# Greenhill Neg

# Prep Components

# Black Safe Spaces PIC/DA

## 1NC DA

#### Black safe spaces are substantially increasing now

**Furedi:** Furedi, Frank [Frank Furedi is emeritus professor of sociology at the University of Kent, Canterbury, England. He is the author of “What’s Happened to the University? A Sociological Exploration of Its Infantilisation.”] “Op-Ed:Campuses are breaking apart into ‘safe spaces’.” January 2017. RP

**The meaning of a “safe space” has shifted dramatically on college campuses. Until about two years ago, a safe space referred to a room where people — often gay and transgender students — could discuss problems they shared in a forum where they were sheltered from epithets and other attacks.** Then temporary meeting spaces morphed into permanent ones. More recently, some advocates have turned their attention to student housing, which they want to turn into safe spaces by segregating student living quarters. Who would have imagined that the original safe space motive — to explore issues in an inclusive environment — would so quickly give way to the impulse to quarantine oneself and create de facto cultural segregation? Safe space activism stems primarily from the separatist impulses associated with the politics of identity, already rampant on campus. For some individuals, the attraction of a safe space is that it insulates them from not just hostility, but the views of people who are not like them. Students’ frequent demand for protection from uncomfortable ideas on campus — such as so-called trigger warnings — is now paralleled by calls to be physically separated too. Groups contend that their well-being depends on living with their own kind**. In 2015 and 2016, students of color at many colleges called for segregated safe spaces. For example, among the 14-page list of demands made by a group of Oberlin students was that “spaces throughout the Oberlin College campus be designated as a safe space for Africana identifying students**.” Oberlin’s president refused, noting the whole list “[explicitly rejects the notion of collaborative engagement](https://oncampus.oberlin.edu/source/articles/2016/01/20/response-student-demands).”But other administrators appear to be falling over themselves to satisfy such demands. **After the UC Irvine Black Student Union demanded the creation of a Black Scholars’ Hall  (“a safe space where Black history, culture, and intellectual thought is celebrated,” according to the petition) in 2015, the initiative was approved within the year. Under the guise of establishing so-called living-learning communities, similar accommodation is provided at UC Santa Barbara and UC Berkeley. The**[**Social Justice Living Learning Community**](https://und.edu/student-life/housing/residence-halls/social-justice-community.cfm)**offered by the University of North Dakota indicates that the balkanization of accommodation extends beyond ethnicity to students’ political convictions, too. It seems the cultivation of identity has encouraged such a psychic and emotional distance between people that some prefer to stay in their bubble everywhere they go. In this vein, Northwestern President Morton Schapiro wrote in the Washington Post last year that it is understandable that black students eating in the cafeteria would not want white undergraduates to join them. “We all deserve safe spaces,” he wrote, and “black students had every right to enjoy their lunches in peace**.” Schapiro’s premise is that everyone should have a place — apparently even a place in the dining hall — where they are sheltered from dissimilar people. He enthusiastically cited a Jewish Northwestern graduate’s endorsement of her own safe space, Hillel House. “She knew that when she was there,” he commented, “she could relax and not worry about being interrogated by non-Jews about Israeli politics or other concerns.”Encouraging students to engage with the unfamiliar and account for their ideas used to be one of attributes of a vibrant academic institution. Today’s university managers, however, are more likely to be complicit in relieving students of the uncomfortable burden of “being interrogated.”There are worrying signs that future undergraduates will be even more disposed to embrace such self-segregation than their predecessors. The campaign for establishing a Queer Housing Program at Haverford College expresses the spirit of the times. The president of [Brown University](http://www.latimes.com/topic/education/colleges-universities/brown-university-OREDU0000183-topic.html) Students for Israel, Ben Gladstone, has argued that Hillel House “should serve as a safe space for Zionists on campus.” A leader of UCLA’s Bruin Republicans describes her group as “a space for conservative students to share their opinion [without facing criticism or attacks](https://dailybruin.com/2016/11/17/bruin-republicans-members-encourage-students-to-accept-election-results/) from faculty and students who disagree with them.”These divisive trends came to a head in November during a UC Students of Color Conference that had as its objective the creation of a space to discuss, dissect and create relevant solutions to issues for this diverse group. [According to one account](https://dailybruin.com/2016/11/30/jacqueline-alvarez-campus-safe-spaces-prevent-students-from-engaging-in-honest-dialogue/) the conference turned into “a kind of ‘oppression Olympics,’ where students argued over which minority group was oppressed the most rather than finding solidarity and understanding amongst each other.”

#### The plan gets rid of safe spaces – they infringe on constitutionally protected speech.

**Fox:** Fox News [News website] “'Safe spaces' on college campuses run at odds with First Amendment, say law experts.” Fox News. November 2015. RP

**So-called "safe spaces" -- where students can shield themselves from uncomfortable or dissenting viewpoints -- might be all the rage on college campuses, but they would not have been too popular with the founding fathers, say Constitutional law experts. "I think the problem is they're trying to use this word 'safe' – which conveys the image of a violent attack – and turning it into safe from ideas and statements we find offensive," said UCLA law professor Eugene Volokh. "There is no right to be safe from that.**" "That is directly contrary to what universities are all about," Volokh told FoxNews.com Friday. The controversy over such zones comes after a string of recent, racially-charged incidents at universities nationwide that -- while different -- share a common denominator: the promotion of a "PC culture" where real or perceived threatening thoughts or ideas should not be tolerated. Such a heated debate played out on the campus of Yale University last week -- one over culturally sensitive Halloween costumes that was recorded in a video that has since gone viral. On Oct. 30, Erika Christakis, Yale faculty member and associate "master" of Silliman College -- a residential community within the university -- sent an e-mail to students in which she questioned an earlier missive by the university that urged students to "take the time to consider their [Halloween] costumes and the impact it may have" -- including feathered headdresses, turbans, wearing "war paint" or changing the color of one's skin tone. "Dear Sillimanders," Christakis' e-mail began. "I don’t wish to trivialize genuine concerns about cultural and personal representation, and other challenges to our lived experience in a plural community. I know that many decent people have proposed guidelines on Halloween costumes from a spirit of avoiding hurt and offense. I laud those goals, in theory, as most of us do." "But in practice, I wonder if we should reflect more transparently, as a community, on the consequences of an institutional (which is to say: bureaucratic and administrative) exercise of implied control over college students," Christaki said. Referring to her husband, Silliman College "master" and Yale professor, Christakis added, "Nicholas says, if you don’t like a costume someone is wearing, look away, or tell them you are offended. Talk to each other. Free speech and the ability to tolerate offence are the hallmarks of a free and open society." Christakis' e-mail spurred outrage among a large group of students at Yale, who staged a massive protest -- called the "March of Resiliency" -- during which they called for inclusiveness on the college campus. Students of color also confronted Nicholas Christakis -- in a video that has since been shared thousands of times on the Internet -- and accused him of not wanting to create a "safe space" for all students. Several of the students called for Christakis and his wife to resign from their posts at the university. Samantha Harris, attorney and directory of police research for the Foundation for Individual Rights in Education [FIRE], described Erika Christakis' note to students as a "thoughtfully-worded e-mail" that invited open, intellectual dialogue. "Demanding that someone step down for expressing an opinion for which you disagree is patently illiberal," Harris told FoxNews.com. "The idea that people have the right to absolute emotional comfort at all times is very troubling," she said. "And it's anti-intellectual." "This is destructive to the university as a place for debate and the pursuit of truth," added Volokh. "If we allow this to happen -- as citizens, as alumni -- the results will be very bad for higher education and for the country." "What I would say to people on the left, I would remind them that so many of the movements they hold dear got where they got because of free speech -- like the Civil Rights movement," he said. "The more you try to insulate yourself from contrary ideas, the weaker your arguments are going to be." At the University of Missouri, meanwhile, racially-charged protests also led to the demand for "safe spaces"-- and energized students at other colleges, like Yale and Michigan, to advocate better treatment for black students. Missouri's president resigned Monday after protesters accused him of ignoring racial attacks on students. Interim University of Missouri system's president Mike Middleton said he advocates such so-called safe zones but noted schools must walk a "delicate balance" between safe spaces and free speech rights. "I think safe spaces are critical," Middleton said at a press conference Thursday afternoon. "I think students need spaces where they can feel comfortable. Where they can interact without fear." "But I think if you’re asking in the context of first amendment and free speech issues, it’s a very delicate balance. Both are essential to our way of life in this country and the trick is to find that balance, the point where you are accommodating both interests as much as you can," Middleton said. Other legal experts, like famed attorney Alan Dershowitz, went even further in criticizing the creation of safe zones on college campuses, arguing a "fog of fascism is descending quickly over many American universities." "These are the same people who claim they are seeking diversity," Dershowitz told Fox News Thursday. "The last thing these students want is real diversity, diversity of ideas. They may want superficial diversity, diversity of gender, diversity of color, but they do not want diversity of ideas." "It is the worst kind of hypocrisy," noted Dershowitz. "They want complete control over their personal lives, over their sex lives, over the use of drugs, but they want mommy and daddy dean to please give them a safe place, to protect them from ideas that maybe are insensitive, maybe will make them think." "**It is free speech for me, but not for thee," he said. "Universities should not tolerate this kind of hypocrisy, double standard."**

#### Black counter-spaces function as a response to microaggressions and centers of Black activism

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

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

## 1NC PIC

#### Text: Public colleges and universities in the United States should recognize Black safe spaces, and remove restrictions on all other constitutionally protected speech

**Jackson:** Jackson, Symone [Contributor, Fusion] “5 Things Black Students Say Will End Racism On Campuses.” *Fusion.* April 2016. RP

**Earlier this year, the Black Student Union at Oberlin University asked for the creation of exclusively black “safe spaces” on campus and were denied by the university president. Conservative media outlets were enraged by the BSU request, which they deemed “segregation.” Oberlin wasn’t the only place students were asking for these spaces. Black students at NYU, UC Berkeley, Scripps and Pomona colleges have made similar requests. Some students have even taken it upon themselves to create safe spaces informally in areas nearby their campuses. Late last year, when a 19-year old white Mizzou student threatened to “stand my ground tomorrow and shoot every black person I see" and students on campus reported hearing gunshots fired shortly thereafter, black students living off campus and nearby alumni opened their homes to provide refuge for black students who were evacuating campus. “I know that once I became more involved on campus and met more people like me that I could identify with, my academic success began to rise,” said Sesley Lewis, the BSU president at California State University, Los Angeles. “Does that mean we’re promoting segregation [by asking for safe spaces]? Absolutely not. It’s essential to have spaces where we can vent and feel comfortable. If we’re not able to ground each other and hold each other down, that’s another thing that feeds into us not succeeding.”**

#### It competes -- the plan gets rid of safe spaces – they infringe on constitutionally protected speech.

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# Guns PIC

## 1NC

#### Counterplan text: Public colleges and universities in the United States ought to restrict symbolic speech protections for carrying guns to protests, and remove all other restrictions on constitutionally protected speech.

**GOC:** Guns Off Campus [Organization that advocates the removal of guns from campus] “Gun Lobby Threatens Safety of America's Colleges and Universities.” No date. RP

**The Campaign to Keep Guns off Campus works with colleges and universities across the country to oppose legislative policies that would force loaded, concealed guns on campuses**. Since 2008, **The Campaign to Keep Guns off Campus has helped stop campus carry legislation in 18 states, and are the only national organization of its kind tasked to protect higher educational institutions and the communities they serve**. Following the mass shootings at Virginia Tech in 2007 (32 students and faculty killed and 15 wounded) and Northern Illinois University in 2008 (5 students killed and 16 wounded), the gun lobby embarked on an opportunistically motivated campaign within state legislatures around the is pushing legislation that would prohibit colleges and universities from adopting policies that regulate firearms on campus. The gun lobby’s proposed legislation would preempt an academic institution’s current policies restricting firearms on campus and allow students to possess and carry concealed handguns – in classrooms, at sporting events, and other school activities – and to keep guns in their dormitory rooms. **The gun lobby’s legislation would not stop college shootings: allowing guns on campus could, in fact, make mass shootings even worse**. See list of states where legislation has been introduced, defeated or signed into law in our [STATE LEGISLATION](http://keepgunsoffcampus.org/state-battles/) section. For the last seven years, The Campaign to Keep Guns Off Campus has urged colleges and universities across the country to band together to oppose the gun lobby’s agenda to push guns into college campuses by signing onto a [resolution](http://keepgunsoffcampus.org/resolution/) that opposes legislation that would mandate that colleges and universities allow students to carry concealed handguns on campus. The [list](http://keepgunsoffcampus.org/colleges-and-universities-list/) of colleges and universities signing the resolution will be provided to lawmakers in states where legislation is pending as a way of showing the educational community’s opposition to such legislation. As of December 14, 2015 the American Association of State Colleges and Universities (AASCU), over 420 individual colleges and universities in 42 states and an additional 48 college presidents have signed the resolution. [Click here to view list.](http://keepgunsoffcampus.org/colleges-and-universities-list/) We regret the loss of life in any school shooting. Together we can work to make our campuses safer, and protect students, faculty, staff and the community.

#### It competes – gun carrying is symbolic speech that is protected by the First Amendment.

**Gottlieb:** Gottlieb, Alan [Founder and Executive Vice President of the Second Amendment Foundation] “Owning firearms is a First Amendment exercise, too!” No date. RP

Following the hysteria generated by gun prohibitionists in the wake of the Sandy Hook tragedy, a nationwide rush on gun stores began as citizens bought semiautomatic modern sporting rifles, handguns and ammunition, in effect "making a political statement" about proposals to ban such firearms. **Making political statements is what the First Amendment is all about. The so-called "assault rifle" has become a symbol of freedom and the right of the people to speak out for the entire Bill of Rights. Banning such firearms, which are in common use today, can no longer be viewed exclusively as an infringement on the Second Amendment, but must also be considered an attack on the First Amendment**. Many people now feel that owning a so-called "assault rifle" without fear of government confiscation defines what it means to be an American citizen. Their backlash against knee-jerk extremism is a natural reaction to overreaching government. What should one expect in response to this heightened rhetoric and legislative hysteria? Citizens in other countries react differently to government intrusion into their lives, but Americans are uniquely independent. Among firearms owners, talk of gun bans and attempts to limit one's ability to defend himself or herself against multiple attackers by limiting the number of rounds they can have in a pistol or rifle magazine turns gun owners into political activists. Sen. Dianne Feinstein (D-CA) did not intend her gun ban proposal to cause skyrocketing sales of semiautomatic rifles and pistols, but that's what happened. She must live with the consequences of her shameless political exploitation of the Sandy Hook tragedy. President Barack Obama never envisioned the rush to purchase rifle and pistol magazines, but telling American citizens they shouldn't have something is like sending a signal they need to acquire those things immediately. Vice President Joe Biden never imagined his efforts would result in a tidal wave of new members and contributions to gun rights organizations, making the firearms community stronger and more united in opposition to any assault on the Second Amendment. **Freedom of association is also protected by the First Amendment**. Perhaps they should take a day off and visit the monuments at Lexington and Concord, and reflect on what prompted those colonists to stand their ground. It was the first time in American history that the government moved to seize arms and ammunition from its citizens, and it went rather badly for the British. Beneath the surface many Americans are convinced that we may be approaching a point when the true purpose of the Second Amendment is realized. Underscoring this is a new Pew Research Center poll that, for the first time, shows a majority (53 percent) of Americans believe the government is a threat to their rights and freedoms. Exacerbating the situation is a perceived indifference from the administration toward the rights of firearms owners who have committed no crime, but are being penalized for the acts of a few crazy people. It is time to lower the rhetoric and allow cooler heads to prevail. The demonization of millions of loyal, law-abiding Americans and the firearms they legally own must cease. If we are to have a rational dialogue about firearms and violent crime, we must recognize that the very people who could be most affected have a First Amendment right to be heard. Recall the words of Abraham Lincoln, who cautioned us more than 150 years ago that "A house divided against itself cannot stand." A half-century before him, Benjamin Franklin taught us that "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety." Their spirits are calling to us now.

#### Guns increase risk of police militarization – this manifests itself in racialized ways and stifles discussion.

Firmin DeBrabander 15 [associate professor of philosophy at Maryland Institute College of Art, has written social and political commentary for numerous publications, including the Baltimore Sun, Common Dreams, Counterpunch, and the New York Times] “Do Guns Make Us Free?: Democracy and the Armed Society”, Yale University Press, 19 May 2015, BE

This leads to another reason guns are inimical to protest: they might incite police to react roughly, as has happened many times in the past, even when rallies were nominally or largely peaceful. What if the protesters had been armed at the Democratic Convention in Chicago in 1968— where police, goaded by the defiant mayor, were already itching for a confrontation— or in Seattle in 2000, when police battled anarchists smashing store windows? What if the Occupy Wall Street protesters had stashed guns in their tents before the New York City Police Department descended on Zuccotti Park to disband their encampment? We cannot imagine guns in each of these cases because the police never would have allowed such protests in the first place. Police typically justify rough treatment of protesters by saying the latter had become unruly, violent, abusive, and posed a threat to the larger community. In many cities in 2011, police departments broke up Occupy camps on the grounds that they were becoming dangerous. Guns in the hands of protesters only strengthen the police’s case for subduing protest. Further, consider the prospect of armed protesters in the face of our increasingly militarized police. Many observers of the Occupy movement commented on the militaristic approach taken by police, especially in disbanding the protests. A New York Times article entitled “When the Police Go Military” offered a summation: “Riot police officers tear-gassing protesters at the Occupy movement in Oakland, Calif. The surprising nighttime invasion of Zuccotti Park in Lower Manhattan, carried out with D-Day like secrecy by officers deploying klieg lights and a military-style sound machine. And campus police officers in helmets and face shields dousing demonstrators at the University of California Davis with pepper spray.” 89 The article went on to say that such actions stem from years of police department build-up during the War on Terror. Facing the possibility of a domestic terror attack and showered with money from the Department of Homeland Security, police departments across the country have bulked up on military gear— even in small towns— and shown greater readiness to employ SWAT teams for all manner of incidents, including nonviolent protests. 90 In his book The Democracy Project, activist David Graeber writes of the anomalous presence of a SWAT team at a small Occupy protest soon after the Zuccotti Park sweep. Cato Institute fellow Timothy Lynch complains of an increasingly “militaristic mind-set” among police, apparent in “the way they search and raid homes and the way they deal with the public.” 91¶ Lynch goes on to explain that “the more police fail to defuse confrontations but instead help create them— be it with their equipment, tactics or demeanor— the more ties with community members are burned. … The effect is a loss of civility, and an erosion of constitutional rights, rather than a building of good will.” 92 The journalist Radley Balko quotes a New Hampshire resident critical of his town’s plan to purchase a BearCat (a kind of armored vehicle) for its police department: “It promotes violence. … We should promote more human interaction rather than militarize.” 93 A militarized police, according to Lynch, endangers civility on both sides. Sending a SWAT team to a nonviolent, gun-free protest is an uncivil gesture by the police; it is an expression of deep suspicion. At the very least, it is a demonstrative threat to the protesters not to get out of hand— or, as Graeber argues, if the protesters are obviously peaceful, a SWAT team is a heavy-handed attempt to threaten them into protesting less vocally— or just less. Further, as Lynch suggests, militarized police are more likely to create than defuse confrontation. It is difficult to imagine how armed protesters, in the face of a SWAT team, could make the situation better for the protesters and uphold their right to speech. An armed protest facing a SWAT team is a combustible mixture; the presence of guns provides a perfect excuse for the police to crack down. Police were happy to disperse Occupy camps on far lesser grounds, including supposed public health threats. Imagine what they would do in the face of AR-15s. Even if they did not physically confront armed protesters, what would protest look like under those circumstances? I can’t imagine that it would be anything we could describe as free. To the contrary, it would be unbearably tense, electric, and ultimately muted as a result of the weaponry. But of course, police would outlaw protest in the first place, if protesters were armed. We can only exercise the right of assembly if assembly is nonviolent. When guns are present, especially among protesters, both assembly and free speech quickly vanish.

#### The counterplan outweigsh the Aff

#### 1] Size of link – it solves the entire case – none of the cards in the Aff were *even close* to being about guns, so they don’t get to weigh the case when none of their evidence is specific

#### 2] It outweighs on magnitude – the Aff lacks any impact – their biggest harm is black students writing letters of apology – mine is them literally being *killed in the streets* by white nationalists with guns.

# T Written

## 1NC

#### A] Interpretation: Free speech refers only to spoken word by individuals, not publications or research – the Aff may not defend that colleges ought not restrict academic freedom

**Wells 1**: Wells, Thomas R. [Assistant Professor of Philosophy, University of Tilburg] “Freedom of the Press is Not the Same as Freedom of Speech.” The Philosopher’s Beard, January 3, 2013. CH

**Freedom of the press is** not the same **as freedom of speech** Freedom of the press is often conflated with freedom of speech, a conceptual error that leads to excessive deference to media corporations. Pr**operly understood, [T]he freedom of the press requires that mass**-media **corporations be free from government control, but not that they be free from regulation in the public interest.** Whether or not the press supports rather than impedes individuals' freedom of expression, public reasoning, and the accountability of politicians depends on how the media market is set up and policed. **Freedom of speech is a concept that pertains to** individuals **and is almost inseparable from respecting freedom of thought (see Mill, On Liberty).** Just as every individual should be permitted to think controversial thoughts that many people find disagreeable or offensive (against the existence of god, say), so they should be allowed to say them. Its justification has two components. First, the intrinsic value of freedom of expression to the speakers, who get to share their opinions and ideas with others. Second, the indirect benefits that a diversity of opinions produces for society at large: ideas and arguments can be publicly tested and improved, with the results available for all. **Freedom of the press is quite a different kind of thing, since it pertains to a certain group of corporations (mass-media companies), rather than individuals. The key difference is that because corporations are not people their speech can have no intrinsic value (pace Justice Kennedy's majority opinion in Citizens United).** Corporations, unlike individuals, are not sophisticated enough agents to have thoughts of their own that they burn to express to others, and so they cannot suffer from censorship as people do. Indeed, because corporations lack moral agency generally, their 'moral' rights can only be justified on utilitarian grounds: recognising corporate personality and property rights is a legal wheeze that makes the capitalist order function more efficiently, rather than a recognition of some underlying intrinsic moral claim. (For corporations to gain real moral rights, they would have to be designed in such a way that they can conduct morally sophisticated reasoning and give themselves a moral law. But that's a subject for another post.)

#### B] Violation – they defend academic freedom – that was Chatterjee and Maira in the 1AC

#### 1] Limits: First Amendment rights are endless. If they can defend academic freedom just because it’s there, they can also defend all other “speech-plus” rights like religion, petitioning government, and assembly.

**US History:** US History [Organization that writes about history and the constitution] “First Amendment Rights.” *US History.* 2016. RP

The courts have generally provided strong protection of pure speech from government regulation. **Speech-plus involves actions, such as demonstrating or protesting, as well as words. Speech-plus is not generally protected as strictly as is pure speech,** because actions can be physically dangerous. The courts have ruled that demonstrators may not obstruct traffic, endanger public safety, or trespass illegally. **Symbolic speech technically involves no speech at all, but it involves symbols that the courts have judged to be forms of free expression**. Symbolic actions such as wearing black armbands in school and draft-card burning fit this category. Symbolic speech is highly controversial, and as a rule, the courts have sometimes considered it to be beyond the limits of free speech. However, the Supreme Court did uphold the right of an individual to burn an American flag in the 1989 *Texas vs. Johnson* decision. Many of the same principles that apply to freedom of speech apply to the press, but one with special meaning for the press is prior restraint. The courts have ruled that the government may not censor information before it is written and published, except in the most extreme cases of national security. Freedom of assembly and petition are closely related to freedom of speech, and have been protected in similar ways. Former Chief Justice Charles Evans Hughes wrote, "Peaceable assembly for lawful discussion cannot be made a crime." Generally, that point of view has prevailed. Freedom of assembly has to be balanced with other people's rights if it disrupts public order, traffic flow, freedom to go about normal business or peace and quiet. Usually, a group must apply for a permit, but a government must grant a permit provided that officials have the means to prevent major disruptions. For over 100 years after the ratification of the Constitution, the First Amendment protected these freedoms only in theory. As individuals in the 20th century have challenged the government in the courts when they believed their rights were assaulted, **the First Amendment has taken on a stronger meaning. It remains the single most powerful instrument for protecting the sacred freedoms of religion, speech, press, assembly, and petition for modern Americans.**

#### 2] Extra T -- academic freedom isn't even a constitutionally protected right – it's merely a societal norm designed to promote the common good

**Weinstein:** Weinstein, James [Chair of Constitutional Law, Arizona State University] “Academic Freedom, Democracy, and the First Amendment.” 2013. RP

**The signal contribution that the modern American university has made to the progress of society cannot be seriously doubted**. Among other measures, this enormous contribution is confirmed by the impressive number of Nobel Prizes that have been awarded to faculty at American Universities.177 **Nor can there be any reasonable doubt that academic freedom has been integral to the creation and dissemination of the knowledge upon which the progress of society depends. But what is open to question is whether it is either appropriate or necessary for the judiciary to vigorously protect academic freedom as constitutional norm**. The burden of this paper has been to suggest that the judiciary should have only a modest role in that enterprise. **This is because academic freedom has never been conceived as a true individual right but rather as a means of promoting “the common good.” Under our Constitution, it is emphatically the province the political branches government, not the judiciary, to effectuate the common good by balancing competing and often incommensurate general welfare concerns.**

#### 3] Topic lit – core topic issues of free speech, like the ones surrounding Yale or Missouri, aren’t about academic freedom – their Aff is small and not as pertinent

**Fish:** Fish, Stanley [Davidson-Kahn Distinguished University Professor and Professor of Law at Florida International University; Floershimer Distinguished Visitin] “It’s Not About Free Speech or Academic Freedom.” *The Huffington Post.* November 2016. RP

**In the discussions of the events now taking place on an increasing number of college campuses the phrases “free speech” and “academic freedom” are routinely invoked**. Neither is an appropriate rubric for the analysis of what is happening. **In the incidents I have read about, no academic freedom issues are implicated at all. Academic freedom is the freedom of universities and their faculties to engage in their core tasks —the search for truth and the advancement of knowledge — free of interference from outside forces that wish to make the classroom or the research laboratory the vehicles of some preferred interest or ideology**. Academic freedom is violated when an instructor is told that she cannot assign a text because the ideas in it offend a legislator or a donor, or that she must assign a text because the company funding the course requires it. (Such things actually happen.) Academic freedom is violated when a university accepts a monetary gift on the condition that a particular professor be hired or not hired. Academic freedom is violated when personnel decisions — decisions to hire or promote — are made on the basis of a candidate’s political views rather than on the basis of his or her pedagogical and scholarly record. In these and related cases, an academic or an academic unit is being told, “You can’t do your job in the manner dictated by your professional judgment; instead you must do your job in a manner dictated by the preferences of some external constituency.” **Nothing like that is going on at Yale or the University of Missouri or any of the other places written about in the press. So why is the banner of academic freedom being unfurled? For two reasons, I think, both of them specious. First, some student protesters believe that their academic freedom rights are being violated when they are prevented from speaking out or chastised when they do speak out.** That one’s easy. **Students don’t have any academic freedom rights because students are engaged in the core academic tasks only as apprentices not as credentialed practitioners. Students are in the process of becoming persons whose views are to be respected by professional peers; they’re not there yet, and when the views they express are, in the judgment of an instructor, not to the point, there is no requirement — of academic freedom or anything else — that they be given a hearing**. Of course it might be pedagogically useful to allow students who are on the wrong path (again, as judged by the instructor) to go down it, but that is the teacher’s call and making it impinges on no rights students supposedly have.

#### 4] Field Context – court rulings have established that academic freedom is not protected.

**Moshman:** David Moshman (president of the ACLU of Nebraska and of the Academic Freedom Coalition of Nebraska. A professor emeritus of educational psychology at the University of Nebraska−Lincoln. His books include Liberty and learning: Academic freedom for teachers and students (2009)), 11/16/10, “Academic Freedom is Not Protected by the First Amendment,” Huff Post.

There, I said it, right in the title. And however much it hurts I’ll say it again: **Academic freedom is not protected by the First Amendment. Recognizing this is the first step in defending academic freedom.¶** We should be clear from the start that academic freedom is not simply a First Amendment right. Academic freedom is intellectual freedom in academic contexts, which is both more and less than the constitutional requirement that the government “make no law... abridging the freedom of speech” (see my “Liberty & Learning: Academic Freedom for Teachers and Students”).¶ **For a substantial portion of the 20th century, however, the First Amendment did protect important aspects of academic freedom. Alas, it no longer does.** Here’s a two-minute summary of the constitutional history:¶ In West Virginia vs. Barnette (1943), the United States Supreme Court ruled that public schools may not require students to salute the flag and pledge their allegiance. It was a violation of the First Amendment for public education to be used for the purpose of indoctrinating a captive audience.¶ In Sweezy vs. New Hampshire (1957) the Court recognized the constitutional status of academic freedom in finding for a Marxist economist targeted by McCarthyism. The plurality and concurring opinions disagreed, however, as to whether constitutional academic freedom is primarily a right of individual teachers or a right of colleges as institutions.¶ In Keyishian vs. Board of Regents (1967), the Court proclaimed: “Our nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”¶ In Tinker vs. Des Moines (1969), involving secondary school students wearing black armbands to protest the United States military intervention in Vietnam, the Court reinforced the applicability of the First Amendment in schools at all levels of education. Neither students nor teachers, it insisted, shed their First Amendment rights at the schoolhouse gate.¶ They shed them, it turned out, at the classroom door. **In Hazelwood vs. Kuhlmeier (1988), the Court ruled that because a student newspaper was part of the journalism curriculum it therefore fell largely outside the domain of the First Amendment. Without argument or analysis the Court simply assumed that the First Amendment in schools applies only to speech outside the curriculum.¶ Federal courts since Hazelwood have been increasingly clear that, in matters of curriculum, school officials have broad latitude to determine the school’s message and restrict expression accordingly**. Curriculum at all levels of education is a First Amendment-free zone. Teachers are hired to teach whatever they are **told to teach and students are there to learn it.¶ Just as it seemed things couldn’t get worse, the Supreme Court determined in Garcetti vs. Ceballos (2006) that public employees in general do not have First Amendment rights when they are doing their jobs.** **Lower courts have applied this ruling to teachers at all levels of education, thus reinforcing Hazelwood.¶ By the time of Morse vs. Frederick (2007), it was clear that the First Amendment does not apply within the curriculum and thus provides no constitutional protection for academic freedom.** The question was how far around the school the freedom-free zone extends. The Supreme Court found that it extends even across the street if one is holding a sign that says “Bong Hits 4 Jesus.”

#### D] Voting issue

# Cowardice Reps K

#### The link is that they characterize people as “cowards” at the top of the Aff – this labels those who want to avoid racism and are targeted as being cowardly

#### Several impacts

#### 1] Referring to the US as a “nation of cowards” is racialized and trivializes the efforts of the Black community to improve race relations

**Homick:** Homick, Ed [Contributor, CNN Politics] “Holder 'nation of cowards' remarks blasted, praised.” *CNN Politics.* February 2009. RP

**America is "a nation of cowards" when discussing race. That sentiment from the country's first African-American attorney general, Eric Holder, has stirred up pundits, bloggers and readers**. "Though this nation has proudly thought of itself as an ethnic melting pot, in things racial, we have always been and we -- I believe continue to be in too many ways essentially a nation of cowards," Holder told Department of Justice employees at an event Wednesday celebrating Black History Month. **He said that Americans are afraid to talk about race, adding that "certain subjects are off-limits and that to explore them risks at best embarrassment and at worst the questioning of one's character." And that impression of race in America has set off a firestorm of criticism. "**[**Holder**](http://www.cnn.com/topics/Eric_Holder) **doesn't want an honest dialogue about race. In the Age of [President] Obama, 'talking enough with each other about race' means the rest of us shutting up while being subjected to lectures about our insensitivity and insufficient integration on the weekends,"** conservative blogger Michelle Malkin wrote. Stephan Tawney, writing on the American Pundit blog, said a glimpse at the national political landscape -- namely the country's first black president -- suggests otherwise. "**Our attorney general is black, both major parties are led by black men, the president is black," he wrote. "Last month, the nation officially honored Martin Luther King Jr. as it does every year, and Holder is speaking during Black History Month. And yet we're apparently a 'nation of cowards' on race." Ron Christie, a one-time domestic policy adviser to former President George W. Bush, said that for the nation's chief law enforcement officer to raise race issues "was wrong and it was very insulting to the American people."** CNN iReport contributor Jimmy Deol of Toronto, Ontario, called Holder's remarks "a bit strong and needlessly provocative." "I don't think lack of dialogue on race relations in America makes Americans a nation of cowards. Perhaps most people are uncomfortable with the subject with its complex past. The solution: You tell me," he wrote. [See Deol's reaction on iReport.com](http://www.ireport.com/docs/DOC-216124) Holder -- who said that he wants to "revitalize the Civil Rights Division" at the [Justice Department](http://www.cnn.com/topics/U_S_Department_of_Justice) -- said Wednesday that he wants to start a new conversation. "I think if we're going to ever make progress, we have to have the guts. We have to have the determination to be honest with each other," he said. And that view is something with which CNN political analyst Roland Martin agrees. "**But what he has asked African-Americans to say is personally, go outside of your comfort zone and begin to embrace folks beyond your particular race**," Martin said. Hilary Shelton of the National Association for the Advancement of Colored People agreed that Holder's comments are "provocative." "We don't talk about race in our country, and he's right. ... We've kind of learned to get along, but we've learned to get along by omitting things," Shelton said. A reader on the liberal Huffington Post Web site wrote: "How can you read Mr. Holder's comments and immediately decide that he is wrong and should apologize? You are either disillusioned from the real world or caught up in some fantasy to which you believe there is no problem with racism in this country." The reader added, "Mr. Holder is correct in everything he said. We will never get past this issue until we discuss, confront, understand and then heal."CNN senior political analyst David Gergen agreed with Holder that there is "too much de facto segregation" on weekends, but he said the attorney general's comments failed to take into account how far the country has come. **"If you look at overall where we've come, we just had a huge, huge debate. And now we've elected a black American, and to seemingly after that to call this a 'nation of cowards,' it's just tone-deaf**," Gergen said.

#### 2] Labeling people as cowards, or fitting people into preexisting schemas makes this a self-fulfilling prophecy that’s often racialized – turns case

**Alter:** Alter, Adam [Contributor, Psychology Today] “Why It's Dangerous to Label People.” *Psychology Today.* 2010. RP

**If** **you lined up 1000 randomly selected people from across the earth, none of them would share exactly the same skin tone. You could arrange them from darkest to lightest and there wouldn't be a single tie. Of course, the continuity of skin tone hasn't stopped humans from assigning each other to discrete skin-color categories like "black" and "white"--categories that have no basis in biology but nonetheless go on to determine the social, political, and economic wellbeing of their members. Categorical labeling is a tool that humans use to resolve the impossible complexity of the environments we grapple to perceive**. Like so many human faculties, it's adaptive and miraculous, but it also contributes to some of the deepest problems that face our species. **Researchers began to study the** [**cognitive**](https://www.psychologytoday.com/basics/cognition) **effects of labeling in the 1930s, when linguist Benjamin Whorf proposed the linguistic relativity hypothesis. According to his hypothesis, the words we use to describe what we see aren't just idle placeholders--they actually determine what we see. According to one apocryphal tale, the Inuit can distinguish between dozens of different types of snow that the rest of us perceive, simply, as "snow," because they have a different label for each type**. The story isn't true (the Inuit have the same number of words for snow as we do), but research by Lera Boroditsky, a cognitive psychologist, and several of her colleagues suggests that it holds a kernel of truth. Boroditsky and her colleagues asked English and Russian speakers to distinguish between two very similar but subtly different shades of blue. In English, we have a single word for the color blue, but Russians divide the spectrum of blue into lighter blues ("goluboy") and darker blues ("siniy"). Where we use a single label for the color, they use two different labels. When the two shades of blue straddled the goluboy/siniy divide, the Russian speakers were much quicker to distinguish between them, because they had readily available labels for the two colors that the English speakers lumped together as "blue." Labels shape more than our perception of color; they also change how we perceive more complex targets, like people. Jennifer Eberhardt, a social psychologist at Stanford, and her colleagues showed white college students a pictures of a man who was racially ambiguous--he could have plausibly fallen into the "white" category or the "black" category. For half the students, the face was described as belonging to a white man, and for the other half it was described as belonging to a black man. In one task, the experimenter asked the students to spend four minutes drawing the face as it sat on the screen in front of them. Although all the students were looking at the same face, those who tended to believe that [race](https://www.psychologytoday.com/basics/race-and-ethnicity) is an entrenched human characteristic drew faces that matched the stereotype associated with the label (see a sample below). The racial labels formed a lens through with the students saw the man, and they were incapable of perceiving him independently of that label. Race isn't the only label that shapes perception, and a classic study by John Darley and Paget Gross showed similar effects when they varied whether a young girl, Hannah, seemed poor or wealthy. College students watched a video of Hannah playing in her neighborhood, and read a brief fact sheet that described her background. Some of the students watched Hannah playing in a low-income housing estate, and her [parents](https://www.psychologytoday.com/basics/parenting) were described as high school graduates with blue collar jobs; the remaining students watched Hannah behaving similarly, but this time she was filmed playing in a tree-lined middle-class neighborhood, and her parents were described as college-educated professionals. The students were asked to assess Hannah's academic ability after watching her respond to a series of achievement-test questions. In the video, Hannah responded inconsistently sometimes answering difficult questions correctly and sometimes answering simpler questions incorrectly. Hannah's academic ability remained difficult to discern, but that didn't stop the students from using her socioeconomic status as a proxy for academic ability. **When Hannah was labeled "middle-class," the students believed she performed close to a fifth-grade level, but when she was labeled "poor," they believed she performed below a fourth-grade level.** The long-term consequences of labeling a child like Hannah "smart" or "slow" are profound. In another classic study, Robert Rosenthal and Lenore Jacobson told teachers at an elementary school that some of their students had scored in the top 20% of a test designed to identify "academic bloomers"--students who were expected to enter a period of intense intellectual development over the following year. In fact, the students were selected randomly, and they performed no differently from their unselected peers on a genuine academic test. A year after convincing the teachers that some of their students were due to bloom, Rosenthal and Jacobson returned to the school and administered the same test. The results were astonishing among the younger children: the "bloomers," who were no different from their peers a year ago, now outperformed their unselected peers by 10-15 [IQ](https://www.psychologytoday.com/basics/intelligence) points. The teachers fostered the intellectual development of the "bloomers," producing a self-fulfilling prophecy in which the students who were baselessly expected to bloom actually outperformed their peers. Labeling isn't always a cause for concern, and it's often very useful. It would be impossible to catalogue the information we process during our lives without the aid of labels like "friendly," "deceitful," "tasty," and "harmful." **But it's important to recognize that the people we label as "black," "white," "rich," poor," smart," and "simple," seem blacker, whiter, richer, poorer, smarter, and simpler merely because we've labeled them so.**

# Wisconsin CP

## 1NC

#### Text: All public colleges and universities in the United States ought to revise or pass speech codes to be in line with the Wisconsin model of speech codes

**Hodulik:** Hodulik, Patricia [University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration.] “Racist Speech on Campus.” *Wayne Law Review.* 1990-1991. RP

**Indeed, there is little to suggest that the existence and appli- cation of a narrow rule prohibiting discriminatory harassment has had the kind of "chilling effect" initially predicted by critics. The Wisconsin rule does not apply, and has not been applied, to the merely offensive, or in group settings or classrooms, but rather to abusive, one-to-one hate speech**. The small number of complaints leading to disciplinary action,47 and the kinds of behavior for which discipline has been imposed, simply do not support a conclusion that the rule has restricted debate or expression. **The reality is that discipline has been infrequently invoked; it has been applied only to incidents involving individually directed insults**. A wide range of expression has continued unabated and unaffected by the rule. 4 **Under these circumstances, no widespread "chilling" of campus speech activities or threat to first amendment values appears to have occurred as a result of enforcing the rule.**

#### Competition: The Aff defends allowing all speech but the counterplan restricts it according to the Wisconsin model

#### The counterplan solves:

#### 1] It empirically solved on campus racism

**Hodulik:** Hodulik, Patricia [University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration.] “Racist Speech on Campus.” *Wayne Law Review.* 1990-1991. RP

**A further concern expressed about the adoption of speech rules was that they would be used to repress the speech of the very groups they were meant to protect. Referring to historical civil rights abuses involving members of racial minorities, opponents of discriminatory speech rules have argued that such regulations can too easily be used against minorities expressing unpopular opi- nions.5 5 There is, however, nothing in the experiences with Wis- consin's rule to show that this has occurred in practice**. Although three complaints were brought against minority group members or females, only one was found to be within the scope of the rule. **In contrast, white males were named as the alleged violators in fifteen of the complaints filed under the rule.5 6 In the ten cases in which discipline was imposed, nine of the students disciplined were white males, and one was a white female. In all ten, the person harassed was female or a minority group member.** Thus, the fear of abusing the rule to the detriment of those intended to be protected has proved unfounded in the cases at Wisconsin.

#### 2] Shields their reverse enforcement intenral link -- codes don’t backfire – they’re enforced against white racists mostly

**Hodulik:** Hodulik, Patricia [University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration.] “Racist Speech on Campus.” *Wayne Law Review.* 1990-1991. RP

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#### 3] Wisconsin codes were key to awareness and education about hate – solves underground harms.

**Hodulik:** Hodulik, Patricia [University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration.] “Racist Speech on Campus.” *Wayne Law Review.* 1990-1991. RP

The practical experiences with the Wisconsin rule discussed above suggest that some of the most serious concerns of the critics of regulation-those related to suppression of speech and misap- plication, for example-have not been realized. Questions remain, however, as to the effectiveness of hate speech rules for purposes of combating campus discrimination and discriminatory attitudes, or for assuring equality of educational opportunity. Some com- mentators have asserted that regulations are inadequate to address the underlying attitudes manifested in hate speech, and that the most effective antidote to discriminatory harassment is not rules, but some combination of education and more speech. These points are well-taken: educational efforts to address discrimination are certainly needed, and may be more effective than a regulatory approach; more speech may indeed be the best counter to discriminatory speech. **It does not follow, however, that a rule regulating discriminatory speech is an ineffective means to these ends. The Wisconsin experience illustrates the value of adopt- ing such a rule as part of more extensive educational and pro- grammatic efforts to deal with discrimination and harassment in the university environment. A rule prohibiting discriminatory speech is useful and effective as an additional response to institutional discrimination in several ways. First, the adoption of a rule, and the debate and discussion accompanying the process of adopting it, provide substantial ed- ucational benefits by focusing public attention on the problem of discriminatory harassment. Second, a rule can be an exercise of institutional speech**, a description of conduct that the university regards as harmful and inappropriate, and an expression of the institution's commitment to do something about it. The increased public awareness and the demonstration of university concern reflected by the adoption of a rule enhance other efforts to eliminate discrimination. Further, since most hate speech occurs under circumstances which do not allow for educational or speech responses**, a rule affords an additional opportunity to reach and educate individual students. At Wisconsin, none of the incidents leading to discipli- nary action under the hate speech rule occurred in classrooms or other forums for debate**; all took place in social or dormitory settings.5 9 In none of the cases did the use of abusive epithets lead to further opportunity for speech. In several, the result was an angry and potentially violent confrontation, while in others the victim was silent.60 As these situations illustrate, racial or discrim- inatory epithets, name-calling, and similar abusive speech do not afford opportunities for debate. More often, they cut it off, leaving the victim without an opportunity to respond.6' **The availability of the rule limiting speech provides a means of responding to a discriminatory problem, redress for the victims, and an occasion for educating the harassing individual.**

# Zones Protests DA

## 1NC

#### Uniqueness -- speech zones on public college campuses WORK to keep productive dialogue.

Connor ’16: Connor, Alex [Journalist, *Iowa State Daily*], Makayla Tendall, and IowaWatch.org. “Iowa State University Wrestles With Free-Speech Zones.” Iowa Center for Public Affairs Journalism, May 2016. CH

Austin Thielmann, a junior from Manson, Iowa, studying political science at Iowa State, said he was torn when it came to deciding on whether or not speech should be limited on a college campus, but ultimately decided that **free speech zones work. Students know they can hear about issues there and those who would be uncomfortable with discussions there can avoid the areas, he said.** “In all actuality **at Iowa State University,** we allow freedom of speech anywhere,” Thielmann said. Rectanus, who has taught at Iowa State since the 1980s, said **controversial events on campus over the years have been important for education.** “A conversation can occur in different contexts,” Rectanus said. “It could be in the open, it could be in the library or in the context of a panel discussion that sponsored by a group.”He adds: **Tom Short, an antagonistic traveling campus evangelist, has preached in the free speech zone outside Parks Library twice annually in recent years**. He says his goal is to win back sinners’ souls before a strict, biblical God smites the gays, lesbians, non-believers, sluts and many more to an eternal hell. His sermons have provoked atheist and agnostic groups, LGBT support groups and students like one Short called a whore, to speak out about slut shaming or to share their views on Christianity, religion and other social issues. **Many students and student groups often stop to debate with the preacher. Protesters greeted conservative political commentator Katie Pavlich when she came to Iowa State’s campus in March 2015** to support allowing concealed weapons on campus as a possible safeguard for women against an attempted sexual assault. College Republicans and Young America’s Foundation, an organization promoting conservative ideals, sponsored Pavlich’s lecture. Nigel Hanson, former president of the College Republicans, said the lecture was arranged to add another voice to the conversation about preventing sexual assault on college campuses. But some students and faculty members who protested and spoke against Pavlich’s views said they felt the lecture was insensitive and inappropriate. Iowa State administrators sent a staff counselor who sat in on the lecture, ready to speak with students who requested the counselor's time after the event. “It might be agitating, but she wants to work to fix the problem,” Hanson said[,] about Pavlich in an interview with the Iowa State Daily. “I think it opened our eyes to some new perspective.”

#### The link -- the aff destroys speech zones, since they’re viewed as infringing on First Amendment speech.

**Jamison:** Jamison, Jeffrey. [Contributor, ACS] “’Free-Speech Zones’ Balancing First Amendment Rights with Government Interests.” *American Constitution Society*,August 2004. RP

**These "free-speech zones" are the source of considerable controversy as critics, from across the political spectrum, question whether they serve a legitimate, significant government interest or are an infringement upon our First Amendment rights**. This is where the "free-speech zone" debate lies, where does government interest begin and First Amendment rights end? "Free-speech zones" were first introduced, according to Nicholas Riccardi of LA Times, during the 1992 Presidential Conventions, but under the more fitting label of, "protest zones" (a rose by any other name...). The "free-speech zones" associated with the 2004 Republican and Democratic National Conventions have drawn considerable indignation from a variety of critics. Donna Lieberman, executive director of the New York Civil Liberties Union, argues, "[t]he notion of a free-speech zone is sort of oxymoronic. What it belies is the converse, which is the no free-speech zone, which is everything but." **Dahlia Lithwick, in her New York Times guest column, declared the "'free-speech zone' at the Democratic convention in Boston last month was an affront to the spirit of the Constitution. The situation will be only slightly better when the Republicans gather this month in New York."** The Dayton Beach News-Journal opined, "[a]t the Democratic National Convention...protesters [were] being corralled in 'free-speech zones' that are nothing less than holding pens...Protesters [were] essentially out of sight of the convention hall, segregated both geographically and physically by concrete and chicken-wire barriers, with train tracks on two sides and a side street on the third. They'll be similarly corralled away from Madison Square Garden when the Republican National Convention kicks off in New York City Aug. 29" (click here and here for pictures from the Boston "free-speech zone"). **Lawsuits filed in both Boston and New York (more will be potentially filed in New York as the convention nears) argued that the use of these "free-speech zones" was overly broad, denying demonstrators their right, "to be within sight and sound of their intended audience, in this case, the delegates on their way into the** **Convention."** Representatives of the protestors added that the use of "pens" or "free-speech zones," especially as designed in Boston and New York, were "a dangerous practice designed to prevent people from exercising their free speech and assembly rights."

#### The impact -- without speech zones, protests become violent, threatening public safety and undermining non-violence.

**Tate ’17**: Tate, Emily. [Journalist, *The Huffington Post*] “Bracing for Black Bloc.” InsideHigherEd.com, February 13, 2017. CH

**A crowd of about 1,500 people -- many of whom were college students -- gathered on the University of California’s Berkeley campus this month to peacefully protest the appearance of conservative writer and provocateur Milo Yiannopoulos. They had come to march, to carry signs and to raise their voices in dissent of the Breitbart figure’s controversial points of view, as is within their First Amendment rights. They did not come to start fires or break windows. But their message was overshadowed by another, smaller mass of about 150 protesters who did come to start fires, break windows and hurl rocks at police** officers -- and who accomplished all of those things. They wore black and concealed their faces with masks. They brought -- and used -- bats, metal rods, fireworks and Molotov cocktails to get their message across, in the process **undermining “the First Amendment rights of the speaker as well as those who came to lawfully assemble and protest his presence,”** a spokesperson for Berkeley said in a statement. The group, which many have characterized as one made up of anarchists, was practicing black bloc tactics. Black bloc is a strategy intended to unify protesters through their black clothing, masks and paramilitary tactics. The protesters become indistinguishable from one another, creating confusion for law enforcement officials and chaos among innocent bystanders. Black bloc is more of a shifting movement and shared strategy than a formal organization. It can be traced back to the 1970s in Germany, The Washington Post reported. The tactics have been used at protests across the globe, but in the last few months -- particularly since Nov. 8, when Donald Trump won the U.S. presidential election -- black bloc protesters have made more appearances than usual. They interrupted peaceful anti-Trump protests in Portland, Ore., the week of the election. They descended on Washington for President Trump’s inauguration last month, smashing the windows of a Starbucks and damaging a bank and a limousine, among other property. Later that same night, across the country, they caused mayhem on the University of Washington campus. The Berkeley incident has demonstrated to many campus officials the danger posed by black bloc protests to colleges. Nonviolent student protests can get mischaracterized. So, too, can the actions of a university, as when critics (including President Trump) suggest that institutions aren't committed to free speech that black bloc protests prevent. **Damage can be significant -- at Berkeley, the black bloc protesters destroyed about** $100,000 **worth of campus property. Officials at Berkeley are still investigating the events that unfolded there Feb. 1. Meanwhile, security officers at other campuses have begun to discuss preparedness and best practices around these issues.** David Mitchell, chief of police at the University of Maryland College Park, called the recent resurgence of black bloc an “infiltration.” “**These are folks, in my view, who are not interested in freedom of speech. They’re interested in taking advantage of an opportunity to commit crimes and wreak havoc,” said Mitchell, who has been in law enforcement for over 40 years and has witnessed black bloc tactics on several occasions. “They are here to destroy property and … cause disorder. I**t’s very unfortunate, and it’s very unlawful.” The University of Maryland has almost 40,000 students, and over the years, Mitchell said, he’s seen those students protest just about every issue out there. “I can differentiate between black bloc and my student body,” Mitchell said. “My student body is interested in freedom of speech and the freedom to assemble.” “I know many of our protesters here on campus -- these are good people who want to air their concerns and want their voices to be heard,” he added. “When you have that and it’s a peaceful protest, then suddenly there’s an infiltration with fires starting, it reinforces the bias against college kids and college students protesting. Certainly we don’t want that here. I don’t think my students want that here**.” It’s true that, amid the chaos that erupted on Berkeley’s campus, many people associated the violence with Berkeley students.** However, the university believes the anarchists “invaded” the campus and were not affiliated with its students. “At Berkeley, it’s clear there was a very serious difference between the majority of protesters and the minority who were engaged in black bloc tactics,” said Angus Johnston, a historian of American student activism and online blogger for the website Student Activism. “The vast majority of students protesting were not engaged in those tactics.” Despite crowd control and safety measures in place to handle those who were peacefully protesting Yiannopoulos’s appearance, Berkeley officials did not anticipate black bloc. The protests there, which also left five people with minor injuries, have reignited a conversation at other colleges about what to do if a similar incident occurred on their campuses. Other colleges and universities should look at what happened at Berkeley and learn from it -- including what worked and what could have been improved, said Sue Riseling, executive director of the International Association of Campus Law Enforcement Administrators. **When something like this happens, campus law enforcement officials have to consider dozens of variables, she said, including where the protest is happening, how quickly it could escalate, whether the violent and nonviolent protesters are intermixed or separated, how many security and police officers are available to help, and crowd size, she said. “What we have found is being prepared ahead of time is really key,” Riseling said. “It may not be a speaker that trips it. It may be another action of the president that trips it. It may be a community member. You don’t know what’s going to trip it.”** The violent protests seen at Berkeley and on Inauguration Day interfere with all Americans’ right to participate in democracy, Riseling said. “Their voices are silenced by this black bloc activity,” she said. “It’s very important that people who are invited to speak get to speak … no matter how repugnant some people may feel their views are. They are protected under the Constitution, and that’s really important. It’s also important for people who disagree with the speaker to have their voices heard.” Both Riseling and Mitchell commended Berkeley’s handling of the situation because it did not result in severe injuries or death. “It always could be worse,” Mitchell said. “The property damage was disappointing and absolutely unlawful, but that certainly could’ve been worse as well. I applaud the way they handled the incident.” Kim Richmond, director of the National Center for Campus Public Safety, said she has been trying to remind universities about the resources available to plan and prepare for these events. “Each community should be having conversations ahead of time with administration, students, potential activists,” Richmond said. “I think the campuses who are doing a good job of preparation are looking at every time there’s a situation, or even if there’s not, simulating a situation and asking, ‘What is our local response going to look like? What is our campus’s stance on this?’” Colleges have to be prepared to adapt, Richmond said. For example, at Berkeley, the police officers felt that trying to get in the middle of the crowd would’ve sparked more violence and resulted in more severe injuries. They chose not to try to arrest the black bloc protesters, because they felt it would have compromised the safety of their students. These are scenarios that no college wants to find itself in, but Mitchell said it’s important to have a plan in place[.] because, given the current political climate, it’s likely to keep happening. “The mood of the country is such today, with such division, that I don’t think this is going away any time soon,” Mitchell said.

#### The disad outweighs the case

#### 1] Turns all advantages – people who are attacked will be less likely to engage in dsicussions

#### 2] It outweighs the Aff on magnitude – their terminal impact is just people being stifled, but mine is people literally being shot on campus and attacked

# Bodies K

## 1NC

Omitted

# Case Arguments

## Top Level

### Plan Flaw – Capitalization

#### PLAN FLAW – the term “public” should not be capitalized if it comes in the middle of a sentence, after thus

**GIW:** Get it Write [Source that teaches about grammar] “Capitalization: Proper vs. Common Nouns and Adjectives.” *Get it Write.* No date. RP

**To grasp the distinction here, we need only to think about whether we are referring to a specific, named person, place, or thing or whether we are using a generic description**. Formal names such as those above are quite different from nonspecific labels: "the steering committee," "the regional advisory committee," "the consortium," "the county school for the deaf," "the assistive technology advisory board," "the planning committee," "the subcommittee," the word *school* in "Sunday school," and so on. **In sentence 5 of the opening exercise, the first instance of the word university is not capitalized because it is used as a common noun—that is, in its generic sense.** The second two occurrences of the word in sentence 5, however, are part of proper nouns and are appropriately capitalized.

## Solvency

### Overview

#### Whoops, the 1AC is a double-turn—it says black activism is perceived as militant, hostile, and “fighting words”, making it ineffective, but also says that the aff *increases* activism—if they win their aff, it just means more black people get locked up, since fighting words aren’t constitutionally protected.

ACLU 16 [American Civil Liberties Union], “HATE SPEECH ON CAMPUS”, ACLU, 2016, BE

A: The U.S. Supreme Court did rule in 1942, in a case called Chaplinsky v. New Hampshire, that intimidating speech directed at a specific individual in a face-to-face confrontation amounts to "fighting words," and that the person engaging in such speech can be punished if "by their very utterance [the words] inflict injury or tend to incite an immediate breach of the peace." Say, a white student stops a black student on campus and utters a racial slur. In that one-on-one confrontation, which could easily come to blows, the offending student could be disciplined under the "fighting words" doctrine for racial harassment. Over the past 50 years, however, the Court hasn't found the "fighting words" doctrine applicable in any of the hate speech cases that have come before it, since the incidents involved didn't meet the narrow criteria stated above. Ignoring that history, the folks who advocate campus speech codes try to stretch the doctrine's application to fit words or symbols that cause discomfort, offense or emotional pain.

#### Free speech deflects attention from the injustices of capitalism – battles are fought over free speech, distracting from a structural critique – empirically shown.

**Khan:** Khan, Tariq [Contributor and Researcher, The Hampton Institute] “Masking Oppression as Free Speech: An Anarchist Take.” November 2015. RP

**In the present-day United States, a shallow idea of "free speech" is often wielded by the privileged as a way to direct attention away from critiques of existing conditions and systems; particularly critiques of capitalism, imperialism, white supremacy, and patriarchy. For example, two years ago when UC Berkeley students organized to keep comedian Bill Maher from speaking on their campus, leading media outlets framed it as a controversy about free speech rather than engaging with the much deeper critiques the students had about Maher's perpetuation of US imperialist, Orientalist discourse which fuels militarism abroad and racist violence at home. Yet, while students who protest imperialist discourse are characterized as a threat to free speech,** the actual threat to free speech in academia goes unchallenged **by leading media outlets.** October 8, 2015, at the Community College of Philadelphia, English professor Divya Nair spoke at a rally organized by students in protest of police recruiters on campus. The students and Professor Nair drew connections between colonialism and modern US policing; particularly the police tactic of recruiting poor people of color to act as the capitalist state's foot-soldiers to control poor Black and Brown communities. Later that day, school authorities suspended Professor Nair without pay, and they have since suspended three student group members who are facing disciplinary hearings. In the past few years there has been a noticeable campus crackdown on anti-colonialist expression.

#### Institutional condoning of racist speech alienates Black students, and causes many to drop out.

**Wilkerson:** Wilkerson, Isabel [Contributor, The New York Times] “Campus Blacks Feel Racism’s Nuances.” *The New York Times.* 1988. RP

**Recent cases of racial harassment on the nation's campuses and a general atmosphere of racial tension have become increasingly important factors in the decisions made by many black families about where to send their children to college**, according to high school counselors and black students and their families. **The perception of racial hostility is inducing more families to send their children to historically black colleges to avoid the issue altogether, while others are scrutinizing predominantly white schools more carefully to weed out those that appear less racially tolerant.** ''Our schools are getting more and more applications from students who are disgruntled,'' said Alan Kirschner, vice president for programs and public policy at the United Negro College Fund. ''These students want the chance to develop without the threat of harassment that looms over many of those campuses.'' Kharis McLaughlin, a Boston guidance counselor who works with black college-bound students, remembers the apprehension a group of black students felt when she recently took them to the University of Massachusetts at Amherst, where a racial melee occurred after the 1986 World Series. **''Some students were a bit fearful,'' Mrs. McLaughlin said. ''Whether it's right or wrong, these things will sway people if they perceive a danger. If you hear that someone had a horrible experience at a school, you're not likely to go**. That's how decisions are made.'' But the choices seem to be getting narrower for blacks looking for predominantly white schools not touched by racial turmoil. I**n the last five years, incidents of racial harassment or violence have been reported at more than 300 colleges and universities across the country, according to the National Institute Against Prejudice and Violence**, an independent, nonprofit policy research group based in Baltimore that tracks racial violence on college campuses. All types of campuses are involved, a including the University of Massachusetts at Amherst, The Citadel, Smith College, Brown University, Wesleyan University, the University of Michigan, the University of Wisconsin and the University of Florida. The incidents range from racist graffiti and hate notes to the formation of white supremacy groups and allegations of racially motivated brutality by campus police. **And at hundreds of other campuses where there may be no reports of overt acts of bigotry, black students describe a general sense of polarization and hostility. Last week, more than 1,000 students, most of them black, halted traffic with a sit-in on Broad Street in the middle of Temple University's Philadelphia campus, after members of a white fraternity, armed with baseball bats and sticks, chased three blacks they believed had broken windows of their fraternity house. Eleven students were injured in the melee, eight of them black, and students said the campus police had used excessive force and handcuffed only black students**. At Emory University in Atlanta last March, a black woman found racist epithets scrawled in her dormitory room and her stuffed animals ripped apart. The case is being investigated by the police and the Georgia Bureau of Investigation. On Sunday at Trinity College in Hartford, billiard balls were thrown through a window at a black cultural center, setting off a protest march by black students the next day. Because of such incidents, racial harassment has become a standard question facing college representatives trying to recruit black students to predominantly white campuses, and with each racial incident comes a battery of calls from concerned black parents of current or prospective students, college officials say. The officials are less inclined to say whether black applications to their schools have risen or decreased, and without access to such data at all campuses where incidents have occurred, it is impossible to quantify cause and effect. Despite the recent incidents, a big majority of the nation's one million black college students - about 80 percent - remain enrolled at the nation's predominantly white colleges, as against about 20 percent at historically black colleges, said Dr. Reginald Wilson, a senior scholar at the American Council on Education. **''There's no question in my mind that black kids are leaving white schools or not going to them in the first place because of the chilly climate**,'' he said. ''But it's not the parting of the Red Sea. There is not a flood of people leaving white schools.'' But even schools that have taken the lead in censuring acts of bigotry are finding that the perception of a hostile campus may long outlive the incidents themselves. After months of indecision, Robin Scott, a graduating senior at Cass Technical High School in Detroit, recently chose Spelman College, a historically black women's college in Atlanta, over the University of Michigan, where racist jokes broadcast on the campus radio station and the distribution of racist fliers in 1987 marred the school's reputation. The university administration has since instituted a code that specifically prohibits racial harassment and has sponsored many conferences and seminars to encourage racial tolerance. Still, Ms. Scott's recent visit to the Ann Arbor campus confirmed suspicions founded on the incidents, she said. ''The white students were cold and distant,'' she said. **''I have to deal with racism the rest of my life. Why should I deal with that in college**?'' Last fall, two members of an all-white fraternity at the University of Mississippi were stripped, bound and stranded at Rust College, a predominantly black school nearby, with racial slurs and ''KKK'' written on their chests. Although one fraternity member was expelled and four were suspended for the incident, recruiting is still difficult. ''I've been at this university 28 years, and the progress made here is absolutely remarkable,'' said Ed Meek, a spokesman for the University of Mississippi. ''Yet a problem like that negates all of that in the minds of people.'' Since then, the incidents have dogged the university in its effort to attract more black students. ''We recruit very aggressively, one on one, and that subject comes up,'' Mr. Meek said. ''We have learned in some cases to bring it up ourselves.'' It does not take long for images and perceptions to calcify, students say. ''We all have families across the nation and we go back and tell them, and these things spread,'' said Yvette Russell, a black student at the University of Massachusetts at Amherst. A recent study by the Institute Against Prejudice and Violence showed that one out of five minority students is subjected to some form of physical or psychological racial harassment every year. One out of three of those victims re-experience harassment every year. ''We're seeing a spiraling of tension,'' said Dr. Howard J. Ehrlich, a sociologist who is the research director of the institute. ''Most of the incidents are forms of psychological harassment that involve the total humiliation of the student. I have no doubt that the increase in enrollment at black colleges is a result of black students' apprehension.'' Some parents and students try to find clues about a campus's atmosphere and commitment to diversity by poring over guidebooks, checking black retention and graduation rates, going over the ratios of blacks to the total enrollment. But some parents are finding there is no way to shield their children completely. One couple in New York had settled on Brown University as the No. 1 choice for their 16-year- old daughter, Jessica, who will be putting in her applications next year. But the family was dismayed when it learned of several racial incidents at the campus, which is in Providence. ''It was a reaction of, ''Now what do we do?' '' said Jessica's mother. Could Happen Anywhere These incidents could happen anywhere, Dr. Ehrlich said, adding, ''There are no external characteristics that will tell you on what campus the incidents will occur.'' Indeed, some black students end up regretting the choice they made. ''At times I wish I had gone somewhere else so that I wouldn't have to deal with these things,'' said Derrick Young, a student at the University of Illinois, where racial tensions rose last month when the police broke up two predominantly black parties. ''I spend hours upon hours dealing with these types of issues. That's time away from studying.'' Many, like Clarence Wilson of Oklahoma City, are transferring to black institutions. Last year, Mr. Wilson left the University of Oklahoma, where white fraternity members were seen wearing T-shirts emblazoned with black stereotypical characters and where he said white friends would socialize with him in dormitory rooms but not in public. Now he is a sophomore at Xavier College in New Orleans. ''I decided it was time to leave,'' he said. ''I realized I was missing something.'' Tony Hampton, of Chicago, says he does not think he would be a graduating college senior if he had not gone to Xavier. ''Not until I came to Xavier did I get some self-esteem,'' Mr. Hampton said. But others say black students need to become accustomed to being in the minority. ''You take a risk of these things' happening whenever you go to a predominantly white school,'' said Gene Williams, a junior at Emory University in Atlanta. ''Emory is really just a microcosm of of our whole country.'' Education experts warn that merely turning to black schools is not the long-term solution. ''Those colleges don't have the capacity to handle all those kids,'' Dr. Wilson said. ''We can't use the black schools as an escape. The question is, How can we make the white schools more hospitable?, because that's where the bulk of them are going to go.''

### Advantage 1 – Chatterjee/State Power

#### The Aff makes things worse – protests and movements against the university just get coopted – more radical demands like divestment are needed instead

**Chatterjee et al:** Chatterjee, Piya [Dorothy Cruickshank Backstrand Chair of Gender and Women’s Studies Chair of the Feminist, Gender, and Sexuality Studies Department, Scripps College] and Sunaina Maira [Professor of Asian American Studies, UC Davis]. *The Imperial University: Academic Repression and Scholarly Dissent*. University of Minnesota Press, 2014. RP

-People become satisfied and don’t do anything more radical

-Publishing articles not the same as divestment

**But the question remains, is scholarly dissent simply the other face of the coin of academic repression—that is, are expressions of protest doomed to be incorporated into the imperial cartographies they resist or it possible for them to create alternative mappings that resist recuperation?** The chapters in this book allude to this enduring dilemma about resistance from within, directly and indirectly; some authors suggest that what is needed is a new paradigm that reframes the architecture of repression. For example, across distinctly different sites of (neo)colonialism and global capitalism, **Oparah argues for an unmasking of a transnational carceral logic of “new” empire that traces between the imperial core and its peripheries. She argues that it is not more, “countercarceral” knowledge that scholars resisting the “militarization and prisonization of academia” must produce in order to realize a postcarceral academy. Rather, academics must use their privilege to chal- lenge the complicity of the academy with, and call for divestment from, prison and military industries. As Oparah and also Prashad eloquently suggest, the university must be reimagined as a site of solidarity with those engaged in struggles against neoliberal capitalism and organizing for the abolition of the academic-MPIC.**

#### Academic freedom is a trap to recreate dominant ideals, prevent democracy, and shield effective critique.

**Chatterjee et al:** Chatterjee, Piya [Dorothy Cruickshank Backstrand Chair of Gender and Women’s Studies Chair of the Feminist, Gender, and Sexuality Studies Department, Scripps College] and Sunaina Maira [Professor of Asian American Studies, UC Davis]. *The Imperial University: Academic Repression and Scholarly Dissent*. University of Minnesota Press, 2014. RP

The answers lie, to a large extent, in the definition and utilization of aca- demic freedom as a liberal principle and in the paradoxes that this liberal politics generates in the academy and beyond. **Prashad argues that the liberal precept of academic freedom draws on John Stuart Mills’s conception of the necessity of “contrary opinions” for providing checks and balances for social norms but not for enabling a “transformative political agenda.”** A Eurocentric genealogy of academic freedom would trace it to notions of critical pedagogy in German universities in the eighteenth and nineteenth centuries, intertwined with notions of economic and political liberalism embedded in Enlightenment modernity. Cary Nelson, the renowned president of the American Association for University Professors (AAUP), who for many U.S. academics represents the face of institutionalized academic freedom, writes, “Academic freedom thus embodies Enlightenment commitments to the pursuit of knowledge and their adaption to di erent political and social realities.”78 AAUP issued the Declaration of Principles on Academic Freedom and Academic Ten- ure in 1915,79 and for some scholars, such as Robert Post, this declaration is the “greatest articulation of the logic and structure of academic freedom.”80 According to Post, this is because it conceptualizes academic freedom as based on “compliance with professional norms” speci c to academic labor and on the safeguarding of scholarly expertise that produces “professional self-regulation” and “professional autonomy” for faculty.81 Yet even Post acknowledges that there is a paradox inherent in this conceptualization based on academic labor, for these professional norms are not so easily de ned and so academic freedom is “simultaneously limited by, and independent of, pro- fessional norms.”82 A critic of the AAUP’s unwillingness to protect scholars targeted by McCarthyism suggests the AAUP upholds procedural freedom without an understanding of the importance of expanding its understanding of political freedom: “**Stripped of its rhetoric, academic freedom thus turns out to be an essentially corporate protection. And as we trace its develop- ment during the Cold War, we should not be surprised to nd that it was involved more o en to defend the well-being of an institution rather than the political rights of an individual.**”83 Other scholars, such as Judith Butler, also point out that the AAUP’s formulation of academic freedom intended to “institutionalize a set of employer-employee relationships in an academic setting,” not to guarantee academic freedom as an individual right.84 While she agrees with Post that academic freedom should not be rooted in “individual freedom” or simply in First Amendment rights of freedom of expression, she goes further to point to the collusion between the university and the state in de ning pro- fessional norms and professional freedom in scholarship and to emphasize that expectations of what is permissible for academics are always historically evolving and o en politically motivated. So these professional constraints are contingent and contested, not xed; Butler argues, “As faculty members, we are constrained to be free, and in the exercise of our freedom, we con- tinue to operate within the constraints that made our freedom possible in the rst place.”85 We take these critiques of an individually based, constrained, and “weak” notion of academic freedom further, arguing that academic freedom is per- haps not tenable as a basis for a just struggle for “freedom,” if that struggle needs to be de ned by a rmative principles rooted in progressive or le conceptions of freedom, justice, and equality, as suggested by Prashad. In other words, academic freedom is not, and should not be, the holy grail of dissent. **Academic freedom is generally understood—and operationalized in the U.S. academy today—as an ideologically neutral principle of freedom of expression and First Amendment rights. It is thus a libertarian, not just liberal, notion of individual freedom, and it is framed as a core principle of Western modernity and democracy, serving both the liberal-le and the conservative-right. In this model, neo-Nazis or antiabortion advocates have the same rights to academic freedom in the university as do queer activists or antiwar proponents. There is no progressive ethos built into the principle of academic freedom, and this is what makes it easily available for recupera- tion and resort by the right as much as the le . Prashad makes the important observation that even the academic left o en tends to take refuge in the “safe harbor” of academic freedom rather than engaging in a struggle for “genuine campus democracy” and labor rights for workers on campuses and for the right to education as a public good and for a “culture of solidarity,” as evoked by Dominguez. Perhaps one of the most ironic examples of what could be described as the use of academic freedom as a smoke screen for larger struggles over other kinds of freedoms was the cancellation of the AAUP’s own conference on academic boycotts, slated to be held in 2006 at the Rockefeller Confer- ence Center in Bellagio, Italy.** e conference featured a diverse group of scholars with a range of views on the strategy of academic boycott—some in favor, some opposed—within the context of the emerging, global debate about the Palestinian call for an academic boycott of Israeli academic institu- tions, inspired by the boycott of South African institutions in the apartheid era. However, under mounting pressure from Israeli and pro-Israel academ- ics, the meeting was cancelled. e AAUP, instead, published online many of the papers intended for presentation at the conference, but it also issued a report strongly condemn- ing the academic boycott. Joan Scott and Harold Linder, who had helped organize the conference and later edited the online publication, expressed dismay that the conference was canceled, but they also concluded that the AAUP’s “principled opposition to academic boycott” was an expression of its commitment to academic freedom.86 While Joan Scott later revised her position in an eloquent essay,87 this seemingly contradictory position is an argument that is o en used in opposition to the academic boycott, in the case of Israel, and it expresses a deeper paradox that illuminates the fault line at the core of academic freedom—as does the entire saga of the failed con- ference. Is it possible that closing o the possibility of a boycott of academic institutions—in the context of their complicity with military occupation and apartheid policies—is an expression of academic freedom, or is it a denial of that academic freedom? And whose academic freedom is being upheld? Lisa Taraki, a sociologist at Birzeit University in the West Bank who was scheduled to present at Bellagio, noted in her paper, “I think that the abstract ideas of academic freedom and the free exchange of ideas cannot be the only norms in uencing the political engagement of academics. O en, when oppression characterizes all social and political relations and structures, as in the case of apartheid South Africa or indeed Palestine, there are equally important and sometimes more important freedoms that must be fought for, even—or I would say especially—by academics and intellectuals.”88 **Omar Barghouti, a Palestinian intellectual who is, like Tarakai, a cofounder of the Palestinian Academic and Cultural Boycott of Israel (PACBI), argued that the AAUP was “privileging academic freedom as above all other freedoms.” Citing Judith Butler, he argued that this position excluded the freedom of “academics in contexts of colonialism, military occupation, and other forms of national oppression where ‘material and institutional foreclosures . . . make it impossible for certain historical subjects to lay claim to the discourse of rights itself ’. . . . Academic freedom, from this angle, becomes the exclu- sive privilege of some academics but not others.**”89 Barghouti and Taraki make two crucial points: First, they state that academic freedom cannot trump other rights to freedom (and other freedoms)—the right to freedom of mobility for students and scholars to attend college, to travel to conferences, and to do research; the collective right to self-determination; the freedom from occupation and racial segrega- tion; and, in essence, the freedom to live in peace, dignity, and equality. As suggested by our introductory vignettes, the freedom and right to education of students living in zones of occupation and war overseas must be linked to the freedom of students and scholars working—and protesting—within the imperial university. Proponents of the academic boycott of Israeli institu- tions argued that the campaign is, thus, in support of and produces academic freedom, and also supports human rights for all—as it was in the boycott of South African institutions. Second, they allude to the selectivity of the prin- ciple of academic freedom—why South Africa and not Palestine?—and the ways in which the U.S. academy (like the Israeli academy) and professional associations such as the AAUP are rmly embedded in a political context while pretending to be outside or above it.90 is adjudication of neutrality and self-professed impartiality is, in fact, a political stance, as argued by Salaita and illustrated by De Genova’s re ections on the limits of academic solidarity with radical critiques of U.S. imperialism. e holy grail of academic freedom shores up the political com- mitments and investments—not to mention the intellectual freedoms—of powerful academics and constituencies and fails to protect the commitments and interventions of the heretics who are less powerful or far outside the sta- tus quo. is is powerfully illustrated by the intense political campaign tar- geting De Genova for his “blasphemous” criticism of U.S. military violence and Dominguez’s farcical play about his experience of being investigated by the FBI and UC San Diego due to the Electronic Disturbance eater’s “vir- tual sit-in” protesting the UC fee hikes and the Transborder Immigrant Tool project.91 We must ask, why is it that some cases of academic “blasphemy” provoke an outpouring of sympathy and support from colleagues while other cases are considered too heretical to warrant (ready) solidarity?

#### Academic freedom is not neutral – it only actually protects those in the majority – it’s even invoked to *justify firing professors.*

**Chatterjee et al:** Chatterjee, Piya [Dorothy Cruickshank Backstrand Chair of Gender and Women’s Studies Chair of the Feminist, Gender, and Sexuality Studies Department, Scripps College] and Sunaina Maira [Professor of Asian American Studies, UC Davis]. *The Imperial University: Academic Repression and Scholarly Dissent*. University of Minnesota Press, 2014. RP

-Didn’t protect people during McCarthyism

**Following from the production of manifest knowledges and logic of academic containment in the imperial university, the chapters in this section explore how liberal codes of academic freedom are undermined or consolidated as neoliberal privatization weakens spaces of critique in the academy. The chap- ters by De Genova, Prashad, and Dominguez in the concluding section of the book, as well as other chapters, critique what could be described as the “holy grail” of academic freedom, one of the pillars upon which academic liberalism builds its edi ce and which is central to the academic wars. We argue that there is a narrowing of the eld of possible dissent in the U.S. academy precisely because of the ways in which the repression of knowledge production and the resistance to academic repression are both constituted through notions of academic freedom and academic heresies**. We gestured earlier to how the development of “academic freedom” took place against the backdrop of World War I and the early twentieth century precisely because of the nonconformity of individual scholars in class and wartime politics. Academic freedom emerged as a way to both negotiate a sense of professional insecurity as well as construct a measured response to matters of “national interest” (such as anticapitalist or antiwar protest). is was a critical time for establishing the protocols of professionalism for aca- demia. Ellen W. Shrecker, in her magisterial study of McCarthyism’s e ects on the academy, argues that the pivotal Seligman Report by the AAUP in 1915 “reveals how deeply enmeshed the notion of academic freedom was with the overall status, security and prestige of the academic profession.”73 It is apparent that academic freedom continues to be fragile given the increas- ing professionalization of the academy and hypercompetitiveness of the aca- demic job market. Indeed, De Genova’s experience of “crossing the line” at Columbia Uni- versity, in the post-9/11 climate of hypernationalism, is part of a genealogy that he traces to 1917, when Columbia penalized two faculty members for their public opposition to World War I. A controversy arose at the time about the distinguished historian, Charles Beard, who remarked in 1916 (during debates about U.S. “neutrality”) that the “world’s strongest republic could certainly withstand the inconsequential e ort of a single ‘To Hell with the Flag’ comment.”74 Outraged trustees at Columbia interrogated Beard about his comment and political views in an unpleasant echo of De Genova’s own account of academic repression. ough Beard was eventually “exon- erated,” he resigned when his two colleagues at Columbia were terminated due to their political views. A powerful precedent about the boundaries of political—especially antistate—speech was set into motion. Where were “academic freedom” and the AAUP during this ferment? e newly created organization kept a distance from the unrest envelop- ing the Columbia campus and was “unwilling to o er its limited assistance to those being driven o campuses.”75 Schecter argues that the AAUP’s early discussions of academic freedom sought primarily to protect faculty from outsiders’ “meddling” with scholar’s teaching and research by setting up “procedural safeguards**.” But these safeguards could not adequately address political dissidence or any political positions that were considered “unsym- pathetic” by the majority of academics. What appeared to be “protection” was really about perceptions, and evaluations, of institutional loyalty and “appropriate” behavior that would not jeopardize the professionalism and status of academia. When the litmus test of the AAUP’s politics and “academic freedom” arrived four decades later, in the form of McCarthyite repression, the acad- emy’s capitulation to state imperatives and the subsequent destruction of many individual careers and lives should not come as a surprise. Prashad points out that faculty were expelled for their relationship to the Communist Party under the guise of defending academic freedom, for to be a Commu- nist was to be enslaved by dogma and to be unfree. Academic freedom was constructed through a negative and reactive polarity to create the narrow boundaries for “permissible dissent” rather than a positive protection in sup- port of dissent.** Clyde Barrow observes, “It created an intellectually defensible zone of political autonomy for the professoriate, which . . . su ciently circumscribed as to exclude as unscholarly whatever political behavior the leading member of the academic community feared might trigger outside intervention.” Even when university presidents could have protected their faculty, most did not, as in the case at the University of Washington dis- cussed by Prashad. e fact that some university administrators could, and did, resist assaults on academic freedom showed that universities could have de ed state repression—but most chose not to.

### Strossen/Calleros – Reverse Enforcement

#### Cross country studies disprove reverse enforcement -- stopping hate speech outweighs since it harms minorities

**Delgado and Yun:** Richard Delgado and David H. Yun [Law Professors] “Pressure Valves and Blooded Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulations.” *California Law Review.* Volume 84. July 1994. RP

**A second paternalistic argument is that enactment of hate speech rules is sure to hurt minorities because the new rules will be applied against minorities themselves**.61 A vicious insult hurled by a white person to a black will go unpunished, but even a mild expression of exasperation by a black motorist to a police officer or by a black student to a professor, for example, will bring harsh sanctions. The argument is plausibile because certain authorities are racist and dislike blacks who speak out of turn, and because a few incidents of blacks charged with hate speech for innocuous behavior have occurred. **Nadine Strossen, for example, asserts that in Canada, shortly after the Supreme Court upheld a federal hate speech code, prosecutors began charging blacks with hate offenses. But the empirical evidence does not suggest that this is the pattern, much less the rule. Police and FBI reports show that hate crimes are com- mitted much more frequently by whites against blacks than the reverse. Statistics compiled by the National Institute Against Violence and Prejudice confirm what the police reports show, that a large number of blacks and other minorities are victimized by racist acts on campus each year.' Moreover, the distribution of enforcement seems to be consistent with com- mission of the offense. Although an occasional minority group member may be charged with a hate crime or with violating a campus hate speech code, these prosecutions seem rare**.6 5 Racism, of course, is not a one-way street; some minorities have harassed and badgered whites. Still, the reverse-enforcement objection seems to have little validity in the United States. A recent study of the international aspects of hate speech regulation showed that in repressive societies, such as South Africa and the former Soviet Union, laws against hate speech have indeed been deployed to stifle dissenters and members of minority groups.6 6 Yet, this has not happened in more progressive coun- tries.67 **The likelihood that officials in the United States would turn hate speech laws into weapons against minorities seems remote.**

#### Turn – speech laws don’t increase the power of racist institutions, and empirically do promote democratic gains – scholars like Gates are just wrong

**Delgado and Yun:** Richard Delgado and David H. Yun [Law Professors] “The Neoconservative Case Against Hate-Speech Regulation-Lively, D'Souza, Gates, Carter, and the Toughlove Crowd.” *Vanderbilt Law Review.* November 1994. RP

**Neoconservatives also argue against hate-speech regulation on the ground, similar to the deflection argument, that the effort is quixotic or disingenuous. White people will never accede to such rules.** Proponents of hate-speech regula- tion surely must know this, they reason, hence their objectives are probably symbolic, tactical, or at any rate something other than what they say. Lively, for example, writes that the U.S. Supreme Court has consistently rejected laws regu- lating speech, finding them vague and overbroad. n43 He also writes that the campaign lacks vision and a sense of "mar- ketability"-it simply cannot be sold to the American people. n44 **Gates asks how hate-speech activists can possibly be- lieve that campus regulations, even if enacted, will prove effective**. If campuses are the seething arenas of racism that activists believe, how will campus administrators and hearing officials provide nondiscriminatory hearings on charges brought under the codes? n45 Elsewhere he accuses the hate-speech activists of pressing their claims for merely "symbol- ic" reasons, n46 while ignoring that the free-speech side has a legitimate concern over symbolism, too. Carter is less neg- ative about the motivations of hatespeech reformers, but does question whether their campaign is not "unwinnable." n47 But is the effort to curb hate speech doomed, quixotic, or disingenuous? It might be seen in this way if indeed the gains to be reaped were potentially only slight. But, as we argued earlier, they are not: The stakes are large, indeed our entire panoply of civil rights laws and rules depends for its efficacy on controlling the background of harmful depiction against which the rules and practices operate. n48 In a society where minorities are thought and spoken of respectfully, few acts of out-and-out discrimination would take place. In one that harries and demeans them at every turn, even a de- termined judiciary will not be able to enforce equality and racial justice. n49 Moreover, success is more possible than the toughlove crowd would like to acknowledge. A **host of Western in- dustrialized democracies have instituted laws against hate speech and hate crime, often in the face of initial resistance. n50 Some, like Canada, Great Britain, and Sweden, have traditions of respect for free speech and inquiry rivaling ours**. n51 **Determined advocacy might well accomplish the same here. In recent years, many-perhaps several hundred-college campuses have seen fit to institute student conduct codes penalizing face-to-face insults of an ethnic or similar nature**, many in order to advance interests that the campus straightforwardly identified as necessary to its function, such as pro- tecting diversity or providing an environment conducive to education. n52 Moreover, powerful actors like government agencies, the writers' lobby, industries, and so on have generally been quite successful at coining free speech "excep- tions" to suit their interest-libel, defamation, false advertising, copyright, plagiarism, words of threat, and words of mo- nopoly, just to name a few. n53 Each of these seems natural and justified, because time-honored, and perhaps each is. **But the magnitude of the interest underlying these exceptions seems no less than that of a young black undergraduate sub- ject to hateful verbal abuse while walking late at night on campus.** n54 New regulation is of course subject to searching scrutiny in our laissez-faire age. But the history of free speech doctrine, especially the landscape of "exceptions," shows that need and policy have a way of being translated into law. n55 The same may well continue to happen with the hate- speech movement.

#### Meta studies of colleges prove that speech codes do solve

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

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

### Nichtern/Lukianoff – Chilling Effect and Inevitable

#### The conflict inevitable evidence is about international war…it clearly doesn’t apply to anything…

#### Free speech advocacy is a Trojan horse used by Lukianoff to keep conservatives happy

**Sleeper:** Sleeper, Jim [Lecturer in Political Science, Yale University] “What the Campus 'Free Speech' Crusade Won't Say.” Alternet. September 2016. RP

Again, though, universities are among the few places where “founding principles” are discussed often and rigorously enough to show that, in practice, some principles subvert others. For example, **Lukianoff speaks often and everywhere of reinvigorating "the marketplace of ideas," but ideas in a university (and a healthy democracy) emerge from a culture of open inquiry and expression based in mutual respect, not market exchange values. “You can't build a clear conservatism out of capitalism, because capitalism disrupts culture**," said Sam Tanenhaus, biographer of the American conservative icon Whittaker Chambers, now writing a biography of William F. Buckley, Jr., in a lecture in 2007 at the conservative American Enterprise Institute.¶ **Tanenhaus’ observation about the tension between today’s capitalism and democratic or republican culture is anathema to the ultra-conservative Lynde and Harry Bradley Foundation, the Scaife Family foundations, the Earhart, John Templeton, Koch-Brothers’ DonorsTrust (a conduit for donors for grants not made under their own names), and other foundations that sustain conservative think tanks like the AEI and a myriad of campus-targeting organizations—including FIRE, the Intercollegiate Studies Institute, The David Horowitz Freedom Center (whose “Academic Bill of Rights” would mandate more hiring of conservative faculty and would monitor professors’ syllabi for “balance”) and Campus Watch (which tracks and condemns liberal professors’ comments on the Middle East). These organizations stoke public anger against political correctness as a threat to academic freedom and to the free market economy that they keep insisting enhances it.¶ Their “free speech” campaign is really a culture war and a class war carried out on several fronts by a much larger network of organizations that are also funded by the very same foundations. The phrase “right wing” is thrown around so often that** I was surprised to learn just how “right-wing” the funders of the FIRE **and the other groups really are.**

#### The Aff’s focus on issues of PC culture and fighting hypersensitivity is complicit in capitalism and detracts resources from addressing larger problems

**Khan:** Khan, Tariq [Contributor and Researcher, The Hampton Institute] “Masking Oppression as Free Speech: An Anarchist Take.” November 2015. RP

**In the present-day United States, a shallow idea of "free speech" is often wielded by the privileged as a way to direct attention away from critiques of existing conditions and systems; particularly critiques of capitalism**, imperialism, white supremacy, and patriarchy. For example, two years ago when UC Berkeley students organized to keep comedian Bill Maher from speaking on their campus, leading media outlets framed it as a controversy about free speech rather than engaging with the much deeper critiques the students had about Maher's perpetuation of US imperialist, Orientalist discourse which fuels militarism abroad and racist violence at home. [1] Yet, while students who protest imperialist discourse are characterized as a threat to free speech, the actual threat to free speech in academia goes unchallenged by leading media outlets. [2]October 8, 2015, at the Community College of Philadelphia, English professor Divya Nair spoke at a rally organized by students in protest of police recruiters on campus. The students and Professor Nair drew connections between colonialism and modern US policing; particularly the police tactic of recruiting poor people of color to act as the capitalist state's foot-soldiers to control poor Black and Brown communities. Later that day, school authorities suspended Professor Nair without pay, and they have since suspended three student group members who are facing disciplinary hearings. In the past few years there has been a noticeable campus crackdown on anti-colonialist expression. Last year the American Indian Studies Program at the University of Illinois, Urbana-Champaign hired Professor Steven Salaita, known for his comparative studies of US settler colonialism in the Americas and Israeli settler colonialism in Palestine. Under pressure from wealthy donors, Israel lobby groups, and establishment politicians, the Chancellor and the Board of Trustees stepped in - against the wishes of the American Indian Studies Program - and "unhired" Salaita, citing the supposedly "uncivil" tweets he posted criticizing Israel's indiscriminate killing of civilians - including over 500 children - in Gaza last year. Several law-makers, Israel lobbyists, and campus authorities have likewise been working to silence the growing BDS (Boycott, Divestment, and Sanctions) movement against Israeli apartheid. Anti-colonialist students have also faced silencing and punishment. For example, earlier this semester at Cal State Sacramento, sophomore Chiitaanibah Johnson (Navajo/Maidu) was belittled and told by her professor that she was expelled from his US history course after she quite correctly challenged his assertion that the United States did not carry out genocidal anti-Indian policies. All of these cases and many other similar ones resonate with my own experience. Ten years ago, when I was an undergraduate at George Mason University, I was violently attacked by vigilantes and police for protesting military recruiters on campus. Right-wing students called me a "pussy" and a "faggot," and ripped the anti-militarist sign off of my chest. Vigilantes held me down to "assist" the officers in brutalizing and handcuffing me. When the police saw my foreign name, they decided I was a terrorist. One officer blamed me for 9-11. Another officer yelled at me, "You people are the most violent people in the world." An officer threatened to hang me upside-down from the ceiling in my jail cell for "running my mouth." Even though I was a student at the university, the police charged me with trespassing and disorderly conduct. At first, University officials defended the police's actions by saying I "was considered to be distributing literature." **In spite of the fact that the most egregious violations of free speech and academic freedom are committed in service to right-wing and establishment interests higher on the social hierarchy than students and professors, there is a highly problematic narrative proliferating in the United States; that today's college students are "oversensitive" or "too politically correct" and that this supposed oversensitivity is leading to a crackdown on free speech and academic freedom.** Both conservatives and liberals have perpetuated this false narrative. Conservative columnist George Will complained that the right of thin-skinned liberals "to never be annoyed" has become "a new campus entitlement." In a popular Vox article titled " I'm a Liberal Professor, and my Liberal Students Terrify Me," a college professor using the pseudonym Edward Schlosser complained about a climate of fear in academia caused by an overemphasis on the "safety and comfort" of students from historically marginalized groups. The September issue of The Atlantic featured the article " The Coddling of the American Mind," which argued that "A movement is arising, undirected and driven largely by students, to scrub campuses clean of words, ideas, and subjects that might cause discomfort or give offense." The piece lamented what a shame it is that students on some campuses led campaigns to disinvite former U.S. Secretary of State Condoleezza Rice and International Monetary Fund managing director Christine Lagarde from campus speaking engagements. **Its authors, Greg Lukianoff and Jonathan Haidt argued that instead of protesting such speakers, women and Black students should look up to Rice and Lagarde as role models. The irony of two white men condescendingly determining who women and people of color should look to as role models did not occur to the authors**. Shortly following the publication of the Atlantic article, President Obama echoed its sentiments at an education town hall in Des Moines. He said: "I've heard of some college campuses where they don't want to have a guest speaker who is too conservative, or they don't want to read a book if it had language that is offensive to African Americans or somehow sends a demeaning signal towards women. I've got to tell you, I don't agree...that when you become students at colleges, you have to be coddled and protected from different points of view." With this, Obama further reinforced the harmful notion that racist and misogynist speech is simply a "point of view" equal with all other "points of view," as well as the notion that "oversensitive" students are stifling free expression. **More recently, I was surprised to find in my alma mater's newspaper that Atlantic authors Lukianoff and Haidt were using the experience that I went through ten years ago to further the narrative that colleges are choosing "political correctness over freedom of expression."** "Oversensitivity" and "political correctness" had absolutely nothing to do with what happened to me. I immediately wrote a letter to the Fourth Estate, George Mason University's newspaper saying, in part: "Was Salaita targeted because he was not "politically correct?" Was he targeted for being "offensive?" Was the campaign against him triggered by students who are uncomfortable with controversy? The answer to all three questions is no. Plenty of professors at UIUC have used swear words on social media with no repercussions, it was not liberals with supposed hypersensitivity about political correctness who raised their eyebrows about Salaita, and it was the student activist Left - the people who are supposedly policing uncomfortable language, according to Lukianoff and Haidt - who most boldly came to Salaita's defense. The campaign against Salaita came not from below, but from above, from rich and powerful establishment interests. Was the repression against me at GMU ten years ago caused by a culture of hypersensitive "political correctness?" Again, no... The first people to come to my defense, and to the defense of free speech, were leftist students and professors, LGBT students, South Asian and Arab students, the very people who the right would have us believe are too "politically correct" to tolerate free speech. It was the local right wing, the people who complain that society is "offended" too easily - fascist groups such as Free Republic, which later merged with other similar groups to become the Tea Party movement - who reveled in my arrest and called for more repression of students like me." Likewise, Professor Divya Nair, the students at the Community College of Philadelphia, students such as Chiitaanibah Johnson at Cal State, and the student-led BDS movement are not being targeted for offending supposedly "PC" sensibilities. They are being targeted specifically for their anti-colonialist/anti- imperialist positions. In all of the hand-wringing in mainstream and conservative discourse about colleges violating principles of free expression, one looks in vain for any discussion of these kinds of examples. Indeed, the hand-wringers are more concerned that rich imperialist war-mongers such as Condoleeza Rice are being protested off of campuses than they are that actual students and professors are being threatened, suspended, expelled, fired, or are facing disciplinary hearings for criticizing the policies and worldview of people like Rice. Blaming something like Condoleeza Rice being disinvited from a speaking engagement on student "oversensitivity" and inability to hear uncomfortable speech misdirects public attention from the real anti- imperialist critique that student protestors have for why they don't want a war-monger propagandizing on their campus. To refer to such students as "afraid of controversy" is more than a stretch. Chiitaanibah Johnson, for example, charged the United States with genocide. The anti-police students in Philadelphia carried a banner calling for a "Pig Free CCP." Steven Salaita, who has been championed by the student Left was targeted by the establishment for statements such as "At this point, if Netanyahu appeared on TV with a necklace made from the teeth of Palestinian children, would anybody be surprised?" These are hardly what one can call the "PC" positions of coddled students. **The flawed notion that overly-sensitive "PC" students are shutting down free speech is harmful. Student initiatives on campuses to challenge things such as racial or gender micro-aggressions are not challenges to free speech and they are not based on the idea that micro-aggressions are "offensive." Micro-aggressions must be challenged because they are oppressive, not because they are offensive. Racist speech leads to an environment that is conducive to racist violence. It marginalizes students of color and makes the university not "uncomfortable," but unsafe**. Anti-LGBT speech makes campus unsafe, not merely "uncomfortable" for LGBT students. Misogynist speech creates an environment that is conducive to sexual assault. Any decent social scientist knows this**. It is not about people being "uncomfortable" or "offended." It is about people being unsafe and oppressed.** White frat boys would have us believe that they are being unfairly "silenced" because women and people of color don't laugh at their misogynistic or racist jokes, meanwhile anti-colonialist and anti-imperialist students and professors face actual repression from law-makers, wealthy donors, campus administrators, police, and vigilantes. The same foolish people who boycott stores for saying "Happy Holidays" instead of "Merry Lord Jesus God Almighty and the Bible Christmas!" complain that Black students fighting against actually-existing racial violence are "oversensitive." **The threat to campus free speech and academic freedom is not anti-racist or feminist students. The threat to free expression in academia is real, and it is coming down the social hierarchy from rich and powerful establishment interests, not upward from "coddled" students. The beautiful ideal of free expression is cheapened when oppression is allowed to go unchecked under the guise of a disingenuous notion of "free speech."**

#### No PC culture or chilling effect – Wisconsin code proves.

**Hodulik:** Hodulik, Patricia [University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration.] “Racist Speech on Campus.” *Wayne Law Review.* 1990-1991. RP

**As the controversy over speech rules has continued in the press and other media, they have been cited as evidence of a trend toward thought control, "politically correct" thinking, and other repressive evils.41 There is, however, little in these cases to suggest that the Wisconsin regulation has had the effect of cutting off debate within the university community, or that a narrow restric- tion on discriminatory, harassing speech creates a threat to free expression. Rather, the practical experiences with the Wisconsin rule indicate that the risk of a "chilling effect" on speech from a narrowly applicable rule is minimal or nonexistent.**

### Advantage 2 – Calleros/Counterspeech

#### Counter-speech is unlikely to occur in one on one interactions – the community won’t stand behind these people.

**Nielsen:** Nielsen, Laura Beth [Laura Beth Nielsen is a sociologist and lawyer whose research field is the sociology of law, with particular interests in legal consciousness (how ordinary people understand the law) and the relationship between law and inequalities of race, gender, and class. She is a research professor at the American Bar Foundation, as well as a professor of sociology at Northwestern University. She is the author of License to Harass: Law, Hierarchy, and Offensive Public Speech (2004), which studies racist and sexist street speech, targets’ reactions and responses to it, and attitudes about using law to deal with such speech.] “Civility in the Streets: Reactions, Responses, and Resistance to Public Speech.” Insights On Law and Society. Winter 2013. RP

What advice do judges give to targets of unsolicited or offensive speech? More speech. Allow the deliberative process to take place. We are supposed to engage in a “free trade in ideas” (Abrams v. U.S., 1919) and trust that “the best test of truth is the power of the thought to get itself accepted in the competition of the market” (ibid.). The idea of more speech was also famously declared by Justice Brandeis in his concurring opinion in Whitney v. California (1927). Brandeis wrote, “[i]f there be time to expose through discussion the falsehood and fallacies, to avert the evil by process of education, the remedy to be applied is more speech, not enforced silence.” Indeed, both legal experts and ordinary citizens claim that it is not proper for law to intervene in offensive public speech encounters, at least those that revolve around racist and sexist speech. The jurisprudentially preferred solution for the problem of offensive speech (of some varieties) is more speech. This formulation of the problem (that an offensive idea has been inserted into the marketplace of ideas) crowds out other definitions of what precisely may be problematic about being the target of racist or sexist speech in public places. For example, a target might feel threatened, objectified, or dehumanized. In the course of day-to-day life, targets of racist or sexist speech are reminded of their subordinate social status or their status as sex objects. Framing the problem of offensive speech as skewing a “marketplace of ideas” makes the remedy of more speech seem sensible. After all, markets are thought to run well when they are unregulated and the power of a good product/idea will prevail in the end. Thus, rather than looking to the courts to prevent the offensive speech from entering the marketplace, consumers of ideas are expected to reject the bad ones, insert the better ones, and eventually prevail. **Unfortunately, judicial prescriptions for more speech are typically vague. Should a target of offensive speech (or consumer of ideas in a marketplace) respond directly? Immediately? Should she hold a protest or rally at a later time to condemn the idea?** **We do not know precisely what is imagined by the judiciary’s instruction to engage in “more speech,” but in what follows, we see what some individual targets think and do when unexpectedly confronted with offensive speech in public places.** In some contexts, more speech may be just what is called for. **Organized counterspeech is documented and advocated as a remedy in the face of organized hate speech**. Examples include the organized counter demonstrations that occurred when Nazis marched through the largely Jewish community of Skokie, Illinois, and recent organized counter demonstrations at political gatherings, health clinics, and veteran funerals. **In a policed public environment, counterspeech may be effective and safe. But what of the victim of individual, targeted hate speech in public? What kind of speech effectively counters the “truth” of a racial epithet or sexual slur? And how likely are targets to respond? Unfortunately, the reality of public life is that** counter-speech is infrequent at best**.**

#### Counter speech just causes minorities to be locked up and shot

**Delgado and Yun:** Richard Delgado and David H. Yun [Law Professors] “Pressure Valves and Blooded Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulations.” *California Law Review.* Volume 84. July 1994. RP

**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 situ- ations, in which responding in kind is foolhardy.93 Many highly publicized cases of racial homicide began in just this fashion. A group began badger- ing 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 graf- fiti 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 educa- tive 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 commu- nity 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?**

#### Counterspeech is empirically not used, still causes psychological violence and takes time from students

**Brown:** Brown, Alexander [Lecturer at the University of East Anglia] “Hate Speech Law: A Philosophical Examination.” *Routledge.* 2015. RP

-Barely ever used

-Internalized hatred if they don’t speak out

-Time to speak out is substantial

**More generally, there is some evidence to suggest that barriers to counterspeech are the greatest for victims of face-to-face hate speech** (e.g., the use of racial insults, slurs, or derogatory epithets directed at specific individuals in person). As mentioned in Ch. 3 [3.1], in her study of hate speech **Nielsen found that the most common reaction to racist hate speech on the part of those targeted by it is to ignore the remark and simply leave the situation. Only 28% of people of color, for example, reported making verbal responses to racist speech** (Nielsen 2002: 277), and even then 'only when they ate in situations where they felt relatively safe, such as a crowded public area’ (ibid.). **This finding undermines the plausibility of the claim that counterspeech by the victims of face-to-face hate speech is a no less effective but less restrictive alternative to hate speech law; at least, that is, when it comes to instantaneous, face-to-face counterspeech. This claim overlooks a powerful psychological mechanism controlling human responses to conflict situations. Nielsen reports that part of the problem is fear that speaking back may provoke yet more hate abuse or even violence** (ibid.). T**his is certainly the reported experience of Matsuda, who in the late 1980s received hate mail as a consequence of speaking M public about her views on freedom of expression and hate speech, and subsequently made a decision not to publish her ideas in the popular press for fear of receiving threats against her person** (remarks in Borovoy et al. 1988-1989, 3631. Similarly, there is evidence to suggest that this fear has led some complainants in Australia to withdraw complaints about hate speech even under the private processes of dispute resolution established by hate speech legislation (e.g., Gelber 2002: 851. **There is also a psychological cost that might be borne by the victims of hate speech if society expects them to take sole responsibility for tackling the problem. If they are made to feel that it is their duty or obligation to engage in counterspeech, what happens when they do not? Will this become yet another (illegitimate) source of shame or self-loathing?** **Another part of the problem is that dealing with the effects of hate speech can be time consuming, reducing the time that someone might have to actually engage in counterspeech.** This is the reported experience of the writer Amanda Hess, who suffered online harassment and intimidation based on her gender. 'I've spent countless hours over the past four years logging the online activity of one particularly committed cyberstalker just in case' (Hess 2014). At this stage, it might be pointed out that using legal restrictions to combat hare speech also sucks up a lot of time. The victims of hate speech may need to expend a considerable amount of time as complainants, plaintiffs, or even chief witnesses for the prosecution in criminal cases. And then there are the judges and legal scholars who in some cases have spent decades arguing against one another, time that might have been profitably spent doing other things, such as eloquently speaking out against hate speech (cf. Delgado and Stefanic 2009: 360-361). **However, it is surely relevant that when victims of hate speech do decide to take a legal course of action they can normally expect to receive not inconsiderable support from legal professionals, who sham the time burden. Counterspeech undertaken by the victims of hate speech is often without this specialist support.**

### Herron/Underground

#### Bans on hate speech have a positive spillover – they lead to other policies eradicating discrimination.

**Parekh:** Parekh, Bhikhu “Is There a Case for Banning Hate Speech?” *Cambridge University Press.* 2012.

-Study of Europe

-Bans not isolated – caused educational campaigns too

**It is sometimes argued that a ban on hate speech can easily become an end it itself and an excuse to avoid well-conceived antidiscrimination policies**. Although this can happen, as arguably it has in France, there is no obvious reason why it should. **As the cases of Britain, Netherlands, Germany, and Australia show, the ban on hate speech has gone hand in hand with a wider campaign to address the causes of racism, sexism, or homophobia by pressing for a well-worked-out strategy to tackle discrimination and disadvantage. This is not accidental and has a complex internal logic. Once people realize that ban on hate speech has made only a marginal difference in their lives, they look for the deeper causes and see the need for an antidiscrimination struggle in other areas of life. The ban on hate speech alerts the target groups to other goals to aim at and gives it the confidence to fight for them by actively participating in public life.**

#### Empirics confirm that speech codes increase awareness about the dangers of hate speech – this is uniquely valuable and avoids it being driven underground

**Hodulik:** Hodulik, Patricia [University of Wisconsin-Madison. Senior System Legal Counsel, University of Wisconsin System Administration.] “Racist Speech on Campus.” *Wayne Law Review.* 1990-1991. RP

The practical experiences with the Wisconsin rule discussed above suggest that some of the most serious concerns of the critics of regulation-those related to suppression of speech and misap- plication, for example-have not been realized. Questions remain, however, as to the effectiveness of hate speech rules for purposes of combating campus discrimination and discriminatory attitudes, or for assuring equality of educational opportunity. Some com- mentators have asserted that regulations are inadequate to address the underlying attitudes manifested in hate speech, and that the most effective antidote to discriminatory harassment is not rules, but some combination of education and more speech. These points are well-taken: educational efforts to address discrimination are certainly needed, and may be more effective than a regulatory approach; more speech may indeed be the best counter to discriminatory speech. **It does not follow, however, that a rule regulating discriminatory speech is an ineffective means to these ends. The Wisconsin experience illustrates the value of adopt- ing such a rule as part of more extensive educational and pro- grammatic efforts to deal with discrimination and harassment in the university environment. A rule prohibiting discriminatory speech is useful and effective as an additional response to institutional discrimination in several ways. First, the adoption of a rule, and the debate and discussion accompanying the process of adopting it, provide substantial ed- ucational benefits by focusing public attention on the problem of discriminatory harassment. Second, a rule can be an exercise of institutional speech**, a description of conduct that the university regards as harmful and inappropriate, and an expression of the institution's commitment to do something about it. The increased public awareness and the demonstration of university concern reflected by the adoption of a rule enhance other efforts to eliminate discrimination. Further, since most hate speech occurs under circumstances which do not allow for educational or speech responses**, a rule affords an additional opportunity to reach and educate individual students. At Wisconsin, none of the incidents leading to discipli- nary action under the hate speech rule occurred in classrooms or other forums for debate**; all took place in social or dormitory settings.5 9 In none of the cases did the use of abusive epithets lead to further opportunity for speech. In several, the result was an angry and potentially violent confrontation, while in others the victim was silent.60 As these situations illustrate, racial or discrim- inatory epithets, name-calling, and similar abusive speech do not afford opportunities for debate. More often, they cut it off, leaving the victim without an opportunity to respond.6' **The availability of the rule limiting speech provides a means of responding to a discriminatory problem, redress for the victims, and an occasion for educating the harassing individual.**

#### Underground movements are less effective than those out in the open.

**Parekh:** Parekh, Bhikhu “Is There a Case for Banning Hate Speech?” *Cambridge University Press.* 2012.

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

#### Speech going underground is much better than it being out in the open – people openly saying racial slurs normalizes violence.

**Delgado and Yun:** Richard Delgado and David H. Yun [Law Professors] “Pressure Valves and Blooded Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulations.” *California Law Review.* Volume 84. July 1994. RP

**The pressure valve argument holds that rules prohibiting hate speech are unwise because they increase the danger racism poses to minorities. Forcing racists to bottle up their dislike of minority group members means that they will be more likely to say or do something hurtful later.** Free speech thus functions as a pressure valve, allowing tension to dissipate before it reaches a dangerous level. 1 Pressure valve proponents argue that if minorities understood this, they would oppose antiracism rules. **The argument is paternalistic; it says we are denying you what you say you want, and we are doing it for your own good**. The rules, which you think will help you, will really make matters worse. If you knew this, you would join us in opposing them. Hate speech may make the speaker feel better, at least temporarily, but it does not make the victim safer. **Quite the contrary, the psychological evidence suggests that permitting one person to say or do hateful things to another increases, rather than decreases, the chance that he or she will do so again in the future**. 2 Moreover, others may believe it is permissible to follow suit. 3 **Human beings are not mechanical objects**. Our behavior is more complex than the laws of physics that describe pressure valves, tanks, and the behavior of a gas or liquid in a tube. **In particular, we use symbols to construct our social world, a world that contains categories and expecta- tions for "black," "woman," "child," "criminal," "wartime enemy," and so on.**5 4 Once the roles we create for these categories are in place, they govern the way we speak of and act toward members of those categories in the future.55 Even simple barnyard animals act on the basis of categories. Poultry farmers know that a chicken with a single speck of blood will be pecked to death by the others." With chickens, of course, the categories are neural and innate, functioning at a level more basic than language. **But social science experiments demonstrate that the way we categorize others affects our treatment of them**. An Iowa teacher's famous "blue eyes/brown eyes" experiment showed that even a one-day assignment of stigma can change behavior and school performance.57 **At Stanford University, Phillip Zimbardo assigned students to play the roles of prisoner and prison guard, but was forced to discontinue the experiment when some of the participants began taking their roles too seriously.** 8 And Diane Sculley's interviews with male sexual offenders showed that many did not see themselves as offenders at all. In fact, research suggests that exposure to sexually violent pornography increases men's antagonism toward women and intensifies rapists' belief that their victims really welcomed their attentions. At Yale University, Stanley Milgram showed that many members of a university community could be made to violate their conscience if an authority figure invited them to do so and assured them this was permissible and safe**." The evidence, then, suggests that allowing persons to stigmatize or revile others makes them more aggressive, not less so. Once the speaker forms the category of deserved-victim, his or her behavior may well con- tinue and escalate to bullying and physical violence. Further, the studies appear to demonstrate that stereotypical treatment tends to generalize- what we do teaches others that they may do likewise.** Pressure valves may be safer after letting off steam; human beings are not.

### Strossen/Martyrdom

#### **Psychological evidence shows exposure makes martyrdom worse**

Gelber and McNamara: Katharine Gelber is Professor of Politics and an Australian Research Council Future Fellow at the University of Queensland. Her research interests are in freedom of speech and speech regulation and she is currently engaged in a comparative research project, "Free speech after 9/11", Luke McNamara is a Professor in the School of Law and a member of the Legal Intersections Research Centre at the University of Wollongong. He has been researching racial vilification laws and other hate speech laws for two decades. He served as Dean of the Faculty of Law at the University of Wollongong from 2007 to 2012, "The Effects of Civil Hate Speech Laws: Lessons from Australia", Law & Society Review, Amherst 49.3, 2015

Yet a sense of proportion is required here. No other case in over two decades of civil litigation has triggered a comparable martyr effect. **Recalcitrant Holocaust denier Frederick Toben attempted to adopt a martyr position when he was found to have breached the same federal racial hatred law years earlier.3**9 His refusal to abide by orders of the Federal Court to remove Holocaust denial material from his Web site resulted in 24 contempt of court findings and, ultimately, a 3 month jail term for contempt of court (Akerman 2009**). However, in public discourse this attempt served to consolidate his infamy and status as a powerful illustration of precisely why hate speech laws were enacted in the first place (Aston 2014; Richardson 2014). Two distinctive features of Australia's hate speech laws are noteworthy here. First, given, that most transgressions of the law are addressed in confidential conciliation, with less than 2 percent resulting in court or tribunal decisions that enter the public domain, opportunities for martyrdom are rare. Second, because the laws rely overwhelmingly on civil remedies, they tend not to produce the criminal sanctions on which the claimed martyr effect is based**. The Bolt controversy does not justify a general conclusion that hate speech laws necessarily produce a counterproductive martyr effect, as it was an atypical event in the history of civil hate speech laws in Australia.¶ Conclusions¶ Our project speaks both to the utility and the inefficacy of the regulatory model adopted by Australia 25-year ago. We have found that Australian hate speech laws provide some remedies. Members of targeted communities are able to lodge complaints with a human rights authority, in a process that reassures them that the law can assist them, and reminds them that the polity has enacted provisions that enable them to seek redress for hate speech. Further, the laws have a direct educative function. Although a very small proportion of cases reach a court or tribunal, those decisions that do enter the public domain have established important precedents that have been subsequently used in advocacy. The laws also have indirect educative value, both in terms of setting a standard for public debate and in the sense that (even unsuccessful) complaints can be used to raise awareness about appropriate ways of expressing oneself in public. Letter writers demonstrated an awareness of the existence of hate speech laws, and media entities have internalised the responsibility to educate their staff about those laws. **There has been a significant reduction in the amount of prejudice expressed in published letters to the editor. We found no evidence of an undesirable chilling effect on public discourse, and considerable evidence that members of the public continue to express themselves on a range of controversial policy issues. We also found little evidence that Australia's regulatory framework produces an unwanted martyr effect, with only one case in the last 25 years having done so.** Finally, targeted communities expressed overwhelming support for the value and retention of the laws, as a symbol of their protection and the government's opposition to discrimination.

#### Europe proves that bans on hate prevent *mobilization* of oppressive groups

**Parekh:** Parekh, Bhikhu “Is There a Case for Banning Hate Speech?” *Cambridge University Press.* 2012.

-Hate speech makes groups more powerful and lets them spread

-Normalizes violence

**Third, proscription of hate speech plays an important role in preventing political mobilization of hostility against particular groups. This is especially true if the limits are enacted before hate-based organizations have built up powerful networks and support and before their rhetoric has coarsened public sensibility**. As I argued earlier, a climate of intimidation and violence against identified groups develops over time. **Once it takes deep roots and poisons the relations between different groups, law lacks a supportive public opinion and is either not enacted or not enforced or takes a drastic form and risks provoking widespread resistance. In the developing societies, and even in such mature democracies as Britain, France, Germany, and the Netherlands, it is common for politicians and political parties to outbid each other by pandering to base political instincts and provoking hatred of whatever group appears to arouse popular dislike. Banning hate speech discourages them from doing so and inflaming the all-too-easily aroused passions in pursuit of short term gains. Although other factors played a part as well, it is worth noting that British elections, their media coverage, and political discourse in general have been healthier and more moderate as a result of the law proscribing incitement to racial hatred. Similar things have happened in India, Germany, Austria, the Netherlands, South Africa, and elsewhere, in all of which crude expressions of racial nad religious hatred have declined in recent years.** This is not to say, of course, that these sentiments have disappeared or even substantially declined in these countries, but rather that public life is conducted in a more civil language and that politicians appealing to such sentiments are generally treated with disdain by the general public and disowned by their leaders.

#### Martyrdom is worsened when we condone oppressive views.

**Crimethinc:** Crimethinc [News source and compiler] “This is Not a Dialogue.” *Crimethinc.* No date. RP

Trying to suppress their voices will backfire by generating interest in them. **Resistance to fascism doesnʼt increase interest in fascist views. If anything, liberals mobilizing to defend fascists on free speech grounds increases interest in their views by conferring legitimacy on them. This plays directly into their organizing goals, allowing them to drive a wedge between their opponents using free speech as a smokescreen. By tolerating racism, homophobia, anti-Semitism, and xenophobia, so-called free speech advocates are complicit in the acts of terror fascist organizing makes possible.**

### Gates/Legal Modeling

#### The First Amendment and free speech has historically stymied racial progress.

**Delgado and Yun:** Richard Delgado and David H. Yun [Law Professors] “Pressure Valves and Blooded Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulations.” *California Law Review.* Volume 84. July 1994. RP

**Many absolutists and defenders of the First Amendment urge that the First Amendment historically has been a great friend and ally of social reformers. Nadine Strossen, for example, argues that without free speech, Martin Luther King, Jr. could not have moved the American public as he did**. 8 Other reform movements also are said to have relied heavily on free speech.6 9 **This argument, like the two earlier ones, is paternalistic-it is based on the supposed best interest of minorities. If they understood their own best interest, the argument goes, they would not demand to bridle speech. The argument ignores the history of the relationship between racial minorities and the First Amendment. In fact, minorities have made the greatest progress when they acted in defiance of the First Amendment. The original Constitution protected slavery in several of its provisions, and the First Amendment existed contemporaneously with slavery for nearly 100 years. Free speech for slaves, women, and the propertyless was simply not a major concern for the drafters**, who appear to have conceived the First Amendment mainly as protection for the kind of refined political, scientific, and artistic discourse they and their class enjoyed. Later, of course, abolitionism and civil rights activism broke out. **But an examination of the role of speech in reform movements shows that the relationship of the First Amendment to social advance is not so simple as free speech absolutists maintain. In the civil rights movement of the 1960s, for example, Martin Luther King, Jr. and others did use speeches and other symbolic acts to kindle America's conscience.73 But as often as not, they found the First Amendment (as then understood) did not protect them**.7 4 **They rallied and were arrested and convicted; sat in, were arrested and convicted; marched, sang, and spoke and were arrested and convicted.75 Their speech was seen as too forceful, too disruptive.** Many years later, to be sure, their convictions would sometimes be reversed on appeal, at the cost of thousands of dollars and much gallant lawyering. **But the First Amendment, as then understood, served more as an obstacle than a friend**.76

#### Legal modeling goes neg – speech codes empiricaly increase democratic protections in other countries.

**Delgado and Yun:** Richard Delgado and David H. Yun [Law Professors] “THE SPEECH WE HATE”: FIRST AMENDMENT TOTALISM, THE ACLU, AND THE PRINCIPLE OF DIALOGIC POLITICS.” *Arizona State Law Journal.* Winter 1995. RP

**If protecting hate speech and pornography were essential to safeguarding freedom of inquiry and a flourishing democratic politics, we would expect to find that nations that have adopted hate speech rules and curbs against pornography would suffer quickly a sharp erosion of the spirit of free inquiry. But this has not happened. A host of industrialized nations, including Sweden, Italy, Canada, and Great Britain, have instituted laws against hate speech and hate propaganda**, in many cases to comply with international treaties and conventions requiring such action. Many of these countries traditionally respect free speech at least as much as the United States does. **No such nation has reported any erosion of the atmosphere of free speech or debate. At the same time, the United States, which until recently has refused to put such rules into effect, has a less than perfect record of protecting even political speech. United States agencies have persecuted communists, hounded Hollywood writers out of the country, and harassed and badgered such civil rights leaders as Josephine Baker, Paul Robeson, and W. E. B. DuBois in a campaign of personal and professional smears** that ruined their reputations and destroyed their ability to earn a living. In recent times, conservatives inside and outside the Administration have disparaged progressives to the point where many are now afraid to describe themselves \*1291 as “liberals.” Controversial artists are denied federal funding. Museum exhibits that depict the atomic bombing of Hiroshima have been ordered modified. **If political speech lies at the center of the First Amendment, its protection seems to be largely independent of what is taking place at the periphery. There may, indeed, be an inverse correlation. Those institutions most concerned with social fairness have proved to be the ones most likely to promulgate anti-hate speech rules. Part of the reason seems to be the recognition that hate speech can easily silence and demoralize its victims, discouraging them from participating in the life of the institution. If so, enacting hate speech rules may be evidence of a commitment to democratic dialogue, rather than the opposite, as some of its opponents maintain.**

#### Allowing hate speech sets an even more dangerous slippery slope. If we permit racially targeted hate speech, then what other racist actions will the state permit?

**Delgado and Stefancic:** Delgado, Richard. [Professor of Law, University of Colorado] Stefancic, Jean. [Research Associate, University of Colorado School of Law] “Hateful Speech, Loving Communities: Why Our Notion of “A Just Balance” Changes So Slowly.” *California Law Review,* Vol. 82, July 1994. MZ

**Concerns about slippery slopes and dangerous administrators also arise when the hate speech controversy is viewed through a free-speech lens: if we allow face-to-face racial invective to be bridled, will we not soon find ourselves tolerating restrictions on classroom speech[?] or political satire in the school newspaper?**3 If we permit our fragile web of speech protection to suffer one rent, might not others soon follow? Moreover, someone will have to adjudicate complaints brought under the new rules. Is there not a danger that the judge or administrator will turn into a narrow-minded cen- sor, imposing his or her notion of political orthodoxy on a campus climate that ought to be as free as possible?' **Hate speech rule advocates, however, will see the controversy in dif- ferent terms. For them, [T]he relevant issue is whether campuses are free to impose reasonable rules to protect the dignity and self-regard of vulnerable young African American undergraduates and other targets of hate speech.**5 These advocates place equality at the center of the controversy and portray the defenders of racist invective as seeking to attack values emanating from the equality-protecting Constitutional amendments.6 Since these values are vital to our system ofjustice, rule advocates maintain that it is incumbent on free speech advocates to show that the hate-speaker's interest in hurling racial invective rises to the requisite level of compellingness. **They will insist that this interest be advanced in the way least damaging to equality, and they, too, will raise line-drawing and slippery slope concerns, but [come] from the opposite direction. If society does not intervene to protect equality from this intrusion, where will it all stop?7 Rule advocates will raise concerns about the administrator who will make decisions under the code, but again from the opposite direction: they will want to make sure that the hearing officer is sensitive to the delicate nuances of racial supremacy in the incidents likely to come before him or her.'**

#### Speech codes demonstrate that governments are committed to the well-being of minorities. Overreach has been empirically disproven.

**Tsesis:** (Alexander Tsesis – Visiting Professor, University of Pittsburgh Law School; Visiting Assistant Professor, Chicago-Kent College of Law; Affiliated Scholar with the University of Wisconsin-Law School at the Institute for Legal Studies, “Review: The Boundaries of Free Speech: Understanding Words that Wound”, “International Context”

Numerous democracies have recognized the potential harms of hate speech on children and on democratic society as a whole. [n110](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n110) In chapter 12, Delgado and Stefancic compare the United States' treatment of hate speech with the regulation of such speech in other Western societies, and they show the relatively greater acceptance of such regulation in international agreements. Germany, which is one of the countries they discuss, has several laws to prevent both the long- and short-term risks of destructive messages. Anyone attacking the human dignity of others by inciting hatred against a segment of the population, advocating the use of "violent or arbitrary measures against them," or exposing them to malicious slander is subject to imprisonment. [n111](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n111) **Germany, further, punishes Holocaust denial and prohibits Nazi and neo-Nazi groups from using the Internet to disseminate their ideology**. [n112](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n112) Germany counterbalances the government's interest in regulating hate speech for preserving democratic institutions with an interest in protecting the free speech rights of individuals. [n113](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n113) Despite its open polity, Germany outlaws political parties that threaten democratic order**.**[**n114**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n114)**Israel, too, has a law barring political candidates from national  [\*159] office who incite others to racism.**[**n115**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n115)**Similarly, Canada prohibits hate speech that subverts the democratic process.**[**n116**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n116)**British law, likewise, punishes those who incite others to racial hatred.**[**n117**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n117)**Great Britain recognizes that tolerance of speech that calls for the abuse of racial, ethnic, and religious groups can popularize racist attitudes and increase inter-group friction.**[**n118**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n118) **Countries that have adopted hate speech legislation show a concern for the well-being of targeted groups.** They recognize that the decision over whether to regulate speech requires governments to balance individual with social interests. Many countries that restrict hate speech, as Delgado and Stefancic point out, "believe that human rights and freedoms contain a collective, as well as an individual, dimension and that a citizen's right to promote racist views must be weighed against the interests of society." [n119](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n119) In this regard, the Austrian Penal Code places a greater emphasis on the dignity rights of the targets than the rights of intimidating hate speakers. Section 283 of the Austrian Penal Code makes it an offence to incite hostilities against religious, racial, ethnic, or national groups and to violate "their human dignity" through slander. [n120](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n120) Countries like Austria that have anti-hate speech laws "wish to deter the violence and fighting they believe it encourages." [n121](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n121) Such is also the case in Hungary, where Parliament passed a law criminalizing the organizing or providing of finances for any event which may provoke violence against a national, ethnic, racial, religious, or other group, hatred or incitement against the Hungarian nation, or any national, ethnic, racial, or religious group. [n122](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n122) On the international level, the International Covenant on Civil and Political Rights similarly enjoins signatory states to [\*160]  curb "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." [**n123**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n123) **The experiences of western democracies who have enacted hate speech regulations indicate that a limited proscription does not erode the government's commitment to protecting free speech and inquiry.**[**n124**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n124)**Countries like England have found that hate speech regulations serve declaratory purposes because they indicate governments' commitment to the well-being of minorities.**[**n125**](http://puffin.harker.org:2061/us/lnlib/frame.do?tokenKey=rsh-20.597772.283475553&target=results_DocumentContent&returnToKey=20_T25365931398&parent=docview&rand=1484882307473&reloadEntirePage=true#n125)**United States free speech jurisprudence is anomalous. Democracies generally recognize that preserving human rights supersedes bigots' desire to spread vituperative messages. The history of racism in the United States, from Native American dislocation, to slavery, to Japanese internment, demonstrates that here in the U.S., as in other democracies, intolerance and persecution can exist alongside free speech.** Safeguards against the real harms of hate speech can prevent the erosion of civil rights.

## Add Ons

### Eberle – Intrinsically Good

#### This obviously doesn’t link to the framework – they said it’s consequentialist, so inviolable rights don’t make sense

#### Absolutionist approaches to free speech aren’t pragmatic – they trade off with other rights and ignore these consequences

**Goldberg:** Goldberg, Erica [Climenko Fellow and Lecturer on Law, Harvard Law School; Assistant Professor, Ohio Northern Law School (beginning August 2016).] “FREE SPEECH CONSEQUENTIALISM.” *Columbia Law Review.* Volume 116. 2016. RP

This Article argues that courts should constrain free speech consequentialism by considering only the speech harms that are sufficiently similar to conduct harms when evaluating the harms caused by speech. **Speech harms typically have unique properties, such as being context dependent and caused by diffuse parties, but some harms caused by speech resemble the more direct and immediate harms arising in paradigmatic cases of conduct**. Analogizing speech harms to conduct harms would allow courts to protect individuals from the more tangible harms caused by speech while preserving the specialness of speech’s virtues. After describing and justifying this constrained approach to free speech consequentialism, this Article then applies the proposal to analyze timely and difficult free speech issues. **Strong free speech protections come at the expense of many types of speech-related harms, including emotional distress, privacy intrusions, reputational damage, and violence provoked in audiences**. A recent wave of scholarship argues for more explicit and more heavy-handed forms of free speech consequentialism to remedy these harms. **Scholars have begun to criticize free speech jurisprudence for being dismissive of harm, and for not properly distinguishing the different mechanisms by which speech causes harm. Although the First Amendment currently occupies a vaunted position in our legal and cultural practices, scholars have begun to use arguments sounding in consequentialism to chip away at the rules-based First Amendment regime.**

### A2 Giroux – Discourse Key

#### They haven’t won any uniqueness for this – no reason why it’s under attack in the status quo

### A2 Yan or Arriaga – Hate High Now

#### The impacts are obviously linear – a risk of a case turn means the Aff causes more violence

#### Uniqueness cuts my way – speech codes are the last bastion against Trumpian white nationalists and have stopped further spread.

**Burley:** Burley, Shane [Contributor, Waging Nonviolence] “How the Alt Right is trying to create a ‘safe space’ for racism on college campuses.” *Waging Nonviolence.* October 2016. RP

**While the Alt Right is fighting for a platform, many on college campuses are taking the example of groups like the One People’s Project and are rallying community pressure to disallow Alt Right speakers regular access to collegiate forums. At DePaul University, Alt Right commentator and Gays for Trump founder Milo Yiannopoulos was brought by the College Republicans. Ahead of this, a petition began circulating, largely stemming out of the Black Student Union work, to push DePaul to do more about hate speech on campus. Protesters disrupted the event by getting on stage and preventing him from speaking, functionally ending it. The college later canceled Yiannopoulos’s second scheduled speech, citing his provocative rhetoric as the reason.** Protesters later attempted to disrupt a debate-watching party where Trump student supporters had congregated to root for their candidate.

#### The reason Trump has spread has been due to free speech on colleges.

**Harkinson:** Harkinson, Josh [Reporter and contributor, Mother Jones] “The Push to Enlist ‘Alt-Right’ Recruits on College Campuses.” *Mother Jones.* December 2016. RP

**Though the campus group Students for Trump ostensibly focused on electing and supporting Trump, at least one chapter has openly embraced white nationalist rhetoric and causes.** The [Facebook page](https://www.facebook.com/PSU4TRUMP/) of the group's Portland State University chapter posted an infographic called "[What Does White Genocide Look Like](https://www.facebook.com/PSU4TRUMP/posts/925071100970776)," "[White Lives Matter](https://www.facebook.com/PSU4TRUMP/photos/a.772977822846772.1073741828.752648528213035/859094717568415/?type=3&theater)" memes, and a [quote](https://www.facebook.com/PSU4TRUMP/photos/a.772977822846772.1073741828.752648528213035/859223847555502/?type=3&theater) from former Rhodesian Prime Minister Ian Smith about how "colonialism is a wonderful thing**." In a counterprotest to a student union demonstration against arming campus police, Students for Trump held up signs reading "Thug Lives Don't Matter.**" PSU Students who spoke out against Students for Trump were reportedly [targeted online](https://thinkprogress.org/how-students-for-trump-terrorized-portland-state-university-88396c06c743#.3t8eo3f1n) by anonymous accounts with racist slurs and death threats, according to *ThinkProgress*.**Campuses have mostly stopped short of banning such groups, opting instead to counter them with protests and educational efforts. Texas A&M University is hosting a counterevent Tuesday called "Aggies United" at its football stadium featuring musicians and activists.** "I find the views of the organizer—and the speaker he is apparently sponsoring—abhorrent and profoundly antithetical to everything I believe,” **the university's president, Michael Young,** [**said**](http://www.wfaa.com/news/local/texas-news/richard-spencers-host-at-texas-am-is-the-countrys-strongest-skinhead/361102653) **in a letter to the campus community last week.** "In my judgment, those views simply have no place in civilized dialogue and conversation." But, Young added, "**we have no plans to prohibit the speaker from using the room he has rented. Freedom of speech is a First Amendment right and a core value of this university, no matter how odious the views may be."**

### A2 ACLU – Spillover to Censorship

#### This is an empirical claim without any empirical warrant – they can’t give any examples of where it’s caused more censorship

#### Allowing hate speech sets an even more dangerous slippery slope. If we permit racially targeted hate speech, then what other racist actions will the state permit?

**Delgado and Stefancic:** Delgado, Richard. [Professor of Law, University of Colorado] Stefancic, Jean. [Research Associate, University of Colorado School of Law] “Hateful Speech, Loving Communities: Why Our Notion of “A Just Balance” Changes So Slowly.” *California Law Review,* Vol. 82, July 1994. MZ

**Concerns about slippery slopes and dangerous administrators also arise when the hate speech controversy is viewed through a free-speech lens: if we allow face-to-face racial invective to be bridled, will we not soon find ourselves tolerating restrictions on classroom speech or political satire in the school newspaper?**3 If we permit our fragile web of speech protection to suffer one rent, might not others soon follow? Moreover, someone will have to adjudicate complaints brought under the new rules. Is there not a danger that the judge or administrator will turn into a narrow-minded cen- sor, imposing his or her notion of political orthodoxy on a campus climate that ought to be as free as possible?' **Hate speech rule advocates, however, will see the controversy in dif- ferent terms. For them, the relevant issue is whether campuses are free to impose reasonable rules to protect the dignity and self-regard of vulnerable young African American undergraduates and other targets of hate speech.**5 These advocates place equality at the center of the controversy and portray the defenders of racist invective as seeking to attack values emanating from the equality-protecting Constitutional amendments.6 Since these values are vital to our system ofjustice, rule advocates maintain that it is incumbent on free speech advocates to show that the hate-speaker's interest in hurling racial invective rises to the requisite level of compellingness. **They will insist that this interest be advanced in the way least damaging to equality, and they, too, will raise line-drawing and slippery slope concerns, but from the opposite direction. If society does not intervene to protect equality from this intrusion, where will it all stop?7 Rule advocates will raise concerns about the administrator who will make decisions under the code, but again from the opposite direction: they will want to make sure that the hearing officer is sensitive to the delicate nuances of racial supremacy in the incidents likely to come before him or her.'**

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