarly, the culturally cumulative effect of explicit reasoning about ethics quite possibly predominates over other factors, even if the immediate impact of explicit reasoning is negligible at almost every step. Attempts to logically derive ethical foundations without ethical presupposition should not be thought to suggest that such a derivation is necessary (or sufficient) to promote ethical conduct. Similarly, appeal to thought experiments involving agents with idealized rationality or idealized predictive powers does not suggest that people would need to have such powers in order to behave ethically. And of course, we would be foolish to pretend that we humans are ideally rational and hence able to behave ethically by sheer exercise of reason. Alas, we must not forgo the systematic incentives and sanctions that, in reality, we need in order to supplement the influence of our limited rationality. Still, I maintain it is both true and important that a sufficiently rational person would indeed have rational grounds, without prior ethical supposition, for benevolent and principled behavior, even if (unrealistically) all additional factors promoting such behavior were absent. It is important because if an arbitrarily rational person would find no reason for ethical behavior per se, that would be a reductio ad absurdum of the belief that one should behave ethically. Then, to the extent that we tried to base our actions on careful deliberation, we would be led away from ethical conduct, not toward it—benevolence and rationality would be adversarial rather than symbiotic. It may well be easier to motivate our ethical conduct by appealing to intuitions such as this is right, this is fair, and think about the other person’s feelings—rather than by the intellectual machismo of appealing only to abstract arguments about acausal means–end relations. Similarly, we would not need or want to try to motivate our every move on a bicycle by an analysis of Newtonian mechanics. Both in physics and in ethics, even if we accept the principles extracted from reasoning about idealized toy scenarios, the explicit application of those principles to everyday situations is often impractically complex. Anticlimactically, after all the analysis, we must revert to trusting our intuitions much of the time—intuitions that, I speculate, are implemented in part by means–end-recognizing machinery along the lines of what is sketched in chapter 5 above. (Dennett 1995 documents discussion of a similar point about intuition versus explicit reasoning at least as far back as the 1800s.) Nonetheless, by understanding how our intuitions could possibly be competent to know the truth about physical objects, or about ethics—by knowing that there are underlying mechanical principles whose ramifications our brains could be computing, even if the details of the computations are not introspectively accessible—and **by knowing the general form of those principles, we can** better **judge which** of our **intuitions to trust, and refine those intuitions.** Knowing physics may not help much in riding a bicycle, but it does help in designing a bicycle, not to mention a spaceship. And it helps us dismiss entire categories of spurious intuitions, such as those that pursue perpetual-motion machines or telekinesis. Knowing how our sense of balance works explains why we should trust it to stay upright while walking, but not while piloting an airplane inside clouds. Similarly, an account of ethical foundations can steer us away from grounding our choices in ancient mystical dictates, or in exclusive consideration of selfish causal consequences, while helping us understand why an intuitive balancing of categorical-imperative factors may be a more sound guide. In sum, ethical theory, explicit belief about right and wrong, is not omnipotent in determining our behavior, but it is influential. Good theories of ethics can encourage us to behave well; bad theories can promote correspondingly unethical behavior. Grounding ethics in reciprocal altruism unduly encourages selfishness; ultimate **reliance on social, legal, or religious tradition** or authority tends to **entrench the oppressive** or persecutorial **aspects of those institutions**; and perhaps most insidiously, denial that there is a rational foundation for ethics exerts influence toward ethical relativism, which tends to imply that any adopted ethical standard is as good as any other—and thence toward ethical nihilism, the doctrine that there is no real distinction between right and wrong.

### Offense

#### First, public universities and colleges are founded and operated by the state.

Collegebound “Differences Between Public and Private Universities and Liberal Arts Colleges” <http://www.collegebound.net/content/article/differences-between-public-and-private-universities-and-liberal-arts-colleges/18529/> JW

In the US, most public institutions are state universities founded and operated by state governments. Every state has at least one public university. This is partially due to the 1862 Morrill Land-Grant Acts, which gave each eligible state 30,000 acres of federal land to sell to finance public institutions offering study for practical fields in addition to the liberal arts. Many public universities began as teacher training schools and eventually were expanded into comprehensive universities.

#### And, restricting freedom of speech puts the sovereign in contradiction with its supreme authority, undermining the omnilateral will.

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

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.

#### This outweighs: A. The aff sets the best rule—even if hate speech is immoral, once the government begins to regulate it, it gives them the power to suppress criticism by applying the law in false ways. B. This offense is specific to political philosophy so the justification outweighs other turns.

Varden 10 on Kant Helga Varden (Associate Professor of Philosophy at the 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> JW

It would be tempting, but wrong, to conclude from the above that a full liberal critique of free of speech rights found in liberal states can be established by means of an account derived, ultimately, from private persons’ rights against one another. For then Kant would be seen as arguing that constitutional protection of free speech is merely about ensuring that people are not punished when speech does not involve private wrongdoing. But Kant’s defense of free speech is much stronger than this. On his view, crucially, the right to free speech also protects the possibility of criticism of the public authority, since the right to speak out against the state is necessary for the public authority to be representative in nature. Therefore, this right to free speech is constitutive of the legitimacy of the political authority, namely constitu- tive of the political relation itself – a relation that does not exist in the state of nature. The right to political speech therefore does not rely on the justification provided by the private right argument that words cannot coerce. This aspect of the right to free speech is rather seen as following from how the public authority must protect and facilitate its citizens’ direct, critical engagement with public, normative standards and practices as they pertain to right. There are no a priori solutions or knowledge with regard to the actual formulation of the wisest laws and policies to enable rightful interaction. It is only through public discussion protected by free speech that the public authority can reach enlightenment about how and whether its own laws and institutions really do enable reciprocal external freedom under law for all. That is to say, only by protecting the citizens’ right freely to express their often controversial and critical responses to the public authority’s operations can the public authority possibly take its decisions to represent the common, unified perspective of all its citizens. Without knowledge of how the decisions affect the citizens, it is simply impossible to function as a representative authority. Therefore, the state has the right and duty constitutionally to protect its citizens’ right to free speech; the right to free speech is constitutive of the rightful relation between citizens and their state.

#### Second, even immoral speech cannot be legally restricted because it doesn’t coerce other individuals inherently.

Varden 10 summarizes an argument from Kant Helga Varden (Associate Professor of Philosophy at the 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> JW

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.

### Underview

#### Counterspeech solves hate speech—empirical examples prove.

Calleros 95 (Charles, Winter, Professor of Law, Arizona State University, 27 Ariz. St. L.J. 1249, “PATERNALISM, COUNTERSPEECH, AND CAMPUS HATE-SPEECH CODES: A REPLY TO DELGADO AND YUN”, lexis)

Delgado and Yun summarize the support for the counterspeech argument by paraphrasing Nat Hentoff: "Antiracism rules teach black people to depend on whites for protection, while talking back clears the air, emphasizes self-reliance, and strengthens one's self-image as an active agent in charge of one's own destiny." n50 Delgado and Yun also cite to those who believe that counterspeech may help educate the racist speaker by addressing the ignorance and fear that lies behind hostile racial stereotyping. n51 But they reject this speech-protective argument, stating that "it is offered blandly, virtually as an article of faith" by those "in a position of power" [\*1257] who "rarely offer empirical proof of their claims." n52 The authors argue that talking back in a close confrontation could be physically dangerous, is unlikely to persuade the racist speaker to reform his views, and is impossible "when racist remarks are delivered in a cowardly fashion, by means of graffiti scrawled on a campus wall late at night or on a poster placed outside of a black student's dormitory door." n53 They also complain that "even when successful, talking back is a burden" that minority undergraduates should not be forced to assume. n54 In rejecting the counterspeech argument, however, Delgado and Yun cast the argument in its weakest possible form, creating an easy target for relatively summary dismissal. When the strategies and experiential basis for successful counterspeech are fairly stated, its value is more easily recognized. First, no responsible free speech advocate argues that a target of hate speech should directly talk back to a racist speaker in circumstances that quickly could lead to a physical altercation. If one or more hateful speakers closely confronts a member of a minority group with racial epithets or other hostile remarks in circumstances that lead the target of the speech to reasonably fear for her safety, in most circumstances she should seek assistance from campus police or other administrators before "talking back." Even staunch proponents of free speech agree that such threatening speech and conduct is subject to regulation and justifies more than a purely educative response. n55 The same would be true of Delgado's and Yun's other [\*1258] examples of speech conveyed in a manner that defaces another's property or invades the privacy of another's residence. n56 When offensive or hateful speech is not threatening, damaging, or impermissibly invasive and therefore may constitute protected speech, education and counterspeech often will be an appropriate response. n57 However, proponents of free speech do not contemplate that counterspeech always, or even normally, will be in the form of an immediate exchange of views between the hateful speaker and his target. Nor do they contemplate that the target should bear the full burden of the response. Instead, effective counterspeech often takes the form of letters, discussions, or demonstrations joined in by many persons and aimed at the entire campus population or a community within it. Typically, it is designed to expose the moral bankruptcy of the hateful ideas, to demonstrate the strength of opinion and numbers of those who deplore the hateful speech, and to spur members of the campus community to take voluntary, constructive action to combat hate and to remedy its ill effects. n58 Above all, it can serve to define and underscore the community of support enjoyed by the targets of the hateful speech, faith in which may have been shaken by the hateful speech. Moreover, having triggered such a reaction with their own voices, the targets of the hateful speech may well feel a sense of empowerment to compensate for the undeniable pain of the speech. n59 One may be tempted to join Delgado and Yun in characterizing such a scenario as one "offered blandly, virtually as an article of faith" and without experiential support. n60 However, campus communities that have creatively used this approach can attest to the surprising power of counterspeech. [\*1259] Examples of counterspeech to hateful racist and homophobic speech at Arizona State and Stanford Universities are especially illustrative. n61 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 benefit greatly from multicultural education. n62 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 requirement. n63 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. n64 Rossie [\*1260] 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., n65 a student body that numbered approximately 40,000 students, only 2.3 percent of them African-American. n66 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. n67 Perhaps most important, campus administrators wisely refrained from disciplining the owners of the poster, thus directing public attention to the issue of racism and ensuring broad community support in denouncing the racist poster. Many members of the campus and surrounding communities might have leapt to the racist speaker's defense had the state attempted to discipline the speaker and thus had created a First Amendment issue. Instead, they remained united with the offended students because the glare of the public spotlight remained sharply focused on the racist incident without the distraction of cries of state censorship. Although the counterspeech was not aimed primarily at influencing the hearts and minds of the residents of the offending dormitory room, its vigor in fact caught the residents by surprise. n68 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. n69 [\*1261] 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. n70 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. n71 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. n72 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 [\*1262] 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, n73 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. n74 Moreover, even in a pervasively hostile atmosphere, counterspeech might still be more effective than broad restrictions on speech. First, aside from the constitutional constraints of the First Amendment, such a heartless campus community would be exceedingly unlikely to adopt strong policies prohibiting hateful speech. Instead, the campus likely would maintain minimum policies necessary to avoid legal action enforcing guarantees of equal educational opportunities under the Fourteenth Amendment n75 or federal antidiscrimination statutes such as Title VI n76 or Title IX. n77 Second, counterspeech even from a minority of members of the campus community might be effective to gradually build support by winning converts from those straddling the fence or from broader regional or national audiences. Such counterspeech might be particularly effective if coupled with threats from diverse faculty, staff, and students to leave the university for more hospitable [\*1263] environments; even a campus with high levels of hostility likely would feel pressures to maintain its status as a minimally integrated institution. n78 The A.S.U. and Stanford examples illustrating the efficacy of counterspeech also lend support to the argument that "free speech has been minorities' best friend . . . [as] a principal instrument of social reform." n79 In both cases, demonstrations, opinion letters, and other forms of counterspeech dramatically defined the predominant atmosphere on each campus as one that demanded respect and freedom from bigotry for all members of the community; it is doubtful that passage of a speech-restrictive policy could have sent a similar message of consensus any more strongly. Moreover, in the A.S.U. case, the reasoned counterspeech, coupled with the decision to refrain from disciplining the hateful speaker, persuaded the Faculty Senate to pass a multicultural education proposal whose chances for passage were seriously in doubt in the previous weeks and months. n80 The racist poster at A.S.U. may have been a blessing in disguise, albeit an initially painful one, because it sparked counterspeech and community action that strengthened the campus support for diversity.

#### Social science proves counterspeech solves.

Strossen 1 (Nadine, National President, American Civil Liberties Union; Professor of Law, New York Law School, 25 S. Ill. U. L. J. 243, “Incitement to Hatred: Should There Be a Limit?”, lexis)

A study that was done by a professor at Smith College in Massachusetts demonstrated the effectiveness of this kind of counterspeech in combating bias and prejudice. It showed that when a student who hears a statement conveying discriminatory attitudes also promptly hears a rebuttal to that statement-especially from someone in a leadership position-then the student will probably not be persuaded by the initial statement. Dr. Fletcher [\*276] Blanchard, a psychologist at the college who conducted the experiment, concluded that "A few outspoken people who are vigorously anti-racist can establish the kind of social climate that discourages racist acts." n82 Thus, this study provides empirical social scientific support for the free speech maxim, discussed above, that the appropriate response to any speech with which one disagrees is not suppression but rather counterspeech. Social scientific studies also underscore the efficacy of another non-censorial alternative to suppressing hate speech: affirmative action measures to increase the participation of members of minority groups in the relevant communities. The most pertinent studies have been done on countering homophobia, but they have implications for redressing other forms of bias as well. These studies show that the most constructive way to decrease people's negative attitudes toward lesbians and gay men is to give them an opportunity to get to know and interact with lesbians and gay men in settings such as school and work, where they are collaborating on common endeavors. n83 Accordingly, by helping to ensure that members of various minority or disempowered groups are represented on campus and in the workplace, affirmative action measures can play a positive role in reducing present and future prejudice and discrimination.

#### Speech codes just drive hatefulness underground, which makes it impossible to address and more pernicious.

ACLU 01 American Civil Liberty Union “Hate Speech on Campus” 2001 https://www.aclu.org/other/hate-speech-campus JW

A: Bigoted speech is symptomatic of a huge problem in our country; it is not the problem itself. Everybody, when they come to college, brings with them the values, biases and assumptions they learned while growing up in society, so it's unrealistic to think that punishing speech is going to rid campuses of the attitudes that gave rise to the speech in the first place. Banning bigoted speech won't end bigotry, even if it might chill some of the crudest expressions. The mindset that produced the speech lives on and may even reassert itself in more virulent forms. Speech codes, by simply deterring students from saying out loud what they will continue to think in private, merely drive biases underground where they can't be addressed. In 1990, when Brown University expelled a student for shouting racist epithets one night on the campus, the institution accomplished nothing in the way of exposing the bankruptcy of racist ideas.

### Underview 2

Excessive focus on discourse and representations kills the liberal movements you seek to promote.

Chait 15 Jonathan Chait “How the language police are perverting liberalism.” NY Magazine January 275h 2015 <http://nymag.com/daily/intelligencer/2015/01/not-a-very-pc-thing-to-say.html> JW

Or maybe not. The p.c. style of politics has one serious, possibly fatal drawback: It is exhausting. Claims of victimhood that are useful within the left-wing subculture may alienate much of America. The movement’s dour puritanism can move people to outrage, but it may [and] prove ill suited to the hopeful mood required of mass politics. Nor does it bode well for the movement’s longevity that many of its allies are worn out. “It seems to me now that the public face of social liberalism has ceased to seem positive, joyful, human, and freeing,” confessed the progressive writer Freddie deBoer. “There are so many ways to step on a land mine now, so many terms that have become forbidden, so many attitudes that will get you cast out if you even appear to hold them. I’m far from alone in feeling that it’s typically not worth it to engage, given the risks.” Goldberg wrote recently about people “who feel emotionally savaged by their involvement in [online feminism] — not because of sexist trolls, but because of the slashing righteousness of other feminists.” Former Feministing editor Samhita Mukhopadhyay told her, “Everyone is so scared to speak right now.” That the new political correctness has bludgeoned even many of its own supporters into despondent silence is a triumph, but one of limited use. Politics in a democracy is still based on getting people to agree with you, not making them afraid to disagree. The historical record of political movements that sought to expand freedom for the oppressed by eliminating it for their enemies is dismal. The historical record of American liberalism, which has extended social freedoms to blacks, Jews, gays, and women, is glorious. And that glory rests in its confidence in the ultimate power of reason, not coercion, to triumph.