## 1NC

### 1NC – OFF

#### Our Interpretation is the affirmative should instrumentally defend the resolution – hold the line, CX and the 1AC prove there’s no I-meet – anything new in the 1AR is either extra-T since it includes the non-topical parts of the Aff or effects-T since it’s a future result of the advocacy which both link to our offense. They should only get offense from a government legalizing a right to strike.

#### “Resolved” means to enact by law.

Words & Phrases ’64

(Words and Phrases; 1964; Permanent Edition)

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### Government

Oxford Lexico. Definition of government in English. <https://www.lexico.com/en/definition/government>

The governing body of a nation, state, or community. ‘an agency of the federal government’

#### Recognize

Oxford Lexico. Definition of recognize in English. <https://www.lexico.com/en/definition/recognize>

Acknowledge the existence, validity, or legality of. ‘the defense is recognized in Mexican law’

#### Resolved requires policy action

Louisiana State Legislature (<https://www.legis.la.gov/legis/Glossary.aspx>) Ngong

**Resolution**

**A legislative instrument** that generally is **used for** making declarations, **stating policies**, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution **uses the term "resolved".** Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4 and Senate Rules 10.9, 13.5 and 15.1)

#### [2] Standards to Prefer:

#### First - Fairness – radically re-contextualizing the resolution lets them defend any method tangentially related to the topic exploding Limits, which erases neg ground via perms and renders research burdens untenable by eviscerating predictable limits. Procedural questions come first – debate is a game and it makes no sense to skew a competitive activity as it requires effective negation which incentivizes argument refinement, but skewed burdens deck pedagogical engagement.

#### Fairness is an impact and comes before everything else – [1] it’s an intrinsic good – some level of competitive equity is necessary to sustain the activity – if it didn’t exist, then there wouldn’t be value to the game since judges could literally vote whatever way they wanted regardless of the competing arguments made [2] probability – your ballot can’t solve their impacts but it can solve mine – debate can’t alter subjectivity, but can rectify skews [3] internal link turns every impact – a limited topic promotes in-depth research and engagement which is necessary to access all of their education [4] comes before substance – deciding any other argument in this debate cannot be disentangled from our inability to prepare for it – any argument you think they’re winning is a link, not a reason to vote for them, since it’s just as likely that they’re winning it because we weren’t able to effectively prepare to defeat it. This means they don’t get to weigh the aff.

#### Second - Clash – picking any grounds for debate precludes the only common point of engagement, which obviates preround research and incentivizes retreat from controversy by eliminating any effective clash. Only the process of negation distinguishes debate and discussion by necessitating iterative testing and effective engagement, but an absence of constant refinement dooms revolutionary potential.

#### TVA – []

#### TVA is terminal defense – proves our models aren’t mutually exclusive - any response to the substance of the TVA is offense for us because it proves our model allows for clear contestation. Form over Content doesn’t take it out since we don’t restrict Form, just the substantive burden of the Aff.

#### Prefer Competing Interpretations – reasonability is arbitrary and causes a race to the bottom. This means reject Aff Impact Turns predicated on their theory since we weren’t able to adequately prepare for it.

### 1NC – OFF

#### Interpretation: Debaters must disclose affirmative frameworks, advocacy texts, and advantage areas thirty minutes before round if they haven’t read the affirmative before

#### Violation: They didn’tGraphical user interface, text, application, chat or text message Description automatically generated

#### Standards:

#### 1] Clash- Not disclosing incentivizes surprise tactics and poorly refined positions that rely on artificial and vague negative engagement to win debates. Their interpretation discourages third- and fourth-line testing by limiting the amount of time we have to prepare and forcing us to enter the debate with zero idea of what the affirmative is. Negatives are forced to rely on generics instead of smart contextual strategies destroying nuanced argumentation.

#### 2] Reciprocity – They get an infinite amount of time to frontline their aff to write the most efficient and effective answers to anything we could say against it while we get only four minutes in round. This gives them a tremendous advantage over us that makes it impossible to win substance.

#### 3] Shiftiness- Not knowing enough about the affirmative coming into round incentivizes 1ar shiftiness about what the aff is and what their framework/advocacy entails. That means even if we could read generics or find prep, they’d just find ways to recontextualize their obscure advocacy in the 1ar.

### 1NC – OFF

#### Trans theories essentialize and dehistorisize gender from its capitalist, material circumstances

Miles 14 (Laura Miles, writer for International Socialist Journal. 9th January 2014. “Transgender oppression and resistance” <http://isj.org.uk/transgender-oppression-and-resistance/>) //JHorn

The social construction of gender It is tempting to suggest that sex and gender are only simple if you are an earthworm. People, however, are about as different from earthworms as you can get. Many trans people have tended to take a[n] highly essentialist view of gender identity, which treats gender as somehow natural and given—”a man’s mind in a woman’s body”, “a woman’s mind in a man’s body”. A glance at a selection of trans people’s autobiographies will confirm this.24Transgender is also often presented in the media in this over-simplified way. In this view a transgender person’s problem is that somehow the wrong switch got thrown at some point early in life and they now need to find ways to get back to the gender they were really supposed to have been. Since this could have happened to anyone and is beyond the individual’s control the trans person should not be penalised and should be enabled to live life in the gender of their choosing. “Gender dysphoria” should therefore open the door to appropriate treatment which might include hormones, genital and cosmetic surgery, counselling and so on, to enable the person to live in their gender of choice. Socialists, of course, defend the right of trans people to live freely in their chosen gender but there are serious problems inherent in such an essentialist approach to gender identity. An alternative view starts by recognising that our biological, chromosomal sex can be thought of as analogous to other physical characteristics that we inherit—skin colour, eye colour, and so on. Most people’s gender identity (their deeply rooted sense of being male or female) will be in accordance with this. However, for trans people there is a mismatch between their biological sex and their gender identity. For everyone, though, trans and gender-straight (or cisgendered people), our gender is socially constructed in a dialectical relationship with our material circumstances and is to some extent fluid. People’s self-identification and self-description (including trans people’s) can change and develop over time. There is a certain fluidity because our identities are structured within given material, historical and cultural frameworks such as the class relations dominant within a given mode of production like capitalism. It is the material circumstances in which we are required to live under the capitalist system which distort and limit everyone’s gender role and gender identity by seeking to constrain us within a binary gender straitjacket in a system dominated by the ideology of the nuclear family. As a result we are all alienated, to a greater or lesser extent, from each other, from ourselves and from our true humanity. Trans people are highly motivated to resist that gender straitjacket, which suggests that, while gender identity may not be fixed and unchanging, it is deeply rooted in us; otherwise trans people could presumably be socialised out of our gender variant behaviour and identity. Everyone, after all, is showered in cot-loads of gender conformative reinforcement from the moment of birth. Conversely, this also suggests that in a saner and freer world many different gender expressions and arrangements for living together could be possible outside the nuclear family structure and the gender binary. The nuclear family is crucial to capitalism for the continued accumulation of profit, as will be discussed later. One of the greatest cruelties of capitalism for all oppressed people is that it possesses the practical and material potential for our liberation from oppression. Yet by its pursuit of profit maximisation the ruling class is driven to deny the possibility of such fulfilment to the vast majority of the world’s population. It follows from this approach that for Marxists “the trans person” is as much a social construction as “the homosexual”, traceable to a particular (but not the same) historical period, mode of production, and material conditions. One of the problems with essentialist views is that they ignore such changing material circumstances and tend to regard the ideas of a given period as having always been just so, ie they are both idealist and ahistorical. On the contrary, Marx argued that ideas in society emerge from the material circumstances of the production of goods and necessities and from the reproduction of labour power itself. As material conditions change, so will the prevailing ideas. The existence of considerable gender variant desires and behaviour in very many societies, from pre-history to the present, is well documented.26 Based on this evidence we can claim with some confidence that transphobia has not always existed. It was the development from hunter-gatherer clan societies to patrilinear class societies, and more recently the emergence of capitalism and the nuclear family, which led to the increasing oppression of women, gays and transgender people. Transgender communities Communities of trans people have existed for centuries in some societies, such as the numerous katoey of Thailand—who are often referred to as “ladyboys” and who often exist through entertaining tourists and the sex industry. Another community are the hijra in India,27 who have a very long history but who now generally live a marginal communal existence surviving through begging and sex work. In reality such groups are tolerated rather than accepted or celebrated. Their very marginal existence, excluded from mainstream employment, housing and families, typifies the situation of more isolated trans people in other societies. At least where there are trans communities there can be company and practical support. Thus many trans people’s employment options are extremely limited and they may be effectively forced into hustling, prostitution and the sex industry.28 There are particular niche markets which trans people may find in prostitution and pornography. Certainly there are many men who desire trans women but identify as straight, perhaps another illustration of the limitations of binary definitions of gender or sexuality. Only very recently have openly trans people in Thailand, for instance, sought successfully to enter other types of work. In January 2011 a new Thai airline hired three katoey as “third sex” cabin staff.29 The fact that this was so newsworthy illustrates its rarity. Transphobia Transgender people constitute a small, increasingly visible, but highly stigmatised and oppressed group in capitalist society. Transphobia can range from unwanted attention, verbal harassment and ridicule, discrimination in employment, access to healthcare, education and other services, up to physical attack, sexual assault and murder.30 There are many murders of trans people worldwide each year. Nevertheless, despite high levels of transphobia in society, trans people are not simply victims and objects of history. There is also an inspiring history of individual and collective trans resistance which can inform our understanding of the struggle against transphobia today.

#### Capitalism causes inevitable global poverty and environmental destruction

Wood 15 (Simon Wood @ Mint Press News “Global Capitalism: The Profit Motive Is The Root Of All Evil” March 4, 2015. http://www.mintpressnews.com/MyMPN/global-capitalism-the-profit-motive-is-the-root-of-all-evil/) //JHorn

Capitalism can be defined as a system under which industries, trade and the means of production are largely or wholly privately owned and operated for profit. Following the end of feudalism, it dominated the Western world, and thanks to imperialism this domination extended to the global economic system by the end of the 19th century. Entering the 21st century, it continues to reign unchallenged as the world’s pre-eminent economic doctrine. The world’s richest person (Bill Gates) has a personal wealth of $78.7 billion. This is higher than the (nominal) GDP of 130 countries, including Uruguay (population 3.4m), Ecuador (population 15.9m), Bulgaria (population 7.2m) and Croatia (population 4.3m). The wealth of the top ten richest people combined is $544 billion — higher than the GDP of 172 of the 194 nations for which UN data is available, including Thailand (population 65m), South Africa (population 54m), Egypt (population 88m), Portugal (population 10.4m) and Czech Republic (population 10.5m). Almost half the world’s population, over 3 billion people, live on less than $2.50 a day. According to UNICEF, 22,000 children die EACH DAY due to poverty. They “die quietly in some of the poorest villages on earth, far removed from the scrutiny and the conscience of the world. Being meek and weak in life makes these dying multitudes even more invisible in death.” Nearly a billion people entered the 21st century unable to read a book or sign their names. For every $1 in aid a developing country receives, over $25 is spent on debt repayment. Less than one per cent of what the world spent every year on weapons was needed to put every child into school by the year 2000. [Sources. (Note: site last updated in January 2013. Some data is a few years out of date, meaning it is likely to be worse now as global inequality has widened.)] The modern form capitalism has taken is complex, with close relationships and revolving doors between politics and the multinational corporations and banks that act as the main players commonplace. Directors of corporations are under severe pressure to increase profits each quarter, partly to increase the size, market share, wealth and power of the company, not to mention keep their jobs. There is also a legal (fiduciary) duty to shareholders to maximise income and, as explained by Boris Johnson, avoid paying taxes vital for public services. This necessity for relentless growth inevitably leads to the cutting of costs in ways that damage societies and local communities (outsourcing, lay-offs, etc.) as well as a massive global network of tax havens hiding trillions of dollars. It also aggravates poverty cycles in poor nations chosen as manufacturing bases, where their enormous power enables corporations to dictate extremely poor terms and salaries. The profit motive, therefore, is the fundamental principle underlying modern capitalism; the all-encompassing priority of corporate entities. This drive for profit, however, is incompatible with the complex needs of humanity and the environment, as it leads to exponential ‘growth’ in a limited system, meaning it is unsustainable, creating mounting misery and chaos for ever increasing numbers of people, even those in so-called ‘rich’ or ‘advanced’ nations. The only benefactors of such a system are the corporations and the shareholders themselves, along with those in service to the system. The proof is in the pudding, as new horrors of poverty or environmental damage are reported (to the tiny percentage of people with access to or interest in such information) almost daily while the rich just keep on getting richer. Global capitalism ultimately results in massive concentrations of wealth in the hands of very few individuals. This wealth is inevitably employed to further game the system to in turn acquire ever more profits, no matter what the destruction caused to the planet or its inhabitants. This has obvious negative consequences for democracy, as rich lobbyists command the overwhelming bulk of the attention of elected officials. Essential public services are also fair game as greedy and corrupt officials allow health, transport, education, transportation and energy systems to be sold off to private companies, whose sole concern is profit. See, for instance, this list of UK MPs with links to private healthcare firms; energy companies boosting profitsdespite falling wholesale prices; the rail privatization ‘scam’; and the truly appalling private prison ‘industry’ (AKA modern slavery) in the US. Chris Hedges has this to say on private US prisons: Our prison-industrial complex, which holds 2.3 million prisoners, or 25 percent of the world’s prison population, makes money by keeping prisons full. It demands bodies, regardless of color, gender or ethnicity. As the system drains the pool of black bodies, it has begun to incarcerate others. Women—the fastest-growing segment of the prison population—are swelling prisons, as are poor whites in general, Hispanics and immigrants. Prisons are no longer a black-white issue.Prisons are a grotesque manifestation of corporate capitalism. Slavery is legal in prisons under the 13th Amendment of the U.S. Constitution. It reads: “Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States. …” And the massive U.S. prison industry functions like the forced labor camps that have existed in all totalitarian states. Corporate investors, who have poured billions into the business of mass incarceration, expect long-term returns. And they will get them. It is their lobbyists who write the draconian laws that demand absurdly long sentences, deny paroles, determine immigrant detention laws and impose minimum-sentence and three-strikes-out laws (mandating life sentences after three felony convictions). The politicians and the courts, subservient to corporate power, can be counted on to protect corporate interests.

#### Particular focus on queer oppression individualizes resistance and masks class exploitation. The alternative is a historical materialist analysis of queer oppression --- only unified class struggle can overhaul the system

Miles 14 (Laura Miles, writer for International Socialist Journal. 9th January 2014. “Transgender oppression and resistance” <http://isj.org.uk/transgender-oppression-and-resistance/>) //JHorn

**Marxism and oppression** For Lenin and the Bolsheviks, opposition to oppression was central to their revolutionary strategy. In 1905, in the midst of a revolution later regarded as the great dress rehearsal for the successful 1917 Revolution, Lenin wrote: “Revolutions are the festivals of the oppressed and the exploited. At no other times are the masses of people in a position to come forward so actively as creators of a new social order as at a time of revolution”.43 In order to win unity inside the working class, and win the mass of the oppressed to play an active role in the struggle for socialism, revolutionary socialists must at all times, he insisted, be “tribunes of the oppressed”. Socialists oppose oppression whatever the social class of those it affects. It is not OK to turn a[way] ~~blind eye~~ to transphobia when directed at someone who is not working class, for example. Marxists offer a historical materialist explanation of the roots of oppression and a class struggle perspective—that is, as Marx argued in drafting the Rules of the First International, that “the emancipation of the working classes must be conquered by the working classes themselves” in order to achieve human liberation and end oppression.45 Marxists argue that while any progressive collective struggle—the Poll Tax campaign for example, or the anti-capitalist movement, or the Stop the War Campaign—deserves support and solidarity (and of course these can win), particular oppressions are not best fought in isolation from the fundamental causes of those oppressions. Since the fundamental cause is the drive by the capitalist system to maximise profits through exploiting workers’ labour power, it follows that the key arena for struggle is the workplace and the labour movement. Struggles outside the workplace are still important not least because they can feed back into and help generate strikes and walkouts. But the workplace is what brings together men and women, gay, straight and trans, black and white on a daily basis in the common experience of our exploitation and oppression. This makes possible the use of our collective ability to block the lifeblood of capitalism, the extraction of surplus value, and to formulate demands which link economic issues like pay to political issues of oppression. Examples include campaigns backed by strikes for equal pay, for example, or against racist discrimination, or against a homophobic/transphobic attack. That is why one strike is worth a thousand resolutions. Thus Marxists focus on workplace struggle because when such struggles break out they inherently pose the potential for the ultimate overthrow of the capitalist system by the exploited and oppressed, and therefore the potential, through such “festivals of the oppressed”, for the creation of a socialist society free of oppression. We see this inspiring potential in all the recent revolts and upheavals—the Arab Spring and Tahrir Square, Gezi Park, Brazil, the Greek general strikes. The experience of such struggle—democratic decision making, the demonstrations and meetings, standing together on picket lines—strips away the ideological masks of the system exposing the ugly inhumanity just below the surface. It can change people’s consciousness and their confidence in their own powers and abilities to be the collective agents of fundamental change. Each strike, big or small, that creates and strengthens the networks of activists makes our side stronger and more united and their side weaker. Forms of oppression vary historically and culturally but their effect is to bolster so-called common sense differences that mask the fundamental class divisions upon which exploitation—the extraction of surplus value—rests. In Russia at the time of Lenin’s comments the Bolsheviks particularly had in mind the struggle against anti-Semitism, various national oppressions, and women’s oppression. In each of these cases the Bolsheviks demonstrated in practice before, during and after the 1917 Revolution how socialists can challenge and overcome divisions inside the working class based on oppression. It is a complete myth that Marxism is economically reductionist, only interested in economic struggle. It is also a myth that Marxism is homophobic or transphobic. Unfortunately in some cases the attitudes of some of the “old left” Stalinist parties fed such distorted views of Marxism. Despite the liberationist Marxist tradition on oppression, however, even today many LGBT activists seem completely unaware of the fact that immediately after the 1917 Revolution the Bolshevik government passed a range of measures on divorce, women’s rights and national self-determination, proscribed anti-Semitism and decriminalised homosexuality.46 Such measures were unprecedented anywhere in the world. Key tasks for revolutionary socialists today, therefore, are both to fight against transphobia and homophobia in the here and now,47 and to recover and reassert the links that have existed at high points of working class struggle between socialist analysis and organisation and the struggle for liberation against all forms of oppression, including the right of LGBT people to express their sexual orientation and gender identity freely. **The roots of trans oppression** There is very little literature on trans oppression from a Marxist perspective. A landmark exception to this is work by the American transgender activist and Marxist Leslie Feinberg.48 In her groundbreaking book Transgender Warriors Feinberg argues that echoes of ancient gender variant traditions survive in the crossdressing common in folk ceremonies and festivals around the world and in historical forms of rebellion and protest. Rebecca and her Daughters, for example, were crossdressed men protesting violently from 1839 against the imposition of turnpikes in Wales.49 Similar crossdressed protesters were the Abbots of Unreason in England and the Lords of Misrule in Scotland in the 16th century. To explain the roots of trans oppression Feinberg argues that the subordination of women also resulted in greater rigidity of gender roles and stricter policing of gender boundaries. She refers to Frederick Engels’s The Origin of the Family, Private Property and the State.50 Drawing on the then recent work of anthropologist Lewis Henry Morgan, Engels identified the emergence of the family and class societies as the key to understanding women’s historical subordination and oppression.51 Prior to the emergence of class societies, although there may have been role differentiation due to biological differences (pregnancy, childbirth, breast feeding), these differentiations were not necessarily imbued with social status and power. The family structure, however, which increasingly replaced earlier matrilinear and matrifocal clan societies, imposed female monogamy so that the inheritance of wealth, property and titles could be assured. Prohibitions and strictures against crossdressing and other crossgender behaviour which relate to this period of social and economic transition can be found in the Bible, for example in Leviticus and Deuteronomy. These strictures are less about the word of god and rather more about examples of law setting by ruling groups seeking to consolidate their power to further accumulate wealth and power. This process happened over quite long periods of time in parts of the ancient world from the 11th to the 7th century BCE as significant surpluses began to be accumulated through trade and conquest. As a consequence, the sexual activity of women became tightly regulated in the drive to control procreation within forms of marriage. It is at this time that gender variant behaviour also became more proscribed as part of the efforts more strictly to enforce defined and sharply differentiated gender roles. Interestingly, what seems to be implicit in the process of prohibition against, for example, men wearing their hair long and in “feminine” styles, or either gender adopting the clothing or the roles of the other, Feinberg argues, is that this behaviour seems likely to have been fairly common practice in earlier forms of human society and to have been previously relatively tolerated. Feinberg presents a range of evidence that this was so.52 The consolidation of the power of these emergent ruling classes and the associated social/legal codes was uneven, took a long time and generated resistance to the various forms of oppression it required. The roots of trans oppression therefore have similar material roots to the oppression of women and that of lesbians and gays.53 Some of the sharpest clashes between the old ways of what Engels called “primitive communist societies” and Morgan called “barbarism” and the emergence of expansionist class societies and empires can be found in chronicles of European colonialism of the Americas from the Middle Ages onwards.54 The Catholic church’s and the Spanish and Portuguese states’ approach to native cultures was that these societies needed to be subjugated and sometimes enslaved for their own good and in the interests of the primitive accumulation of capital for their spreading empires and the growing class of mercantile capitalists. The ideological justification for this brutality and genocide often came from an enthusiastic Christianity. A few examples will suffice. In 1530 the Spanish conquistador Nuño de Guzmán reported that the last person he captured in a battle, who “fought most courageously, was a man in the habit of a woman, for which I caused him to be burned”.55 One of Feinberg’s illustrations in Transgender Warriors is a 1594 engraving by Theodore de Bry of Balboa’s Panama expedition which shows him using dogs to murder “Two-Spirit” (trans) native people in the Americas. To Balboa these trans people were examples of diabolical and primitive debauchery. When the Spanish invaded the Antilles and Louisiana, “they found men dressed as women who were respected by their societies. Thinking they were hermaphrodites or homosexuals, they slew them”.57 Yet despite the genocide and oppression directed at Native Americans (or First Nation people) over the past 500 years of colonialism, the acceptance and enhanced status of “Two-Spirit” people have persisted in many communities. Some writers have referred to the existence of “berdaches” among First Nation peoples. The term “berdache” has been used to denote genetic males among the original Americans who dressed as women, did women’s work and had sex with non-berdache men. However, as Pat Califia points out the term does not derive from any Native American language.58 It may well be originally Persian, then via Arabic and Spanish to French. It was used to refer to the “passive” partner in gay male intercourse and Califia suggests it is a misapplied term, an example of native gender variant people being viewed through Western homophobic lenses. In fact the original Native American terms used, such as the Lakota “winkte”, the Cheyenne “he man he”, and the Crow “bade” all have meanings like “not man/not woman” or “half man/half woman”; in other words they focus on gender rather than sexuality. The Gay American Indian History Project published a list of more than 130 Native American tribes who had such roles for men, and many of them had similar gender variant roles for women.59 Many considered that there were not two but three, four or more genders and they seemed to tolerate both gender variant and homosexual relationships. Such gender variant individuals performed crucial roles and were highly respected as counsellors, story-tellers, teachers, healers and sometimes female-born hunters and warriors. Having a Two-Spirit wife was often seen as increasing the resources for the family group or the tribe. Thus in such pre-class social formations gender variant individuals were often perceived as a benefit and a material resource to the community. Nonetheless, it would be mistaken to take a romantic or uncritical view of gender variance in Native American societies. Califia points out that some Western gay and trans historians have been naive about the extent to which such gender variant or same-sex behaviour was universally accepted. She suggests that it varied quite a lot. She does, however, also point to a serious problem for trans history—the way that it has frequently been subsumed within the history of varieties of sexual orientation. She argues that some gay writers have misappropriated gender variant roles and behaviour as being only about sexual orientation. She accuses Jonathan Katz of doing this in his Gay American History.60 Stryker has also argued that the history of trans people and of trans rebels has been largely either hidden altogether or buried within lesbian and gay history.61 Some researchers, including transgender Native Americans, have recently been working to reconnect with that history.62 The impact of colonialism was corrosive and genocidal in the Americas. But it was not just the Portuguese or Spanish empires that tried to stamp out any acceptance and respect in many societies for variant sexualities and crossgender expression. The history of the British Empire’s relationship with less advanced societies is also instructive. The imposition of Western, Christian legal codes on colonial possessions such as India and various African countries by Britain and other imperialist countries clearly included the intent to criminalise and eradicate both sexually and gender transgressive behaviour.63 **Capitalism and the nuclear family** Engels, in The Condition of the Working Class in England,64 described how industrial capitalism, with mass migration to the cities, extreme poverty and privation, was destroying the working class family. It is a major internal contradiction, pointed out by writers such as Jeffrey Weeks65and John D’Emilio for example, that while the developing capitalist mode of production was creating the conditions for the emergence of freer and more varied sexual relationships and gender roles among working class people, including the potential for homosexual relationships, it was also undermining the family as a social unit which could provide relatively cheaply for the reproduction of the working class. On the other hand, capitalism needs men and women in families at least long enough to reproduce the next generation of workers. The ideological pre-eminence of the family guarantees that a capitalist society will reproduce not just children, but heterosexism and homophobia (and transphobia). In the most profound sense, D’Emilio argues, capitalism is the problem. The drive towards the destruction of the working class family in early capitalism through rapid urbanisation and the factory system horrified many in the bourgeoisie and led bourgeois reformers to look for the means to ensure its survival in the longer-term interests of capitalism. Legislation to control child labour and to create the “family wage” (intended to exclude women from industrial occupations) helped to encourage the material conditions for the privatised reproduction of labour through the promotion of the working class nuclear family, modelled on the bourgeois family. Such material and legislative changes had to be underpinned with an ideological drive towards notions of fidelity (at least for women) and strict regulation of sexual behaviour. Increasingly, as Weeks, Dee, Stryker and others have shown, homosexual (and other “deviant” sexual and gender behaviour) became more heavily proscribed and enforced from the latter half of the 19th century.67 The trial of Oscar Wilde in 1895 was a watershed in this process. A crucial outcome of this social and legislative proscription was the creation of the category of “homosexual person”. Homosexuality became an identity, a type of person rather than a type of activity. Around the turn of the 20th century it was from this emerging identification of a category of person that the resistance to the oppression of homosexual people began to coalesce around early campaigners like Havelock Ellis in the UK (a friend of Eleanor Marx), socialist pioneer Edward Carpenter, and Magnus Hirschfeld in Germany.

### 1NC – OFF

#### Permissibility and presumption negate: (1) It’s not an obligatory moral obligation if we don’t have to do it, so the aff has not fulfilled their burden. (2) Absent aff offense proving obligations, I have shown there is no truth value to the resolution, which is sufficient to negate as per my definition. (3) The aff speaks last meaning they logically need to extend offense through the end of the round. (4) Statements rely on infinite assumptions to be true meaning they’re more likely true than false since any of those assumptions can be false.

#### Skepticism is true and it negates-

#### [1] Moral Skep: Justice requires us to act immediately since waiting in the face of injustice is itself an injustice. However, we need to be fully informed to avoid formulating a rule incorrectly and unjustly, so obligations are internally contradictory. Derrida,

But **justice,** however unpresentable it may be, doesn't wait.· It is that which **must not wait.** To be direct, simple and brief, let us say this: **a just decision is always required immediately, "right away." It cannot furnish itself with** infinite information and the **unlimited knowledge of conditions,** rules or hypothetical imperatives **that could justify it.** And **even if it did** have all that at its disposal, even if it did give itself the time, all the time and all the necessary facts about the matter, **the moment of decision,** as such, **always remains a finite moment of urgency** and precipitation, since it must not be the consequence or the effectof this theoretical or historical knowledge, of this reflection or this deliberation, **since it always marks the interruption of the** juridico- or ethico- or politico-**cognitive deliberation that precedes it,** that must precede it. The instant of decision is a madness, says Kierkegaard. This is particularly true of the instant of the just decision that must rend time and defy dialectics. It is a madness. **Even if time** and prudence,the patience of knowledge and the mastery of conditions **were** hypothetically **unlimited, the decision would be structurally finite,** however late it came, decision of urgency and precipitation, **acting in** the night of **non-knowledge and non-rule.**

**Absolute moral truth is impossible to attain, individual moral culpability is nonexistent, and categorical moral laws will eventually become obsolete – Ethics devolve to the individual perspective because people constantly gain new knowledge and shift identities. Anker1**

As mentioned and affirmed, all things (concepts, words, objects, subjects, etc.) are in a state of becoming. Gaining knowledge or insight into any of these particulars thus entails an unstable terrain. **If some-thing is constantly in a state of** also **becoming some-thing other, there is no stable ground for absolute knowledge** and judgment. Furthermore, and to complicate matters even more so, **it is not only the object** being considered **that exists in a state of transformation, but** also **the “subject” doing the interpretation. What we have** left **is a** thoroughly **perspectival** (Nietzsche) **relation to viewing and interpreting what we see and know of this world.** By affirming this, **knowledge becomes not** a ground or **an end in itself, but the means for a continual perspectival shifting**. Perspectivism, as a thoroughly ungrounded and continuously shifting mode of interpretation, furthermore affirms the uncertainty of an indeterminate subject, object, and conceptual becoming.

#### [2] Moral theories must be motivational or non-motivational. Double Bind. Either [A] they are non-motivational and won’t be followed so morality can’t guide action since guides need to be followed or [B] morality is motivational and people will do what is says no matter what so it’s just descriptive of action, not providing an obligation

#### [3] External World Skep: No amount of subjective evidence can ever prove objective knowledge. Searle,

**[Y]ou could have the best possible evidence about some domain and** still **be** radically **mistaken**. You could have the best possible evidence about other people’s behavior and still be mistaken about their mental states. You could have the best possible evidence about the past and still be mistaken about the future. You could have the best possible evidence aboutyour own perceptualexperiences and still be mistaken about the external world. This is so **because you could be dreaming, having hallucinations**, be a brain in a vat, **or** be **deceieved** systematically by an evil demon.Strange situations, yes, but **it is impossible to disprove the potentiality for** any of **these scenarios.”**

**That negates since providing an obligation requires that [A] the one assigning the obligation has some externally reliable source of authority and [B] it assumes we know the facts about a situation and can make a case for an obligation which is impossible.**

## Case

### 1NC – AT: Advantage

#### The resolved definition is miscut – its defining resolve not resolved – independent voter for ev ethics the judge has a prima facie obligation to ensure fair evidence practices from the nsda

#### 1] Presume neg – it’s the affs job to prove a desirable change from the squo. statements are false till proven true that’s why we don’t believe conspiracy theories

#### ROB is to vote for the better debater. Only evaluating the consequences of the plan allows us to determine the practical impacts of politics and preserves the predictability that fosters engagement. Rigorous contestation and third and fourth-line testing are key to generate the self-reflexivity that creates ethical subjects.

#### Prefer –

#### 1. Competition- The competitive nature of debate wrecks the interactive nature of debate – the judge must decide between two competing speech acts and the debaters are trying to beat each other – this is the wrong forum for interaction

#### Refusal of queer critique to engage the state promotes an inaccessible movement that is doomed to failure

Nikita Dhawan 15, Professor of Political Science (Political Theory and Gender Studies) and Director of the Research Platform Gender Studies: "Identities – Discourses – Transformations" at the University of Innsbruck, Austria, Homonationalism and State-phobia: The Postcolonial Predicament of Queering Modernities, Academia.edu

As Foucault himself warns state-phobia is deeply inscribed in liberal and neo-liberal ideas of civil society. The wickedness of the state is juxta- posed against the inherent goodness of civil society, so that the aim is the ‘whithering away of the state’. This anti-state-centric approach to political power, locates radical politics in extra-state space of innovation. This is why Puar and others reject pragmatic politics of same-sex marriage or anti-discrimination legislations. In contrast they support civil society campaigns like pink-watching that increasingly deploy the strategy of surveillance for shaming states into good behavior. Even as one critiques the harnessing of gender and sexuality by neo-liberal capitalism, the rejection of all feminist- queer politics oriented towards the state as part of a biopolitical agenda is disingenuous state-phobic rhetoric.

Postcolonial-queer-feminists are caught in an ambivalent, double-bind vis-à-vis the state: On the one hand, the state has historically been the source of violence and repression through the criminalization and pathologization of non-normative sexual practices. And yet, queer strategies seek to instru- mentalize the state to promote sexual justice. Even as the state is known to perpetuate heteronormative ideologies, which are founding myths of nations, the hope is that the state can function as a site of redress of gender and sexual inequality. Despite the problematic track-record with regard to sexual politics of all nation-states, whether European or non-European, it is dangerous to disregard the immense political implications of state-phobic positions, which are increasingly popular in radical discourses in the West.

As the recent re-criminalization of homosexuality in Uganda, India and Nigeria demonstrate, negotiations with state are indispensable and imperative for emancipatory queer politics in the global South. This is not a plea for statism; rather, one must be aware of the dangers of the replacement of state with non-state actors as motors of justice. Against this background, the recent anti-statist stance within postcolonial queer scholarship is alarming, as it ignores the importance of the state for those citizens who do not have access to transnational counterpublic spheres to address their grievances.

Decolonization, whether in USA, Israel or India, cannot be achieved merely through a strategy of shaming the state. Rather in the Gramscian- Spivakian sense, it is imperative to enable vulnerable disenfranchised indi- viduals and groups to access the state (Dhawan 􀀲􀀰􀀱􀀳). Accordingly, instead of a for or against position vis-à-vis the state, the more challenging question is how to reconﬁgure the state, given that its institutions and policies are the mobile eﬀect of a regime of multiple governmentalities. Thus the chal- lenge is how to pursue a non-statephobic queer politics that at the same time neither rationalizes the biopolitical state project nor makes the queer bodies governable. In postcolonial contexts, the state is like a pharmakon , namely, both poison and medicine. Postcolonial queer politics must explore strategies of converting poison into counterpoison (Spivak 􀀲􀀰􀀰􀀷: 􀀷􀀱).

Herein the ambivalent function of the state must be addressed. As Pharmakon, the inherent condradictions must be engaged with: Violence and justice, ideology and emancipation, law and discipline. If, following Foucault, the state has no stable essence, then it is marked by undecidability or doubleness. The sole focus on the negative aspects of the Pharmakon, namely the destructive and repressive traits, neutralizes and ignores the enabling and empowering aspects. Thus postcolonial-queer-feminist poli- tics must transform poison into remedy and formulate critique of the state beyond state-phobia. A challenging task, but anything else would be too risky!

#### Legal progress is possible

Peter Campbell 13, faculty member in the Program in Composition, Literacy, Pedagogy, and Rhetoric at the University of Pittsburgh, JUDICIAL RHETORIC AND RADICAL POLITICS: SEXUALITY, RACE, AND THE FOURTEENTH AMENDMENT, https://www.ideals.illinois.edu/bitstream/handle/2142/45352/Peter\_Campbell.pdf?sequence=1

But—following Matsuda—I think that Butler seems to miss an important point. Given the material force of the fantasy of legal sovereignty in the margins, “‘at the point[s]’” where power is “‘completely invested in its real and effective practices,’” 31 I argue that resistance to the idea of legal sovereignty must not preclude what Cathy Cohen might call a “practical”32 understanding of the presently inevitable reality of the sovereign rhetorical operations of the law. The political project of resistance to the performative sovereignty of judicial rhetoric in the United States must not deny (as Matsuda and Richard Delgado said in 1987 to the “crits” of Critical Legal Studies) the need to construct strategically informed and tactically sound responses to those “formal” structures of law that already act as and with the material power of sovereign authority––authority over the constraints that legal forms of subjectivity already impose on personhood.33 As Butler herself acknowledges in 2004,34 the absolute critique of legal sovereign performatives does not adequately consider how the effects of the fantasy of legal sovereignty are most often (and most often most terribly) felt by “those who have” actually “seen and felt the falsity of the liberal promise”35 of the U.S. judiciary as a shield against domination.¶ My experience of the law has occurred through my own participation in and observation of judicial sovereignty––both from a majoritarian perspective. I teach argumentation in a prison, a setting that emphasizes the paradoxical and simultaneous vitality and uselessness of rhetorical and argumentative interaction with those persons charged with enforcing the reasoned justification of judicial decision through coercive violence. In our present democratic state of laws, the production of legitimacy for judicial sovereignty through argument, and the production of legitimacy through force, work together in explicit and mutually supportive fashion. More happily, I was recently invited by two friends to officiate their wedding, at a ceremony in Rehoboth, Massachusetts. I agreed, and asked whether I should purchase an ordination online, so that I could legally perform the ceremony. There was no need— Massachusetts is unusual among U.S. states in maintaining a category of officiant called a “solemnizer.” Any person, with little qualification, can apply to be a solemnizer. The dichotomy between the “republican style”36 of the application process, and the quotidian ease with which I was granted the certificate made me think about the “sovereign performative”37 that I would stage in Rehoboth. The “I do” statement in a marriage ceremony is one of Austin’s core examples38 of an “illocutionary” performative, an utterance which “has a certain force” in the “saying” of it,39 but this example itself performs an interesting elision of the role of a state representative in a civil marriage ceremony. In Rehoboth, my friends would not be married until I pronounced them so publicly. That pronouncement would of course require other performative statements (“I do”) from my friends as a pre-requisite to its validity.40 But on the date and in the location specified by the solemnization certificate, I had, as a feature of the designation “solemnizer” bestowed on me by the Commonwealth of Massachusetts, absolute power over whether they would be married or not—on that date and in that location. In the narrow context of the two possible realities of my friends becoming married or not on that day and in that location, my role was to exercise the sovereign performative power of the Commonwealth as its judge-like representative. ¶ But in that exercise, I would also be performing two arguments: one for the sovereign legitimacy (and successful performativity)41 of my utterances and the illegitimacy of any others; and one for the value and significance of “married” as a position of legal subjectivity in Massachusetts and the United States. I bring up this example to emphasize the specifically illocutionary power of the judicial rhetorical constitution of subjects before law. Austin describes illocution as “‘in saying x I was doing y’ or ‘I did y,’”42 but judicial illocution might more accurately be described as “in saying x I did x.” When I said that these people were married, I made them married. The statement and the doing were one and the same. If a judge sentences a person to death, she does not depress the needle; the pronouncement of sentence is an illocutionary act in the first sense (x and y). But in pronouncing the sentence, the judge does redefine the convicted (of a death-eligible crime) person’s subjectivity before law from “convicted” and/or “criminal” and/or “felon” and/or “murderer” and/or “traitor” to, more primarily, “condemned.” This is an illocutionary act in the second sense (x and x).¶ If a judge rules that it is unconstitutional to require a trans\* person’s passport to list their gender contrary to that person’s “self-understanding,”43 this is a “perlocutionary” act (where the utterance effectively causes something to happen)44 in that the ruling enables the person who is trans\* to change the official designation of their gender. But it is also an x and x illocutionary act in the context of the petitioner’s subjectivity before law—the utterance of the ruling has changed their self-understanding of their own identity from “not real” to “real” in the eyes of the law. This would be even more evident if the ruling did not merely realize the truth of a trans\* person’s self-understanding as male or female, but went so far as to create, in the moment of the utterance itself, a legally recognized trans\* identity category. ¶ All of these examples are performatives enabled by the fantasy of the sovereign location of power in law. When asked, I considered (given my own views on marriage as an institution) declining to perform the ceremony—even in Massachusetts, whose marriage laws mean that the sexual orientation identity of the two people I married cannot be discerned from this story. I understood that my performative and the discourse of the ceremony surrounding it would contribute in a small way to the sovereign power of the state over human relational and sexual legitimacy. But this refusal would not have made the present sovereignty of the state over the determination of legally legitimate and illegitimate forms of relation any less inevitable.¶ Petitions to the law are inevitable; they will be made, often by people with no other recourse to save their life, or to preserve their life's basic quality. As Butler demonstrates, any such petition will have performative effect. I do not offer this brief critique of Butler’s theory of “sovereign performatives” to dispute the facticity of her arguments. I begin this project with the stipulation that politics of resistance to the “sovereign performative” must include actions of resistance to statist law itself—that is, the specific articulation of opposition, within progressive social movements, to strategies that privilege appeals for help from judges. But these politics must also acknowledge that those who undertake such strategies do not always do so without knowledge of the sovereign performative function of their actions—“recourse to the law” does not always or even usually “imagine” the law “as neutral.”45 These radical politics must also be undertaken with knowledge of the effects of the petitions to law-as-sovereign that will inevitably be made—and particularly with knowledge of the effects that flow from the (also performative and also inevitable) judicial rhetorical responses to these inevitable petitions. ¶ Austin teaches us that it is in the nature of performatives to not always work, and to produce effects in excess of their explicit ones. The judicial rhetorical constitution of subject and abject forms of being-in-relation to law operates through legal performatives that contain the possibilities for their own future “infelicity.”46 My project is an attempt to explore some future possibilities for the counter-sovereign articulation of subjectivity before U.S. law—possibilities that are both foreclosed and engendered in the argumentative justifications for judicial decisions. Specifically, I examine some key Supreme Court cases relating to sexual practice, race in education policy, and marriage. I perform a legal rhetorical criticism of critic-constructed “meta”-texts47 that form argumentative frameworks through which judges apply various legal doctrines to questions of sexual, racial, educational, and relational freedom.¶ Following Perelman, I understand judicial argument to be the explanatory justifications offered for judges’ authoritative interpretive application of legal doctrine to problems of public concern––problems that have been framed as legal, either by jurists themselves, petitioners to the courts, or both. In the United States, judicial arguments about constitutional interpretation have the privileged function of delimiting the grounds on which the authority of all other statist legal argument is based. Given the overwhelming salience of constitutional legal discourse in U.S. everyday life,48 this means that the judicial rhetoric of constitutional law plays a significant role in delimiting the grounds on which a person can base their claim—literally49––to existence and legitimacy in the U.S. polity.50 Jurists’ arguments from and about the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments to the U.S. Constitution in particular perform a final arbitration function in the ongoing and generally contentious process of the statist determination of what forms of racialized queer identity and relation will be eligible for recognized and legitimated status in U.S. public life. ¶ In this dissertation, I focus on the Fourteenth Amendment—due process and equal protection—rhetoric of U.S. Supreme Court Justice Anthony M. Kennedy. I read this rhetoric in terms of “genealogies of precedent,” or the argumentative possibilities for queer subjectivity before law that are brought into being by the doctrinal frameworks Kennedy and other judicial rhetors use in a given opinion. Each chapter offers a case study of opinions in several Federal and Supreme Court cases that are foundational to Kennedy’s development of a new constitutional jurisprudence of substantive due process and equality. I demonstrate that this jurisprudence is both productive of and violent to possibilities for practical and strategic sexually “progressive”51 interactions with U.S. constitutional law. These interactions, despite their practical or strategic formulation, can be undertaken and/or framed in terms of anti-statist and institutional radical queer political goals. Possibilities for the success of such radical framing of practical interaction are partially delimited in the argumentative choice of U.S. judicial opinions.