#### This file was a big part of our strategy against phil affs and cases we didn’t have responses to. Special thanks to Felix for helping out with this.

# Race K

## K

### Link

#### Their faith in deliberation that we should ‘convince the racist’ is grounded in color-blind paternalism. It places faith in white virtue and imposes a burden that results in antiblack violence.

Delgado and Yun ’94: (Richard Delgado and David H. Yun, Pressure Valves and Bloodied Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulation, 82 Cal. L. Rev. 871 (1994)//FT)

Regulation, 82 Cal. L. Rev. 871 (1994) D. "More Speech"-Talking Back to the Aggressor as a Preferable Solution to the Problem of Hate Speech Defenders of the First Amendment sometimes argue that minorities should talk back to the aggressor.85 Nat Hentoff, for example, writes that 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.8 6 The "talking back" solution to campus racism draws force from the First Amendment principle of "more speech," according to which additional dialogue is always a preferred response to speech that some find troubling.87 Proponents of this approach oppose hate speech rules, then, not so much because they limit speech, but because they believe that it is good for minorities to learn to speak out. A few go on to offer another reason: that a minority who speaks out will be able to educate the speaker who has uttered a racially hurtful remark."8 Racism, they hold, is the product of ignorance and fear. If a victim of racist hate speech takes the time to explain matters, he or she may succeed in altering the speaker's perception so that the speaker will no longer utter racist remarks.8 9 How valid is this argument? Like many paternalistic arguments, it is offered blandly, virtually as an article of faith. In the nature of paternalism, those who make the argument are in a position of power, and therefore believe themselves able to make things so merely by asserting them as true.90 They rarely offer empirical proof of their claims, because none is needed. The social world is as they say because it is their world: they created it that way.91 In reality, those who hurl racial epithets do so because they feel empowered to do so. 92 Indeed, their principal objective is to reassert and reinscribe that power. One who talks back is perceived as issuing a direct challenge to that power. The action is seen as outrageous, as calling for a forceful response. Often racist remarks are delivered in several-on-one situations, in which responding in kind is foolhardy. 93 Many highly publicized cases of racial homicide began in just this fashion. A group began badgering a black person. The black person talked back, and paid with his life.94 Other 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.95 In these situations, more speech is, of course, impossible. Racist speech is rarely a mistake, rarely something that could be corrected or countered by discussion. What would be the answer to "Nigger, go back to Africa. You don't belong at the University"? "Sir, you misconceive the situation. Prevailing ethics and constitutional interpretation hold that I, an African American, am an individual of equal dignity and entitled to attend this university in the same manner as others. Now that I have informed you of this, I am sure you will modify your remarks in the future"? 96 The idea that talking back is safe for the victim or potentially educative for the racist simply does not correspond with reality. It ignores the power dimension to racist remarks, forces minorities to run very real risks, and treats a hateful attempt to force the victim outside the human community as an invitation for discussion. Even when successful, talking back is a burden. Why should minority undergraduates, already charged with their own education, be responsible constantly for educating others?

#### Students with already radical views won’t change– they have no warrant empirical or analytical that discussion can change radicals.

Stanley Ingber, THE MARKETPLACE OF IDEAS: A LEGITIMIZING MYTH, Duke Law Review, February 1984//FT)

Although the assumption of the existence of objective truth is crucial to classic marketplace theory, almost no one believes in objective truth today. 2 1 Historians, for example, first determine what type of historical data to seek and then determine the relevance of the data they find. Thus, history is founded on the selective perception of historians rather than on any objective historical truth. 122 The same can be said for the pursuit of truth in any academic, scientific, or professional discipline.123 The "truth" of a theory depends on its ability to explain a phenomenon to the judging individual's satisfaction and on its aesthetic appeal to that individual. 124 Today's truth, consequently, may become tomorrow's superstition. 2 5 That the marketplace reveals truth, or even the best solutions, is further belied by the lack of any consensus in this country on what is true or best. If the marketplace actually revealed truth, diversity and conflict presumably would diminish rather than increase.12 6 But, because people's perceptions are based on their varying interests and ex-periences, 127 their perceptions are not likely to be socially homogenized. Consequently, as long as people have differing experiences, there is little guarantee that any society can agree on what is "true,"1 28 and diversity and conflict will likely persist.129 People seldom want to read or hear that which is contrary to their convictions. Nor are they usually open to criticisms of groups to which they belong. To the contrary, it is difficult for a person to reject ideas, opinions, and positions as being false when they coincide with his own interests or when they appeal to his half-submerged prejudices. 130 Consequently, if people's perspectives are not homogeneous, a person will perceive the marketplace as leading to the best result only if it favors those who, in that specific individual's view, should be favored. In short, if the preconceived perspectives of individuals are inherently heterogeneous, then their decisions on the proper outcome of the market competition actually are made prior to that purported competition. Consequently, the very market process reputed as the only way to determine which perspective should win merely reflects the preexisting perspectives of the market participants.13 1 The marketplace process in fact changes little. Conflicts in the marketplace, therefore, are not likely to lead to conclusive agreement on what is "true" or "best." Rather, the marketplace serves as a forum where cultural groups with differing needs, interests, and experiences battle to defend or establish their disparate senses of what is "true" or "best." Official adoption and support of one group's position, allegedly due to its success in the marketplace, merely enhances through legal mechanisms the stature of that group's subculture; it does not represent a universal acceptance of that group's perspective. Accordingly, it is difficult to treat free speech as uniquely essential to the discovery of truth or to the encouragement of informed choice. Experience more likely provides the information needed to confront life's exigencies than does speech. Rather than being fostered by mere expression, societal change depends more on the growth of new interests, needs, and experiences which are used to view sensory data differently so as to gain new perspectives from which status quo conditions may be challenged. Such growth requires a governmental and social system that nurtures new experiences and interests and, consequently, divergent notions of truth. In such a system, expression would be important only if it helped to create differing environments suited to the self-fulfillment of people with contrasting perspectives. In the United States today, however, most behavior, experiences, and life-style choices are fully subject to governmental influence and restriction. Neither our federal nor local governments are under any obligation to encourage the diversity of experiences necessary for a society open to change. On the contrary, both levels of government promote conformity and consensus by controlling the development of "proper" perspectives. Through its authority over economic, political, educational, and social conditions, and its superior position in data gathering and dissemination, our government actively participates in the socialization of the citizenry. Contrary to the marketplace image of independent citizens freely choosing among competing ideas, 132 the government strongly encourages the public to favor or disfavor certain views. Through processes of socialization, government predisposes the individual to accept some perspectives rather than others. Government inculcates ideas that tend to protect existing interests, prevailing values, and current attitudes. 133 In short, the government strongly encourages the public to choose those ideas within the market that preserve the status quo. The public school system, combined with compulsory education, is one of many effective mechanisms for governmental socialization and indoctrination. As far back as Brown v. Board of Education, 134 the Court acknowledged that state sponsored education was a major force in the socialization of children. 135 Public schools, scholars have noted, 136 provide a potent forum for state indoctrination: first, the audience's attendance is compulsory, and the listeners do not yet have the independent knowledge or psychological sophistication necessary for critical evaluation of what their teachers tell them; 37 second, public schools package theirmessage as highly valued education rather than as less trustworthy advertisement; 38 third, the children are likely to be impressed by the adult teacher's authority and seemingly vast fund of knowledge; 1 39 and, finally, teachers mete out rewards and punishments to those who do or do not appropriately learn the lesson of the day. 140 A less jaded view of the "indoctrination" that takes place in our educational institutions emphasizes the necessity of "selectivity" in any school system. In his dissent in Board of Education v. Pico,14 1 a decision that imposed first amendment limits on a local school board's discretion to remove books from junior and senior high school libraries, Justice Rehnquist stressed that, of necessity, elementary and secondary education must separate the relevant from the irrelevant, the appropriate from the inappropriate. Determining what information not to present to the students is often as important as identifying relevant material. This winnowing process ... is fundamentally inconsistent with any constitutionally required eclecticism in public education. 142 Although Justice Brennan's plurality opinion in Pico limited the school board's ability to remove library books, it also readily approved the indoctrination role of educational institutions: We are ... in full agreement ... that local school boards must be permitted "to establish and apply their curriculum in such a way as to transmit community values," and that "there is a legitimate and substantial community interest in promoting respect for authority and traditional values be they social, moral, or political."143 Although the Court distinguished removing books from refusing to acquire them in the first place, the loss of perspectives contained in the books is just as damaging under the market model whether the school removes books or initially rejects them. Surely the Court would deem a school board's decision not to purchase books written from a Black or Republican perspective unconstitutional. Yet refusal to acquire books suggesting a Jewish infiltration of our government likely would not raise a judicial eyebrow. The difference clearly seems to be the cultural acceptance of one perspective and rejection of the other. Consequently, public schools shape children's attitudes through such selective exposure and thereby predispose children to accept certain established perspectives as adults. 44 Thus, as the educational indoctrination process demonstrates, socialization mechanisms can subtly influence people to separate "fashionable" trends of thought from the "unfashionable" without any signs of formal censorship.' 45 No expression need be forbidden overtly, no matter how challenging it may be to the existing order, for socialization processes will prevent it from effectively penetrating the mass consciousness of the citizenry. 46 Members of the judiciary, responsible for upholding the values protected by the first amendment, are not immune from the same processes of socialization and indoctrination that predispose the general public to certain perspectives. The members of the courts are, after all, as much creatures of their culture as are we all.147 Given this inevi-table socialization of the judiciary, marketplace ideals become unrealistic and serve only as a legitimizing myth for a system that encourages the presentation of a limited range of preselected ideas rather than the open-minded evaluation it purports to foster.' 48 Speech outside the range of acceptable norms149 has, not surprisingly, been frequently curtailed with judicial approval. 50 Jurists, like other citizens, are likely to hear and take seriously only those opinions that do not too openly contradict their

#### Free speech absolutism asks minority targets to bear the burden of discrimination to protect white liberal “equality” – that reifies antiblack racism

Matsuda 89 bracketed [Mari J Matsuda (Mari J. Matsuda is an American lawyer, activist, and law professor at the William S. Richardson School of Law at the University of Hawaii); 1989; Response to Racist Speech: Considering the Victim's Story; Michigan Law Review, Vol. 87, No. 8, Legal Storytelling (Aug., 1989), pp. 2320-2381; Published by: The Michigan Law Review Association; <http://www.jstor.org/stable/1289306>; Accessed: 21-04-2017 15:44 UTC //BWSWJ]

The selective consideration of one victim's story and not another's results in unequal application of the law. Unlike the victims of defamation and other torts, the victims of racist speech are not representative of the population at large. In making typical legal concessions to the first amendment, we burden a range of victims. In the case of flagburning, we force patriots, veterans, and flag-lovers of all races to tolerate flag desecration as part of the price of freedom. In contrast, when victims of racist speech are left to assuage their own wounds, we burden a limited class: the traditional victims of discrimination. This class already experiences diminished access to private remedies such as effective counterspeech, and this diminished access is exacerbated by hate messages. Debasing speech discredits targets, further reducing their ability to have their speech taken seriously.274 The application of absolutist free speech principles to hate speech, then, is a choice to burden one group with a disproportionate share of the costs of speech promotion.275 The principle of equality is violated by such allocation.276 The more progressive principle of rectification or reparation277 the obligation to repair effects of historical wrongs is even more grossly violated. The failure to hear the victim's story results in an inability to give weight to competing values of constitutional dimension.278 The competing values recognized under international law are equality, liberty, and personality. Each person under that scheme is entitled to basic dignity, to nondiscrimination, and to the freedom to participate fully in society.279 If there is any central principle to the Bill of Rights, surely that is it. When white supremacist organizations with histories of violence have an active, protected presence in a community, that principle is sacrificed. All our democratic institutions are tainted as a consequence.280 As Professor Delgado has noted, the underlying first amendment values of self-fulfillment, knowledge, participation, and stable community recognized by first amendment theorists are sacrificed when hate speech is protected.281 The constitutional commitment to equality and the promise to abolish the badges and incidents of slavery are [is] emptied of meaning when target-group members must alter their behavior, change their choice of neighborhood, leave their jobs, and warn their children off the streets because of hate group activity. When the presence of the Klan deters employers from hiring target-group members, prevents citizens from socializing freely, and keeps parents from sending their children to integrated schools, the goal of nondiscrimination is moved farther away from present realities. When hate propaganda spreads attitudes of racism and desensitizes potential abusers to the wrongness of violence, other more obvious goals of safety and order are sacrificed.

#### Turns case – proves the agonistic approach of the aff overwhelmingly fails. There are plenty ‘free speech’ conversations on facebook – when have you ever seen one result in a reasoned acceptance of consensus. For the past 6 months facebook has been a toxic mess of fake news, and accusations back and forth of crooked Hillary. Your position’s optimism is unjustified and empirically denied

### Curry Alt

#### The alternative is to refuse faith in white virtue— the alt is an anti-ethical approach that calls out the free speech excuse for what it is: an excuse for racism.

[Dr. Tommy J. Curry 13, Assistant Professor, Department of Philosophy, Texas AandM, "In the Fiat of Dreams: The Delusional Allure of Hope, the Reality of Anti-Black Violence and the Demands of the Anti-Ethical", 2013] RG

Anti-ethics; the call to demystify the present concept of man as illusion, as delusion, and as stratagem, is the axiomatic rupture of white existence and the multiple global oppressions like capitalism, militarism, genocide, and globalization, that formed the evaluative nexus which allows whites to claim they are the civilized guardians of the world’s darker races. It is the rejection of white virtue, the white’s axiomatic claim to humanity that allows the Black, the darker world to sow the seeds of consciousness towards liberation from oppression. When white (in)humanity is no longer an obstacle weighed against the means for liberation from racism, the oppressed are free to overthrow the principles that suggest their paths to liberation are immoral and hence not possible. To accept the oppressor as is, the white made manifest in empire, is to transform white western (hu)man from semi-deitous sovereign citizen to contingent, mortal, and un-otherable. Exposing the inhumanity of white humanity is the destruction/refusal of the disciplinary imperative for liberal reformism and dialogue as well as a rejection of the social conventions that dictate speaking as if this white person, the white person and her white people before you are in fact not racist white people, but tolerable—not like the racist white people abstracted from reality, but really spoken of in conversations about racism. The revelatory call, the coercively silenced but intuitive yearning to describe the actual reality set before Black people in an anti-Black society, is to simply say there is no negotiating the boundaries of anti-Blackness or the horizons of white supremacy. Racism, the debasement of melaninated bodies and nigger-souls, is totalizing.

### Matsuda Alt

#### The alternative is to reject the first amendment as an excuse for racism. The alt ruptures the myth of white virtue: they are not simply ignorant or looking to play ‘devil’s advocate.’ The alternative creates the platform necessary to define freedom and equality *substantively* not *formally.*

Matsuda 93 Mari Matsuda (Law Professor at the William S. Richardson School of Law at the University of Hawaii). “Words that Wound: Critical Race Theory, Assaultive Speech, and the First Amendment.” Westview Press. 1993. HW. https://books.google.com/books/about/Words\_that\_Wound.html?id=Mllj8BuAlJYC

One of the things that we have discovered as we engage in the debate over hate speech and the first amendment is that we often find ourselves in familiar intellectual territory. We hear ourselves making arguments we have made before, in other settings and with reference to other legal issues. We find ourselves echoing themes that were introduced in our work on school desegregation, affirmative action, reparations, religious freedom, and legal history. This sense of déjà vu, this experience of traveling an often-traveled terrain, is not coincidental. It reflects the grounding of our work in lived experience and political purpose. It is inevitable that our work on the first amendment brings us to intellectual and political crossroads we have come to before, because these intersections are found on the path that defines the tradition and practice of radical teaching that we have chosen as our own. One of these intersections bears special mention in this introduction. This is the reemerging debate over affirmative action and the meaning of diversity within our colleges and universities. Contemporaneous with the recent outbreak of gutter hate speech and racial harassment, there is an emerging and increasingly virulent backlash against the extremely modest successes achieved by communities of color, women, and other subordinated groups in our efforts to integrate academic institutions run by and for white male elites. The chief spokespersons for this more refined sentiment against per-sons and voices that are new and unfamiliar to the campus and intellectual discourse are not the purveyors of gutter hate speech. They are polite and polished colleagues. The code words of this backlash are words like merit, rigor, standards, qualifications, and excellence. Increasingly we hear those who are resisting change appropriating the language of freedom struggles. Words like intolerant, silencing, McCarthyism, censors, and orthodoxy are used to portray women and people of color as oppressors and to pretend that the powerful have become powerless. These colleagues mourn the passing of an era when we “all” read the “great books,” when we knew what it meant to be an “educated man,” and when we were not afraid to require our students and colleagues to meet that standard. They call for the reinstitution of compulsory courses on “Western Civilization” and resist the inclusion of significant non-European or women’s writings in those courses. They are profoundly critical of any effort to change the com-position of the academic community or the content of the intellectual discourse by giving attention to the race or gender of potential participants. We have been fighting this battle over affirmative action, multiculturalism, the meaning of merit, and the inclusion of historically excluded persons and voices for all of our professional lives. The struggle against institutional, structural, and culturally ingrained unconscious racism and the movement toward a fully multicultural, postcolonial university is central to the work of the liberationist teacher. This is at bottom a fight to gain equal access to the power of the intelligentsia to construct knowledge, social meaning, ideology, and definitions of who “we” are. Now the defenders of the status quo have discovered, in the first amendment, a new weapon. The debate about affirmative action and the inclusion of historically excluded groups is being recast as a debate about free speech. We have begun to hear a rhetoric from those of our colleagues who are most fearful of change that sounds much like what we hear from first amendment fundamentalists: Arguments for absolutist protection of speech made without reference to historical context or uneven power relations. Academic freedom and intellectual pursuit are alleged to be threatened by “leftist speech police.” People of color, women, gays, and lesbians who insist on the inclusion of their voices in academic discourse and who speak out against persons and practices that continue to injure and demean them are said to impose a “new orthodoxy” upon the academy. Tenured professors say that they are afraid to raise controversial issues, use humor in their classes, or express friendliness toward their students for fear of being called a racist, a sexist, or a homophobe by “oversensitive” students. Stripped of its context this is a seductive argument. The privilege and power of white male elites is wrapped in the rhetoric of politically unpopular speech. Those with the power to exclude new voices from the official canon become an oppressed minority. Academic freedom to express one’s beliefs is decontextualized from the speaker’s power to impose those beliefs on others. The isolated Black, Brown, or Asian faculty member, the small group of students who risk future careers in raising their voices against racism, are cast as powerful censors. The first amendment arms conscious and unconscious racists—Nazis and liberals alike—with a constitutional right to be racist. Racism is just another idea deserving of constitutional protection like all ideas. The first amendment is employed to trump or nullify the only substantive meaning of the equal protection clause, that the Constitution mandates the disestablish-ment of the ideology of racism. What is ultimately at stake in this debate is our vision for this society. We are in this fight about the first amendment because it is more than a fight about how to balance one individual’s freedom of speech against another individual’s freedom from injury. This is a fight about the substantive content that we will give to the ideals of freedom and equality—how we will construct “freedom,” as a constitutional premise and a defining principle of democracy. This is the same fight that is the subject of all of our work. It is a fight for a vision of society where the substance of freedom is freedom from degradation, humiliation, battering, starvation, homelessness, hopelessness, and other forms of violence to the person that deny one’s full humanity. It is a fight for a constitutional community where “freedom” does not implicate a right to degrade and humiliate another human being any more than it implicates a right to do physical violence to another or a right to enslave another or a right to economically exploit another in a sweatshop, in a coal mine, or in the fields.

## Structural Violence ROB

#### The role of the ballot is to vote for the debater who best methodologically challenges structural violence.

Smith ’13: (Elijah Smith. “A Conversation in Ruins: Race and Black Participation in Lincoln Douglas Debate.” Vbriefly. September 6, 2013//FT)

At every tournament you attend this year look around the cafeteria and take note of which students are not sitting amongst you and your peers. Despite being some of the best and the brightest in the nation, many students are alienated from and choose to not participate in an activity I like to think of as homeplace. In addition to the heavy financial burden associated with national competition, the exclusionary atmosphere of a debate tournament discourages black students from participating. Widespread awareness of the same lack of participation in policy debate has led to a growing movement towards alternative styles and methods of engaging the gatekeepers of the policy community, (Reid-Brinkley 08) while little work has been done to address or even acknowledge the same concern in Lincoln Douglas debate. Unfortunately students of color are not only forced to cope with a reality of structural violence outside of debate, but within an activity they may have joined to escape it in the first place. We are facing more than a simple trend towards marginalization occurring in Lincoln Douglas, but a culture of exclusion that locks minority participants out of the ranks of competition. It will be uncomfortable, it will be hard, and it will require continued effort but the necessary step in fixing this problem, like all problems, is the community as a whole admitting that such a problem with many “socially acceptable” choices exists in the first place. Like all systems of social control, the reality of racism in debate is constituted by the singular choices that institutions, coaches, and students make on a weekly basis. I have watched countless rounds where competitors attempt to win by rushing to abstractions to distance the conversation [away] from the material reality that black debaters are forced to deal with every day. One of the students I coached, who has since graduated after leaving debate, had an adult judge write out a ballot that concluded by “hypothetically” defending my student being lynched at the tournament. Another debate concluded with a young man defending that we can kill animals humanely, “just like we did that guy Troy Davis”. Community norms would have competitors do intellectual gymnastics or make up rules to accuse black debaters of breaking to escape hard conversations but as someone who understands that experience, the only constructive strategy is to acknowledge the reality of the oppressed, engage the discussion from the perspective of authors who are black and brown, and then find strategies to deal with the issues at hand. It hurts to see competitive seasons come and go and have high school students and judges spew the same hateful things you expect to hear at a Klan rally. A student should not, when presenting an advocacy that aligns them with the oppressed, have to justify why oppression is bad. Debate is not just a game, but a learning environment with liberatory potential. Even if the form debate gives to a conversation is not the same you would use to discuss race in general conversation with Bayard Rustin or Fannie Lou Hamer, that is not a reason we have to strip that conversation of its connection to a reality that black students cannot escape.

## Outsider Jurisprudence ROB

#### The role of the ballot is to deploy outsider jurisprudence. This methodology forces us to recognize the law is political and cannot be separated from the context exists within – a rejection of Eurocentric principles of abstract neutrality can allow us to ground our understanding of policy in the social realities of the oppressed. This is crucial in the context of hate speech.

Matsuda 89 bracketed [Matsuda, Mari J. "Public response to racist speech: Considering the victim's story." Michigan Law Review 87.8 (1989): 2320-2381. <http://www.jstor.org/stable/1289306> //BWSWJ]

There is an outsider's jurisprudence growing and thriving alongside mainstream jurisprudence in American law schools. The new Feminist jurisprudence is a lively example of this.16 A related, and less- celebrated, outsider jurisprudence is that belonging to people of color. 17 What is it that characterizes the new jurisprudence of people of color? First is a methodology grounded in the particulars of their social reality and experience. This method is consciously both historical and revisionist, attempting to know history from the bottom. From the fear and namelessness of the slave, from the broken treaties of the indigenous Americans,19 the desire to know history from the bottom has force[s]d these scholars to sources often ignored: journals, poems, oral histories, and stories from their own experiences of life in a hierarchically arranged world.20 This methodology, which rejects presentist, androcentric, Eurocentric, and false-universalist descriptions of social phenomena, offers a unique description of law.21 The description is realist, but not necessarily nihilist.22 It accepts the standard teaching of street wisdom: law is essentially political.23 It accepts as well the pragmatic use of law as a tool of social change, and the aspirational core of law as the human dream of peaceable existence.24 If these views seem contradictory, that is consistent with another component of jurisprudence of color: it is jurisprudence recognizing, struggling within, and utilizing contradiction, dualism, and ambiguity.2 Dean Derrick Bell's book And We Are Not Saved26 is an example of this. In a lyrical style Dean Bell describes a world infused with racism. This description ties law to racism, showing that law is both a product and a promoter of racism. Like the feminists who have shown that patriarchy has had its own march through history, related to but distinct from the march of class struggle, scholars of color have shown how racism is a separate, distinct, and central phenomenon in American life. The hopeful part of the description offered by theorists such as Bell is the occasional recognition of the vulnerability of racist structures. The few who have managed to subject the many to conditions of degradation have used a variety of devices, from genocide to liberal doublespeak, that reveal the deep contradictions and instability inher- ent in any organization of social life dependent upon subordination. The sorrow songs of the jurisprudence of color are thus tempered by an underlying descriptive message of the inevitability of humane social progress.28 This progress can lead to a just world free of existing conditions of domination. The prescriptive message of outsider jurisprudence offers signposts to guide our way there: the focus on effects.29 The need to attack the effects of racism and patriarchy in order to attack the deep, hidden, tangled roots characterizes outsider thinking about law. Outsiders thus search for what Anne Scales has called the rachet30 -legal tools that have progressive effect, defying the habit of neutral principles to entrench existing power.31 They have derived rachet-like measures to eliminate effects of oppression, including affirmative action, reparations, desegregation, and the criminalization of racist and misogynist propaganda. Such measures are best implemented through formal rules, formal procedures and formal concepts of rights, for in- formality and oppression are frequent fellow-travelers.32 While cognizant of the limits of law reform, outsider scholars have emphasized the instrumental uses of formal legal rules to achieve substantive justice. Using the descriptive and prescriptive messages of the emerging outsider jurisprudence to confront the problem of racist hate messages provides new insights into the longstanding neutral-principle dilemma of liberal jurisprudence. The following section will show how the victim's story illuminates particular values and suggests particular solutions to the problem of racist hate messages.

## 2NR

#### B. Key to critical engagement—advocacy-centric debates rig the game and devalue criticism. If the stasis point is plan-desirability, criticism is always a secondary consideration. Debates about method are a prerequisite to constructive policy discussion—only the curriculum we establish can ensure meaningful political debate.

Kurki 8 — Milja Kurki, Lecturer in the Department of International Politics at Aberystwyth University, 2008 (“Introduction: causation and the divided discipline,” *Causation in International Relations: Reclaiming Causal Analysis*, Published by Cambridge University Press, ISBN 9780521882972, p. 8-9)

It should be noted that the approach adopted here is unashamedly theoretical and philosophical in nature. While philosophical, or metatheoretical, discussions have often been subjected to criticism from the more empirically minded IR scholars, in my view philosophical reflection on the key concepts we use frequently, such as causation, is fundamental in the social sciences, IR among them. This is because, as Colin Wight puts it, ‘conceptual inquiry is a necessary prerequisite to empirical research’.21 Without an adequate understanding of the ways in which we apply concepts, appreciation of the reasons for our conceptual choices, and recognition of the strengths and the weaknesses [end page 8] that our use of key concepts entail, we run the risk of conducting empirical studies that we cannot justify or that amount to nothing more than aimless fact-finding. Also, we risk not being able to understand how and why our accounts might differ from those of others and, hence, are not able to engage in constructive debate with other perspectives. This book is motivated by the belief that IR has not become too theoretical or philosophical at the expense of empirical inquiry:22 rather it still remains inadequately reflective towards many fundamental concepts used in empirical analyses. While meta-theoretical, or philosophical, debate is clearly in and of itself not the sole or the central aim of International Relations scholarship, it should not be forgotten that the ways in which we ‘see’ and analyse the ‘facts’ of the world political environment around us are closely linked to the kinds of underlying assumptions we make about meta-theoretical issues, such as the nature of science and causation. Indeed, the analysis here is motivated by the belief that whenever we make factual, explanatory or normative judgements about world political environments, important meta-theoretical filters are at work in directing the ways in which we talk about the world around us, and these filters are theoretically, linguistically, methodologically, and also potentially politically consequential.23 It follows that philosophical investigation of key concepts such as causation should not be sidelined as ‘hair-splitting’ or ‘meta-babble’,24 but embraced—or at least engaged with—as one important aspect of the study of international relations.