# PIC – Non consensual Image Distribution

TRIGGER WARNING: The 1NC will be discussing instances of sexual harassment and its impact on those affected by it on college campuses.

## PIC

#### First is CP Text: Public colleges and universities in the United States ought not restrict any constitutionally protected speech except in the case of the nonconsensual distribution of sexually explicit images.

#### Second is the DA:

#### A. Uniqueness: The nonconsensual distribution of sexually explicit images is constitutionally protected speech – aff allows it on college campuses.

**Goldberg 16** – Bracketed for potentially offensive language Erica Goldberg Columbia Law Review Volume 116, No. 3 April 2016 "FREE SPEECH CONSEQUENTIALISM"

States have begun to criminalize the publication of nude photos if the person publishing the photos knows or should have known that the subject of the image did not consent to the disclosure.296 Virginia law- makers introduced legislation, for example, that would criminalize pub- lishing sexually explicit pictures of someone without permission and with "the intent to cause them substantial emotional distress."297 A California defendant was convicted of felony charges of identity theft and extortion, for running a revenge porn website where he made aggrieved ex-lovers pay to have their photos removed from his site.298 His lawyer argued that although his behavior was immoral and offensive, he did not break any laws by allowing others to post sexually explicit photographs.299 **The regulation of [non-consensual sexually explicit image distribution]** revenge porn **presents thorny First Amendment issues**, even though the speech is considered both highly injurious and of low value.300 **Some argue that [non-consensual sexually explicit image distribution]** revenge porn **can be regulated as obscenity**,301 but, like much pornography, **sexually explicit speech that does not rise to the level of obscenity is still protected speech**.302 **Criminal statutes and torts based on the invasion of privacy and emotional distress caused by of [non-consensual sexually explicit image distribution]** revenge porn **compromise the freedom to distribute protected speech lawfully obtained**. Indeed, **the Supreme Court has recognized a right for the media to publish even unlawfully obtained content**, so long as the publisher was not involved in the illegal so long as the publisher was not involved in the illegal conduct that produced the content.303 **And in United States v. Stevens , the Supreme Court held that individuals cannot be held criminally liable for distributing speech depicting illegal acts**, so long as the individuals did not perpetrate the underlying act.304 **of [non-consensual sexually explicit image distribution]** Revenge porn, as defined here, **is both legally obtained and depicts a legal act**. In the ultimate articulation of free speech consequentialism, Mary Anne Franks argues for criminalization of revenge porn because "**some expressions [of free speech] are just considered so socially harmful and don't contribute any benefits to society**."305 **Yet this does not separate [non-consensual sexually explicit image distribution]** revenge porn f**rom any number of categories of protected speech that may cause others emotional distress and are considered by some to pos- sess little value**; this is nothing more than a call for judges to make whole- sale and retail judgments about the value and harms that flow from particular forms of speech. If revenge porn can be regulated, legislators should not target the victim's emotional distress or the invasion of pri- vacy, as these focal points threaten to undermine strong free speech pro- tections exceptional to America's free speech regime.

#### B. Link: CP solves – deters perpetrators and creates a cultural shift.

**Citron and Franks 14** Danielle Keats Citron, Mary Anne Franks. "CRIMINALIZING REVENGE PORN" 4/21/2014 <https://www.law.yale.edu/system/files/area/center/isp/documents/danielle_citron_-_criminalizing_revenge_porn_-_fesc.pdf> Danielle Keats Citron is a Lois K. Macht Research Professor & Professor of Law, University of Maryland Francis King Carey School of Law; Affiliate Scholar, Stanford Center on Internet and Society; Affiliate Fellow, Yale Information Society Project. Mary Anne Franks is an Associate Professor of Law, University of Miami School of Law.

As this discussion shows, civil law cannot meaningfully deter and redress revenge porn. We now turn to the potential for a criminal law response. III. CRIMINAL LAW’S POTENTIAL TO COMBAT REVENGE PORN **A** criminal **law solution is essential to deter** judgment-proof **perpetrators**. As attorney and revenge porn expert Erica Johnstone puts it, “[e]ven if **people** aren’t afraid of being sued because they have nothing to lose, they **are afraid** of being convicted of a crime **because that shows up on their record forever**.”68 **Nonconsensual [image distribution’s]** pornography’s **rise is** surely **related to the fact that malicious actors have little incentive to refrain from such behavior**. While some critics believe that existing criminal law adequately addresses nonconsensual pornography, this Part highlights how existing criminal law fails to address most cases of revenge porn. A. The Importance of Criminal Law Criminal law has long prohibited privacy invasions and certain violations of autonomy. Criminal **law is essential to send the clear message to potential perpetrators that nonconsensual [image distribution]** pornography **inflicts grave privacy and autonomy harms that have real consequences and penalties**.69 While we share general concerns about over-incarceration, rejecting the criminalization of serious harms is not the way to address those concerns. We are also sensitive to objections that criminalizing revenge porn might reinforce the harmful and erroneous perception that women should be ashamed of their bodies or their sexual activities, but maintain that recognizing and protecting sexual autonomy does exactly the opposite.70 **A criminal law solution would send the message that individuals’ bodies** (mostly female bodies) **are their own and that society recognizes the grave harms** that flow from turning individuals into objects of pornography without their consent. In this way, **a criminal law approach will help us conceptualize the involuntary publication of someone’s sexually explicit images as a form of sexual assault**. When sexual abuse is inflicted on an individual’s physical body, it is considered rape or sexual assault. The fact that nonconsensual pornography does not involve physical contact does not change the fact that it is a form of sexual abuse. Federal and state criminal laws regarding voyeurism demonstrate that physical contact is not necessary to cause great harm and suffering. Video voyeurism laws punish the nonconsensual recording of a person in a state of undress in places where individuals enjoy a reasonable expectation of privacy. 71 Criminal laws prohibiting voyeurism rest on the commonly accepted assumption that observing a person in a state of undress or engaged in sexual activity without that person’s consent not only inflicts dignitary harms upon the individual observed, but also inflicts a social harm serious enough to warrant criminal prohibition and punishment. International criminal law provides precedent and perspective on this issue. Both the International Criminal Tribunal for Rwanda (“ICTR”) and the International Criminal Tribunal for the former Yugoslavia (“ICTY”) have employed a definition of sexual violence that does not require physical contact. In both tribunals, forced nudity was found to be a form of sexual violence.72 In the Akayesu case, the ICTR found that “[s]exual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.” 73 In the Furundzija case, the ICTY similarly found that international criminal law punishes not only rape, but also “all serious abuses of a sexual nature inflicted upon the physical and moral integrity of a person by means of coercion, threat of force or intimidation in a way that is degrading and humiliating for the victim’s dignity.”74 **The legal and social condemnation of child pornography exemplifies our collective understanding that the production, viewing, and distribution of certain kinds of** sexual **images are harmful**. In New York v. Ferber,75 the United States Supreme Court recognized that the distribution of child pornography is distinct from the underlying crime of the sexual abuse of children.76 The Court observed that “[t]he distribution of photographs and films depicting sexual activity by juveniles . . . [is] a permanent record of the children’s participation and the harm to the child is exacerbated by their circulation.”77 When images and videos of sexual assaults and surreptitious observation are distributed and consumed, they inflict further harms on the victims and on society connected to, but distinct from, the criminal acts to which the victims were originally subjected.78 The trafficking of this material increases the demand for images and videos that exploit the individuals portrayed. This is why the Court in Ferber held that it is necessary to shut down the “distribution network” of child pornography to reduce the sexual exploitation of children: “The most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product.”79 Nonconsensual pornography raises similar concerns. **Disclosing sexually explicit images without permission can have lasting and destructive consequences**. Victims often feel shame and humiliation every time they see them and every time they think that others are viewing them. Consider the experience of sports reporter Erin Andrews. After a stalker secretly taped her while she undressed in her hotel room, he posted as many as ten videos of her online.80 Google Trends data suggested that just after the release of the videos, much of the nation began looking for some variation of “Erin Andrews peephole video.”81 Nearly nine months later, Andrews explained: “I haven’t stopped being victimized—I’m going to have to live with this forever . . . . When I have kids and they have kids, I’ll have to explain to them why this is on the Internet.”82 She further lamented that when she walks into football stadiums to report on a game, she faces the taunts of fans who have seen her naked online.83 She explained that she “felt like [she] was continuing to be victimized” each time she talked about it.84 Andrews’s experience is echoed by that of Lena Chen, who allowed her ex-boyfriend to take pictures of them having sex. 85 After he betrayed her trust and posted the pictures online, the pictures went viral.86 As Chen explained, feeling ashamed of her sexuality was not something that came naturally to her, but it is now something she knows inside and out. 87 Victims of nonconsensual pornography are harmed each time a person views or shares their intimate images. B. Current Criminal Law’s Limits Existing federal and state criminal laws have limited application to the initial posters of nonconsensual pornography and the laws have even less force with regard to site operators. This Subpart first explores the potential of criminal harassment statutes in pursuing the original discloser. Then, it turns to the possibility of extortion and child pornography charges against revenge porn site operators.

#### C. Impact: Non-consensual image distribution causes chilling effect for survivors who are afraid to speak out and are silenced. Causes psychological violence.

**Citron and Franks 14** Bracketed for potentially offensive language Danielle Keats Citron, Mary Anne Franks. "CRIMINALIZING REVENGE PORN" 4/21/2014 <https://www.law.yale.edu/system/files/area/center/isp/documents/danielle_citron_-_criminalizing_revenge_porn_-_fesc.pdf> Danielle Keats Citron is a Lois K. Macht Research Professor & Professor of Law, University of Maryland Francis King Carey School of Law; Affiliate Scholar, Stanford Center on Internet and Society; Affiliate Fellow, Yale Information Society Project. Mary Anne Franks is an Associate Professor of Law, University of Miami School of Law.

Victims’ fear can be profound. They do not feel safe leaving their homes. Jane, for example, did not go to work for days after she discovered the postings.30 Hollie Toups, a thirty-three-year-old teacher’s aide, explained that she was afraid to leave her home after someone posted her nude photograph, home address, and Facebook profile on a porn site.31 “I don’t want to go out alone,” she explained, “because I don’t know what might happen.” 32 **[Survivors]** victims  **struggle especially with anxiety, and some suffer panic attacks**. **Anorexia nervosa and depression are common ailments for individuals who are harassed online**.33 Researchers have found that cyber harassment victims’ anxiety grows more severe over time.34 Victims have difficulty thinking positive thoughts and doing their work. According to a study conducted by the Cyber Civil Rights Initiative, **over 80% of [non-consensual image distribution]** revenge porn victims **[survivors] experience severe emotional distress and anxiety**.35 Revenge pornis often a form of domestic violence. Frequently, **the** **intimate images are** themselves **the result of an abuser’s coercion** of a reluctant partner.36 In numerous cases, abusers have threatened to disclose intimate images of their partners when victims attempt to leave the relationship.37 **Abusers use the threat of disclosure to keep their partners under their control, making good on the threat once their partners find the courage to leave**. **The professional costs of [non-consensual image distribution]** revenge porn **are steep**. **Because Internet searches** of victims’ **names** prominently **display their naked images** or videos, **many lose their jobs**. **Schools have terminated teachers whose naked pictures appeared online**. **A government agency ended a woman’s employment after a coworker circulated her nude photograph to colleagues**.38 Victims may be unable to find work at all. Most employers rely on candidates’ online reputations as an employment screen. According to a 2009 study commissioned by Microsoft, nearly 80% of employers consult search engines to collect intelligence on job applicants, and, about 70% of the time, they reject applicants due to their findings.39 Common reasons for not interviewing and hiring applicants include concerns about their “lifestyle,” “inappropriate” online comments, and “unsuitable” photographs, videos, and information about them.40 Recruiters do not contact victims to see if they posted the nude photos of themselves or if someone else did in violation of their trust. The “simple but regrettable truth is that after consulting search results, employers don’t call revenge porn victims to schedule” interviews or to extend offers. 41 Employers do not want to hire individuals whose search results might reflect poorly on the employer. 42 **To avoid further abuse, targeted individuals withdraw from online activities, which can be costly in many respects**. **Closing down one’s blog can mean a loss of income and other career opportunities**.43 In some fields, blogging is key to getting a job. According to technology blogger Robert Scoble, people who do not blog are “never going to be included in the [technology] industry.” 44 **When [survivors]** victims **shut down their profiles on social media platforms like Facebook, LinkedIn, and Twitter, they are saddled with low social media influence scores that can impair their ability to obtain employment**.45 Companies like Klout measure people’s online influence by looking at their number of social media followers, updates, likes, retweets, and shares. Not uncommonly, employers refuse to hire individuals with low social media influence scores. 46 Aside from these traditional harms, revenge porn **[non-consensual image distribution] can also amount to a degrading form of sexual harassment. It exposes** victims’ **sexuality in humiliating ways**. Victims’ **naked photos appear on slut-shaming**47 **sites**, such as Cheaterville.com and MyEx.com. Once their naked images are exposed, **anonymous strangers** can **send e-mail messages that threaten rape**. Some have said: “First I will rape you, then I’ll kill you.” 48 **[Survivors]** victims **internalize these frightening and demeaning messages**.49 Women would more likely suffer harm as a result of the posting of their naked images than their male counterparts. Gender stereotypes help explain why—women would be seen as immoral sluts for engaging in sexual activity, whereas men’s sexual activity is generally a point of pride.50 While nonconsensual pornography can affect both men and women, **empirical evidence indicates that nonconsensual pornography primarily affects women** and girls. In a study conducted by the Cyber Civil Rights Initiative, 90% of those victimized by revenge porn were female.51 Nonconsensual pornography, like rape, domestic violence, and sexual harassment, belongs to the category of violence that violates legal and social commitments to equality. **It denies** women and girls **control over their own bodies and lives. Not only does it inflict serious** **and**, in many cases, **irremediable injury on individual [survivors]** victims, **it constitutes a vicious form of sex discrimination.**

## Materiality Double Bind

The PIC does everything that the aff does except allow nonconsensual image distribution. In the world of the PIC, one of three things happen: Either

1. Nonconsensual image distribution is bad under the AC FW and thus you vote negative because there is a unique piece of offense on the CP, or
2. Nonconsensual image distribution doesn’t link to the AC FW in which case both the aff and the neg have equal offense under the FW because they do the same thing, and you presume neg, or
3. Nonconsensual image distribution is a good thing under your framework and there is a performative DA and independent reason to vote against you because you justify things like psychological violence and sexual assault as being good which makes debate dangerously unsafe. Also means you are the definition of abstraction because your framework can ignore things like assault which is a reason to drop you because debate needs to care about the real world consequences of our discourse.

Smith 13, Elijah. A Conversation in Ruins: Race and Black Participation in Lincoln Douglas Debate

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 i**nstitutions, **coaches, and students make on a weekly basis**. I have watched countless rounds where **competitors** attempt to win by **rush**ing **to abstractions to distance the conversation 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.

# Turns Agonism

CP turns the aff – there is a public private distinction under your framework or else it would justify absurd conclusions – like I could go steal your social security number and then post it online without repercussions. There’s a difference between someone posting naked pictures of themselves online versus a private exchange of pictures between two consenting individuals and then one of those individuals sending it to everyone. Nonconsensual sexually explicit image distribution is the latter and thus is a bad thing under your framework. Blurring the distinction between public and private speech deters people from engaging in public discourse – that’s our psychological violence impact.

# CP O/W Aff

The PIC outweighs the aff – the PIC does everything the aff does – the only net benefit is instances where non-consensual image distribution is happening, which means their weighing makes no sense – it would make sense to weigh against a whole res DA but doesn’t make sense against a PIC that does the aff 99.99% of the time – which means even if the magnitude outweighs, the size of link is ridiculously tiny – the question to be asking yourself is whether the in the context of non-consensual image distribution do the aff impacts apply, because we agree with the rest of the aff

But the impact definitely doesn’t even outweigh on the impact debate if I’m winning the non-consensual image distribution impacts – non-consensual image distribution independently outweighs

1. Magnitude – our evidence indicates that having personal photographs put on the internet without consent causes massive psychological violence that causes anxiety attacks, depression, and internalized misogyny
2. Duration – Non-consensual image distribution lasts for the rest of a person’s life – our evidence indicates that it prevents people from getting jobs and leads to stigma that can never be avoided.
3. Scope – our evidence indicates that allowing non-consensual image distribution creates a culture of misogyny and objectification – this affects every gender minority on college campuses and spills over to even worse types of violence.

This means even if you win case, CP outweighs – if there is any risk that its competitive that outweighs the miniscule risk that it doesn’t solve the aff

# Add On – Competition

### Goldberg Evidence Comparison

Now it’s a question of if the CP is competitive ie is non-consensual image distribution constitutionally protected.

Don’t evaluate this debate as a yes/no question but as a sliding scale - if I prove there is any chance that the CP is competitive that is sufficient to vote neg – don’t presume CP is not competitive if it’s the only piece of offense that would decide the round on substance

Extend Goldberg 16 – non-consensual image distribution is constitutionally protected because SCOTUS has ruled that people can publish lawfully obtained content that depicts legal acts even if there are privacy violations – additionally, any restrictions would be content discrimination

Prefer our evidence –

1. Recency – our evidence was written within the past year [*while yours was written in XYZ].* Recency is critical on this question because it’s a descriptive claim of what the law actually is in the status quo
2. Author qualifications – Our author is a professor of Law and Fellow at Harvard Law School who is writing for the Columbia Law Review [while your author is XYZ]. Author qualifications are critical on the question of competition because this is a purely descriptive legal question about what the law is – obviously we need people who are qualified and knowledgeable about what the law is.
3. Our competition evidence outweighs because there is empirical verification that we are on the correct side of this issue – all of their arguments are just conjecture – ie because Supreme Court precedent is X, it must be the case that Y is true, but we’ve tested their logic in real life and determined that they are wrong– this evidence decisively concludes the competition debate.

Harrison 15 Anne Harrison, Student Writer for The Journal of Gender, Race & Justice, “Revenge Porn: Protected by the Constitution?” University of Iowa: The Journal of Gender, Race & Justice, Volume 18, 2015, <https://jgrj.law.uiowa.edu/article/revenge-porn-protected-constitution>

Legal scholars differ in how to handle revenge porn. Some find that criminalization is not necessary given that victims can already pursue civil suits. Others find that criminalization will serve as a better deterrence than civil action. As advocates push for laws prohibiting the distribution of nude photographs, a legal gray area has emerged based on the dueling freedom of expression contained in the first amendment and the substantive right to privacy. **Several states have passed laws criminalizing the nonconsensual posting of nude photographs**, **including New Jersey penalizing the act as a felony and California making it a misdemeanor** to distribute images taken with the understanding that they would remain private. Some of **these laws have been challenged on the ground that they unconstitutionally restrict freedom of speech**. For example, **ACLU filed a federal lawsuit against Arizona’s law**, which made it illegal “to intentionally disclose, display, distribute, publish, advertise or offer a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in specific sexual activities if the person knows or should have known that the depicted person has not consented to the disclosure.” **Because the anti-**revenge porn **[non-consensual sexually explicit image distribution]** **criminal statutes at issue are content-based speech restrictions, the State has the burden of showing they meet strict scrutiny**. While content-based speech restrictions are presumptively invalid, legal scholars argue that the Supreme Court has held “where matters of purely private significance are at issue, First Amendment protections are less rigorous.” One scholar on the subject posited that such laws are likely to be upheld because the specific nude pictures involved “have nothing to do with public commentary about society.” There is some support for the notion that the laws will be upheld as cyber-stalking laws have not been found to violate the First Amendment. Other **scholars believe that anti-**revenge porn **[non-consensual sexually explicit image distribution]** **statutes are criminalizing protected expressio**n. They maintain that the “First Amendment is not a guardian of taste.” In its lawsuit against the state of Arizona, **the ACLU argues that the Constitution protects speech even when that speech is** offense or **emotionally distressing**. The ACLU goes on to state that the Arizona law is overbroad in that it applies equally to private photographs and images that are “truly newsworthy, artistic, and historical images.”

### Add Ons

1. Non-consensual image distribution is constitutionally protected – restrictions would fall under the category of both content-based discrimination and viewpoint discrimination – analysis of multiple court cases prove.

**Koppelman 16** Andrew Koppelman "REVENGE PORNOGRAPHY AND FIRST AMENDMENT EXCEPTIONS" Emory Law Journal Volume 65 Issue 3 2016 [John Paul Stevens Professor of Law and Professor of Political Science, Department of Philosophy Affiliated Faculty, Northwestern University; Teaches a seminar called "Pornography, Free Speech, and Moral Harm"]

It is unlikely that this law would restrict any valuable speech. It is, however, a **content-based restriction** on speech. Such restrictions, the Court has declared, **are** presumptively **unconstitutional**. In Reed v. Gilbert, the Court made preexisting doctrine more rigid by categorically declaring that “regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.”11 This implies a presumption of invalidity: “A **law that is content based on its face is subject to strict scrutiny regardless of the government’s** benign **motive**, content-neutral justification, or lack of ‘animus toward the ideas contained’ in the regulated speech.”12 This works a revolution in free speech law, calling into question a huge range of government regulations, such as almost all of securities law. “The majority opinion in Reed effectively abolishes any distinction between content regulation and subject-matter regulation,” Judge Frank Easterbrook observes. “Any law distinguishing one kind of speech from another by reference to its meaning now requires a compelling justification.”13 **If a law is unconstitutional if its restrictions “depend entirely on the** communicative **content**”14 of what is regulated, **then any restriction of [non-consensual image distribution]** revenge pornography **is in deep trouble**. The First Amendment’s protection of free speech does not apply to “low-value” categories of speech, such as threats and incitement.15 These categories are exceptions to the otherwise strong protection of speech. This much is familiar doctrine. In United States v. Stevens, in which the Court invalidated a law criminalizing depictions of the illegal killing of animals, Chief Justice Roberts announced that there would henceforth be no new categories of unprotected speech: **The First Amendment**’s guarantee of free speech **does not extend only to categories of speech that survive a**n ad hoc **balancing of** relative social **costs and benefits**. The First Amendment itself reflects a judgment by the American people that the benefits of its restrictions on the Government outweigh the costs. Our Constitution forecloses any attempt to revise that judgment simply on the basis that some speech is not worth it. The Constitution is not a document “prescribing limits, and declaring that those limits may be passed at pleasure.”16 Every established exception to free speech protection, Chief Justice Roberts declared, is based upon “a previously recognized, long-established category of unprotected speech.”17 Before speech can be regulated, the state must show a “long-settled tradition of subjecting that speech to regulation.”18 **There is no tradition of regulating dogfighting videos, so the Court invalidated a law that criminalized them**.19 All **this is bad news for laws against [non-consensual image distribution]** revenge pornography, even ones as skillfully drawn as Citron’s. Like the statute in Stevens, **a prohibition of** **[non-consensual image distribution]** revenge pornography **is “presumptively invalid” because it “explicitly regulates expression based on content.”**20 **No established exception is** likely to be **helpful here**. Geoffrey Stone observes that there is “no long-standing tradition of regulating the publication of non-newsworthy private information.”21 The Court has never addressed the constitutionality of the tort of disclosure of private facts. Even if the tort is permissible—it has been around for a long time22—Citron’s statute is different because it specifies the content of the speech that is restricted. Moreover, the forbidden content is truthful information, a record of what did in fact occur. Exposure of that information often leads to unfair treatment of the person photographed. That is, after all, what the person who distributes the photograph is hoping to accomplish. But “**the ‘fear that people would make bad decisions if given truthful information’ cannot justify content-based burdens on speech**.”23 It is even arguable that the proposed statutes are prior restraints on speech, which are very heavily disfavored, because they require the distributor to obtain the consent of the person who was photographed. John Humbach observes that “a law that grants private individuals the absolute discretion, utterly unconstrained by the democratic process, to totally block dissemination of disfavored speech creates a system of censorship that would seem to be even more questionable than one controlled by public officials.”24 **The deep problem is viewpoint discrimination**. With the animal cruelty statute at issue in Stevens, the United States noted in its reply brief, Congress “was concerned about the harms these depictions would cause even if they had no viewers at all—the harm to living animals occurring in the creation of the depictions, as well as associated harms arising from these acts of violence.”25 **The harm of [non-consensual image distribution]** revenge pornography, on the other hand, **occurs only when the material is made available for viewers**. Even worse, it is a harm primarily because some people believe that the display of one’s naked body to a camera is shameful. Not everyone has that view. **A**nother **recent Court decision suggests that the state has no power to remedy harms caused by speech**, **if the harm consists in the** communication of a **viewpoint** that the law deems repellent. **In Snyder v. Phelps, the Court ruled that the First Amendment protected the picketing**, with signs such as “God Hates the USA/Thank God for 9/11,” “Thank God for Dead Soldiers,” and “God Hates You,” **of the funeral of a soldier**who had been killed in Iraq.26 The Court relied on a well-established principle: “If there is a bedrock principle underlying the First Amendment, it is that **the government may not prohibit the expression of an idea** simply **because society finds the idea itself offensive** or disagreeable.”27 In this case, [A]ny distress occasioned by Westboro’s picketing turned on the content and viewpoint of the message conveyed, rather than any interference with the funeral itself. A group of parishioners standing at the very spot where Westboro stood, holding signs that said “God Bless America” and “God Loves You,” would not have been subjected to liability.28 The tort of intentional infliction of emotional distress, the Court explained, must be subject to First Amendment constraints. A jury is “unlikely to be neutral with respect to the content of [the] speech.”29 The speech in question was “certainly hurtful,” but it must be protected “to ensure that we do not stifle public debate.”30 The Court’s opinion is ambiguous on a crucial point. Was it confessing its inability to craft a standard that would be confined to the context of funerals? The implication seems rather to be that even if such a standard could be devised (and several were proposed),31 it would be improperly viewpoint-discriminatory to apply it. Justice Alito, dissenting, emphasized the “acute emotional vulnerability” of the mourners.32 The trouble is that this vulnerability is itself viewpoint-based. Justice Elena Kagan observed in an early law review article that a law that aims to prevent harm is nonetheless impermissibly viewpoint-based when “it is speech of a certain viewpoint, and only of that viewpoint, which causes the alleged injury.”33 The protestors’ speech is hurtful only to those who disagree with their viewpoint—one according to which the death of soldiers in Iraq is a happy manifestation of divine justice. The Court mentioned repeatedly that the grieving father “could see no more than the tops of the signs,”34 but this reflects a failure to think through the logic of its position. How can this be relevant? The Court’s reasoning leaves no room for a different result if the signs were in plain sight, so long as the protest “did not itself disrupt that funeral.”35 Absent such interference, did the protesters have a First Amendment right to communicate with the mourners during the funeral? Can the law even cognize the fact that the specific intent of that communication was to inflict pain upon the mourners? What would be the fate of a law that required protesters to be far enough away to be entirely invisible to the funeral party?36 Such a law obviously rests on the viewpoint-based premise that death is not a matter for celebration, and that one may legitimately exclude from funerals the viewpoint that the deceased deserved his end.37 If viewpoint discrimination is absolutely forbidden, then certain kinds of calculated injury to innocents is protected. Restrictions on communication with mourners are enacted solely to protect them from specific viewpoints with which the law disagrees. It is only those viewpoints that cause the injury. **A law is content-discriminatory if what it seeks to prevent is “[t]he emotive impact of speech on its audience.”**38 Even a general prohibition of demonstrations near funerals is covert viewpoint discrimination, because these specific communications are its avowed target. “[T]he point of all speech protection . . . is to shield just those choices of content that in someone’s eyes are misguided, or even hurtful.”39 The “in someone’s eyes” phrase suggests that any restriction of speech because of its hurtful character partakes of the “inherent subjectiveness” that troubled the Court about the legal standard of “outrageousness.”40 In fact, human experience is less various, and judgment less subjective, than the Court imagines here: we can confidently predict the emotions felt by parents when they bury their children.41 **The logic of Snyder condemns any law that specifically targets** **[non-consensual image distribution]** revenge pornography. Revenge pornography, too, is **hurtful only “in someone’s eyes.”** It consists of truthful information—a (typically) undoctored photograph—that conveys a message that some people—possibly the women depicted, and certainly some who see the photos—find insulting and discrediting. **A law that specifically prohibits** **[non-consensual image distribution]** revenge pornography **aims at the suppression of that message**. The person who disseminates the photographs wants to persuade his audience that this woman is a contemptible, worthless slut. The photograph is offered as evidence to support the claim. Evidently many people are persuaded, at least to the extent of firing or refusing to employ her. **The harm that the law aims to prohibit consists precisely in the audience’s adoption of the speaker’s viewpoint**.

Prefer this evidence

1. Recency – our evidence was written within the past year [*while yours was written in XYZ].* Recency is critical on this question because it’s a descriptive claim of what the law actually is in the status quo – court cases and precedents are set constantly.
2. Author qualifications – Koppelman is a Professor of Law and Political Science at Northwestern University and specializes in this field, writing in the Emory Law Journal [while your author is XYZ]. Author qualifications are critical on the question of competition because this is a purely descriptive legal question about what the law is – obviously we need people who are qualified and knowledgeable about what the law is.
3. Supreme Court precedence proves – non-consensual sexually explicit image distribution is constitutionally protected.

**Larkin 14** Paul J. Larkin "Revenge Porn, State Law, and Free Speech". Loyola Marymount University and Loyola Law School Digital Commons at Loyola Marymount University and Loyola Law School 2014 ; Larkin is a Senior Legal Research Fellow, The Heritage Foundation; M.P.P. 2010 The George Washington University; J.D. 1980 Stanford Law School; B.A. 1977 Washington & Lee University

Defendants likely would rely heavily on several **Supreme Court rulings** that **the government cannot hold someone liable for the publication of true information**. For example, **in Florida Star v. B.J.F.**, **the Court held that the First Amendment protects a newspaper for publishing the name of a rape [survivor]** victim **that the paper lawfully acquired from a police report** placed in the department’s pressroom.159 **In Bartnicki v. Vopper, the Court held that the First Amendment protects the right of a newspaper to publish the transcript of a wiretap in which the newspaper had played no role even though the wiretap itself was illegal**.160 **Defendants in [nonconsensual sexually explicit image distribution]** revenge porn **cases** would **maintain that cases such as Florida Star and Bartnicki disallow a state from imposing civil or criminal liability on the publication of truthful information regardless of the nature or strength of the privacy interest that the state seeks to protect**. Defendants also would rely on **Hustler Magazine, Inc. v. Falwell**, 161 which involved the publication of offensive material depicting the plaintiff as part of a parody. Falwell, a well-known minister and public figure, sued Hustler magazine over a liquor advertisement that parodied him. The ad, which “clearly played on the sexual double entendre of the general subject of ‘first times,’” referred to the first time that Falwell allegedly sampled a particular liquor, but also implied that Falwell had engaged in a drunken incestuous relationship with his mother in an outhouse.162 Falwell sued, claiming that he was the victim of defamation, an invasion of his privacy, and intentional infliction of emotional distress due to the way in which he was portrayed in the ad. At the end of trial, the district court granted Hustler a directed verdict on Falwell’s privacy claim, and the jury rejected his claim of defamation but returned a verdict in his favor on his emotional distress claim.163 After the district court and court of appeals upheld the verdict on that ground, Hustler sought review in the Supreme Court. As **the Court saw** it, **the case presented “a novel question involving First Amendment limitations upon a State’s authority to protect its citizens from the intentional infliction of emotional distress.”**164 **The question was “whether a public figure may recover damages for emotional harm** caused by the publication of an ad parody offensive to him, and doubtless gross and repugnant in the eyes of most.”165 **The Court answered, “No.”** The Court saw the Falwell case as another example of potentially offensive public speech uttered about a public figure.166 **The Court found no reason not to apply the New York Times Co. v. Sullivan167 constitutional standard for libel to Falwell’s claim for intentional infliction of emotional distress**.168 The Court refused to exempt Falwell’s emotional distress claim from the defamation standard adopted in Sullivan because each case involved the same basic pattern: allegedly offensive statements about a person involved in public affairs.169 The two scenarios were the same, the Court concluded, so there was no reason for different legal rules to apply to each one. The Court also was troubled by the consequence of refusing to apply the Sullivan standard to political satire: “Were we to hold otherwise, there can be little doubt that political cartoonists and satirists would be subjected to damages awards without any showing that their work falsely defamed its subject.”170 Unwilling to take the risk of cheapening the debate over public figures or issues, the Court held that Falwell could not recover for the intentional infliction of emotional distress unless he could satisfy the Sullivan test, used when a public figure brings an action for defamation.171 Given the jury’s rejection of his claim for defamation, the Court reasoned, Falwell could not prevail on his emotional distress claim.172 The argument from Falwell would go as follows: The gravamen of a plaintiff’s revenge-porn claim is that someone published images of her naked or that revealed intimate details of her life, an action that constituted outrageous conduct or that placed her in a false light by mischaracterizing her as promiscuous. Regardless of what the claim may be, the defendant’s argument would go, First Amendment law denies a plaintiff the right to recover. **A plaintiff should not be able to recharacterize an invasion of privacy or “false light” defamation claim as an entirely different tort, subject to different rules, simply because of her mistaken judgment about the possibility that a former partner would publish photographs that she freely and knowingly allowed him to possess**. **The term [non-consensual image distribution]** “revenge porn” may sound nefarious, and the conduct involved may be offensive, but the **law should not compensate someone for the consequences of a voluntary decision that, viewed in hindsight, was ill-considered**. **Since the plaintiff was not coerced into posing for a photographer or taking a photograph of herself, the law should not interfere in her decision, however much she may now regret it**.

Prefer our evidence

1. It is an analysis of the most recent Supreme Court cases that would set precedent on the evaluation on this issue which is how a law’s constitutionality is determined – it doesn’t matter if some random people think that non consensual image distribution is not constitutionally protected if SCOTUS interprets it as such.
2. Author qualifications – our evidence is written by a Senior legal research fellow who is writing in the Loyola Law Review for Loyola Law School, (while yours is XYZ). Author qualifications are critical on the question of competition because this is a purely descriptive legal question about what the law is – obviously we need people who are qualified and knowledgeable about what the law is.

3. Restrictions on non-consensual sexually explicit image distribution would violate the first amendment because it constitutes both speaker discrimination and content discrimination.

**Humbach 14** John A. Humbach Pace University School of Law Pace Law Review Volume 35 Issue 1 Fall 2014 "The Constitution and Revenge Porn”. Humbach is a Professor of Law at Pace University School of Law.

Unfortunately, these two key prohibitions of **[non-consensual image distribution]** revenge porn **laws** seem to **fly** directly **in the face of the free speech** and press **guarantees of the First Amendment**.10 In short, the two **prohibitions constitute unconstitutional content discrimination, viewpoint discrimination and speaker discrimination**, not to mention prior restraint. **A restriction on speech that is limited to particular content**, e.g., sexual exposure, **is content discrimination**.11 A restriction designed to suppress a particular point of view, e.g., negative or unflattering personal information, is viewpoint discrimination.12 **And a restriction that is applicable only to persons who have not received consent is speaker discrimination**,13 as well as a prior restraint—among the most disfavored of restrictions on speech.14 **While the Supreme Court has recognized a number of circumstances that justify government impingements on free expression, the Court has been extremely reluctant to permit speech restrictions that discriminate based on a message’s content**, its viewpoint, **or the speaker**.15 **It has** nearly always **refused to tolerate such discrimination unless the case falls within one of the several historically established exceptions to First Amendment protection**.16 Because of the special place that the modern First Amendment cases accord to content discrimination (and the allied discriminations based on viewpoint and speaker), **any statutes designed specifically to outlaw [non-consensual sexually explicit image distribution]** revenge porn as such17 **would seem to face some very tough sledding**—if indeed they can be written in ways that are constitutionally permissible at all. At the end of this paper, I propose a possible approach to crafting a law that addresses the primary harms of revenge porn, but which seeks avoid the direct affront to the First Amendment of the revenge porn laws currently proposed and enacted. Whether this approach would actually work is a question that cannot be answered with certainty but, unless the Supreme Court changes the application of the First Amendment to accommodate revenge porn, I think its chances are at least better than the statutes, drafts and proposals to date.

Prefer our evidence –

1. Author qualifications – Our author is a professor of law at Pace University school of Law who is writing in a Law Review journal (while yours is XYZ) – author qualifications are critical on this question because it is solely a descriptive question about the laws in the status quo.
2. The evidence analyzes the two ways laws against non consensual image distribution violate the constitution – content discrimination and speaker discrimination and concludes why this means that SCOTUS precedent means it is unconstitutional. Your evidence just says that the law could potentially not violate the constitution.

4. Empirically proven – state laws that criminalize sexually explicit content distributed without consent were ruled unconstitutional.

Harrison 15 Anne Harrison, Student Writer for The Journal of Gender, Race & Justice, “Revenge Porn: Protected by the Constitution?” University of Iowa: The Journal of Gender, Race & Justice, Volume 18, 2015, <https://jgrj.law.uiowa.edu/article/revenge-porn-protected-constitution>

Legal scholars differ in how to handle revenge porn. Some find that criminalization is not necessary given that victims can already pursue civil suits. Others find that criminalization will serve as a better deterrence than civil action. As advocates push for laws prohibiting the distribution of nude photographs, a legal gray area has emerged based on the dueling freedom of expression contained in the first amendment and the substantive right to privacy. **Several states have passed laws criminalizing the nonconsensual posting of nude photographs**, **including New Jersey penalizing the act as a felony and California making it a misdemeanor** to distribute images taken with the understanding that they would remain private. Some of **these laws have been challenged on the ground that they unconstitutionally restrict freedom of speech**. For example, **ACLU filed a federal lawsuit against Arizona’s law**, which made it illegal “to intentionally disclose, display, distribute, publish, advertise or offer a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in specific sexual activities if the person knows or should have known that the depicted person has not consented to the disclosure.” **Because the anti-**revenge porn **[non-consensual sexually explicit image distribution]** **criminal statutes at issue are content-based speech restrictions, the State has the burden of showing they meet strict scrutiny**. While content-based speech restrictions are presumptively invalid, legal scholars argue that the Supreme Court has held “where matters of purely private significance are at issue, First Amendment protections are less rigorous.” One scholar on the subject posited that such laws are likely to be upheld because the specific nude pictures involved “have nothing to do with public commentary about society.” There is some support for the notion that the laws will be upheld as cyber-stalking laws have not been found to violate the First Amendment. Other **scholars believe that anti-**revenge porn **[non-consensual sexually explicit image distribution]** **statutes are criminalizing protected expressio**n. They maintain that the “First Amendment is not a guardian of taste.” In its lawsuit against the state of Arizona, **the ACLU argues that the Constitution protects speech even when that speech is** offense or **emotionally distressing**. The ACLU goes on to state that the Arizona law is overbroad in that it applies equally to private photographs and images that are “truly newsworthy, artistic, and historical images.”

Prefer – empirically when states have tried to criminalize non consensual image distribution, they were ruled unconstitutional. Even if the most accurate interpretation of the constitution would not allow non consensual image distribution, the way it is applied does.

# Frontlines

## A2 No Jurisdiction over internet

1. This isn't responsive - our solvency comes from the ability of colleges to punish students who post non consensual sexually explicit image distribution on the internet, not from the public college or universities taking it off the internet. Our solvency is preventative because it deters students and thus we resolve the impact.

2. Doesn't take out cultural shift which outweighs - counter plan creates a paradigm shift that deconstructs the objectification of bodies in the status quo - whether or not the photos are taken down is irrelevant. Empirically proven - child pornography is illegal, even though it can't be taken down 100% from the internet

## A2 Hate Speech Responses

1. Prefer our solvency evidence - it is actually in the context of non-consensual image distribution which is our actual advocacy, even if restrictions on hate speech are bad, that doesn’t mean non-consensual image distribution is a good thing.
2. There are some crucial distinctions between hate speech and non-consensual image distribution which makes your responses irrelevant

a. Hate speech is usually targeting a group of people which means it's easier to ignore it or talk back, but non-consensual image distribution is explicitly targeting one person and doesn’t allow for counter speech

b. Hate speech is usually said out loud while non-consensual image distribution is posted on the internet - hate speech can be ignored and the effects can be resolved but non-consensual image distribution stays on the internet forever and hurts job prospects and causes constant psychological trauma

## A2 Internet Censorship bad – Jeong 13

1. Tons of Alt solvency –public conversations can be started with articles about why non consensual image distribution is a bad thing or discussions of the porn industry – we shouldn’t force people to go through psychological traumas. For example, child pornography is banned but we can still have discussions over why child pornography is a bad thing. Your evidence cites a case in which a blogger criticized non consensual image distribution and could have been prosecuted because he linked the specific websites – he probably shouldn’t have linked the websites.

2. No link – we are not censoring the internet. The CP just gives universities the power to punish people who distribute non consensual image distribution – it has nothing to do with taking things down off the internet.

1. Our psychological violence impacts outweigh –

a. Magnitude – our evidence indicates that having personal photographs put on the internet without consent causes massive psychological violence that causes anxiety attacks, depression, and internalized misogyny. Ending a couple of conversations does not impact anyone’s daily life.

b. Duration – Non consensual image distribution lasts for the rest of a person’s life – our evidence indicates that it prevents people from getting jobs and leads to stigma that can never be avoided. A public conversation would only last a couple of days at best.

c. Scope – our evidence indicates that allowing non consensual image distribution creates a culture of misogyny and objectification – this affects every gender minority on college campuses and spillsover to even worse types of violence. Public conversations would only affect the people who engage in them.

## A2 Existing Law Solves - Jeong 13

#### Current law fails – loopholes and criminal harassment laws do not prevent or prohibit non-consensual sexually explicit image distribution.

**Citron and Franks 14** Danielle Keats Citron, Mary Anne Franks. "CRIMINALIZING REVENGE PORN" 4/21/2014 <https://www.law.yale.edu/system/files/area/center/isp/documents/danielle_citron_-_criminalizing_revenge_porn_-_fesc.pdf> Danielle Keats Citron is a Lois K. Macht Research Professor & Professor of Law, University of Maryland Francis King Carey School of Law; Affiliate Scholar, Stanford Center on Internet and Society; Affiliate Fellow, Yale Information Society Project. Mary Anne Franks is an Associate Professor of Law, University of Miami School of Law.

1. Punishing original disclosers under criminal law **Many scholars believe that existing criminal law adequately addresses [non consensual image distribution]** revenge porn. Professor Eric Goldman, for instance, argues that criminal harassment laws punish the distribution of sexually explicit images when there is intent to harm, but that is not always true.88 Two potential hurdles stand in the way. **The first hurdle is that criminal harassment and stalking laws only apply to defendants who engage in repeated harassing acts**. **The** **federal cyber stalking statute**, 18 U.S.C. § 2261A, **bans as a felony the use of any “interactive computer service” to engage in a “course of conduct” intended to harass or intimidate someone in another state that either places that person in reasonable fear of serious bodily injury** or death or that would reasonably be expected to cause the person to suffer “substantial emotional distress.”89 **A single posting** of someone’s name, address, and sexually explicit image can cause serious damage but **would not amount to a harassing “course of conduct.”** **A [non consensual sexually explicit image distribution]** revenge porn **post can go viral,** **but the poster who started the cascade could evade harassment charges**. As Jane’s experience attests, a single post, e-mail, or other disclosure of nonconsensual pornography can cause grave harm.90 The second problem is that **some** **state harassment laws only apply to persistent abuse communicated directly to [survivors]** victims. A New York state court recently dismissed charges against a man who posted his ex-girlfriend’s nude photos on Twitter and sent the photos to the woman’s employer and sister. 91 **The court justified its dismissal of the aggravated harassment charge on the grounds that the man had not sent the nude photos to the woman herself, but rather to others**.92 **[Non consensual image distribution]** Revenge porn **posted on third-party sites would not be banned under harassment statutes that require direct contact** with victims.93 Even when revenge porn does fit the definition of criminal harassment, **police may decline to get involved**. Victims **[Survivors] are often told the behavior is not serious enough for an** in-depth **investigation**.94

Prefer our evidence

1. It takes into account your evidence – your evidence says that there exists law that survivors can use as recourse – that may be true, but those laws contain giant loophoops that prevent them from solving. Your evidence is just speculative – about the options that people could take. Our evidence agrees but says those people will never be successful.
2. Author qualifications – our evidence is written by a Research professor and professor of law at the University of Maryland in a peer reviewed Yale Law Journal while yours is written by a law student on a non peer reviewed website – author qualifications are critical on this question because it’s solely a descriptive question of laws in the status quo.
3. Recency – our evidence is in 2014 while yours is in XYZ – even a year is critical on this question which is purely a descriptive question about what laws exist in the status quo – laws and application of laws change every few months
4. This isn’t responsive – our solvency is preventative – ie students will fear repercussions of non consensual sexually explicit image distribution and thus will think twice about doing it which will prevent the horrible psychological trauma in the first place – squo can’t solve that

#### Current law has giant loopholes that prevent survivors from ever winning lawsuits.

**Martinez 14** Casey Martinez "An Argument for States to Outlaw ‘Revenge Porn’ and for Congress to Amend 47 U.S.C. § 230: How Our Current Laws Do Little to Protect Victims" Journal of Technology Law and Policy - Volume XIV - Spring 2014. Casey Martinez is a J. D. Candidate, 2015, University of Pittsburgh School of Law. https://tlp.law.pitt.edu/ojs/index.php/tlp/article/viewFile/141/151

**The statutory language of California’s law leaves many [survivors]** victims **unprotected**. **First, the law does not cover “selfies.”** 58 This means that **if the victim took the picture him or herself**, and someone posted it online without their permission, **no law has been broken**.59 **This is particularly troubling because**, “[a]ccording to a recent study by the Cyber Civil Rights Initiative, **up to 80% of [non consensual image distribution survivors]** revenge porn victims **belong to this category**.” 60 **Second**, **the law does not penalize redistributors**.61 This means that **only the person who makes the recording can be punished.**62 Consequently, the operators of revenge porn websites, who often encourage the posting of these materials, as well as anyone else, who may redistribute the picture or recording, cannot be punished under the law.63 Third, **the law does not cover photos obtained by hacking**.64 While the act of hacking may be covered by other laws, **this law does not cover pictures or videos stolen from a victim’s computer or cell phone and posted without** his or her **consent**.65 **The law also only applies to “circumstances where the parties agree or understand that the image shall remain private.”** 66 **The** **requirement for confidentiality** in the law’s language **creates a loophole through which perpetrators can evade punishment**.67 In some cases, “the defendant and victim may disagree about their expectations for the recording, which [could] make conviction difficult or impossible.” 68 Furthermore, because **the law only applies when defendant acted with “inten[t] to cause the victim severe emotional distress,”** 69 **prosecutors could face difficulty proving such intent** “without an admission from the defendant or a piece of ‘smoking gun’ evidence.” 70 Finally, California’s law makes posting revenge porn a misdemeanor—a slap on the wrist compared to the statutory language of New Jersey’s law, which makes the same activity a felony.71

# Word K of “Revenge Porn”

The term “revenge porn” is morally repugnant and trivializes the action into something the survivor is to blame for – shapes our discussions of assault and is victim blaming

**Stavri 15** Zoe Stavri "Let’s stop using the term “revenge porn”. Please." "Another Angry Woman" https://stavvers.wordpress.com/2015/12/15/lets-stop-using-the-term-revenge-porn-please/ December 15, 2015

Every time I see **the phrase “revenge porn”** it hits a kind of berserk button inside me. I am writing this post to save myself having to have the same bloody rant every time it pops up: automating my own fury as it were, because I doubt the phrase is going to go away any time soon. Revenge porn is not, as the name would suggest, like Kill Bill but naked. It’s the name the media like to give to distributing sexual images or videos (usually of women) without the consent of the person featured in them, usually to humiliate them. I’m not sure who came up with the name–it may have been men attempting to **trivialise** the **violence** they are enacting, or it may have been those well-meaning but ultimately harmful anti-porn feminists who have decided to have a pop at pornography. Either way, **it’s a gross name** for it, and as feminists **we must be deeply critical of it**. **Revenge porn is neither revenge, nor porn.** **“Revenge” is inherently victim-blaming**. **It suggests that there is something that ought to be avenged**: **something that the victim did to warrant such treatment**. There isn’t. **Intimate images** and videos **aren’t released to avenge**, **they’re released to intimidate, to control, to humiliate**. It’s probable that the perpetrator thinks he’s enacting revenge for perceived slight on the part of the victim, but that’s not what’s really happening, and **it is not all right to keep on using the language that abusers will likely prefer**. “**Porn” is perhaps harder to define, but most definitions tend to include that it is produced for the purposes of sexual arousal** to distinguish porn from other reasons people might be naked in representations. Again, **“revenge porn” does not fit this purpose**. In a lot of instances, perhaps, the images or video were created because the people involved found it erotic at the time, but **the public distribution of them did not have titillation in mind**. The purpose was to intimidate, to control, to humiliate. The usage of “porn” here is much the same as in the equally ghastly phrase “child porn” to describe images or video of the sexual abuse of children (and we should stop using that phrase too). Put together, what we have in **the term “revenge porn” is something which trivialises the violence being enacted, while simultaneously rooting for the perpetrators**. As feminists, it’s important we question everything, but it’s not difficult to see why, **in a culture which helps abusers at the expense of survivors, the phrase “revenge porn” grew so popular**. So what to use instead of “revenge porn”? Instead of the euphemisms, **I suggest we call it what it is**, and here are a few suggestions: Abuse Humiliation Sexual shaming Violence against women **Non-consensual distribution of sexual images** or video You’ll note at least two of those are shorter than “revenge porn”.

**This is a voter – debaters must be held to their speech act – judges have an obligation to reject degrading discourse in debate rounds.**

**Vincent 13** Re-Conceptualizing our Performances: Accountability in Lincoln Douglas Debate. Christopher J. Vincent. 10/26/13. <http://victorybriefs.com/vbd/2013/10/re-conceptualizing-our-performances-accountability-in-lincoln-douglas-debate>)

It is becoming increasingly more apparent in Lincoln Douglas debate that students of color are being held to a higher threshold of proving why racism is bad, than white students are in being forced to justify their actions and in round discourse. The abstractness of philosophical texts being used in LD and **the willingness of judges** and coaches alike **to endorse** that **abstractness has fostered a climate in which students are** allowed to be **divorced from the discourse they are producing**. **Debate should** first and foremost **be viewed as a performance**. Every action taken, every word said, and **every speech given reflects a performance of the body**. Yet **in an age where debate is about how many arguments a student can get on the flow**, white students’ performances are consistently allowed to be detached from their bodies, performance by the body, while students of color must always embody their discourse. As a result **universal theories are allowed to be viewed as detached from any meaning outside of being just an argument**. My argument is three-fold. First, **debaters have adopted a “universal principle,” which has allowed them to be detached from the practical implications of what they said**. Second, is that **we must re-conceptualize the** role of speech and **the speech act to account for the in round performances of the body**. The final part is that **judges must begin to view their roles as educators and must be accountable for the discourse they endorse with their ballot**. In his chapter on “Non Cartesian Sums,” in Blackness Visible, Charles Mills argues that “white experience is embedded as normative, and the embedding is so deep that its normativity is not even identified as such.” Historically, universal theories never intended to include black bodies into the cannon. Mills argues that in philosophy: "A reconceptualization is necessary because the structuring logic is different. The peculiar features of the African American experience—racial slavery, which linked biological phenotype to social subordination, and which is chronologically located in the modern epoch, ironically coincident with the emergence of liberalism’s proclamation of universal human equality—are not part of the experience represented in the abstractions of European and Euro-American philosophers." We generate **universal theories** and assume they can be applied to anyone. These abstractions assume a conception of universality that never intended to account for the African American experience. This **drowns out the perspectives of students of color that are historically excluded from the conversation**. Normativity becomes a privilege that historically students of color do not get to access because of the way we discuss things. These same **philosophical texts have served as a cornerstone in Lincoln Douglas and in turn have been used to justify exclusion**. **That is why it is easy for a white student to** make claims that we do not know whether racism is bad, or even **question whether oppression is bad, since after all it is just another argument on the flow**. **They never have to deal with the practical implications of their discourse**. These become manifestations of privilege in the debate space because for many students of color, who have to go back to their communities, they still have to deal with the daily acts of racism and violence inflicted upon their homes, communities, and cultures. To question or even make a starting point question for the debate to be about justifying why racism is bad ignores the reality of the bodies present in the room. Our justification of western philosophy has allowed us to remain disconnected from reality. Philosophy, as Mills argues, justifies particular way of knowing under free and rational thought, through a universal way of knowing, believing, and discussing. We have embedded white ways of knowing as normative without ever challenging how it replicates oppressive structures. The question then becomes how does our discourse justify what we believe? **For many debaters it is the gaming aspect of debate that allows us to assume that our speech can be disconnected from the speech act.** The speech can be defined as the arguments that are placed on the flow, and is evaluated in the context of what is the most logical and rational argument to win the round. The critical distinction is the speech act, which is the performance of that discourse. **It’s not what you say, but what you justify**. Understanding the speech act requires critically assessing the ramifications of the debaters discourse. Debate is in and of itself a performance. To claim that it is not is to be divorced from the reality of what we do. We must evaluate what a debaters performance does and justifies. For white debaters it is easy to view the discourse as detached from the body. **For those with privilege in debate, they are never forced to have their performance attached to them but instead their arguments are viewed as words on paper. They are taught to separate themselves** from any ideologies and beliefs, and **feel that there is no consequence to what they say**. It becomes the way in which they justify what is deemed as “rational” and “logical” thought. The argument sounds like it will be competitive so it is read but it is deemed as just an argument. Judges evaluate this as just a speech. This becomes what I deem as a performance by the body, rather than a performance of the body. Performances by the body allow debaters to not be held accountable to the words they say. **Words are seen as divorced from any meaning outside of the flow, versus the performance of the body where the words are attached to the body itself**. Debaters often insert the performance by the body, when they make arguments that they claim that they do not believe, but think it is the best strategy for the round. This is a false assumption, since for black debaters meaning is always connected to their bodies. The best strategy should never be one that at the same time justifies acts of racism. Charles Mills argues that “the moral concerns of African Americans have centered on the assertion of their personhood, a personhood that could generally be taken for granted by whites, so that blacks have had to see these theories from a location outside their purview.” For example, I witnessed a round at a tournament this season where a debater ran a utilitarianism disadvantage. His opponent argued that this discourse was racist because it ignores the way in which a utilitarian calculus has distorted communities of color by ignoring the wars and violence already occurring in those communities. In the next speech, the debater stood up, conceded it was racist, and argued that it was the reason he was not going for it and moved on, and still won the debate. This is problematic because it demonstrates exactly what Mill’s argument is. For the black debater this argument is a question of his or her personhood within the debate space and the white debater was not held accountable for the words that are said. Again for debaters of color, their performance is always attached to their body which is why it is important that the performance be viewed in relation to the speech act. Whites are allowed to take for granted the impact their words have on the bodies in the space. They take for granted this notion of personhood and ignore the concerns of those who do not matter divorced from the flow. **It is never a question of “should we make arguments divorced from our ideologies,” it is a question of is it even possible. It is my argument that our performances, regardless of what justification we provide, are always a reflection of the ideologies we hold**. Why should a black debater have to use a utilitarian calculus just to win a round, when that same discourse justifies violence in the community they go back home to? Our performances and our decisions in the round, reflect the beliefs that we hold when we go back to our communities. As a community we must re-conceptualize this distinction the performance by the body and of the body by re-evaluating the role of the speech and the speech act. It is no longer enough for judges to vote off of the flow anymore. Students of color are being held to a higher threshold to better articulate why racism is bad, which is the problem in a space that we deem to be educational. It is here where I shift my focus to a solution