# Kantlleges JF17

## 1AC

### FW

#### I defend whole rez. CX checks.

#### I value morality.

#### The existence of extrinsic goodness requires unconditional human worth—that means we must treat others as ends in themselves.

Korsgaard ’83 (Christine M., “Two Distinctions in Goodness,” The Philosophical Review Vol. 92, No. 2 (Apr., 1983), pp. 169-195, JSTOR) OS

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action, he or she supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). In order for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a sufficient condition of their goodness. Kant considers what this might be: it cannot be an object of inclination, for those have only a conditional worth, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). It cannot be the inclinations themselves because a rational being would rather be free from them. Nor can it be external things, which serve only as means. So, Kant asserts, the unconditionally valuable thing must be "humanity" or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happiness of others-the ends that they choose-and, in general, to make the highest good our end.

#### This outweighs:

#### [A] All other frameworks collapse—non-Kantian theories source obligations in extrinsically good objects, but that presupposes the goodness of the rational will.

#### [B] Necessity—my framework is inherent to the way we set ends. Ethics must be necessary and not contingent since otherwise its claims could be escapable. Necessary truths outweigh on probability—if a necessary truth is possible that means it’s true in a possible world, but that implies it’s true in all worlds since that’s what necessity is, so they have to prove there’s 0 risk of my framework.

#### The standard is consistency with the rational will.

#### [1] Practical reason solves regress—it’s impossible to deny reason’s authority.

Velleman (David, “Self To Self”, Cambridge University Press, 2006, pg 18-19)

As we have seen, requirements that depend for their force on some external source of authority turn out to be escapable because the authority behind them can be questioned. We can ask, “Why should I act on this desire?” or “Why should I obey the U.S. Government?” or even “Why should I obey God?” And as we observed in the **case** of the desire to punch someone in the nose, this question demands a reason for acting. The authority we are questioning would be vindicated, in each case, by the production of a sufficient reason. What this observation suggests is that any purported source of practical authority depends on reasons for obeying it—and hence on the authority of reasons. Suppose, then, that we attempted to question the authority of reasons themselves, as we earlier questioned other authorities. Where we previously asked “Why should I act on my desire?” let us now ask “Why should I act for reasons?” Shouldn’t this question open up a route of escape from all requirements? As soon as we ask why we should act for reasons, however, we can hear something odd in our question. To ask “Why should I?” is to demand a reason; and so to ask “Why should I act for reasons?” is to demand a reason for acting for reasons. This demand implicitly concedes the very authority that it purports to question—namely, the authority of reasons. Why would we demand a reason if we didn’t envision acting for it? If we really didn’t feel required to act for reasons, then a reason for doing so certainly wouldn’t help. So there is something self-defeating about asking for a reason to act for reasons.

#### Reason’s authority is self-justified. Only self-justification is epistemically sound—otherwise inquiry is infinitely regressive or circular. That means neg must prove their framework is based in a self-justifying axiom. Practical reason means we must be able to universally will maxims—our judgements are authoritative and can’t only apply to ourselves anymore than 2+2=4 can be true only for me. The only constraint is noncontradiction. Contradictions outweigh—if we accept one contradiction we’d accept all statements since you could switch the first half of a disjunctive statement and render any second half true.

#### [2] Only the categorical imperative allows for an autonomous will—my framework is self-imposed by the structure of the will, so the will can be the cause of itself.

Korsgaard (Christine, Morality as Freedom, <http://www.people.fas.harvard.edu/~korsgaar/CMK.Morality.as.Freedom.pdf>) OS

We are here confronted with a deep problem of a familiar kind. If you can give a reason, you have derived it from some more fundamental maxim, and I can ask why you have adopted that one. If you cannot, it looks as if your principle was randomly selected. Obviously, to put an end to a regress like this we need a principle about which it is impossible, unnecessary, or incoherent to ask why a free person would have chosen it. Kant's argument must show that the categorical imperative has this status. Although Kant does not think that a free will exists in time, we may imagine that there is a "moment" when the free will is called upon to choose its most fundamental principle. In order to be a will it must have a principle from which it will derive its reasons. The principle it chooses will determine what it counts as a reason. But precisely because at this "moment" the will has not yet determined what it will count as a reason, it seems as if there could be no reason for it to choose one principle rather than another. Kant calls this feature of the will its "spontaneity." xi As the argument stands now, it looks as if the will could adopt any maxim we can construct. If you have a free will you could adopt a maxim of pursuing only those things to which you have an 7 aversion, or perhaps all and only the things your next-door neighbor enjoys. For us human beings, however, these are not serious options, for reasons that come out most clearly in Religion Within the Limits of Reason Alone. Kant uses the term "incentive" (Triebfeder) to describe the relation of the free person to the candidate reasons among which she chooses. An incentive is something that makes an action interesting to you, that makes it a live option. Desires and inclinations are incentives; so is respect for the moral law. An inclination by itself is merely an incentive, and does not become a reason for action until the person has adopted it freely into her maxim. (Rel. 6: 23-24/19; 44/40) Although incentives do not yet provide reasons for the spontaneous will, they do determine what the options are - which things, so to speak, are candidates for reasons. And having an aversion to something is not, for us human beings, an incentive for pursuing it, and so will not become a reason. In the Religion, Kant claims that it is impossible for a human being not to be moved at all by incentives; our freedom, rather, is exercised in choosing the order of precedence among the different kinds of incentives to which we are subject. (6: 30/25; 36/31) So the real choice will be between a maxim of self-love, which subordinates the incentives of morality to those of inclination, and the moral maxim, which subordinates incentives of inclination to moral ones. The maxim of self-love says something like: "I will do what I desire, and what is morally required if it doesn't interfere with my self love." and the moral maxim says something like: "I will do what is morally required, and what I desire if it doesn't interfere with my duty." More specifically stated, of course, the moral maxim is the maxim derived from the categorical imperative: "I will act only on a maxim that I can will as a universal law." It looks at first as if the problem here is to show that there is some reason for the spontaneous will to choose the moral maxim rather than the maxim of self-love. Yet this seems impossible, since the spontaneous will by hypothesis has not yet determined what it counts as a reason. But on reflection we will see that this problem can be circumvented. We need only consider the standpoint of the spontaneous will, and the content of the categorical imperative. 8 At the standpoint of spontaneity, the will must, in order so to speak to commence operations, choose a principle or a law for itself. Nothing provides any content for that law. All that it has to be is a law. Suppose that it chooses the categorical imperative, as represented by the Formula of Universal Law. This formula merely tells us to choose a law. Its only constraint on our choice is that it have the form of a law. Nothing provides any content for that law. All that it has to be is a law. By making the Formula of Universal Law its principle, the free will retains the position of spontaneity. Or, to put it a better way, the argument shows that the free will need do nothing to make the Formula of Universal Law its principle: it is already its principle. The categorical imperative is thus shown to be the law of spontaneity. In a sense, the Formula of Universal Law simply describes the function or task of an autonomous will. The moral law does not impose a constraint on the will; it merely says what it has to do in order to be an autonomous will at all. It has to choose a law.

#### And, ethics requires an autonomous will because otherwise culpability is nonsensical.

#### [3] Other frameworks collapse—they contain conditional obligations which derive their authority from the categorical imperative.

Korsgaard 2 [CHRISTINE M. KORSGAARD, greatest philosopher alive, 1998, “Introduction”, Groundwork of the Metaphysics of Morals] AG brackets for conciseness

This is the sort of thing that makes even practiced readers of Kant gnash their teeth. A rough translation might go like this: the categorical imperative is a law, to which our maxims must conform. But the reason they must do so cannot be that there is some further condition they must meet, or some other law to which they must conform. For instance, suppose someone proposed that one must keep one's promises because it is the will of God that one should do so - the law would then "contain the condition" that our maxims should conform to the will of God. This would yield only a conditional requirement to keep one's promises — if you would obey the will of God, then you must keep your promises - whereas the categorical imperative must give us an [be] unconditional requirement. Since there can be no such condition, all that remains is that the categorical imperative should tell us that our maxims themselves must be laws - that is, that they must be universal, that being the characteristic of laws. There is a simpler way to make this point. What could make it true that we must keep our promises because it is the will of God? That would be true only if it were true that we must indeed obey the will of God, that is, if "obey the will of God" were itself a categorical imperative. Conditional requirements give rise to a regress; if there are unconditional requirements, we must at some point arrive at principles on which we are required to act, not because we are commanded to do so by some yet higher law, but because they are laws in themselves. The categorical imperative, in the most general sense, tells us to act on those principles, principles which are themselves laws. Kant continues:

#### **[4] Obligations must be derived from the fundamental status of all human agents—anything else would be contingent.**

Engstrom (Stephen Engstrom, “Universal Legislation As the Form of Practical Knowledge”)

In addition to the idea of universal legislation as the form of practical cognition, there’s a related idea guiding Kant’s thinking about the constraints of pure practical reason that needs to be borne in mind when we consider how they apply in choice and action. Since the exercise of practical reason proceeds from the universal to the particular, the application of the formula of universal law should proceed in this direction as well. Thus in attempting to determine what obligations to other persons this principle of universality might support, we should first consider its application in the most primitive, or fundamental[s], exercise of the will, and to do this we will need to consider the most basic practical self-conception of a particular human person.11 It would be inappropriate, for example, to begin with duties that presuppose particular relations between the persons involved, such as the ties between citizens, family members, or friends. Such obligations, important though they are, depend upon specific, contingent conditions of action, whereas the cases we should consider first are those of duties that attach to us most fundamentally, merely in virtue of our standing as human persons, or subjects with wills, sharing the power of practical reason.

#### **[5] The genesis of agency is intersubjective. The freedom of other agents is a necessary condition for the establishment of my own—willing the restriction of another’s freedom requires that I have a reason to deny my own, which is impossible.**

Neuhouser (Frederick Neuhouser, “Introduction to Foundations of Natural Right by Johann Fitche,” Cambridge University Press 2000)

The deduction's second theorem (§3) makes one of the Foundations's most original and exciting claims, and it is essential to Fichte's project of showing that rights are necessary conditions of self-consciousness. Its claim is that ascribing to oneself free efficacy (or agency) in the sensible world requires ascribing the same capacity to other rational beings. Fichte argues here that in order for a subject to be conscious of its own agency, it must first find that agency, as an object for its consciousness, in the external world. The thought here appears to be that the subject cannot come to an awareness of itself as practically free simply by seeing the results of its agency in the world, for in order to act freely, it would first have to know itself as free. The subject, then, must learn about its freedom in some other manner; it must somehow experience itself as free prior to any actual instances of its agency. Fichte's claim in §3 is that the only possible solution to this problem is to suppose that external evidence of one subject's agency is provided by another free subject. This occurs through a “summons” that one already formed subject makes to another. The summons is a call to act, a call to realize one's free efficacy, which takes the form of an imperative: You ought to "resolve to exercise your agency" (§3, III). Fichte concludes from this that the freedom of one subject (which includes consciousness of its freedom) requires the existence of others; free individuality is possible only in relation to other subjects, and so intersubjectivity is a necessary condition of self-consciousness. As Fichte sums up his result in the first Corollary to §3: "The human being . . . becomes a human being only among human beings;... it follows that if there are to be human beings, at all, there must be more than one. From here Fichte moves to the final step of the deduction of the concept of right (§4). Its claim is that positing the existence of other rational beings requires thinking of oneself as standing in a particular relation to them, a relation that turns out to be the "relation of right." The argument behind this claim is that in order to be conscious of myself as a free individual, I must be able to distinguish my own free agency from that of the other subjects whose existence I necessarily posit (as established in §3). According to Fichte, this requires "ascribing exclusively to myself a sphere for my free choice" (§4, II), a sphere to which other free beings have no access. But, given that I share the external world with other free beings, this is possible only if my individuality is recognized by those beings as setting limits to their own free agency. (And the same, of course, is required of me in relation to them if they are to attain consciousness of themselves as free individuals.) This recognition is more than just a theoretical acknowledgment of my status as a free being; it also requires that I be treated as such by other subjects or, in other words, that my free agency acquire a real and protected existence in the external world. But this is nothing more than the requirement that I possess a set of rights that are respected by others, which is what Fichte means by "standing in a relation of right" to other rational beings.

#### [6] Practical identities, such as debater or a friend, require that we value our own humanity.

CHRISTINE M. **Korsgaard 92** [I am a Professor of Philosophy at Harvard University, where I have taught since 1991. From July 1996 through June 2002, I was Chair of the Department of Philosophy. (The current chair is Sean Kelly.) From 2004-2012, I was Director of Graduate Studies in Philosophy. (The current DGS is Mark Richard.) Before coming here, I held positions at Yale, the University of California at Santa Barbara, and the University of Chicago, as well as visiting positions at Berkeley and UCLA. I served as President of the Eastern Division of the American Philosophical Association in 2008-2009, and held a Mellon Distinguished Achievement Award from 2006-2009. I work on moral philosophy and its history, practical reason, the nature of agency, personal identity, normativity, and the ethical relations between human beings and the other animals], “The Sources of Normativity”, THE TANNER LECTURES ON HUMAN VALUES Delivered at Clare Hall, Cambridge University 16-17 Nov 1992, BE

The Solution: Those who think that the human mind is internally luminous and transparent to itself think that the term “self-consciousness” is appropriate because what we get in human consciousness is a direct encounter with the self. Those who think that the human mind has a reflective structure use the term too, but for a different reason. The reflective structure of the mind is a source of “self-consciousness” because it forces us to have a conception of ourselves. As Kant argues, this is a fact about what it is like to be reflectively conscious and it does not prove the existence of a metaphysical self. From a third person point of view, outside of the deliberative standpoint, it may look as if what happens when someone makes a choice is that the strongest of his conflicting desires wins. But that isn’t the way it is for you when you deliberate. When you deliberate, it is as if there were something over and above all of your desires, something that is you, and that chooses which desire to act on. This means that the principle or law by which you determine your actions is one that you regard as being expressive of yourself. To identify with such a principle or law is to be, in St. Paul’s famous phrase, a law to yourself.6 An agent might think of herself as a Citizen in the Kingdom of Ends. Or she might think of herself as a member of a family or an ethnic group or a nation. She might think of herself as the steward of her own interests, and then she will be an egoist. Or she might think of herself as the slave of her passions, and then she will be a wanton. And how she thinks of herself will determine whether it is the law of the Kingdom of Ends, or the law of some smaller group, or the law of the egoist, or the law of the wanton that is the law that she is to herself. The conception of one’s identity in question here is not a theoretical one, a view about what as a matter of inescapable scientific fact you are. It is better understood as a description under which you value yourself, a description under which you find your life to be worth living and your actions to be worth undertaking. So I will call this a conception of your practical identity. Practical identity is a complex matter and for the average person there will be a jumble of such conceptions. You are a human being, a woman or a man, an adherent of a certain religion, a member of an ethnic group, someone’s friend, and so on. And all of these identities give rise to reasons and obligations. Your reasons express your identity, your nature; your obligations spring from what that identity forbids.

#### [7] Act-omission distinction is necessary since otherwise there’d be infinite obligations. That’d mean we are always fulfilling an infinitely small percent of all our obligations, so it’d be impossible to take any moral action.

#### [8] We can’t predict the future since the reliability of that induction relies on another induction, namely that past trends tend to reproduce themselves, which is circular.

### Contention

#### [1] Coercion—controlling speech violates individuals.

Lambert 16 (Saber, writer @ being libertarian, “The Degradation of Free Speech and Personal Liberty,” April 9, 2016, https://beinglibertarian.com/the-degradation-of-free-speech-and-personal-liberty///[LADI](http://www.theladi.org/evidence))

Many individuals in society claim that they live in a free nation full of individual liberties. North American constitutions such as the ones implemented in the United States and Canada allow for freedom of speech. However, it is evident that the government has implemented and enforced policies to the contrary. There are a plethora of entertainment programs that have strict censorship policies that go against freedom of speech as it disallows, for example, television producers and musicians to use words or phrases that may be offensive directly or indirectly to a person or group. Regardless, if it is possibly offensive to one or many, the U.S. and Canadian constitutions allow for individuals to say very controversial things. However, restricting one’s freedom of speech in the form of censorship greatly impacts the exchange of ideas that are said to contribute to the (possibly) improvement of society. It is not up to the government to decide what individuals choose to say, read, or hear, and it should not be up to the government to decide what is acceptable within society. The Federal Communications Commission (FCC) in the United States controls all forms of television broadcasting and claims “it is a violation of federal law to air obscene programming at any time. It is also a violation of federal law to air indecent programming or profane language during certain hours.” It is quite clear that censorship by institutional power is a way to control a society in the sense that it determines what individuals in society can legally say, hear, or read. It is against the majoritarian virtues and values that are constitutionally instilled within a society, and is often paralleled to a form of dictatorship – no matter how miniscule.

#### One can never restrict the ends a subject can set as their means, because to be human is to autonomously set the ends. To treat humanity as an end requires one to respect the legislative right of agents to use their means as they see fit free of domination.

Arthur **Ripstein 09** [Professor of Law and Philosophy at the University of Toronto, and Chair of the Department of Philosophy], “Force and Freedom”, Harvard University Press, pgs 34-35, 2009, BE

You are independent if you are the one who decides what ends you will use your means to pursue, as opposed to having someone else decide for you. At the level of innate right, your right to freedom protects your purposiveness—your capacity to choose the ends you will use your means to pursue—against the choices of others, but not against either your own poor choices or the inadequacy of your means to your aspirations. You remain independent if nobody else gets to tell you what purposes to pur- sue with your means; each of us is independent if neither of us gets to tell the other what purposes to pursue.¶ This right to independence is not a special case of a more general in- terest in being able to set and pursue your purposes. Instead, it is a dis- tinctive aspect of your status as a person in relation to other persons, enti- tled to set your own purposes, and not required to act as an instrument for the pursuit of anyone else’s purposes. You are sovereign as against others not because you get to decide about the things that matter to you most, but because nobody else gets to tell you what purposes to pursue; you would be their subject if they did. Thus Kant’s conception of the right to independence rests on neither of what is referred to in recent lit- erature as “interest theory” or “will theory” of rights.9 Underlying the other differences between these accounts is a shared conception of rights as institutional instruments that constrain the conduct of others in order to protect things that matter apart from them. Kant’s account identifies a right with the restriction on the conduct of others “under universal law,” that is, consistent with everyone having the same restrictions. Each per- son’s entitlement to be independent of the choice of others constrains the conduct of others because of the importance of that independence, rather than in the service of something else, such as an interest in leading a suc- cessful, worthwhile, or fully autonomous life. Those things can be speci- fied without reference to the conduct of others, and constraining the con- duct of others is, at most, a useful way of securing them. If rights are understood in this instrumental way, they are always at least potentially conditional on their ability to secure the underlying values that they are supposed to protect. The Kantian right to independence, by contrast, is always an entitlement within a system of reciprocal limits on freedom, and so can only be violated by the conduct of others, and its only point is to prohibit that conduct. The protection of independence and the prohibi- tion of one person deciding what purposes another will pursue stand in a relation of equivalence, rather than one of means to an end. As a result, the constraint a system of equal freedom places on conduct is uncondi- tional. An unconditional constraint does not preclude the possibility of hindering the action of a person, or even of using lethal force to do so, because the unconditional right is not a right to a certain state of affairs, such as the agent staying alive. Instead, it is a right to act independently of the choice of others, consistent with the entitlement of others to do the same. The principle of mutual restriction under law applies uncondition- ally, because it is not a way of achieving some other end.¶ Your sovereignty, which Kant also characterizes as your quality of be- ing your “own master (sui juris),” has as its starting point your right to your own person, which Kant characterizes as innate. As innate, this right contrasts with any further acquired rights you might have, because innate right does not require any affirmative act to establish it; as a right, it is a constraint on the conduct of others, rather than a way of protecting some nonrelational aspect of you. It is a precondition of any acquired rights because those capable of acquiring them through their actions already have the moral capacity to act in ways that have consequences for rights, that is, for the conduct of others. That any system of rights presupposes some basic moral capacities that do not depend on antecedent acts on the part of the person exercising them does not yet say what the rights in question are, or how many such rights there might be.

#### No turns—they’d have to prove the aff is *intrinsically* coercive to justify hindering a hindrance.

Ripstein 9 (Arthur, Professor of Law and Philosophy at the University of Toronto, and Chair of the Department of Philosophy, “Force and Freedom”, Harvard University Press, 2009//[LADI](http://www.theladi.org/evidence))

If you violate a duty of right, however, others are entitled to hinder your hindrance to freedom. This hindrance is not a strategic attempt to reduce the number of violations; it is simply the underlying right reasserting itself in a system in which choices reciprocally limit each other in accordance with universal law. If I invade the space you occupy, you can push me away. If I take what is yours, I must give it back, for no other reason than that it is yours. As Kant observes, if another person “has wronged me and I have a right to demand compensation from him, by this I will still only preserve what is mine undiminished.”53 Compelling someone to give me something so as to “preserve what is mine undiminished” cancels the wrong, leaving my external person and means intact. The initial wrong hinders my freedom by depriving me of powers with which I was able to set and pursue my purposes. The remedial force that is exercised in ex- acting payment cancels the initial, wrongful force, thus “hindering a hin- drance” to freedom. The form of the hindering of the hindrance—the matching of the remedy to the wrong, to make it as if the wrong had not occurred—can be shown a priori. Its matter in any particular case—the value of the thing I deprived you of, for example—requires a judgment about empirical particulars, which must be made in accordance with rational concepts, but is not exhausted by them.

#### But the aff can’t be an intrinsic violation:

#### [a] Speech could never violate external freedom, only internal freedom, but the latter can’t be coercively enforced.

Varden 10 [Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech>] AG

Right, for Kant, is solely concerned with people’s actions in space and time, or what he calls our “external use of choice” (6: 213f, 224ff). When we deem each other and ourselves capable of deeds, meaning that we see each other and ourselves as the authors of our actions, we “impute” these actions to each other and to ourselves. Such imputation, Kant argues, shows that we judge ourselves and each other as capable of freedom under laws with regard to external use of choice – or ‘external freedom’ (6: 227). Moreover, when we interact, we need to enable reciprocal external freedom, meaning that we must find a way of interacting that is consistent with everybody’s external freedom. And this is where justice, or what Kant calls ‘right’ comes in. Right is the relation between interacting persons’ external freedom such that reciprocal external freedom is realized (6: 230). This is what Kant means when he says that rightful interactions are interactions reconcilable with each person’s innate right to freedom, namely the right to “independence from being constrained by another’s choices… insofar as it can coexist with the freedom of every other in accordance with a universal law” (6: 237). For Kant, right requires that universal laws of freedom, rather than anyone’s arbitrary choices, reciprocally regulate interacting individuals’ external freedom. The first upshot of this conception of right is that anything that concerns morality as such is beyond its proper grasp. Right concerns only external freedom, which is limited to what can be hindered in space and time (coerced), whereas morality also requires internal freedom. That is to say, morality encompasses both right and virtue, and virtue requires what Kant calls freedom with regard to “internal use of choice”. Internal freedom requires a person both to act on universalizable maxims and to do so from the motivation of duty (6: 220f) – and neither [which] can[t] be coercively enforced. This is why Kant argues that only freedom with regard to interacting persons’ external use of choice (right) can be coercively enforced; freedom with regard to both internal (virtue) and external use of choice – morality – cannot be coercively enforced (ibid.). Because morality requires freedom with regard to both internal and external use of choice, it cannot be enforced. This distinction between internal and external use of choice and freedom explains why Kant maintains that most ways in which a person uses words in his interactions with others cannot be seen as involving wrongdoing from the point of view of right: “such things as merely communicating his thoughts to them, telling or promising them something, whether what he says is true and sincere or untrue and insincere” do[es] not constitute wrongdoing because “it is entirely up to them [the listeners] whether they want to believe him or not” (6: 238). The utterance of words in space and time does not have the power to hinder anyone else’s external freedom, including depriving him of his means. Since words as such cannot exert physical power over people, it is impossible to use them as a means of coercion against another. For example, if you block my way, you coerce me by hindering my movements: you hinder my external freedom. If, however, you simply tell me not to move, you have done nothing coercive, nothing to hinder my external freedom, as I can simply walk passed you. So, even though by means of your words, you attempt to influence my internal use of choice by providing me with possible reasons for acting, you accomplish nothing coercive. That is, you may wish that I take on your proposal for action, but you do nothing to force me to do so. Whether or not I choose to act on your suggestion is still entirely up to me. Therefore, you cannot choose for me. My choice to act on your words is beyond the reach of your words, as is any other means I might have. Indeed, even if what you suggest is the virtuous thing to do, your words are powerless with regard to making me act virtuously. Virtuous action requires not only that I act on the right maxims, but that I also do so because it is the right thing to do, or from duty. Because the choice of maxims (internal use of choice) and duty (internal freedom) are beyond the grasp of coercion, Kant holds that most uses of words, including immoral ones such as lying, cannot be seen as involving wrongdoing from the point of view of right.

#### [b] Any violations are consequential—for speech to violate someone it has to first be interpreted in a certain way, but that’s volitional. E.g. if you punch me I have no choice but to feel pain, but if you insult me I have to willingly have certain thoughts before I’m hurt.

#### [2] Affirming maintains the constitution since restricting protected speech is definitionally unconstitutional. That violates the standard:

#### [a] The constitution defines what even counts as the state, so the state can’t violate it in order to pursue equal freedom—that’s contradictory.

#### [b] The constitution is just a rule that the state is bound to, so violating it is non-universalizable—if it were broken in every instance it’d be internally contradictory.

#### [3] The political authority can’t pass rightful policies absent free speech.

Varden 10 [Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech>] AG

It would be tempting, but wrong, to conclude from the above that a full liberal critique of free of speech rights found in liberal states can be established by means of an account derived, ultimately, from private persons’ rights against one another. For then Kant would be seen as arguing that constitutional protection of free speech is merely about ensuring that people are not punished when speech does not involve private wrongdoing. But Kant’s defense of free speech is much stronger than this. On his view, crucially, the right to free speech also protects the possibility of criticism of the public authority, since the right to speak out against the state is necessary for the public authority to be representative in nature. Therefore, this right to free speech is constitutive of the legitimacy of the political authority, namely constitutive of the political relation itself – a relation that does not exist in the state of nature. The right to political speech therefore does not rely on the justification provided by the private right argument that words cannot coerce. This aspect of the right to free speech is rather seen as following from how the public authority must protect and facilitate its citizens’ direct, critical engagement with public, normative standards and practices as they pertain to right. There are no a priori solutions or knowledge with regard to the actual formulation of the wisest laws and policies to enable rightful interaction. It is only through public discussion protected by free speech that the public authority can reach enlightenment about how and whether its own laws and institutions really do enable reciprocal external freedom under law for all. That is to say, only by protecting the citizens’ right freely to express their often controversial and critical responses to the public authority’s operations can the public authority possibly take its decisions to represent the common, unified perspective of all its citizens. Without knowledge of how the decisions affect the citizens, it is simply impossible to function as a representative authority. Therefore, the state has the right and duty constitutionally to protect its citizens’ right to free speech; the right to free speech is constitutive of the rightful relation between citizens and their state. There is clear textual support that Kant provides the kind of twofold defense of free speech argued here, namely that communication of thought does not typically involve private wrongdoing and that the state must protect free speech in order to function as a representative authority. To outlaw free speech, Kant argues in the essay “What is Enlightenment?”, is to “renounce enlightenment… [and] to violate the sacred right of humanity and trample it underfoot” (8: 39). Outlawing free speech is not only stupid, since it makes enlightenment or governance through reason impossible, but it involves denying people their right of humanity. Their right of humanity is denied by outlawing free speech, because such legislation involves using coercion against the citizens even when their speech does not deprive anyone of what is theirs. Moreover, outlawing free speech evidences a government “which misunderstands itself” (8: 41). Similarly, Kant argues both in this text and in “Theory and Practice” that such legislation expresses sheer irrational behavior on the part of a government. “[F]reedom of the pen”, Kant writes in the latter essay, is the sole palladium of the people’s rights. For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter – whose will gives order to the subjects as citizens only by representing the general will of the people – all knowledge of matters that he himself would change if he knew about them and to put him in contradiction with himself…. (8: 304, cf. 8: 39f) Free speech is seen as the ultimate safeguard or protection of the people’s rights. Therefore, a public authority – an authority representing the will of the citizens and yet the will of no one in particular – cannot outlaw free speech, since citizens qua citizens cannot be seen as consenting to it. Such a decree would bring the sovereign ‘in contradiction with himself’ since it would involve denying the sovereign the vital information it needs in order to act as the representative of the people. In “What is Enlightenment?” Kant expands this point: “[t]he public use of one’s reason must always be free… by the public use of one’s own reason I understand that use which someone makes of it as a scholar before the entire public of the world of readers” (8: 37). Every citizen must have the right to engage truthfully, yet critically in public affairs – to be a scholar – and so to raise her voice and explain why she judges the current public system of laws to be unjust or unfair. If such voices are not raised, the public authority cannot possibly be able to govern wisely; without a public expression of the consequences for right of particular laws, the public authority does not have the information required to secure right for all and so to represent its citizens.

## Andrew’s 1AC

### FW

#### I defend Resolved: Public colleges and universities in the United States ought not restrict any constitutionally protected speech. I’m open to modifications in CX.

#### **The meta-ethic is practical reason—ethics must be grounded in the fundamental characteristic shared by all moral agents, namely their status *as* agents, which is to say practical reasoners.**

Engstrom (Stephen Engstrom, “Universal Legislation As the Form of Practical Knowledge”)

In addition to the idea of universal legislation as the form of practical cognition, there’s a related idea guiding Kant’s thinking about the constraints of pure practical reason that needs to be borne in mind when we consider how they apply in choice and action. Since the exercise of practical reason proceeds from the universal to the particular, the application of the formula of universal law should proceed in this direction as well. Thus in attempting to determine what obligations to other persons this principle of universality might support, we should first consider its application in the most primitive, or fundamental[s], exercise of the will, and to do this we will need to consider the most basic practical self-conception of a particular human person.11 It would be inappropriate, for example, to begin with duties that presuppose particular relations between the persons involved, such as the ties between citizens, family members, or friends. Such obligations, important though they are, depend upon specific, contingent conditions of action, whereas the cases we should consider first are those of duties that attach to us most fundamentally, merely in virtue of our standing as human persons, or subjects with wills, sharing the power of practical reason.

#### The authority of reasons is implicit in all normative judgment. Any external source of authority can be questioned into regress— however, to ask “why reason?” is to ask a closed question.

Velleman (David, “Self To Self”, Cambridge University Press, 2006, pg 18-19)

As we have seen, requirements that depend for their force on some external source of authority turn out to be escapable because the authority behind them can be questioned. We can ask, “Why should I act on this desire?” or “Why should I obey the U.S. Government?” or even “Why should I obey God?” And as we observed in the case of the desire to punch someone in the nose, this question demands a reason for acting. The authority we are questioning would be vindicated, in each case, by the production of a sufficient reason. What this observation suggests is that any purported source of practical authority depends on reasons for obeying it—and hence on the authority of reasons. Suppose, then, that we attempted to question the authority of reasons themselves, as we earlier questioned other authorities. Where we previously asked “Why should I act on my desire?” let us now ask “Why should I act for reasons?” Shouldn’t this question open up a route of escape from all requirements? As soon as we ask why we should act for reasons, however, we can hear something odd in our question. To ask “Why should I?” is to demand a reason; and so to ask “Why should I act for reasons?” is to demand a reason for acting for reasons. This demand implicitly concedes the very authority that it purports to question—namely, the authority of reasons. Why would we demand a reason if we didn’t envision acting for it? If we really didn’t feel required to act for reasons, then a reason for doing so certainly wouldn’t help. So there is something self-defeating about asking for a reason to act for reasons.

#### Impacts:

#### [A] To judge any action to be normatively good is to appeal to reason. This means the question of consistency with the structure of reason must constrain any other meta-ethical view. The moral status of end-setting must precede the moral status of ends themselves.

#### [B] Reason’s authority is self-justified. Only self-justification is epistemically sound—otherwise inquiry is infinitely regressive or circular. That means neg must prove their framework is based in a self-justifying axiom.

#### Practical reason means we must be able to universally will maxims—our judgements are authoritative and can’t only apply to ourselves anymore than 2+2=4 can be true only for me. The only constraint is noncontradiction. Contradictions outweigh—if we accept one contradiction we’d accept all statements since you could switch the first half of a disjunctive statement and render any second half true.

#### Thus, the standard is consistency with universal law.

#### Additionally:

#### [1] Only the categorical imperative allows for an autonomous will—my framework is self-imposed by the structure of the will, so the will can be the cause of itself.

Korsgaard 1 (Christine, Morality as Freedom, <http://www.people.fas.harvard.edu/~korsgaar/CMK.Morality.as.Freedom.pdf>) OS

We are here confronted with a deep problem of a familiar kind. If you can give a reason, you have derived it from some more fundamental maxim, and I can ask why you have adopted that one. If you cannot, it looks as if your principle was randomly selected. Obviously, to put an end to a regress like this we need a principle about which it is impossible, unnecessary, or incoherent to ask why a free person would have chosen it. Kant's argument must show that the categorical imperative has this status. Although Kant does not think that a free will exists in time, we may imagine that there is a "moment" when the free will is called upon to choose its most fundamental principle. In order to be a will it must have a principle from which it will derive its reasons. The principle it chooses will determine what it counts as a reason. But precisely because at this "moment" the will has not yet determined what it will count as a reason, it seems as if there could be no reason for it to choose one principle rather than another. Kant calls this feature of the will its "spontaneity." xi As the argument stands now, it looks as if the will could adopt any maxim we can construct. If you have a free will you could adopt a maxim of pursuing only those things to which you have an 7 aversion, or perhaps all and only the things your next-door neighbor enjoys. For us human beings, however, these are not serious options, for reasons that come out most clearly in Religion Within the Limits of Reason Alone. Kant uses the term "incentive" (Triebfeder) to describe the relation of the free person to the candidate reasons among which she chooses. An incentive is something that makes an action interesting to you, that makes it a live option. Desires and inclinations are incentives; so is respect for the moral law. An inclination by itself is merely an incentive, and does not become a reason for action until the person has adopted it freely into her maxim. (Rel. 6: 23-24/19; 44/40) Although incentives do not yet provide reasons for the spontaneous will, they do determine what the options are - which things, so to speak, are candidates for reasons. And having an aversion to something is not, for us human beings, an incentive for pursuing it, and so will not become a reason. In the Religion, Kant claims that it is impossible for a human being not to be moved at all by incentives; our freedom, rather, is exercised in choosing the order of precedence among the different kinds of incentives to which we are subject. (6: 30/25; 36/31) So the real choice will be between a maxim of self-love, which subordinates the incentives of morality to those of inclination, and the moral maxim, which subordinates incentives of inclination to moral ones. The maxim of self-love says something like: "I will do what I desire, and what is morally required if it doesn't interfere with my self love." and the moral maxim says something like: "I will do what is morally required, and what I desire if it doesn't interfere with my duty." More specifically stated, of course, the moral maxim is the maxim derived from the categorical imperative: "I will act only on a maxim that I can will as a universal law." It looks at first as if the problem here is to show that there is some reason for the spontaneous will to choose the moral maxim rather than the maxim of self-love. Yet this seems impossible, since the spontaneous will by hypothesis has not yet determined what it counts as a reason. But on reflection we will see that this problem can be circumvented. We need only consider the standpoint of the spontaneous will, and the content of the categorical imperative. 8 At the standpoint of spontaneity, the will must, in order so to speak to commence operations, choose a principle or a law for itself. Nothing provides any content for that law. All that it has to be is a law. Suppose that it chooses the categorical imperative, as represented by the Formula of Universal Law. This formula merely tells us to choose a law. Its only constraint on our choice is that it have the form of a law. Nothing provides any content for that law. All that it has to be is a law. By making the Formula of Universal Law its principle, the free will retains the position of spontaneity. Or, to put it a better way, the argument shows that the free will need do nothing to make the Formula of Universal Law its principle: it is already its principle. The categorical imperative is thus shown to be the law of spontaneity. In a sense, the Formula of Universal Law simply describes the function or task of an autonomous will. The moral law does not impose a constraint on the will; it merely says what it has to do in order to be an autonomous will at all. It has to choose a law.

#### And, ethics requires an autonomous will because otherwise culpability is nonsensical.

#### [2] Other frameworks collapse—they contain conditional obligations which derive their authority from the categorical imperative.

Korsgaard 2 [CHRISTINE M. KORSGAARD, greatest philosopher alive, 1998, “Introduction”, Groundwork of the Metaphysics of Morals] AG brackets for conciseness

This is the sort of thing that makes even practiced readers of Kant gnash their teeth. A rough translation might go like this: the categorical imperative is a law, to which our maxims must conform. But the reason they must do so cannot be that there is some further condition they must meet, or some other law to which they must conform. For instance, suppose someone proposed that one must keep one's promises because it is the will of God that one should do so - the law would then "contain the condition" that our maxims should conform to the will of God. This would yield only a conditional requirement to keep one's promises — if you would obey the will of God, then you must keep your promises - whereas the categorical imperative must give us an [be] unconditional requirement. Since there can be no such condition, all that remains is that the categorical imperative should tell us that our maxims themselves must be laws - that is, that they must be universal, that being the characteristic of laws. There is a simpler way to make this point. What could make it true that we must keep our promises because it is the will of God? That would be true only if it were true that we must indeed obey the will of God, that is, if "obey the will of God" were itself a categorical imperative. Conditional requirements give rise to a regress; if there are unconditional requirements, we must at some point arrive at principles on which we are required to act, not because we are commanded to do so by some yet higher law, but because they are laws in themselves. The categorical imperative, in the most general sense, tells us to act on those principles, principles which are themselves laws. Kant continues:

#### [3] We set ends based on practical identities, like student or debater. However, human identity—or rationality—is the source of practical identity, since it’s necessary to determine what roles to take on. That means we can’t have a reason to shed human identity for the sake of practical identity—only vice versa.

#### [4] Act-omission distinction is necessary since otherwise there’d be infinite obligations. That’d mean we are always fulfilling an infinitely small percent of all our obligations, so it’d be impossible to take any moral action.

#### [5] We can’t predict the future since the reliability of that induction relies on another induction, namely that past trends tend to reproduce themselves, which is circular.

### Contention

#### Removing restrictions prevents prohibiting speech which is an essential freedom—restrictions in the status quo prevent people from acting on their agency no matter how miniscule the restrictions are.

Lambert 16 (Saber, writer @ being libertarian, “The Degradation of Free Speech and Personal Liberty,” April 9, 2016, https://beinglibertarian.com/the-degradation-of-free-speech-and-personal-liberty///[LADI](http://www.theladi.org/evidence))

Many individuals in society claim that they live in a free nation full of individual liberties. North American constitutions such as the ones implemented in the United States and Canada allow for freedom of speech. However, it is evident that the government has implemented and enforced policies to the contrary. There are a plethora of entertainment programs that have strict censorship policies that go against freedom of speech as it disallows, for example, television producers and musicians to use words or phrases that may be offensive directly or indirectly to a person or group. Regardless, if it is possibly offensive to one or many, the U.S. and Canadian constitutions allow for individuals to say very controversial things. However, restricting one’s freedom of speech in the form of censorship greatly impacts the exchange of ideas that are said to contribute to the (possibly) improvement of society. It is not up to the government to decide what individuals choose to say, read, or hear, and it should not be up to the government to decide what is acceptable within society. The Federal Communications Commission (FCC) in the United States controls all forms of television broadcasting and claims “it is a violation of federal law to air obscene programming at any time. It is also a violation of federal law to air indecent programming or profane language during certain hours.” It is quite clear that censorship by institutional power is a way to control a society in the sense that it determines what individuals in society can legally say, hear, or read. It is against the majoritarian virtues and values that are constitutionally instilled within a society, and is often paralleled to a form of dictatorship – no matter how miniscule.

#### Impacts:

#### [A] Restricting speech is definitionally coercion which can’t be universalized—external freedom is a prerequisite to taking any action.

#### [B] Proves squo contradicts the Constitution. Links to the standard—Violating procedural constraints violates the categorical imperative—if it were universalized there could be no constraints to break.

#### This outweighs—no hindering a hindrance since arguments aren’t coercive.

Varden 10 [Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech>] AG

Right, for Kant, is solely concerned with people’s actions in space and time, or what he calls our “external use of choice” (6: 213f, 224ff). When we deem each other and ourselves capable of deeds, meaning that we see each other and ourselves as the authors of our actions, we “impute” these actions to each other and to ourselves. Such imputation, Kant argues, shows that we judge ourselves and each other as capable of freedom under laws with regard to external use of choice – or ‘external freedom’ (6: 227). Moreover, when we interact, we need to enable reciprocal external freedom, meaning that we must find a way of interacting that is consistent with everybody’s external freedom. And this is where justice, or what Kant calls ‘right’ comes in. Right is the relation between interacting persons’ external freedom such that reciprocal external freedom is realized (6: 230). This is what Kant means when he says that rightful interactions are interactions reconcilable with each person’s innate right to freedom, namely the right to “independence from being constrained by another’s choices… insofar as it can coexist with the freedom of every other in accordance with a universal law” (6: 237). For Kant, right requires that universal laws of freedom, rather than anyone’s arbitrary choices, reciprocally regulate interacting individuals’ external freedom. The first upshot of this conception of right is that anything that concerns morality as such is beyond its proper grasp. Right concerns only external freedom, which is limited to what can be hindered in space and time (coerced), whereas morality also requires internal freedom. That is to say, morality encompasses both right and virtue, and virtue requires what Kant calls freedom with regard to “internal use of choice”. Internal freedom requires a person both to act on universalizable maxims and to do so from the motivation of duty (6: 220f) – and neither [which] can[t] be coercively enforced. This is why Kant argues that only freedom with regard to interacting persons’ external use of choice (right) can be coercively enforced; freedom with regard to both internal (virtue) and external use of choice – morality – cannot be coercively enforced (ibid.). Because morality requires freedom with regard to both internal and external use of choice, it cannot be enforced. This distinction between internal and external use of choice and freedom explains why Kant maintains that most ways in which a person uses words in his interactions with others cannot be seen as involving wrongdoing from the point of view of right: “such things as merely communicating his thoughts to them, telling or promising them something, whether what he says is true and sincere or untrue and insincere” do[es] not constitute wrongdoing because “it is entirely up to them [the listeners] whether they want to believe him or not” (6: 238). The utterance of words in space and time does not have the power to hinder anyone else’s external freedom, including depriving him of his means. Since words as such cannot exert physical power over people, it is impossible to use them as a means of coercion against another. For example, if you block my way, you coerce me by hindering my movements: you hinder my external freedom. If, however, you simply tell me not to move, you have done nothing coercive, nothing to hinder my external freedom, as I can simply walk passed you. So, even though by means of your words, you attempt to influence my internal use of choice by providing me with possible reasons for acting, you accomplish nothing coercive. That is, you may wish that I take on your proposal for action, but you do nothing to force me to do so. Whether or not I choose to act on your suggestion is still entirely up to me. Therefore, you cannot choose for me. My choice to act on your words is beyond the reach of your words, as is any other means I might have. Indeed, even if what you suggest is the virtuous thing to do, your words are powerless with regard to making me act virtuously. Virtuous action requires not only that I act on the right maxims, but that I also do so because it is the right thing to do, or from duty. Because the choice of maxims (internal use of choice) and duty (internal freedom) are beyond the grasp of coercion, Kant holds that most uses of words, including immoral ones such as lying, cannot be seen as involving wrongdoing from the point of view of right.

#### Consequentially reducing freedom violations isn’t how hindering a hindrance works.

Ripstein 9 (Arthur, Professor of Law and Philosophy at the University of Toronto, and Chair of the Department of Philosophy, “Force and Freedom”, Harvard University Press, 2009//[LADI](http://www.theladi.org/evidence))

If you violate a duty of right, however, others are entitled to hinder your hindrance to freedom. This hindrance is not a strategic attempt to reduce the number of violations; it is simply the underlying right reasserting itself in a system in which choices reciprocally limit each other in accordance with universal law. If I invade the space you occupy, you can push me away. If I take what is yours, I must give it back, for no other reason than that it is yours. As Kant observes, if another person “has wronged me and I have a right to demand compensation from him, by this I will still only preserve what is mine undiminished.”53 Compelling someone to give me something so as to “preserve what is mine undiminished” cancels the wrong, leaving my external person and means intact. The initial wrong hinders my freedom by depriving me of powers with which I was able to set and pursue my purposes. The remedial force that is exercised in ex- acting payment cancels the initial, wrongful force, thus “hindering a hin- drance” to freedom. The form of the hindering of the hindrance—the matching of the remedy to the wrong, to make it as if the wrong had not occurred—can be shown a priori. Its matter in any particular case—the value of the thing I deprived you of, for example—requires a judgment about empirical particulars, which must be made in accordance with rational concepts, but is not exhausted by them.

#### The political authority can’t pass rightful policies absent free speech.

Varden 10 [Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech>] AG

It would be tempting, but wrong, to conclude from the above that a full liberal critique of free of speech rights found in liberal states can be established by means of an account derived, ultimately, from private persons’ rights against one another. For then Kant would be seen as arguing that constitutional protection of free speech is merely about ensuring that people are not punished when speech does not involve private wrongdoing. But Kant’s defense of free speech is much stronger than this. On his view, crucially, the right to free speech also protects the possibility of criticism of the public authority, since the right to speak out against the state is necessary for the public authority to be representative in nature. Therefore, this right to free speech is constitutive of the legitimacy of the political authority, namely constitutive of the political relation itself – a relation that does not exist in the state of nature. 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That is to say, only by protecting the citizens’ right freely to express their often controversial and critical responses to the public authority’s operations can the public authority possibly take its decisions to represent the common, unified perspective of all its citizens. Without knowledge of how the decisions affect the citizens, it is simply impossible to function as a representative authority. Therefore, the state has the right and duty constitutionally to protect its citizens’ right to free speech; the right to free speech is constitutive of the rightful relation between citizens and their state. There is clear textual support that Kant provides the kind of twofold defense of free speech argued here, namely that communication of thought does not typically involve private wrongdoing and that the state must protect free speech in order to function as a representative authority. 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For to want to deny them this freedom is not only tantamount to taking from them any claim to a right with respect to the supreme commander (according to Hobbes), but is also to withhold from the latter – whose will gives order to the subjects as citizens only by representing the general will of the people – all knowledge of matters that he himself would change if he knew about them and to put him in contradiction with himself…. (8: 304, cf. 8: 39f) Free speech is seen as the ultimate safeguard or protection of the people’s rights. Therefore, a public authority – an authority representing the will of the citizens and yet the will of no one in particular – cannot outlaw free speech, since citizens qua citizens cannot be seen as consenting to it. Such a decree would bring the sovereign ‘in contradiction with himself’ since it would involve denying the sovereign the vital information it needs in order to act as the representative of the people. 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### Underview

#### Permitting negative speech is the best solution—brings issues to the surface and good ideas will triumph.

Davidson 16 Alexander(Cal Polytechnic Senior, paper in partial fulfillment of Bachelor of Science in Journalism) The Freedom of Speech in Public Forums on College Campuses: A single site case study on Pushing the Boundaries of Free Speech, June 2016, Accessed 12/4/16 [http://digitalcommons.calpoly.edu/cgi/viewcontent.cgi?article=1119&context=joursp [Premier]

Back in 2008, there was an incident that took place at California Polytechnic State University’s on-campus crop science house that involved a noose, a confederate flag and allegations of a sign that contained racial and gay slurs. The sign and props were used as decorations for a Halloween party that took place on campus. Hundreds of students gathered to protest the incident to try to foster an environment of acceptance. The students hoped to raise awareness about the happening that took place as well as showcase disapproval of the hate speech that took place. During the protest, a petition was also passed around that garnered 150 signatures for the expulsion of the students that were living in the crops house at the time. Much like the incident that took place on the free speech wall at California Polytechnic State University, the free marketplace of ideas allowed for good speech to conquer the bad speech. The censorship of negative speech will not destroy it, but instead drive it under the ground; however, having it out in the open allows both sides of an issue to be presented and it allows for the people to decide which side of the coin they want to land facing the surface.

#### Speech codes turn racists into martyrs.

Leonard 93 [JAMES LEONARD, (Director of Law Library and Professor of Law, Ohio Northern University Pettit College of Law; B.A. (1975), M.S.L.S. (1980), J.D. (1986), University of North Carolina.), 1993, “Killing with Kindness: Speech Codes in the American University”, OHIO NORTHERN UNIVERSITY LAW REVIEW, <https://heinonline.org/HOL/Page?handle=hein.journals/onulr19&start_page=759&collection=journals&id=771>] AG bracketed for gender

As well as the possibility of backlash, there is a great risk that speech codes will have the ironic effect of publicizing and glorifying the very ideas which the censors would abolish. Professor Nadine Strossen has argued cogently that attempts at suppressing racist speech (and by implication other forms of discriminatory expression) generate publicity and attention that the speaker would never have attracted on [their] his or her own. 80 There is some psychological evidence that attempts by government to censor speech makes it more appealing to many,' and may even transform censored speakers into martyrs. Although I am wary of basing law or policy on psychological theory,8 2 I have personally observed how censorship can glorify the most abominable thoughts. When I was an undergraduate at the University of North Carolina in the early 1970's, the Student Union issued an invitation to David Duke to participate in a speakers series. At that time Duke was a full-sheet Ku Klux Klan leader who had not yet attained national prominence. He never got the chance to speak. His presentation was drowned out by the chants of student protesters. Had he been allowed to speak, I am sure that he would have presented a racist, anti-semitic explanation for America's falling star, sanitized for presentation to a university audience. Duke on his own would have attracted modest media attention and then have left campus, soon forgotten."3 As it turned out, he left town a well-publicized martyr in the cause of free speech. Fortunately, the sympathy for David Duke faded quickly. However, unlike particular speakers, speech codes are a fixture of campus society. Glorification of censored speech is a risk that we endure as long as the censorship continues.

## Contention Frontlines

### AT: Speech is Violation

#### [1] No it’s not—even if it’s a huge cause of violence that’s a consequence. Offensiveness still requires we interpret it. Doesn’t mean it’s any less important but it’s a relevant distinction in the context of the framework. Saying hate speech is really bad doesn’t mean its badness is intrinsic.

#### [2] No impact—you haven’t justified hindering a hindrance anyway—all the contention args about intrinsicness were just pre-emptive.