# 1AC- Kant -- Nirmal

## 1AC

### Framework [2:30]

#### The value is morality

#### Moral realism fails- prefer constructivism, we must derive truths from reflection and see humanity as an end in of itself

**Bagnoli 14** [Bagnoli, Carla, "Constructivism in Metaethics", The Stanford Encyclopedia of Philosophy (Winter 2014 Edition), Edward N. Zalta (ed.), forthcoming URL = <http://plato.stanford.edu/archives/win2014/entries/constructivism-metaethics/>.]

Among contemporary philosophers, Christine Korsgaard has developed the most ambitious, and controversial, version of Kantian constructivism. She defines Kantian constructivism as a form of “procedural realism”—the view that “there are answers to moral questions because there are correct procedures for arriving at them”; and she contrasts procedural realism with “substantive realism”—the view that “there are correct procedures for answering moral questions because there are moral truths or facts, which exist independently of those procedures, and which those procedures track” (Korsgaard 1996a, 36–37; see also Engstrom 2009, 119). Substantive realism holds that there are objective criteria of correctness for moral judgments only if such judgments represent matters of fact about the way the world is. By contrast, the constructivist view is that there are objective criteria of moral judgment insofar as there are objective criteria about how to reason on practical matters. There are objective reasons that prohibit deceiving and manipulating others, but such reasons are the result of practical reasoning, rather than discovered by empirical investigation, grasped by the intellect, or revealed by some god. What makes this view “Kantian” is that there is ultimately one criterion for reasoning on practical matters, which is the Categorical Imperative. By reasoning according to this criterion, we objectively ground moral obligation. This is to say, moral obligations are requirements of practical reason. Korsgaard's case for constructivism parallels Kant's as Rawls reconstructs it. It starts by objecting that substantive **realism** fails to respond to the skeptical challenge because it simply **assumes the existence of objective standards** for morality without offering a rational basis for them. As a consequence, the realist also **fails to account for the authority of moral obligations—**for why we really ought to do as morality says. (Korsgaard 1996a; Korsgaard 2008, 234, 30–31, 55–57, 67–68). Realists are misled by the presumption that, in order to fend off skepticism, one has to anchor practical reasons in facts that are in themselves normative. But **no appeal to** such **“normative facts” can explain how they count as reasons and motivate** rational agents. **Suppose we agree** that **it is a** normative **fact** that **deception is** morally **wrong.** How does **awareness of this** fact rationally **compel us to refrain** from deceiving? This is not only a psychological question about the force that such a fact might exercise on our minds, but also, and most importantly, a normative question that concerns their authority. According to Korsgaard, “the normative question” arises for **humans** insofar as they are capable of **reflect**ing **on** themselves and considering **their thoughts and desires** from a detached perspective. **This** reflective distance **allows** rational **agents to call into question the legitimacy of** particular **thoughts** and desires and to suspend their pull. Because they are reflective, rational agents have ideals about the sort of persons they want to be, and they can guide their minds and actions accordingly. That is, **they are capable of self-governance.** Like Kant, Korsgaard thinks that the appropriate form of self-governance is self-legislation (Korsgaard 1996a, 36, 91, 231–232; Korsgaard 2008, 3). According to Korsgaard, rational agents are guided by universal principles that they have legislated. The appeal to self-legislation does not make the moral law coincide with the arbitrary decisions of particular agents. The moral law is a principle of reasoning that binds all rational agents, not a decree of any one rational agent (Korsgaard 1996a, 36, 234–236; Korsgaard 2008, 207–229; Reath 2006, 112–113, 92–170). The constructivist claim is that the **moral law obliges** us **only** insofar **as** it is **self-legislated**. This is not to say that one is bound by requirements because one legislates them; otherwise, evil people would not be bound by the moral law (Korsgaard 1996a, 234–235; O'Neill 2003c; Reath 2006, 112–113, 92–170; Korsgaard 2008, 207–229). Rather, one can autonomously act on such requirements only if one legislates them. This is because **universal principles guarantee** that **action is expressive of an agent**'s integrity, **rather than merely** in the service of **satisfying preferences** or desires. Like Plato and Kant, Korsgaard argues that some kind of integrity is necessary to be an agent and cannot be achieved without a commitment to morality, which is founded on reason (Korsgaard 2009, xii, Chapter 3; cf. Plato Republic 443d-e). A canonical objection against the attempt to ground morality on rationality is that it fails to account for the special bonds and ties we have with our loved ones and thus fails to capture the nature of integrity and morality (Williams 1981). To address these worries, Korsgaard introduces the notion of “practical identities”, which specify roles as sources of special obligations. For instance, Adam values himself and finds his life worth living and his actions worth undertaking under the description of being a teacher of music, an American citizen, and Robert's friend (Korsgaard 1996a, 101, §3.3.1; Korsgaard 2009, 20). These **practical identities** govern Adam's choices, **sustain** his **integrity**, **and are sources of specific obligations** to his pupils, fellows, and friends (Korsgaard 1996a, §3.3.1; Korsgaard 2009, 22). However, we do not have obligations just because we occupy certain roles as teachers, citizens, or friends. Rather, such **roles become practical identities,** and sources of reasons, insofar as we rationally endorse them. **Rational endorsement**, in turn, **requires** that **we** **test** our loyalties and **allegiances according** to the principle of **universality**, which commits us to morality. **In order to value ourselves** under these specific descriptions, **we ought to value humanity** in ourselves and in others (Korsgaard 2008, Lecture 6, 25–26). Korsgaard offers what is called a ‘transcendental argument’ for this conclusion. A transcendental argument is an argument that identifies the conditions under which it is possible for something to be the case. Korsgaard argues that valuing humanity, understood as the capacity for rationality, is the condition of the possibility of valuing anything at all (Korsgaard 1996a, 121–123; Korsgaard 1998, 60–62; Korsgaard 2009). Evaluators bestow value on objects on the basis of reasons, and thus in virtue of their rational capacity. **The value of any object** thus ultimately **depends on the rational** capacity of evaluators. **valuing ‘Humanity’** is the name of a distinctive value, which is unconditional and **counts as the condition of** the possibility of **valuing anything** at all. Since humanity is embodied in all rational beings, we should value humanity in ourselves as well as in others, on pain of incoherence.Special **obligations** and bonds that derive from local identities are insufficient to sustain our integrity when they are inconsistent with valuing humanity. For instance, the conduct of a Mafioso **cannot be** coherently **justified on** the basis of **a** universal **principle.** The Mafioso thus fails as a rational agent and leads a life that is not autonomous, **since** his **life is** notthe product of **reflective self-government.** A systematic failure to be guided by universal principles of self-government amounts to a loss of agency. We cannot but be agents, and thus we are necessarily bound by the norms of rationality and morality. Korsgaard's strategy depends on establishing that the norms of rationality and morality can be derived from the constitutive features of agency and that agency is inescapable. Both these claims have been attacked on grounds that will be discussed in section §

#### This outweighs:

#### A. Arbitrary moral facts terminate in nonmoral reasons which are simply conferred value upon by agents and open to subjective interpretations

#### B. Self reflexitivity allows us to call into question intrinsic values which makes them question begging

#### C. Causal forces determine subjective value- so they can’t ground universal ethics. We are predisposed by the world and experiences which frame our capability to understand extrinsic goods

#### And, Freedom is a priori- it follows that in the kingdom of rational ends- agents must respect one another’s practical identity.

**Korsgaard 96** [Christine Korsgaard. “The Sources of Normativity.” Lecture 3. The Tanner Lectures on Human Values. 1996. Gender modified. http://tannerlectures.utah.edu/\_documents/a-to-z/k/korsgaard94.pdf]

Kant defines a free will as a rational causality that is effective without being determined by any alien cause. Anything outside of the will counts as an alien cause, including the desires and inclinations of the person. The free will must be entirely self determining. Yet, because the will is a causality, it must act according to some law or other. Kant says, “Since the concept of a causality entails that of laws . . . it follows that freedom is by no means lawless . . .” 2 Alternatively, we may say that since the will is practical reason, it cannot be conceived as acting and choosing for no reason. Since reasons are derived from principles, the free will must have a principle. But because the will is free, no law or principle can be imposed on it from outside. Kant concludes that the will must be autonomous: that is, it must have its own law or principle. And here again we arrive at the problem. For where is this law to come from? If it is imposed on the will from outside then the will is not free. So the will must adopt the law for itself. But until the will has a law or principle, there is nothing from which it can derive a reason. So how can it have any reason for adopting one law rather than another ? Well, here is Kant’s answer. The Categorical imperative tells us to act only on a maxim that we could will to be a law. And this, according to Kant, is the law of a free will. To see why, we need only compare the problem faced by the free will with the content of the Categorical imperative. The problem faced by the free will is this: the will must have a law, but because the will is free, it must be its own law. And nothing determines what that law must be. All that it has to be is a law. Now consider the content of the Categorical imperative. The Categorical imperative simply tells us to choose a law. Its only constraint on our choice is that it have the form of a law. And nothing determines what that law must be. All that it has to be is a law. Therefore the categorical imperative is the law of a free will. It does not impose any external constraint on the free will’s activities, but simply arises from the nature of the will. It describes what a free will must do in order to be what it is. It must choose a maxim it can regard as a law.3 Now I’m going to make a distinction that Kant doesn’t make. I am going to call the law of acting only on maxims you can will to be laws “the Categorical imperative.” And I am going to distinguish it from what I will call “the moral law.” The moral law, in the Kantian system, is the law of what Kant calls the Kingdom of Ends, the republic of all rational beings. The moral law tells us to act only on maxims that all rational beings could agree to act on together in a workable cooperative system. Now the Kantian argument that I have just described establishes that the categorical imperative is the law of a free will. But it does not establish that the moral law is the law of a free will. Any law is universal, but the argument doesn’t settle the question of the domain over which the law of the free will must range. And there are various possibilities here. If the law is the law of acting on the desire of the moment, then the agent will treat each desire as it arises as a reason, and her conduct will be that of a wanton. 4 If the law ranges over the interests of an agent’s whole life, then the agent will be some sort of egoist. It is only if the law ranges over every rational being that the resulting law will be the moral law, the law of the Kingdom of Ends. Because of this, it has sometimes been claimed that the categorical imperative is an empty formalism. And this in turn has been conflated with another claim, that the moral law is an empty formalism. Now that second claim is false.5 But it is true that the argument that shows that we are bound by the categorical imperative does not show that we are bound by the moral law. For that we need another step. The agent must think of herself as a Citizen of the Kingdom of Ends. 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 rea - son. The reflective structure of the mind[‘s] is a source of “self-consciousness” because it forces us to have a conception æ 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. 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 theo - retical 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 iden - tity forbids. Our ordinary ways of talking about obligation reflect this con - nection to identity. A century ago a European could admonish another to civilized behavior by telling him to act like a Christian. It is still true in many quarters that courage is urged on males by the injunction “Be a man!” Duties more obviously connected with social roles are of course enforced in this way. “A psychiatrist doesn’t violate the confidence of her patients.” No “ought” is needed here because the normativity is built right into the role. But it isn’t only in the case of social roles that the idea of obliga - tion invokes the conception of practical identity. Consider the astonishing but familiar “I couldn’t live with myself if I did that.” Clearly there are two selves here, me and the one I must live with and so must not fail. Or consider the protest against obligation ignored : “Just who do you think you are ?” The connection is also present in the concept of integrity. Etymologically, integrity is oneness, integration is what makes something one. To be a thing, one thing, a unity, an entity; to be anything at all: in the metaphysical sense, that is what it means to have integrity. But we use the term for someone who lives up to his own standards. And that is because we think that living up to them is what makes him one, and so what makes him a person at all. It is the conceptions of ourselves that are most important to us that give[s] rise to unconditional obligations. For to violate them is to lose your integrity and so your identity, and no longer to be who you are. That is, it is no longer to be able to think of yourself under the description under which you value yourself and find your life worth living and your actions worth undertaking. That is to be for all practical purposes dead or worse than dead. When an action cannot be performed without loss of some fundamental part of one’s identity, and an agent would rather be dead, then the obligation not to do it is unconditional and complete. If reasons arise from reflective endorsement, then obligation arises from re - flective rejection.

#### This outweighs:

#### A. Internal link to all ethics- Identifying your own rational agency requires you to know that your will identifies conscious choice

#### B. Culpability- agents must be free in order to assort blame and responsibility for certain duties. Agents need to have the capability to act on volition and not act in order to fulfill obligations

#### C. Resolvability- otherwise its impossible for the judge to make a decision because they can’t be free to vote for the better debater

#### D. Infinite regress- it’s impossible to deny reason’s authority

**Velleman 06** [J David Velleman, “Self To Self- A Brief Introduction to Kantian Ethics” University of Michigan. Cambridge Univesity Press. 2006] NB

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 as "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.

#### To attach value to any identity means that you must value yourself as someone who needs reasons to act and live. You can shed every identity except your human identity; we can shed conflicting impulses by choosing not to make them reasons, but you cannot have reason to reject the value of the source of moral reasons

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

#### In addition, prefer:

#### 1. Argumentation requires that people have the capability to set their own ends

**Hoppe 89** [Hans – Hermann Hoppe, “A theory of Socialism and Capitalism” 1989]

Clearly then, the universalization principle alone would not provide one with any positive set of norms that could be demonstrated to be justified. However, there are other positive norms implied in argumentation apart from the universalization principle. In order to recognize them, it is only necessary to call to attention three interrelated facts. First, that argumentation is not only a cognitive but also a practical affair. Second, that argumentation, as a form of action, implies the use of the scarce resource of one's body. And third, that argumentation is a conflict-free way of interacting. Not in the sense that there is always agreement on the things said, but rather in the sense that as long as argumentation is in progress it is always possible to agree at least on the fact that there is disagreement about the validity of what has been said. And this is to say nothing else than that a mutual recognition of each person's exclusive control over [their] own body must be assumed to exist as long as there is argumentation (note again, that it is impossible to deny this and claim this denial to be true without implicitly having to admit its truth). Hence, one would have to conclude that the norm implied in argumentation is that everybody has the right of exclusive control over his own body as his instrument of action and cognition. Only if there is at least an implicit recognition of each individual's property right in his own body can argumentation take place. Only as long as this right is recognized is it possible for someone to agree to what has been said in an argument and hence can what has been said be validated, or is it possible to say "no" and to agree only on the fact that there is disagreement. Indeed, anyone who would try to justify any norm would already have to presuppose the property right in his body as a valid norm, simply in order to say, "This is what I claim to be true and objective." Any person who would try to dispute the property right in his own body would become caught up in a contradiction, as arguing in this way and claiming his argument to be true, would already implicitly accept precisely this norm as being valid. Thus it can be stated that whenever a person claims that some statement can be justified, [they] at least implicitly assumes the following norm to be justified: [that] "Nobody has the right to uninvitedly aggress against the body of any other person and thus delimit or restrict anyone's control over his own body." This rule is implied in the concept of justification as argumentative justification. Justifying means justifying without having to rely on coercion. In fact, if one formulates the opposite of this rule, i.e., "everybody has the right to uninvitedly aggress against other people" (a rule, by the way, that would pass the formal test of the universalization principle!), then it is easy to see that this rule is not, and never could be, defended in argumentation. To do so would in fact have to presuppose the validity of precisely its opposite, i.e., the aforementioned principle of nonaggression.

#### 2. Actor Specificity- State decisions are products of individual intentions

**Laurence 11** [Benjamin Laurence, Professor of Philosophy at the University of Chicago. “An Anscombean Approach to Collective Action” Essays on Anscombe's Intention. Harvard University, 2011.]

It is enough that the same order displayed in collective action explanationcan also be represented as a set of rational transitions justifying the actions undertaken by members of a group in light of a shared objective. In this way,whether or not there **is** *strictly* speaking a unitary knowing subject ofthe wholeaction, we canstillseetheactionsin question as recommended by reasoning. This reasoning willnot, of course,occurthrough the exercise of a separate practical reason possessed by the group, but ratherthrough the reasoning of the *individual* members as the execute their shared objective*. We might sum this up by saying that* just as**a** collective agen**t**can only act through the actions of its individual members, it can only *know through their knowing, and* reason through their reasoning*.*

#### 3. Civil society and pedagogical spaces require universal freedom and ideal theory

**Farr 02** [Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.]

One of the most popular criticisms of **Kant’s** moral philosophy is that it is too formalistic.13 That is, the universal nature of the categorical imperative leaves it devoid of content. Such a principle is useless since moral decisions are made by concrete individuals in a concrete, historical, and social situation. This type of criticism lies behind Lewis Gordon’s rejection of any attempt to ground an antiracist position on Kantian principles. The rejection of universal principles for the sake of emphasizing the historical embeddedness of the human agent is widespread in recent philosophy and social theory. I will argue here on Kantian grounds that although a distinction between the **universal and** the **concrete** is a valid distinction, the **unity** of the two **is required** for an understanding of human agency. The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. Kant is often accused of making the moral agent an abstract, empty, noumenal subject. Nothing could be further from the truth. The Kantian subject is an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. The very fact that **I cannot simply satisfy** my **desires without considering** the **rightness** or wrongness of my actions suggests that my **empirical character must be** held **in check** by something, or else I behave like a Freudian id. My empiri- cal character must be held in check by my intelligible character, which is the legislative activity of practical reason. It is through our intelligible character that we formulate **principles** that keep our empirical impulses in check. The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally signiﬁcant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. The Formula **of Universal Law** enjoins no more than that **we act only on maxims that are open to others also**.16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individ- ual think beyond his or her own particular desires. **The individual is** **not allowed to exclude others** as rational moral agents who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. Hence, the universalizability criterion is a principle of consistency and a principle of inclusion. That is, in choosing my maxims I attempt to include the perspective of other moral agents. … Whereas most criticisms are aimed at the formulation of universal law and the formula of autonomy, our analysis here will focus on the formula of an end in itself and the formula of the kingdom of ends, since we have already addressed the problem of universality. The latter will be discussed ﬁrst. At issue here is what Kant means by “kingdom of ends.” Kant writes: “By ‘kingdom’ I understand a systematic union of different rational beings through common laws.”32 The above passage indicates that Kant recognizes different, perhaps different kinds, of rational beings; however, the problem for most critics of Kant lies in the assumption that Kant suggests that the “kingdom of ends” requires that we abstract from personal differences and content of private ends. The Kantian conception of rational beings requires such an abstraction. Some feminists and philosophers of race have found this abstract notion of rational beings problematic because they take it to mean that rationality is necessarily white, male, and European.33 Hence, the systematic union of rational beings can mean only the systematic union of white, European males. I ﬁnd this interpretation of Kant’s moral theory quite puzzling. Surely another interpretation is available. That is, the implication that in Kant’s philosophy, rationality can only apply to white, European males does not seem to be the only alternative. The problem seems to lie in the requirement of abstraction. There are two ways of looking at the abstraction requirement that I think are faithful to Kant’s text and that overcome the criticisms of this requirement. First, the **abstraction** requirement may be best understood **as a demand for intersubjectivity** or recognition. Second, it may be understood as an attempt **to avoid ethical egoism** in determining maxims for our actions. It is unfortunate that Kant never worked out a theory of intersubjectivity, as did his successors Fichte and Hegel. However, this is not to say that there is not in Kant’s philosophy a tacit theory of intersubjectivity or recognition. The abstraction requirement simply demands that in the midst of our concrete differences we recognize ourselves in the other and the other in ourselves. That is, we recognize in others the humanity that we have in common. Recognition of our common humanity is at the same time recognition of rationality in the other. We recognize in the other the capacity for selfdetermination and the capacity to legislate for a kingdom of ends. This brings us to the second interpretation of the abstraction requirement. **To avoid** ethical **egoism one must abstract from** (think beyond) one’s own personal interest and **subjective maxims**. That is, the categorical imperative requires that I recognize that I am a member of the realm of rational beings. Hence, I organize my maxims in consideration of other rational beings. Under such a principle other people cannot be treated merely as a means for my end but must be treated as ends in themselves. The merit of the categorical imperative for a philosophy of race is **that** it **contravenes racist ideology** to the extent that racist ideology is based **on the use of persons** of a different race **as a means to an end** rather than as ends in themselves. Embedded in the formulation of an end in itself and the formula of the kingdom of ends is the recognition of the common hope for humanity. That is, maxims ought to be chosen on the basis of an ideal, a hope for the amelioration of humanity. This ideal or ethical commonwealth (as Kant calls it in the Religion) is the kingdom of ends.34 Although the merits of Kant’s moral theory may be recognizable at this point, we are still in a bit of a bind. It still seems problematic that the moral theory of a racist is essentially an antiracist theory. Further, what shall we do with Henry Louis Gates’s suggestion that we use the Observations on the Feeling of the Beautiful and Sublime to deconstruct the Grounding? What I have tried to suggest is that instead of abandoning the categorical imperative we should attempt to deepen our understanding of it and its place in Kant’s critical philosophy. A deeper reading of the Grounding and Kant’s philosophy in general may produce the deconstruction35 suggested by Gates. However, a text is not necessarily deconstructed by reading it against another. Texts often deconstruct themselves if read properly. To be sure, the best way to understand a text is to read it in context. Hence, if the Grounding is read within the context of the critical philosophy, the tools for a deconstruction of the text are provided by its context and the tensions within the text. Gates is right to suggest that the Grounding must be deconstructed. However, this deconstruction requires much more than reading the Observations on the Feeling of the Beautiful and Sublime against the Grounding. It requires a complete engagement with the critical philosophy. Such an engagement discloses some of Kant’s very signiﬁcant claims about humanity and the practical role of reason. With this disclosure, deconstruction of the Grounding can begin. What **deconstruction will reveal** is not necessarily the inconsistency of Kant’s moral philosophy or the racist or sexist nature of the categorical imperative, but rather, it will disclose the **disunity** between Kant’s theory and his own feelings about blacks and women. Although the theory is consistent and emancipatory and should apply to all persons, **Kant** the man **has his own** personal and moral **problems**. Although Kant’s attitude toward people of African descent was deplorable, **it would be equally deplorable to reject** the categorical imperative **without ﬁrst exploring** its **emancipatory potential**.

#### Now, Impact Calculus

#### 1. Consequentialism doesn’t turn the aff- A. I can’t violate your freedom to maximize it in the longrun since that treats freedom as a fungible good and not an unconditional moral value, B. We can’t predict the future- that relies on induction, but induction’s circular because its own efficacy is justified by an induction, namely that past trends tend to reproduce themselves C. Infinite conseqeunces

#### 2. Intrinsic harms outweigh foreseen harms: A. Infinite obligations- that would zero possibility of action because individuals would be morally culpable for all actions and states of affairs, B. Intending a harm involves willing the necessary means to bring about that harm, but foreseeing a harm at most implies indifference about whether the harm occurs – willing a harm is an expression of moral responsibility

#### 3. One can never restrict the ends a subject can set as their means- to treat humanity as an end requires one to respect the legislative right of agents to use their means as they see fit from domination

**Ripstein 06** [Arthur Ripstein. “Beyond the Harm Principle.” University of Toronto. 2006. <http://www.law.utoronto.ca/documents/Ripstein/beyond_harm_principle.pdf>]

You are independent if you are the one who decides what ends you will use your powers to pursue, as opposed to having someone else decide for you. You may still mess up, decide badly, or betray your true self. You may have limited options. You remain independent if nobody else gets to tell you what to do. Each of us is independent if neither of us gets to tell the other what to do. This interest in independence is not a special case of a more general interest in being able to set and pursue your purposes. Instead, it is a distinctive aspect of your status as a person, entitled to set your own purposes, and not required to act as an instrument for the pursuit of anyone else’s purposes. You are sovereign because nobody else gets to tell you what to do; you would be their subject if they did. Once freedom is understood in terms of people’s respective independence, one person’s freedom doesn’t conflict with another’s. Each person is free to use his or her own powers to set and pursue his or her own purposes, consistent with the freedom of others to use their powers to set their purposes. A system of equal freedom demands that nobody use their own powers in a way that will deprive another of theirs, or uses another person’s powers without their permission.

#### The framework is not concerned with the availability of ends but a right to pursue them. I do not wrong you by buying the last jar of peanut better before you get to the store, leaving you with another choice.

### Contention [1:30]

#### I contend that Public colleges and universities in the United States ought not restrict any constitutionally protected speech.

#### 1. Restrictions on free speech prevent people from acting on their agency no matter how miniscule the restriction is

**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.

#### 2. Restricting free speech puts the sovereign in contradiction with itself because the omnilateral will is subject to coercion by itself, creating a contradiction in conception

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

The second point is a bit less straightforward. His claim is that a sovereign that outlaws free speech creates a condition where his actions “put him in contradiction with himself.” This language is remarkably similar to what he uses in his moral theory to describe principles that violate the categorical imperative, Kant’s supreme principle of morality. In the Groundwork, Kant claims that when a principle of action fails when tested against the categorical imperative, it fails because something about that principle is contradictory. It may be the case that it is not possible to conceive of the action that comes about as a result of universalizing the underlying principle connected to the action (i.e., a contradiction in conception), or the result of universalizing the principle is self-defeating in some way (i.e., a contradiction in the will). In the case of the sovereign restricting freedom of the press, the contradiction appears to be more practical. Elsewhere Kant argues what justifies sovereign authority is that his actions are supposed to represent the united will of the people (MM 6:313). But a sovereign that denies free speech and otherwise undermines the conditions necessary to maintain a free society has made it impossible to gather the information needed to represent the will of the people appropriately. In this way, Kant sees any attempt by the sovereign to limit or otherwise suppress the free exchange of ideas, and, in particular, the exchange of ideas among the educated members of society (e.g., academics), as undermining his own authority.

#### This outweighs:

#### A. even if certain types of speech are bad, giving the omnilateral will power to coerce free speech allows them to apply the law in false ways

#### B. Censorship is a contradiction in the will because if everyone was censored- there would be no information to end up censoring so it’s self defeating

#### 3. Free speech is a prerequisite to argumentation- without the right, we can’t be free to debate and determine the truth or falsity of the resolution- willing restrictions means that you will it on yourself- which isn’t universalizable

#### 4. Arguments aren’t intrinsically harmful- dialogue is always possible

**Anderson 6** [Amanda Anderson, Caroline Donovan Professor of English Literature and Department Chair at Johns Hopkins University, Senior Fellow at the School of Criticism and Theory at Cornell University, holds a Ph.D. in English from Cornell University, 2006 (“Reply to My Critic(s),” Criticism, Volume 48, Number 2, Spring, Available Online to Subscribing Institutions via Project MUSE, p. 289)]

Probyn's piece is a mixture of affective fallacy, argument by authority, and bald ad hominem. There's a pattern here: precisely the tendency to personalize argument and to foreground what Wendy Brown has called "states of injury." Probyn says, for example, that she "felt ostracized by the book's content and style." Ostracized? Argument here is seen as directly harming persons, and this is precisely the state of affairs to which I object. Argument is not injurious to persons. Policies are injurious to persons and institutionalized practices can alienate and exclude. But argument itself is not directly harmful; once one says it is, one is very close to a logic of censorship. The most productive thing to do in an open academic culture (and in societies that aspire to freedom and democracy) when you encounter a book or an argument that you disagree with is to produce a response or a book that states your disagreement. But to assert that the book itself directly harms you is tantamount to saying that you do not believe in argument or in the free exchange of ideas, that your claim to injury somehow damns your opponent's ideas.

#### Consequential reduction of freedom violations is an incorrect use of 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 accor- dance 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.

#### Immoral speech doesn’t intrinsically coerce others- they are just words

**Varden 10** [lga Varden (Associate Professor of Philosophy at the University of Illinois) “A Kantian Conception of Free Speech” May 22nd 2010 Freedom of Expression in a Diverse World Volume 3 of the series AMINTAPHIL: The Philosophical Foundations of Law and Justice pp 39-55 [http://link.springer.com/chapter/10.1007%2F978-90-481-8999-1\_4](http://link.springer.com/chapter/10.1007/978-90-481-8999-1_4)]

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

### Underview- Kritik

#### Consequentialism is uniquely bad - Infinite obligations and regressive conseqeunces mean that it can never hold anything as bad – kills an efficient method of politics

**Schulzke 13** – Marcus, Post-Doctoral Research Fellow in the School of Politics and International Studies at University of Leeds, Research Director of the Project on Violent Conflict at the University at Albany (“The Doctrine of Double Effect, Utilitarianism and the Treatment of Civilian Casualties” a selection in “Military Medical Ethics for the 21st Century” pp 48, Edited by Michael L. Gross and Don Carrick, Ashgate, 2013, ISBN 9781409438984) RMT

A limitation the DDE and utilitarian justification of collateral damage share is that they overlook the responsibilities an attacker has to reduce the suffering caused by an attack after it has been carried out. The DDE only considers the actions taken before and during an attack. The conditions of good intention and proportionality, as well as the intention to reduce non-combatant risk that Walzer proposes, refer only to the planning and execution stages of an operation. The formulations of the DDE discussed earlier say nothing about what should be done after an attack has taken place and non-combatants have been injured. Walzer makes a strong case for the incompleteness of the DDE and the need for additional criteria to prevent it from being too permissive. However, even in his revised form, the DDE is problematic because of its narrow focus on intentions. This is a serious shortcoming, as it permits an attacker to harm innocent people knowingly without having any obligations to help those who have been wounded. Using the current version of the DDE, an attacker may abdicate responsibility for taking positive steps to protecting non-combatants’ right to life once the damage has been inflicted. Among the central problems for utilitarianism in any context is predicting the consequences different courses of action may produce or, when it is applied to past events, speculating about what effects a different decision might have had. Returning to the example of the bombing of Hiroshima and Nagasaki, it is far from clear that the bombing campaign against Japan saved lives, especially when one factors in the attacks on other cities, which would bring the total casualties to around 300,000 killed and 400,000 wounded (Conway-Lanz 2006: 1). Moreover, it is possible that there may have been a third way of defeating Japan that would have inflicted fewer casualties. Bombing may have been the least destructive way of winning the war, but justifying it on utilitarian grounds leaves it up to endless debate and consideration of less destructive alternatives. One reason for this difficulty is that those who apply utilitarianism seem to think that it should only be applied at the moment of decision and that all consequences of the decision should be allowed to naturally unfold without intervention. The casualty estimates of acting and those of not acting are weighed against each other as though they were unchangeable facts about each prospective course of action that would not be altered by subsequent action. The extent of the harm an attack will produce is largely determined by the target selected and the means used to destroy it, yet the harm can also be controlled once an attack has taken place. Much of the collateral damage, especially for attacks with weapons of mass destruction, cannot be repaired. Those who are killed and mortally wounded cannot be saved. Nevertheless, many people who become collateral damage suffer less serious injuries. It would be wrong to add these people to the casualty estimates and to treat their wounds as something that is intrinsic to the decision itself if there is a chance that their suffering could be reduced. Thus, the underlying problem of the utilitarian justification of collateral damage is that the utilitarian calculus is usually applied synchronically; it is used to judge the morality of an attack at one point in time before it is carried out. It is uncommon for those invoking the utilitarian justification to consider the way the utilitarian calculus may shift after an attack has been carried out or how the consequences of actions might be mitigated by subsequent actions. This can lead those invoking the utilitarian justification to overlook the ways in which the moral quality of an attack might be changed by attempts to control the damage.

# 1AR- FW

## Skep Triggers

### Moral Realism

#### Concede that moral realism is true- but that means skep. This also means that the contention debate becomes irrelevant.

#### Conceded 3 skep triggers for why their ethic can never result in objective moral truths for individuals

#### Their ethic is grounded in finding knowledge from objective goods-

#### Go to Bagnoli- these all prescribe why moral realism fails

#### Extend the A subpoint- Their ethic holds extrinsic goods in the will as valuable which can never guide morality because they are open to subjective interpretations from different wills which causes regress into subjectivism- and every agent can find different goods valuable . That causes skep because there is no way to have a singular or objective guide for what is moral

#### Extend the B subpoint- the awareness of specific facts can always be questioned which makes rules impossible to follow because that causes an infinite regress into questioning which can never be solved so agents never have obligations because there are no binding rules that triggers skep.

#### Extend the C subpoint- causal forces determine each of our subjective values if moral realism is true, that means that we can all think that different things are valuable for different reasons which causes relativism and skepticism because there is no objective guide to morality

#### Skep automatically negates under truth testing because the aff has failed to fulfill their topical burden of showing that the resolution provides an obligation -

####  At worst, skep triggers presumption- and you should presume neg

### Culpability

#### Concede that their ethic is true- but that means skep. This also means that the contention debate becomes irrelevant

#### They’ve conceded 2 triggers

#### Extend the B Point- Culpability- Moral culpability is necessary to ever have an obligation but since they have won that the natural world or other features of individuals means that we are not responsible for anything- that makes it impossible to ever generate obligation

#### Extend the C Point- resolvability- if freedom is not an a priori consideration then they result in a performative contradiction in which the judge can no longer determine who has won which creates a new form of skep

### Omissions = Consequences

#### They are conceding that omissions are not intended harms but just “consequences”of inaction.

#### That triggers permissibility, because they read means based turns of discourse ethics, but the neg can never violate the standard because the framing issues in the NC aren’t relevant to any consequences. This implies that the negative can never violate the standard because it is mostly based on the individual will’s ability to enter argumentation, so even if the affirmative proves they don’t violate discursive inclusion of the individual, that means neither side violates discourse and you should just negate off of permissibility since we can either have the right to be forgotten or not. They do not prove an obligation to use it.

## AT: Kritik

### Kritik- Top Level

#### 1. Exclusion bad is impact justified:

#### A. Link insufficiency. They have to win 100% solvency or power always coopts morality

#### B. Their reason devolves to a reference to freedom which the NC frames

#### 2. Pluralism is circular because it requires rejecting nonplural theories which isn’t pluralist by itself

#### 3. No presupposition of equal freedom – its the ideal to strive towards that constitutes humanity. Desires are constructs by oppressive power structures so only universalist reason can verify the morality of an act

### AT Non Ideal Theories

#### 1. Saying that racism is incontestably bad is true but a) there are other logical extensions of racisms badness b) only help in simple situations but real world and politics is complex and full of tradeoffs so we need a comprehensive theory

#### 2. Kant reconciles non ideal theories with the universal because it creates an ideal notion to strive to while taking into account of real experiences- otherwise we have no metric for progress by getting obsessed with the particular.

#### 3. Circular, saying that justifying oppression is oppressive presupposes an account of what oppression means- otherwise it becomes subjective allowing everyone to assert absolute conflicting truth claims which is what has allowed anti-black institutions to resist change.

#### 4. No link- Kantian constitutivism superimposes an ideal notion of the real to strive for – anything else can’t be action guiding without an implicit ideal.

#### 5. N/U Any ethical theory can be misused – we can always come up with arbitrary extreme examples

#### 6. I/F distinction – this cuts across his impacts because they frame the terminal impact, we can only identify with our own choices, they create infinite obligations that cause complicity and paralysis which is uneducational

#### 7. It separates the obligations of people it holds the impacts of the AC as bad just not the actor’s obligation

#### 8. Their args both presume a consequential state of responsibility – appeal to majoritarian truth can still be bad, empirics prove like slavery

### AT: Antiethics (Curry)

#### 1. He can frame his discussion ethically which nonuniques his offense

2. All of his arguments are uq for mine – we need phil to deconstruct dogmatic notions of thought

//Not offensive, Kantianism holds things like racism bad because of the freedom violation – it says that we shouldn’t do things that further racism instead that we shouldn’t proactively do bad things which delegates bad things to specific actors, otherwise we’d have infinite obligations that would cause paralysis.

Practical reason is k2 recognize the shared capacity of rationality in all humans that allows universal realization of wrongs, else the state dominates subjective assertions

**FARR 02**

Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.

One of the most popular criticisms of **Kant’s** moral philosophy is that it is too formalistic.13 That is, the universal nature of the categorical imperative leaves it devoid of content. Such a principle is useless since moral decisions are made by concrete individuals in a concrete, historical, and social situation. This type of criticism lies behind Lewis Gordon’s rejection of any attempt to ground an antiracist position on Kantian principles. The rejection of universal principles for the sake of emphasizing the historical embeddedness of the human agent is widespread in recent philosophy and social theory. I will argue here on Kantian grounds that although a distinction between the **universal and** the **concrete** is a valid distinction, the **unity** of the two **is required** for an understanding of human agency. The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. Kant is often accused of making the moral agent an abstract, empty, noumenal subject. Nothing could be further from the truth. The Kantian subject is an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. The very fact that **I cannot simply satisfy** my **desires without considering** the **rightness** or wrongness of my actions suggests that my **empirical character must be** held **in check** by something, or else I behave like a Freudian id. My empiri- cal character must be held in check by my intelligible character, which is the legislative activity of practical reason. It is through our intelligible character that we formulate **principles** that keep our empirical impulses in check. The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally signiﬁcant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. The Formula **of Universal Law** enjoins no more than that **we act only on maxims that are open to others also**.16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individ- ual think beyond his or her own particular desires. **The individual is** **not allowed to exclude others** as rational moral agents who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. Hence, the universalizability criterion is a principle of consistency and a principle of inclusion. That is, in choosing my maxims I attempt to include the perspective of other moral agents. … Whereas most criticisms are aimed at the formulation of universal law and the formula of autonomy, our analysis here will focus on the formula of an end in itself and the formula of the kingdom of ends, since we have already addressed the problem of universality. The latter will be discussed ﬁrst. At issue here is what Kant means by “kingdom of ends.” Kant writes: “By ‘kingdom’ I understand a systematic union of different rational beings through common laws.”32 The above passage indicates that Kant recognizes different, perhaps different kinds, of rational beings; however, the problem for most critics of Kant lies in the assumption that Kant suggests that the “kingdom of ends” requires that we abstract from personal differences and content of private ends. The Kantian conception of rational beings requires such an abstraction. Some feminists and philosophers of race have found this abstract notion of rational beings problematic because they take it to mean that rationality is necessarily white, male, and European.33 Hence, the systematic union of rational beings can mean only the systematic union of white, European males. I ﬁnd this interpretation of Kant’s moral theory quite puzzling. Surely another interpretation is available. That is, the implication that in Kant’s philosophy, rationality can only apply to white, European males does not seem to be the only alternative. The problem seems to lie in the requirement of abstraction. There are two ways of looking at the abstraction requirement that I think are faithful to Kant’s text and that overcome the criticisms of this requirement. First, the **abstraction** requirement may be best understood **as a demand for intersubjectivity** or recognition. Second, it may be understood as an attempt **to avoid ethical egoism** in determining maxims for our actions. It is unfortunate that Kant never worked out a theory of intersubjectivity, as did his successors Fichte and Hegel. However, this is not to say that there is not in Kant’s philosophy a tacit theory of intersubjectivity or recognition. The abstraction requirement simply demands that in the midst of our concrete differences we recognize ourselves in the other and the other in ourselves. That is, we recognize in others the humanity that we have in common. Recognition of our common humanity is at the same time recognition of rationality in the other. We recognize in the other the capacity for selfdetermination and the capacity to legislate for a kingdom of ends. This brings us to the second interpretation of the abstraction requirement. **To avoid** ethical **egoism one must abstract from** (think beyond) one’s own personal interest and **subjective maxims**. That is, the categorical imperative requires that I recognize that I am a member of the realm of rational beings. Hence, I organize my maxims in consideration of other rational beings. Under such a principle other people cannot be treated merely as a means for my end but must be treated as ends in themselves. The merit of the categorical imperative for a philosophy of race is **that** it **contravenes racist ideology** to the extent that racist ideology is based **on the use of persons** of a different race **as a means to an end** rather than as ends in themselves. Embedded in the formulation of an end in itself and the formula of the kingdom of ends is the recognition of the common hope for humanity. That is, maxims ought to be chosen on the basis of an ideal, a hope for the amelioration of humanity. This ideal or ethical commonwealth (as Kant calls it in the Religion) is the kingdom of ends.34 Although the merits of Kant’s moral theory may be recognizable at this point, we are still in a bit of a bind. It still seems problematic that the moral theory of a racist is essentially an antiracist theory. Further, what shall we do with Henry Louis Gates’s suggestion that we use the Observations on the Feeling of the Beautiful and Sublime to deconstruct the Grounding? What I have tried to suggest is that instead of abandoning the categorical imperative we should attempt to deepen our understanding of it and its place in Kant’s critical philosophy. A deeper reading of the Grounding and Kant’s philosophy in general may produce the deconstruction35 suggested by Gates. However, a text is not necessarily deconstructed by reading it against another. Texts often deconstruct themselves if read properly. To be sure, the best way to understand a text is to read it in context. Hence, if the Grounding is read within the context of the critical philosophy, the tools for a deconstruction of the text are provided by its context and the tensions within the text. Gates is right to suggest that the Grounding must be deconstructed. However, this deconstruction requires much more than reading the Observations on the Feeling of the Beautiful and Sublime against the Grounding. It requires a complete engagement with the critical philosophy. Such an engagement discloses some of Kant’s very signiﬁcant claims about humanity and the practical role of reason. With this disclosure, deconstruction of the Grounding can begin. What **deconstruction will reveal** is not necessarily the inconsistency of Kant’s moral philosophy or the racist or sexist nature of the categorical imperative, but rather, it will disclose the **disunity** between Kant’s theory and his own feelings about blacks and women. Although the theory is consistent and emancipatory and should apply to all persons, **Kant** the man **has his own** personal and moral **problems**. Although Kant’s attitude toward people of African descent was deplorable, **it would be equally deplorable to reject** the categorical imperative **without ﬁrst exploring** its **emancipatory potential**.

A. Using a universal starting point of reason to each particular allows people to access morality

B. Dogmatic notions of thought in the squo misuse particular theories – we need objectivity to solve dogmatism

### AT: Kant = Racist

#### Fallacy of origin. Their evidence is narrow-minded; Kant himself is not the last word on Kantianism

**KAGAN 02**

Shelly Kagan (Clark Professor of Philosophy at Yale University). “Kantianism for Consequentialists.” 2002,, in A. Wood (ed.) Kant: Groundwork for the Metaphysics of Morals. Yale University Press, 2002. http://www.inp.uw.edu.pl/mdsie/Political\_Thought/Kant%20-%20groundwork%20for%20the%20metaphysics%20of%20morals%20with%20essays.pdf

Kant’s moral philosophy represents one of the most significant approaches to the foundations of ethics. For obvious reasons—including the simple fact that Kant offered no distinctive name for his general approach to ethics —views of this same, basic sort are typically known as Kantian. But this common practice, natural as it is, carries with it an obvious danger as well: there is a temptation to assume that Kant himself is the last word on Kantianism, rather than merely being an important advocate of this sort of view. This can lull us into overlooking the possibility that in various places Kant may have been mistaken about the implications of Kantianism; and it can also make us feel needless pressure to reconstruct Kantianism in precisely the terms in which Kant himself presented it. As a result, we may narrowly focus on the details of Kant’s particular views, at the expense of appreciating the fuller significance and general interest of Kantianism. (In contrast, we are quite used to thinking of Bentham, Mill, and Sidgwick as merely being leading representatives of the general utilitarian approach, without thinking that any one of them has the last word on utilitarianism itself.)

## AT: Care Ethics

### AT: Fem Ethics

#### Care ethics reaffirms the oppression of women.

Maureen Sander-Staudt explains this objection. [“Care Ethics” Internet Encyclopedia of Philosophy, March 19, 2011] AT

One of the earliest objections was that care ethics is a kind of slave morality valoriz[es]ing the oppression of women (Puka, 1990; Card, 1990; Davion, 1993). The concept of slave morality comes from the philosopher Frederick Nietzsche, who held that oppressed peoples tend to develop moral theories that reaffirm subservient traits as virtues. Following this tradition, the charge that care ethics is a slave morality interprets the different voice of care as emerg[es]ing from patriarchal traditions characterized by rigidly enforced sexual divisions of labor. This critique issues caution against uncritically valorizing caring practices and inclinations because women who predominantly perform the work of care often do so to their own economic and political disadvantage. To the extent that care ethics encourages care without further inquiring as to who is caring for whom, and whether these relationships are just, it provides an unsatisfactory base for a fully libratory ethic. This objection further implies that the voice of care may not be an authentic or empowering expression, but a product of false consciousness that equates moral maturity with self-sacrifice and self-effacement.

#### *Care ethics is based on patriarchal assumptions of the women being the caretaker or belonging in the home, so it re-entrenches the assumptions that feminism tries to fight.*

#### This outweighs their link:

#### Sexism and stereotypes are easier to hide since they’re already embedded into our culture and language, so my magnitude is greater than it seems.

#### After attempting to limit sexism community discussions fizzle out, which is empirically verified multiple times over by online discussions of sexism and the recent petition – this means that once we inflict damage on the gender equality it’s harder to undo it.

#### The standard ultimately undermines itself. A feminist ethic of care is based on the assumption that there is one conception of femininity, which requires an essentialist view of women.

Puka (Bill Puka “Caring Voices and Women's Moral Frames: Gilligan's View” 1994.)

Furthermore, she does not entertain the possibility of sex differences in cognitive development. Psychological sex dimorphism is confined to moral development. Thus, womanhood is defined as a specifically moral status. Given the developmental dimension, gender is not a given; one can only gradually become a woman. In de Beauvoir's words, "Woman is a becoming" (1953, 30). However, in Gilligan's book, one cannot become a woman without [only by] developing specific, circumscribed values and commitments in the moral domain, including stipulated metacthical commitments to an aretaic or virtues orientation rather than a deontological or justice orientation. Thus, some female people never really become properly gendered. Those whose development ceases at the second level of self-sacrificial morality are to be conceived not only as not fully moral but also [and] as not fully women. To be a "moral" person, in the strict sense of the term, one must attain the fullness of one's potential as a gendered individual.

#### *The ethics of care says that womanhood is linked with the disposition of caring for others. To be a woman is to care for others; those who do not care are not fully women or fully moral. This view is essentialist.*

#### This outweighs the impacts they generate:

#### Never taking a stance inherently implies neutrality towards gender issues, so the NC is comparatively better since it doesn’t imply women are all one kind of person.

#### Stereotyping women is worse since its impacts are far-reaching and irreversible – the results of stereotypes are empirically verified by racial attitudes in the status quo.

#### Ultimately, this singular definition of femininity is what causes essentialism and excludes women’s voices that may disagree.

ELIZABETH V. SPELMAN, INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT 3 (1988)

[T]hose who produce the "story of woman" want to make sure they appear in it. The best way to ensure that is to [by] be[ing] the storyteller and hence to be in a position to decide which of all the many facts about women's lives ought to go into the story, which ought to be left out. Essentialism works well in behalf of these aims, aims that subvert[s] the very process by which women might come to see where and how they wish to make common cause. For [E]ssentialism invites me to take what I understand to be true of me "as a woman" for some golden nugget of wommanness all women have as women; and it makes the participation of other women inessential to the production of the story. How lovely: the many turn out to be one, and the one that they are is me.

### AT: Functional

#### An ethic of care rejects abstract principles which makes it useless for guiding action.

Maureen Sander-Staudt explains this objection. [“Care Ethics” Internet Encyclopedia of Philosophy, March 19, 2011] AT

Because it eschews abstract principles and decisional procedures, care ethics is often accused of being unduly ambiguous, and for failing to offer concrete guidance for ethical action (Rachels, 1999). Some care ethicists find the non-principled nature of care ethics to be overstated, noting that because a care perspective may eschew some principles does not mean that it eschews all principles entirely (Held, 1995). Principles that could be regarded as central to care ethics might pertain to the origin and basic need of care relations, the evaluation of claims of need, the obligation to care, and the scope of care distribution. On principle, it would seem, a care ethic guides the moral agent to recognize relational interdependency, care for the self and others, cultivate the skills of attention, response, respect, and completion, and maintain just and caring relationships. However, while theorists define care ethics as a theory derived from actual practices, they [but] simultaneously resist subjectivism and moral relativism.

#### Since the standard is a disposition for action, but not a guide that could be applied universally, it doesn’t function as a standard. This means that while an ethic of care might be good in general, it is impossible to apply in a debate context that requires us to compare two actions, which makes it useless.

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### AT: ASpec

#### The resolution is a question of government action because it is a comparison of two paradigms of punishment in the criminal justice institution, a government institution. Even if there is no actor, the paradigm of punishment still exists within a government context, so it must be evaluated from the context of government.

#### The ethics of care argues that our relationships inform what obligations we have, which means the government cannot use the ethics of care because

#### There are multiple people in the government and each has a different relationship to different people, so no single policy can possible reconcile these many conflicting obligations.

#### The government must be impartial among its citizens because it is designed to reconcile the interests of people in society, which it cannot do if it is partial. Care ethics forces the government to be partial.

## AT: Constitution

### Constitution- Top Level

#### 1. Fiat solves all NC offense. The federal government is the actor in the resolution, and the aff advocacy is a departure from squo policies. Normal means implies that the constitution would have to be amended to allow for the aff action

#### 3. Turn- the 9th amendment says some government powers are not in the constitution, but their absence doesn’t mean they don’t existent

#### 4. Reject the standard- it’s descriptive which means that only one side of the res is factually true which makes it impossible to turn the standard and skews my ground

#### 5. Is-ought fallacy- just because the constitution describes what we do now doesn’t mean we should do it

#### 6. Not objective- it can always be amended which means that moral rules can consistently change

#### 7. Double Bind: either A. Constituvism requires consequentialism because we need to maximize an agent’s teleological[[1]](#footnote-1) unification or B. there is no bright line for a unified or non-unified agent. Both planks are reason to reject their framework.

### AT: Practice Rules

#### 1) Rules change- rules aren’t static metrics of to produce normative obligations. The constitution is modified with amendments and interpreted through Supreme Court decisions so there is no one entity that is constitutive of the US

#### 2) Practice rules are defining characteristics that not abiding by means the actions are no longer constitutive of the activity but that begs the question of why we care about descriptive statements

#### 3) Practice Rules are irreconcilable- agents and activities have multiple defining characteristics that can’t be given that can’t be reconciled because there is no objective standpoint to issue lexical priority. For example, A basketball game is a basketball game because it has 2 and 3 point lines so abiding by one and violating another yields a paradox.

## AT: Contractarianism

### Dump

**1) Is Ought Fallacy-** Social contract commits the is-ought fallacy. Just because descriptively states are formed by social contract doesn’t mean prescriptively states ought to follow it.

**2)False-** Citizenship doesn’t equal consent to the contract because (a) moving to a new state if you don’t consent isn’t economically feasible, and (b) the market of nations is limited. Every state will have some laws that citizens don’t consent to.

**3) False-** they beg the question of morality. If we don’t already have a moral system, there’s no reason to follow the contract.

**4) False-** Contracts create a contradiction because we could agree to a contract to break contracts.

**5) False-** Contractarianism can’t account for altruistic actions. **Double Bind** Either **A.** reject the ethical framework because the assumption that people are rationally egoistic are false or **B.** it is a non-falsifiable claim without a warrant because we can always assert that an altruist is acting in self-interest.

**7) Infinite Regress-** The outcomes of rational bargaining are unpredictable because there are infinite possible sets of mutual expectations between individuals. Contractarianism is self-defeating because it means that establishing or predicting norms is impossible.

**8) Collapses on itself-** It may be in our best interest to make and then break contracts, so the notion of contract setting doesn’t follow from the notion that individuals are self-interested, and Contractarianism doesn’t account for the nuances of individual self-interest. We don’t necessarily have to follow the state contracts under our interests.

**9) Verifiability-** Contractarianism is non-normative because it doesn’t tell us what to do when contracts conflict. It is an unverifiable claim to say that there is no risk of this occurring. So, prefer my ethical theory as it can always guide actions.

# 1AR- Theory

## AT: Voter

### Case Cross App TL

#### 1. The framework operates on a higher layer- their shell violates.

#### A. Theory is a method of policing our free speech- that violates the entire framework and is a contradiction because they justify willing other restrictions

#### B. The ultimate obligation of the judge is to respect freedom- the judge is at the center a human, which is their fundamental identity, they cannot will coercions on others rights in order to protect the availability of ends for others because that violates universal maxims

#### C. I didn’t intend to cause abuse- that’s a consequence of my wills which means that I don't violate and can’t be held responsible

#### 2. Extend Branse- under truth testing, the judge can only vote off whether the res is true or false- creating other rules i.e. what is more fair or educational shifts the game of debate

# 1AR- NC

## AT: Hobbes NC

### Framework- Top Level

#### 1. Violates liberty and the metaethic- the sovereign has infinite capability to control laws and coerce individuals- which prevents them from setting their own ends

#### 2. It isn’t legitimate coercion- they haven’t justified why the sovereign as a separate will is any more legitimate than any other agent or unilateral will. This means the sovereign should be subject to moral law

#### 3. No issue of the state of nature- the aff protects the negative liberties of individuals, so a minimal state is better

#### 4. Indeterminate- they don’t provide a clear metric in terms of when the sovereign is required to impose laws

### Turns

#### 1. Suprenant 15 turns this- free speech puts the soveriegn in contradiction with itself becaues the way that the sovereign derives power is by assessing how the unilateral will interacts but restrictions make it impossible for the principle of a sovereign to exist.

#### 2. Fiat solves- the aff changes what the sovereign allows and makes it a law, so Hobbes affirms.

#### 3. Hobbes reasoning is because free speech could cause civil strife- they haven't won that initial claim: A. Censorship from the NC is more likely to cause strife- that's proven by current movements, B. the principle of free speech allows dialogue which resolves issues of civil strife,

#### 4. Their contention is also based on the empirical understanding of the world- not the principle of how humans and others act, which means that it's inconsistent and doesn't link to their framework.

# 1AR- Case

## Solvency

### AT: Positive Liberty

1. Positive liberty is paradoxical since it still creates authoritarianism un-freedom – either tyranny of the majority or of policymakers

[Carter, Ian, "Positive and Negative Liberty", The Stanford Encyclopedia of Philosophy (Spring 2012 Edition), Edward N. Zalta (ed.),]

Many liberals, including Berlin, have suggested that the positive concept of liberty carries with it a danger of authoritarianism. Consider the fate of an permanent and oppressed minority. Because the members of this minority [which] participates in a democratic process characterized by majority rule, they might be said to be free on the grounds that they are members of a society exercising self-control over its own affairs. But they are oppressed, and so are surely unfree. Moreover, it is not necessary to see a society as democratic in order to see it as self-controlled; one might instead adopt an organic conception of society, according to which the collectivity is to be thought of as a living organism, and one might believe that this organism will only act rationally, will only be in control of itself, when its various parts are brought into line with some rational plan devised by its wise governors (who, to extend the metaphor, might be thought of as the organism's brain). In this case, even the majority might be oppressed in the name of liberty.

2. Positive liberty justifies oppression of desires and interests, creating an internal contradiction

[Carter, Ian, "Positive and Negative Liberty", The Stanford Encyclopedia of Philosophy (Spring 2012 Edition), Edward N. Zalta (ed.),]

Such justifications of oppression in the name of liberty are no mere products of the liberal imagination, for there are notorious historical examples of their endorsement by authoritarian political leaders. Berlin, himself a liberal and writing during the cold war, was clearly moved by the way in which the apparently noble ideal of freedom as self-mastery or self-realization had been twisted and distorted by the totalitarian dictators of the twentieth century — most notably those of the Soviet Union — so as to claim that they, rather than the liberal West, were the true champions of freedom. The slippery slope towards this paradoxical conclusion begins, according to Berlin, with the idea of a divided self. To illustrate: the [a] smoker in our story provides a clear example of a divided self, for she is both a self that desires to get to an appointment and a self that desires to get to the tobacconists, and these two desires are in conflict. We can now enrich this story in a plausible way by adding that one of these selves — the keeper of appointments — is superior to the other: the self that is a keeper of appointments [and] is thus a ‘higher’ [rational] self, and the self that is a [while] smoker is a ‘lower’ self. The higher self is the rational, reflecting self, the self that is capable of moral action and of taking responsibility for what she does. This is the true self, for rational reflection and moral responsibility are the features of humans that mark them off from other animals. The lower self, on the other hand, is the self of the passions, of unreflecting desires and irrational impulses. One is free, then, when one's higher, rational self is in control and one is not a slave to one's passions or to one's merely empirical self. The next step down the slippery slope consists in pointing out that some individuals are more rational than others, and can therefore know best what is in their and others' rational interests. This allows them to say that by forcing people less rational than themselves to do the rational thing and thus to realize their true selves, they are in fact liberating them from their merely empirical desires. Occasionally, Berlin says, the defender of positive freedom will take an additional step that consists in conceiving of the self as wider than the individual and as represented by an organic social whole — “a tribe, a race, a church, a state, the great society of the living and the dead and the yet unborn”. The true interests of the individual are to be identified with the interests of this whole, and individuals can and should be coerced into fulfilling these interests, for they would not resist coercion if they were as rational and wise as their coercers. “Once I take this view”, Berlin says, “I am in a position to ignore the actual wishes of men or societies, to bully, oppress, torture in the name, and on behalf, of their ‘real’ selves, in the secure knowledge that whatever is the true goal of man ... must be identical with his freedom” (Berlin 1969, pp. 132–33).

### AT: Ripstein- Hinder Hindrance

#### 1. Extend Ripstein From the Aff- they violate an a priori universal maxim which isn’t justified. Even if it is important to rectify injustices- it does not logically follow that you commit an injustice to rectify one- that isn’t universalizable

#### 2. Equal freedom does not create an obligation to adopt any particular social policy- it merely establishes paramaters on what sort of action is good- the particular choice must still be subject to the general will

**Ripstein 06** [Arthur Ripstein [Faculty of Law at the University of Toronto]. PRIVATE ORDER AND PUBLIC JUSTICE: KANT AND RAWLS. 2006. UNIVERSITY OF TORONTO LEGAL STUDIES SERIES. SSRN.]

The Kantian argument is formal and procedural rather than substantive. In particular, it does not specify the level of social provision, whether it covers merely biological needs, or the preconditions of full citizenship. Nor does it provide a detailed analysis of the nature of wrongful dependence, whether, for example, severe inequalities of bargaining power between employers and workers could qualify as forms of dependence. Although Kant focuses on the example of support for the poor, the force of his argument is concerned with the structure of the general will. As a result, it requires actual institutions to give effect to it – to set appropriate levels and mechanisms of aid, and introduce forms of regulation where necessary. As a philosophical account it is supposed to show what means are available to the state, consistent with the freedom of all; it is not supposed to micromanage social policy. Just as questions about the limitations period for adverse possession or the standard of care in the law of negligence can only be answered through that exercise of determinative judgment by a properly constituted public authority, so too can these questions only be so answered. The requirements of a general will constrain the form of possible answers, but not their substance. Any answers need to be consistent with equal freedom, so they cannot introduce mandatory forms of cooperation merely on the grounds that they will produce an aggregate increase in welfare. Nor can they use private rights as a bulwark against the claims of the general will. But within the appropriate structure, the answers must be imposed by the people themselves.

#### The implication is that it’s terminal defense to hindering some hindrance and outweighs on scope- because the general will still needs capability to speak freely in order to make these decisions considering that it is made up of the unilateral will

#### 3. Ripstein’s claim of right is not entitlement for any action. The state is no more legitimate than an individual in enacting coercive restrictions because the state is simply reliant on coercive power of the majority in which the minority have no legislative equality. Omnilateral coercion is no more legitimate than unilateral coercion. [Thus a powerful state is no different than a slave with a benevolent master- we are still not truly free unless we are liberated from coercive state policies]

#### 4. Indeteterminate- it allows the state to continue restricting rights because it’s a question of the principle that they choose- otherwise the NC is grounded in empirical nature because they assess content of the speech

### AT: Hate Speech Intrinsic

#### 1.. The framework only relegates intentions- the principle of free speech never intended hate speech which means there’s no link

#### 2. Hindering denotes an action not an omission- the case is an omission because we remove colleges rights to place restrictions which is a negative action- that doesn’t intrinsically harm colleges

### AT: Seditious Speech

#### 1. The case outweighs- it happens in such few instances of actual rebellion that it’s sufficient for the aff’s freedom to others to be better

#### 2. Suprenant 15 turns this- in order for the government to have any legitimacy it cannot censor the voice of it’s own people who want it to be aware of it’s doing wrong because the omnilateral will is composed of the unilateral will

### AT: UQ Press

#### Not responsive – even if the world of the NC involves a Kantian violation, it is still net preferable to the aff since the world of the aff entails an additional Kantian violation or some further wrong legislation passed that violates the concept of treaty humanity as an end, so it is less wrong to endorse the status quo. The fact that wrong exists now does not justify an additional legislative wrong.

# 1AR- PICs

## PICs- Top Level

### Doesn’t Solve

#### 1. PIC doesn't solve the aff- it’s not a question of consequences- it’s whether or not the principle that they justify is consistent with the framework. Even censoring some speech - that violates the syllogism of the 1ac in that actions must be universalizalbe because they simultaneously will restrictions on any other types of free speech

### ! Framework

#### In addition- their performance of reading a PIC within the round violates the framework- that’s a higher layer:

#### A. Stealing the 1AC and changing a small part isn't universalizable- the 1AC is morally indistinct from any other property which means under universality, readiing a PIC universalizes steling all property which would mean stealing your own which is a contradiction because we need a right to ourselves to will in the first place

#### B. The exception you PIC out of is characterized by specific empirical differences which are irrelevant from an a priori standpoint- the impact is that any exception to free speech is equivalent to no speech because willing one exception is synonymous to willing all exceptions so the PIC doesn't solve the aff's impact

## AT: Term Paper PIC

### 1AR- Top Level

#### Their evidence says the right of companies to publish term papers is constitutional speech, but their CP text talks about the right of students to use those papers and turn them in, which is not at all what your evidence says—means its not protected

#### 1. Perm do both- we can ban term papers that exist outside of colleges and allow free speech on campus- their evidence isolates that term papers are sold by professionals who are outside of the college

#### 2. Solvency Deficit- colleges don’t have regulation authority over external corporations that write term papers

#### 3. Supreme court has ruled in favor of banning advertising for term papers- that solves which means no net benefit

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

Assuming for the moment that a state may not constitutionally prohibit the sale of term papers, may it nonetheless constitutionally prohibit the advertising of term papers? 9 The answer is by no means clear. The Supreme Court first denied free speech protection to "commercial advertising" in Valentine v. Chrestensen.0 The Court in Valentine distinguished "communicating information" and "disseminating opinion" from "purely commercial advertising." 1 Despite the recognition that states cannot "unduly burden or proscribe" the "privilege" of publicly broadcasting information or opinion, it was "equally clear that the Constitution imposes no such restraint on government as respects purely commercial advertising

#### 4. The contract between institutions and students violation also overflows free speech rights to term papers

**Duke**--- Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

In several pending term paper cases, 78 a defendant term paper company is alleged to have tortiously interfered with a contract between the student purchaser of a term paper and the academic institution in which the student is enrolled . 7 The plaintiffs in these cases assume that the contract supposedly existing between student and institutionse requires the student to follow rules and regulations validly promulgated by the school.8' Such rules and regulations typically prohibit plagiarism or similar academic misconduct. Accordingly, the student who purchases a term paper and uses it to commit plagiarism has breached his contract with the school, and the term paper company which sold the paper to him has tortiously interfered with the same contract. Use of a contract theory to explain the relationship between a student and the school which he attends has been seriously questioned,"2 and at least one court has expressly repudiated the idea.88 Such a contract may be adhesionary because of the disparity in bargaining position between student and university when the contract is entered into, and because of the power typically reserved by a university to determine both when and whether the contract has been breached. 4 Furthermore, a relationship which is viewed by the same courts as contractual for some purposes might be viewed by the courts as noncontractual for others.8 5 While recognizing a university's contractual authority to discipline a student, a court might at the same time deem the relation ship noncontractual if a party brought suit under the contract for damages or specific performance

# 1AR- K

## AT: Kant Racist

### Top Level

#### We have to develop a framework if we care about their role of the ballot. The only way to fight oppression in the real world is this substantive argumentation.

**LOVETT**[[2]](#footnote-2)**:** Win the argument; **don’t declare the argument too offensive to be won**. And that’s true whether it’s GLAAD making demands of A&E or the head of the Republican National Committee making demands of MSNBC. The bottom line is, **you don’t beat an idea by beating a person. You beat an idea by beating an idea. Not only is it counter-productive**—nobody likes the kid who complains to the teacher even when the kid is right—**it replaces a competition of arguments with a competition to delegitimize arguments.** And **what’s left is the pressure to sand down the corners of your speech while looking for the rough edges in the speech of your adversaries. Everyone is offended. Everyone is offensive**. Nothing is close to the line because close to the line is over the line because over the line is better for clicks and retweets and fundraising and ad revenue. It’s like a financial bubble. It’s a bubble of subprime outrage and subprime apologies. I just hope we can rationalize the market before this chilling effect leaves us with a discourse more boring and monotone than it already is—a discourse that suits the cable networks and the politicians but not the many disparate voices who occasionally need to say outrageous things because there are outrageous things to say. And there are real consequences to the outrage bubble. **When Congress was debating the debt ceiling, one of the sticking points was a set of changes to the military-pension system.** You don’t even have to take a position on these changes to say that it’s a reasonable debate: whether we should save money in the defense budget by reducing the rate of increase in pension benefits received by veterans who are younger than retirement age. Agree, disagree, you’re not crossing the line, right? Wrong: **Supporting this proposal is described, over and over again, as**[“sick” and “obscene”](http://www.newsmax.com/Newsfront/obscene-scarborough-budget-military/2013/12/18/id/542534/)**and “**[offensive](http://www.armytimes.com/article/20131223/BENEFITS/312300001/Pensions-slashed-under-budget-bill-provision)**.” Do we really want to make policy this way?** Do we want our already timid and craven elected officials to have even more to fear?

#### 2. Cross apply Farr- 2 net benefits:

#### A. Starting from an ideal theory is necessary to determine what counts as a violation of racism rather than authorities definining it for you- incorporating abstraction is necessary to develop a starting point

#### B. The Kantian subject is the embodied subject- universalizability is essential to mutual recognition of tohers.

#### 3. Kantian ethics is key to challenge a lifestyle grounded in materialism which causes their impacts

**Boxhill**[[3]](#footnote-3)**:** Third, although the last point is significant, **it should not be confused with** a more general **condemnation of Kant’s rationalism**. In particular, **his insistence on crucial role of reason** in moral deliberation and finding solutions to social problems is separable from the previous objection, and it **seems quite right**. **Kant argued, rightly** we think, **that the development of deliberative reason is** crucially **important for groups, as well as individuals, to develop solutions to the problems of social justice. Although more than reason is required** for moral living and decent communities, **Kant seems right that people who tried to life** as he (no doubt falsely) portrayed the Tahitian, without the use of reason and only for enjoyment, **would be ill equipped to handle the social and moral problems inevitably presented by the hard realities of human life.** Thus, while he arguably inflated the value of the lifestyle devoted to perfecting reason, **his main message**, the need for the use (and so adequate development of) deliberative reason, **is still much needed.**

#### 4. No link- There is nothing good or bad about endorsing certain ideas. All ideas have been misused or applied to do horrible things. Ideas are not good or bad; it’s how they are utilized. Ideas aren’t racist; people are racist. My endorsement of certain Kantian ideals is not an endorsement of the person, but the concept.

### Kant Changed Mind

#### Kant changed his mind on race.

**KLEINGELD**[[4]](#footnote-4)**:** During the 1780s, as Kant was developing his universalistic moral theory, he published texts in which he defended the superiority of whites over non-whites. Whether commentators see this as evidence of inconsistent universalism or of consistent inegalitarianism, they generally assume that Kant’s position on race remained stable during the 1780s and 1790s. Against this standard view, **I argue on the basis of** his **texts that Kant radically changed his mind.** I examine his 1780s race theory and his hierarchical conception of the races, and subsequently address the question of the signiﬁcance of these views, especially in the light of Kant’s own ethical theory. I then show that **during the 1790s Kant restricts the role of** the concept of **race, and drops his hierarchical account** of the races **in favor of a** more **genuinely egalitarian** and cosmopolitan **view.**

#### Definitely not a racist.

**KLEINGELD**[[5]](#footnote-5)**:** **Kant radically revised his views on race** during the 1790s. He gives no indication of when or why he changed his views. He makes no mention of a racial hierarchy anywhere in his published writings of the 1790s, however, and what he does say about related issues contradicts his earlier views on a racial hierarchy and a plan of Nature designed to restrict human migration (after their initial dispersal across the globe). I ﬁrst discuss evidence for the thesis that Kant dropped his hierarchical view of the races, and then turn to the status of the concept of race as such in his later work. In Toward Perpetual Peace and the Metaphysics of Morals, Kant clearly departs from his earlier position in a number of ways. First of all, he becomes more egalitarian with regard to race.28 He now grants a full juridical status to non-whites, a status irreconcilable with his earlier defence of slavery. For example, **his concept of cosmopolitan right**, as introduced in Toward Perpetual Peace (: ), **explicitly prohibits** the **colonial conquest** of foreign lands: If one compares with this [viz the idea of cosmopolitan right] the inhospitable behaviour of the civilized states in our part of the world, especially the commercial ones, the injustice that the latter show when visiting foreign lands and peoples (which to them is one and the same as conquering those lands and peoples) takes on terrifying propor- tions. America, the negro countries, the Spice Islands, the Cape, etc., were at the time of their discovery lands that they regarded as belonging to no one, for the native inhabitants counted as nothing to them. **Any European settlement requires contractual agreement** with the existing population, says Kant, unless the settlement takes place so far from other people that there is no encroachment on anyone’s use of land. In the section on cosmopolitan right in the Metaphysics of Morals, Kant speciﬁcally stipulates **that** such a contract **should not take advantage of** the ignorance of **the inhabitants** with regard to the terms of the contract (MM : ), a stipulation which presupposes a concern not found in the 1780s texts. The very fact that Kant regards Native Americans, Africans and Asians as (equally) capable of signing contracts, and as persons whose interests and claims present a normative constraint on the behaviour of European powers, indicates a shift in perspective. After all, as long as Kant regarded slavery as appropriate for Native Americans and Africans, he did not con- sider their consent to be important at all. The same can be said about the fact that he now defends hunting and shepherding peoples against en- croachment by Europeans, instead of highlighting their failure to develop agriculture as he did earlier. In the Metaphysics of Morals, Kant rejects con- sequentialist justiﬁcations for colonialism (the alleged ‘civilizing’ eﬀects on the ‘savages’) (MM : ). He also rejects the argument that the European colonists are justiﬁed in claiming ownership over foreign lands and their inhabitants by the fact they ‘establish a new civil union with them and bring these human beings (savages) into a rightful condition’. Instead, Kant main- tains that the latter have the right of ﬁrst possession, and that this right is violated by the European ownership claims (MM : ). Importantly, Kant has now become unambiguously opposed to chattel slavery. Robert Bernasconi has claimed that Kant was ‘silent on the slave trade in Africans’ and ‘failed to speak out against chattel slavery’, and that he is ‘aware of no direct statement by Kant calling for the abolition of either African slavery or the slave trade, even if only in principle’.29 Such state- ments do exist, however. In his notes for Toward Perpetual Peace (–), **Kant repeatedly and explicitly criticizes slavery** of non-Europeans in the strongest terms, as a grave violation of cosmopolitan right (: –). He formulates a scathing critique of the conduct of European powers elsewhere in the world. He sharply criticizes ‘the civilized countries bordering the seas’, whom he accuses of recognizing no normative constraints in their behaviour towards people on other continents and of regarding the ‘possess- ions and even the person of the stranger as a loot given to them by Nature’. Kant censures the slave trade (‘trade in Negroes’), not as an excessive form of an otherwise acceptable institution, but as in itself a ‘violation’ of the cosmopolitan right of blacks (: ). Similarly, he criticizes the fact that the inhabitants of America were treated as objects belonging to no one, and ‘were displaced or enslaved’ soon after Europeans reached the continent (: –). After having discussed European behaviour in Africa, America and Asia, he concludes (: ): The principles underlying the supposed lawfulness of appropriating newly discovered and purportedly barbaric or irreligious lands, as goods belonging to no one, without the consent of the inhabitants and even subjugating them as well, are absolutely contrary to cosmopolitan right. In the published version of Toward Perpetual Peace, Kant repeats this judge- ment. He criticizes the ‘very most gruesome and most calculated slavery’30 on the Sugar Islands (PP : ). In the Metaphysics of Morals too (MM : , , ), he categorically and repeatedly condemns chattel slavery.31 These passages show that Kant changed his earlier views on the status of non-whites. The oft-defended thesis that Kant’s racism remained constant thus needs correction, and one should not use evidence from the 1780s in support of claims about his views in the 1790s. For example, his statements from the mid-1790s contradict the view that the role of the ‘idle races’ in Kant’s cosmopolitan theory was merely that of a contrast against which Europeans could measure their own progress,32 as well as the view that for Kant, the non-white races counted as a ‘waste’ of nature.33 These inter- pretations are based on Kant’s earlier texts, and therefore they are at most defensible as interpretations of his earlier views, not of his later views on the races. Kant not only became more egalitarian with regard to race, he also revised his view of the role of race in connection with intercontinental migration. In some of his earlier writings he called racial diﬀerentiation ‘necessary’ for the preservation of the species during its initial dispersal across the globe (DCHR : ), and claimed that Nature discouraged sub- sequent migrations. As Mark Larrimore has shown, however, these claims were in tension with Kant’s repeated declarations, often in the same writings, that whites are able to live anywhere on earth,34 for they imply that racial diﬀerentiation (or, more precisely, the development of non-whites) is not really necessary for the preservation of the species after all. Kant’s later position simply does not attribute any special role to racial diﬀerentiation (let alone racial hierarchy) for the purpose of global migration. In his 1795 description of what Nature has done to enable humans to live everywhere on earth, Kant omits any mention of predispositions for diﬀer- ent races (PP : –). He now claims that Nature has organized the earth in such a way that humans can and will live everywhere, and that they will eventually use the surface of the earth for interacting peacefully (PP : ). The new category of cosmopolitan right, introduced in Toward Perpetual Peace, is premised on increasing and continuing movement and interaction across borders. He concludes his exposition of cosmopolitan right (which includes his critique of colonialism and slavery) with the hope that In this way, remote parts of the world can establish relations peacefully with one another, relations which ultimately become regulated by public laws and can thus ﬁnally bring the human species ever closer to a cosmopolitan constitution (PP : ). Instead of his earlier claim that blacks and Native Americans cannot govern themselves (: ) and that Europe ‘will probably eventually legislate for all other continents’ (IUH : ), Kant now envisages a world in which people of diﬀerent colours and on diﬀerent continents establish peaceful relations with each other that honour the normative principles laid down in his exposition of cosmopolitan right. Finally, Kant’s ascription of mental characteristics to the diﬀerent races has changed. For example, **he ascribes** the ideal of **military courage equally to Native Americans and** mediaeval **European knights** (PP : ). This stands **in** marked **contrast with his earlier insistence** on the weakness and inertia of Native Americans.

1. the explanation of phenomena by the purpose they serve rather than by postulated causes. [↑](#footnote-ref-1)
2. Jon Lovett, “The Culture of Shut Up.” The Atlantic, April 2014. [http://www.theatlantic.com/politics/archive/2014/04/the-culture-of-shut-up/360239/)](http://www.theatlantic.com/politics/archive/2014/04/the-culture-of-shut-up/360239/%29) [↑](#footnote-ref-2)
3. Kant and Race. Thomas Hill, Jr. and Bernard Boxhill. Chapter 18 of “Race and Racism.” [↑](#footnote-ref-3)
4. Pauline Kleingeld (Professor at the University of Groningen). “KANT’S SECOND THOUGHTS ON RACE.” Philosophical Quarterly. 2007. <http://www.rug.nl/staff/pauline.kleingeld/kleingeld-kant-on-race-pq.pdf> [↑](#footnote-ref-4)
5. Pauline Kleingeld (Professor at the University of Groningen). “KANT’S SECOND THOUGHTS ON RACE.” Philosophical Quarterly. 2007. <http://www.rug.nl/staff/pauline.kleingeld/kleingeld-kant-on-race-pq.pdf> [↑](#footnote-ref-5)